

## **Regular Meeting of the Vestal Town Board November 14, 2012**

The Regular Meeting of the Town Board of the Town of Vestal, County of Broome and the State of New York was held at the Town Hall, 605 Vestal Parkway W, Vestal, NY on November 14th, 2012.

### **TOWN BOARD PRESENT:**

**Supervisor John Schaffer**  
**Councilman Fran Majewski**  
**Councilwoman Patty Fitzgerald**  
**Councilman David Marnicki**  
**Councilman Steve Milkovich**

**ALSO ATTENDING:** Town Attorney David Berger, Water & Sewer Superintendent Scott Groats, Town Clerk Emil Bielecki, 1<sup>st</sup> Deputy Town Clerk Kathie Young, Comptroller Laura McKane, Secretary to Supervisor Pinney and approximately 40 members of the community.

The Supervisor called the Regular Meeting in the Vestal Town Board Room to order at **6:00 PM**, welcomed everyone and asked that all present join in the PLEDGE OF ALLEGIANCE:

### **APPROVAL OF MINUTES**

On a motion of Councilman Majewski, seconded by Councilman Milkovich, the following resolution was

**ADOPTED** Ayes 5      Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
                  Nays 0

Resolved the Minutes of the Regular Meeting on November 7th of 2012 are approved.

**Update on Coalhouse Concession** - Mark Mushalla, representing M Squared, noted that the Coal House concession recently opened and is building momentum in the community. A 4-mile walk/run event, held on Veterans' Day, drew about 150 participants and several hundred people were in attendance. They are hoping to do many events at the Coalhouse and are looking forward to the upstairs being finished to be used as a meeting room. A grand opening for the Coal House is scheduled in April of 2013. The American Heart Association would like to host their run some time in April at the Rail Trail and details are to be brought to the Board. A Triathlon is also being considered. Comments and suggestions are always welcome.

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**PUBLIC HEARINGS**

**Public Hearing for the Special Districts Budget**

The Supervisor offered *Proof of Posting* and *Affidavit of Publication* regarding the **Public Hearing for the Special Districts Budget**. He presented the following PowerPoint presentation:



**2013 Special District Budget  
WATER, SEWER, LIGHTS & DRAINAGE**



**WATER DISTRICT TOTAL SPENDING  
INCREASE (DECREASE)  
(\$38,916)\***

|                              |             |
|------------------------------|-------------|
| Vehicle                      | (\$ 75,000) |
| Meters & Services            | \$ 10,000   |
| Chemicals & Fluoridation     | (\$ 10,000) |
| Full-Time and Seasonal Wages | \$ 17,000   |
| Insurance                    | (\$ 11,000) |
| NYS Retirement               | \$ 35,500   |
| Debt Service                 | (\$ 12,000) |
| Health Insurance             | \$ 14,000   |

*\*As adjusted for posting error in 2012 adopted budget*

*\*Amendment that is not reflected in 2012 preliminary budget*

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**INFRASTRUCTURE IMPROVEMENTS**

***Completed in Last 5 Years:***

Replaced Cherry Lane Tank  
Replaced Doris Avenue Tank  
Purchased and Install Emergency Power Equipment  
Construction of Foster Road Tank  
Replaced Ross Hill Tank  
Locate Additional Water Supply – 3 Wells

***APPROVED 2007 For Completion in Future:***

|  |             |
|--|-------------|
| Replace 4" Water Mains & Improve System<br>from 2005 Study | \$ 419,000  |
| Replace Dodd Road Tank                                     | \$1,250,000 |
| Replace Rano Blvd. Tank                                    | \$1,250,000 |

**SEWER DISTRICT OVERVIEW**

- Sewer Rate is comprised of costs associated with collection and treatment
- Treatment costs are set by either Village of Endicott or the Binghamton Johnson City Joint Sewer Board

**Sewer District Costs**

|                                   |     |
|-----------------------------------|-----|
| Charges from Outside Sewer Plants | 72% |
| Vestal's Collection System        | 19% |
| Administration                    | 8%  |
| Debit Service                     | 2%  |

**SLIDE FROM 2012 SEWER DISTRICT BUDGET PRESENTATION:**

**Revenue Shortfall**

**\$825,000**

Significant Rate Increase Anticipated

Increase in Bond Assessment Rate per Unit = \$ .05

Most homes have one unit of assessment for sewer bonds.

***Why did the town wait to raise rates?***

**Significant Factors**

- Lack of timely information from Joint Sewer Board – Budget & Billing Reconciliation
- Flow Management Plan for all Joint Plant Users
- DEC Consent Order Received in 2011
  - Remove I & I (Inflow & Infiltration)
  - Gives timeline for compliance

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### State Audit Report of the Joint Plant / Board Dated Nov 2010

- Reported potential over-billing of \$176,338 for Vestal for 2008
- Sighted numerous billing issues
- Recommended corrective action
- Vestal's rates in a holding pattern pending outcome and reconciliation of subsequent years
- Used fund balance to fund budget while determining if a rate increase was necessary

### Outcome

Correspondence received in October 2012 from Joint Sewer Board Reported over billing of \$202,992 as follows:

2008 - \$ 36,089 (verses \$176,000 expected)  
2009 - \$ 6,656  
2010 - \$160,247

- No accounting was provided for 2011
- No reconciliation details were provided

### Vestal's Collection System

#### Increased spending by \$180,000 from 2011:

- Replace sewer pipe to actively reduce I & I per the Flow Management Plan; this allows for future residential / commercial development
- Allocated more current staff time to sewer work

### Current Financial Status

- Projected \$500,000 deficit for 2012
- Fund balance is estimated to decline to \$225,000 by year end and may not provide adequate cash flow for operating needs
- Additional \$670,000 is needed in rents to fund 2013 budget

### RATE PERSPECTIVE

- The NYS Comptroller's Office deemed a single-family residence can afford a sewer cost of **\$816 per year**.
- A rate study, completed by Hunt Engineers, Architects & Surveyors, PC found an average rate for several upstate communities to be \$374.
- The Town of Vestal proposed rate for a similar single family dwelling is \$313 per year.

### Proposed Rate Increase

- Minimum charge increase from \$33.90 to \$49.00 (first 10,000 gallons) per quarter
- Rate per additional 1,000 gallons used increased from \$3.39 to \$4.88
- Non-metered customers increase from \$50.90 to \$73.55

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- Average residential bill will increase from \$44.07 to \$63.64 per quarter (13,000 gallon usage)

**Impact**

- Limiting a rate increase will impact Vestal’s ability to comply with Flow Management requirements, restrict development potential, minimize future funding opportunities if needed, and allow infrastructure to age to a point that requiring replacement in lieu of repair.

**Infrastructure Improvements**

***Complete or in Progress:***

Sewer System Hydraulic Model Engineering complete  
Video and Repair Sewer Trunk Lines – on going  
Emergency Power Equipment  
Replaced Over 1 Mile Sanitary Sewer Lines  
Flow Study Complete  
Point Repairing

**LIGHTING DISTRICT**

Increase Rate Per Thousand of Assessment  
\$0.0032

**DRAINAGE DISTRICTS**

Rate Remains Unchanged

\*\*\*\*\*

**Public Hearing for Local Law “E” of the Year 2012**

The Supervisor Offered *Proof of Posting* and *Affidavit of Publication* regarding the Public Hearing for

**Local Law “E” of the Year 2012 - Amending Sewer Rents:**

Section 1. Chapter 18, Article V, Section 18-202 of the Code of the Town of Vestal is hereby amended to provide as follows:

(a) Sec.18-202(b)(1) is amended by deleting “...three dollars and thirty nine cents (\$3.39)...” and inserting in its place “four dollars and eighty eight cents (\$4.88)” and further amended by deleting “...thirty three dollars and ninety cents (\$33.90)...” and inserting in its place “forty nine dollars and zero cents (\$49.00)”.

(b) Sec. 18-202(b)(2) is amended by deleting “...fifty dollars and ninety cents (\$50.90)...” and inserting in its place, “seventy three dollars and fifty five cents” (\$73.55)”.

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The Supervisor opened the Public Hearings for both the Special District Budgets and for Local Law “E” - amending sewer rents.

Approximately 10 people spoke, most expressing shock at the size of the proposed increase in the sewer rents. A synopsis of other comments is as follows:

- The people would like to see more specific numbers. How were the figures arrived at? Where does the increase come from?
- Comptroller McKane explained that there wasn't a huge jump in expenditures. We were holding off on increasing sewer rents due to the uncertainty of our situation with the Joint Sewage Treatment Plant. Since the anticipated amount of credits was lowered after an audit by the State, we need to collect another \$670,000 to meet our expenses. If anyone needs more information they can look on line or she will provide more information if they would like to come in.
- A 45% percent increase is shocking. Does this come from the flood? Why wasn't the public notified sooner so that they could have some say or budget for this? Supervisor Schaffer – This increase does not have anything to do with the flood. This only has to do with sewer expenditures. We have no choice. We can no longer cover the shortfall out of reserves.
- Non-metered accounts are going up more than metered accounts. Non-metered homes should be based on the number of people in a residence. Water Superintendent Scott Groats explained that we don't know how to meter their usage. We can only try to make a reasonable estimate. We can look at changing the formula.
- A resident spoke with the Supervisor last year. Why does she need to come down here and tell our elected officials that the fees and taxes are too high?
- Many are upset that the County Executive Debbie Preston reneged on her promise to revert the sales tax distribution formula to a 50/50 split with the towns. Now she says that she never said *when* she would return it. Everyone should go to the County Executive's open door meetings to complain.
- People in Vestal put up with a lot from the sewage plant and should be compensated for the nuisances.

Comptroller Laura McKane noted that our bill from the Binghamton/Johnson City Sewage Treatment Plant increased from 1.7 million to 1.8 million. It is difficult getting figures from the treatment plant. Johnson City and the City of Binghamton do not give out timely information. The 2013 budget estimates that our bill to the Joint Sewage Treatment Plant will increase by \$50,000 from the actual bill in 2012.

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We were hoping that the auditors would find an error in how our charges are estimated but they did not. We have been using fund balance waiting for the outcome. We did not want to raise fees unnecessarily. We did talk about this last year and it was noted that we would have a significant shortfall. Perhaps we could have done a better job in keeping this information in front of the taxpayers.

Supervisor Schaffer stated that increasing the sewer rents is a very difficult decision. We did not invent these figures. There is no other money to cover the expenses.

Water Superintendent Scott Groats stated that we have two sewage plants that we are dealing with and we have no control of those expenses. He has been working on the infrastructure. He has control of only 19 percent of this budget. The problem lies with the Joint Sewage Treatment Plant. We have no control over it.

Hearing or seeing no one else wishing to speak, the Supervisor closed the Public Hearing on the Special District budgets and asked the Board what action they wished to take.

By consensus, the Board decided to delay the vote adopting the Special District budgets.

### **Adjourn Public Hearing on Local Law “E” – Amending Sewer Rents**

Hearing or seeing no one else wishing to speak, the Supervisor recommended that the Public Hearing on Local Law “E”, amending sewer rents, be adjourned to give the Board additional time to review the comments and recommendations.

On a motion of Councilman Marnicki, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 5      Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
                 Nays 0

Resolved to adjourn the public hearing on **Local Law “E” of the Year 2012 - Amending Sewer Rents.**

### **Public Hearing on Proposed Local Law “C” of the Year 2012**

The Supervisor offered *Proof of Posting* and *Affidavit of Publication* and opened the public hearing for **Proposed Local Law “C” of the Year 2012** entitled:

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**“A Local Law repealing current Town Code sec. 16-28 and replacing it with a new sec. 16-28 entitled “Alcoholic Beverages” as follows:**

**Section 1. 16-28 Alcoholic Beverages**

**A.** Except as provided in § 16-28 (B), no person shall have, possess, carry or transport any alcoholic beverage in an open bottle or open container in or upon any public sidewalk, street, highway, parking lot or public park in the town of Vestal.

**B. Exclusions.** This local law shall not apply in the following instances:

- (1) If any organization or group desires to dispense alcoholic beverages in Arnold Park in the Town of Vestal, it must apply to the Recreation Department of the Town of Vestal for permission to do so. A fee of \$50.00 per day shall be paid with the application, and a fee of \$75.00 for clean up of said premises, if granted, requires fulfillment of the requirements in sections (E) and (F) herein.
- (2) To any person who is within 50 feet of his residence or 50 feet of the residence of which he is a guest.

**C. Presumptive evidence of violation**

An open bottle or open container in which there is an alcoholic beverage, in any vehicle, shall be presumptive evidence that the same is in possession of all occupants thereof and in violation hereof.

**D. Penalties for offenses.**

Any person who violates this local law shall be guilty of an offense and shall be punishable by not more than 15 days in jail or a fine of not more than \$250, or both, for each violation of this local law.

**E. Issuance of permit**

The permit referred to in §16-28 (B) shall be issued by the Recreation Department in accordance with the following:

- (1) Such permit application should be filed with the Recreation Department of Vestal between the hours of 8:00 am and 4:30 pm on Mondays through Fridays, except legal holidays.
- (2) Permits shall be issued on a first-come-first-served basis except if there is a conflict with an event of an organization contracting with or on behalf of the town for the provision of recreational services, in which situation the event by the contracting organization shall take precedence.
- (3) Any permit may be revoked for good cause shown or as the Town Board of the Town of Vestal or its designated agent in the reasonable exercise of its discretion may determine, which action shall be final. In the case of such revocation, all monies paid for or on account thereof shall, at the



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option of the Town Board of the Town of Vestal be forfeited to and retained by the Town.

- (4) Neither the forfeiture and retention of any such money by the Town nor the recovery or collection of any damages or both shall preclude the prosecution of any person for a violation or a rule or regulation of the Town of Vestal or the violation of any other local or state law, ordinance, rule or regulation.
- (5) The provisions of this section are not exclusive, but additional requirements may be reasonably added with respect to any specific application at the discretion of the Town Board of the Town of Vestal or its designated agent.
- (6) A permit may be denied by the Recreation Department to a group or organization that in the past failed to comply with the provisions of this chapter. Any denial may be appealed to the Town Board, provided the appeal is filed in writing with the Town Clerk no more than 30 days after the denial.

### **F. Fees; security deposits; insurance, damages, other requirements.**

The following requirements are established for the purposes of obtaining a permit pursuant to this chapter.

- (1) Insurance:
  - (a) Groups of 1 to 100 persons: special event coverage with the Town named as additional insured.
  - (b) Groups of over 100 persons: special event coverage as in (1) plus \$1,000,000 excess liability with the Town named as additional insured.
- (2) Damages. Any damages or littering cleanup costs not covered by insurance proceeds shall be payable by the group to the Town within 10 days of mailing to the person who signed the permit application of a statement of the damages and/or cleanup costs and the amounts remaining to be paid.

Councilwoman Fitzgerald would like this local law adopted to accommodate those who wish to have alcohol available when renting pavilions for events at Arnold Park.

Councilman Majewski – Alcohol was allowed in Arnold Park until in 2002. He has spoken to the Recreation Planner as well as the Parks Superintendent and there have never been problems because of alcohol use at Arnold Park.

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### Comments from the public

One speaker expressed opposition to this change stating that it would be dangerous to allow alcohol at Arnold Park because it is heavily used by children. There are plenty of halls available where parties can be held that will allow alcohol.

Hearing or seeing no one else wishing to speak, the Supervisor closed the public hearing.

### Amend Local Law “C” of the Year 2012

**R334-12** On a motion of Councilwoman Fitzgerald, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0

**Resolved** to amend proposed Local Law “C” of the Year 2012 by removing the words: *and a fee of \$75.00 for clean up of said premises* from **Section 1. 16-28** ***Alcoholic Beverages – B. Exclusions – (1).***

### SEQR Type II statement re: Local Law “C” of the Year 2012

**R335-12** On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0

Resolved that this action has been identified as a Type II action and therefore is not subject to review under SEQRA.

### Adopt Local Law “C” of the Year 2012 (as amended)

**R336-12** On a motion of Councilwoman Fitzgerald, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 3 Majewski, Fitzgerald, Schaffer  
Nays 2 Marnicki, Milkovich

Resolved to adopt **Local Law “C” of the Year 2012** entitled: “A Local Law repealing current Town Code sec. 16-28 and replacing it with a new sec. 16-28 entitled “Alcoholic Beverages” as **amended**.

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### RECEIVE AND FILE

- November 13, 2012 – To Town Board: 130 signatures on a petition and on cards from library patrons in support of retaining a full-time Youth Services Librarian and restoring funding cut from the budget at the Vestal Library.

### SUPERVISOR'S ANNOUNCEMENTS

- ◆ **Winter Parking Hours** – December 1<sup>st</sup> - March 31<sup>st</sup> - 2:00 AM to 6:00 AM
- ◆ Vestal Fire Department Membership for **Station 2's Firemen Breakfasts and Station 2's Ladies Auxiliary Soup and Salad Dinners** being held on following dates at Vestal Fire Department Station #2.

#### Auxiliary Soup and Salad

11/17, 1/26, 2/23, 3/16 - Time: 4:00 pm till gone

#### Firemen's Breakfast

12/9, 2/10, 4/14 - Time: 7:00 am till 11:30 am

- ◆ This weekend - both Saturday and Sunday from 9:00 to 5:00 - all 4 Vestal Fire Stations will be manned with Volunteer Firefighters who will be accepting drop-off donations of specific goods for the Hurricane Sandy victims.

The following emergency items needed are: Cleaning products, paper products, blankets and pillows, water, baby needs, personal hygiene products, pet food, non-perishable food products and contractor bags, masks and gloves.

Please note that it is strongly urged that these items be NEW and in sealed containers to keep them clean and sanitary for the people who will be using them. If used blankets are CLEAN and wrapped in plastic bags they will be accepted. ***Used pillows will not be accepted.***

For additional information call Jan Foland at 797-4741 or e-mail [jfoland@stny.rr.com](mailto:jfoland@stny.rr.com).

The Supervisor stated that a 2nd deployment of Vestal Fire Fighters was sent to help out ***Hurricane Sandy*** victims. Over two tractor trail loads and over \$7,000 in cash were collected. FEMA will be paying our expenses.

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**OLD BUSINESS**

**Proposed Local Law “D” of the Year 2012**

The Public Hearing for **Proposed Local Law “D” of the Year 2012 - A Local Law to Override the Tax Levy Limit Established in General Municipal Law Section 3-c** was held and closed on November 7<sup>th</sup>, 2012.

**2013 Town of Vestal Preliminary Budget**

The Public Hearing for the **2013 Town of Vestal Preliminary Budget** was held and closed on November 7<sup>th</sup>, 2012.

**The Town Board will hold a Special Meeting on  
Monday November 19<sup>th</sup>, 2012 – 6:00 PM  
For the purpose of adopting the  
2013 Town Budget and Special District Budgets.**

**ADJOURNMENT**

On a motion of Councilman Marnicki, seconded by Councilman Majewski, the meeting was adjourned at 7:30 PM. Carried unanimously.

Approved by \_\_\_\_\_  
**Emil J. Bielecki, Town Clerk**