

## **Regular Meeting of the Vestal Town Board NOVEMBER 28, 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 28<sup>th</sup>, 2012

### **TOWN BOARD PRESENT:**

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

**ABSENT: Councilman Fran Majewski**

**ALSO ATTENDING:** Town Attorney David Berger, Town Clerk Emil Bielecki, 1<sup>st</sup> Deputy Town Clerk Kathie Young, Library Director Carol Boyce, ZBA Chairman Mark Johnson, ZBA Member Ross Geoghegan, and approximately 35 members of the community.

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

### **\$1,000 Gift Presented by VerSE to Vestal Public Library**

Renee Dailey and Pat Robertson presented a check for \$1,000 to the Vestal Public Library from Vestal Residents for Safe Energy (VerSE). They want to contribute to the quality of life of Vestal. This will help toward the purchase of many books.

Library Director Carol Boyce thanked them. This gift is greatly appreciated.

### **APPROVAL OF MINUTES**

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

**ADOPTED** Ayes 4     Fitzgerald, Milkovich, Marnicki, Schaffer  
                  Nays 0     Absent 1     Majewski

Resolved the Minutes of the Regular Meeting on November 14, 2012 and November 19, 2012 are approved.

### **PRIVILEGE OF THE FLOOR (Agenda Items Only)**

Several speakers expressed concern about the precedent that will be set if the Board approves the two requests for reduction of sewer bills for water used for watering lawns and filling pools.

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Supervisor Schaffer agreed that it would set a precedent but the Board definitely needs to discuss this further.

Speaker wondered of the Town could split water and sewer charges.

Speaker claims the Supervisor cuts him off from speaking at meetings and that violates his freedom of expression rights. Also, he objects to the Town continuing to spend money defending the Candlehouse lawsuit.

Supervisor Schaffer – We have spent a little over \$74,000 on the Candlehouse lawsuit. The Board represents the entire town and is spending this money to protect a neighborhood.

### **RESOLUTIONS & MOTIONS**

#### **Sharing Common Radio Frequencies and Dispatch Channels**

**R342-12** On a motion of Councilman Marnicki, seconded by Councilman Milkovich, the following was

**ADOPTED** Ayes 4 Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0 Absent 1 Majewski

Resolved to grant authorization for Police Chief John Butler to sign a ***Memorandum of Understanding*** between Town of Vestal, Village of Endicott and Broome County regarding the sharing of common radio frequencies and dispatch channels.

#### **Table Motions Regarding Reducing Sewer Portion of Utility Bills**

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

**ADOPTED** Ayes 4 Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0 Absent 1 Majewski

Resolved to table the following motions:

Motion to grant authorization for the Business Office to reduce the sewer portion of the bill for **808 Imperial Woods Drive** in the amount of **\$142.38** (42,000 gallons) due to putting in a new lawn and refilling a pool due to leaks. The water did not go into the town's sanitary sewer system.

Motion to grant authorization for the Business Office to reduce the sewer portion of the bill for **2308 Hemlock Lane** in the amount of **\$376.29** (111,000 gallons)

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due to extra water of lawn due to a drier summer. The water did not go into the town's sanitary sewer system.

**CONSENT AGENDA**

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

**ADOPTED** Ayes 4 Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0 Absent 1 Majewski

Resolved the **Consent Agenda** is approved as follows:

**PUBLIC WORKS: Marnicki/Milkovich**

**Award Combination Sewer Truck**

**R343-12** Authorization for the Town Attorney to draw the necessary paperwork **awarding the Combination Sewer Truck** to the lowest bidder as follows:

**Joe Johnson Equipment Inc.**  
62 Lagrange Ave.  
Rochester, N.Y. 14613 Price: **\$288,539.00**

**Reduce Sewer Portion of Utility Bill**

**R344-12** Authorization for the Business Office to reduce the sewer portion of the bill for **109 Mary Street** in the amount of **\$475.65** (135,000 gallons). The water did not go into the town's sanitary sewer system.

**Remove Weight Limit Signs**

**R345-12** Authorization for the weight limit signs currently installed on the Hazel Drive off ramp from SR 26 and all the way to the Vestal High to be removed.

**FINANCE: Majewski/Marnicki**

**Receive and File:**

- **Warrant Reports** – 2012-42L, 43, 43E, 43W, 44, 44E, 44W, 45, 45E, 46, 46B, 46E
- **Town Clerk Monthly Report** – October – Total Local Shares Remitted: \$6,315.73
- **Comptroller's Monthly Report** – October 2012

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### **Budget Transfers**

**R346-12** Authorization approving **Budget Transfers** as noted in a memo from Deputy Comptroller Pam Fitzgerald dated October 24, 2012 regarding Budget Transfers effective July 19, 2012 thru October 24, 2012.

These transfers include \$20,000 to Fire Vehicle Maintenance instead of using Fund Balance as previously requested. No invoices are paid that are not supported by the budget.

### **Article 7 Settlements Approved**

**R347-12** Authorization to approve the following **Article 7 settlements** and to authorize the Town Attorney to **execute said agreements** and for the Business Office to process same in accordance with the provisions therein:

- Order and Stipulation of Settlement and Agreement for Vaziri, 625 Bunn Hill Road, 174.16-1-29 adjusting the assessment from \$527,400 to \$460,000.
- Order and Stipulation of Settlement and Agreement for Humza Properties of Broome Inc., 157.59-1-7 adjusting the assessment from \$106,800 to \$75,000.
- Order and Stipulation of Settlement and Agreement for Hongjie Yang, 1009 Beechwood Lane, 157.20-1-58 adjusting the assessment from \$183,700 to \$155,000.

### **Dispose of Obsolete Technology Items**

**R348-12** Authorization for the **Information Technology Director** to dispose of items as listed in his memo dated October 24<sup>th</sup>, 2012, to a recycler who will properly recycle the materials inside the equipment. The items of computer equipment listed (desktops, servers, switches, laptops, equipment) are no longer in service with the Town and are not needed for operations with the Town.

### **Legal Services for Town Attorney**

**R349-12** Authorization for the Business Office to pay for the **legal services of Town Attorney David Berger** as submitted for the Period October 1, 2012 through October 31, 2012 in the amount of \$1,500.

### **Legal Services for Ahmuty, Demers & McManus**

**R350-12** Authorization for the Business Office to pay **Ahmuty, Demers & McManus** in the amount of **\$3107.70** for **Candlehouse vs Town of Vestal**.

### **EMPLOYEES: Fitzgerald/Marnicki**

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**Reimburse Employees for Out of Title Work**

**R351-12** Authorization to reimburse **Robert Flint** for out of title work as Meter Reader for **37 days - July 1, 2012 to October 25, 2012**. The difference in his hourly wage and Meter reader wage is \$1.58 per/hr. The total for this time is \$467.68 per Union agreement.

**R352-12** Authorization to reimburse **Jeff Tomczyk**, a medium equipment operator for **15 days (120 Hours) plus 3.5 hours of overtime** - July 19, 2012 to September 2012 for out of title work. He had previously worked the mandatory 30 days. Per Union contract, he will be paid the difference in his hourly wage between medium and heavy rate for those days.

$$15 \times 8 = 120 \text{ Hours}$$

Reg	120 Hours @ \$2.44 =	\$292.80
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OT	3.5 Hours @ \$3.66 =	<u>\$ 12.81</u>
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**\$305.61 Total Due**

**R353-12** Authorization to reimburse **Donnie Younker**, a medium equipment operator for out of class work - **20 days (160 Hours)** from September 4th to October 2<sup>nd</sup>, 2012. He had previously worked the mandatory 30 days. Per Union contract, he will be paid the difference in his hourly wage between medium and heavy rate for those days.

Heavy Rate	\$22.06
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Medium Rate	<u>\$19.62</u>
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Diff.	\$ 2.44	20 x 8 = 160 Hours x \$2.44 =	<b>\$390.40 Total Due</b>
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**R354-12** Authorization to reimburse **Bill Gary**, a medium equipment operator for out of class work - **16 days (128 Hours)** from April 24<sup>th</sup>, to August 31<sup>st</sup>, 2012. He had previously worked the mandatory 30 days. Per Union contract, he will be paid the difference in his hourly wage between medium and heavy rate for those days.

Heavy Rate	\$22.06
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Medium Rate	<u>\$19.62</u>
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Diff.	\$ 2.44	16 x 8 = 128 Hours x \$2.44 =	<b>\$312.32 Total Due</b>
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**R355-12** Authorization to reimburse **Scott Walter**, a medium equipment operator for out of class work - **28 days (224 Hours)**. He had previously worked the mandatory 30 days. Per Union contract, he will be paid the difference in his hourly wage between medium and heavy rate for those days.

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Heavy Rate    \$22.06  
Medium Rate   \$19.62  
Diff.         \$ 2.44    28 x 8 = 224 Hours x \$2.44 = **\$546.56 Total Due**

**R356-12**    Authorization to reimburse **Matt Millard**, a light equipment operator for out of class work - **31 days (248 Hours)**. He had previously worked the mandatory 30 days. Per Union contract, he will be paid the difference in his hourly wage between light and medium rate for those days.

Medium Rate   \$19.62  
Light Rate     \$17.94  
Diff.         \$ 1.68    31 x 8 = 248 Hours x \$1.68 = **\$416.44 Total Due**

**Approval Carryover of Vacation**

**R357-12**    Authorization pursuant to Employee Handbook Section 802 for Town Engineer **Gary Campo to carryover five (5) additional vacation days** into 2013. His total carryover will be 10 days.

**R358-12**    Authorization pursuant to Employee Handbook Section 802 for Parks Superintendent **Jim Bukowski to carryover five (5) additional vacation days** into 2013. His total carryover will be 10 days.

**Hire Almy, Deputy Receiver of Taxes**

**R359-12**    Authorization for **Debra Wallace**, Receiver of Taxes to **hire Carolyn Almy, Deputy Receiver of Taxes** at a rate of \$10 per hour effective 12/20/12.

**Hire Clerks for Receiver of Taxes**

**R360-12**    Authorization for Debra Wallace, Receiver of Taxes to **hire Debra Jennings, Jennifer Almy and Sarah Wallace as Clerk (part-time)**, at a rate of pay \$9.06 per hour effective 12/20/12, to work as needed.

**PLANNING & ZONING: Milkovich/Fitzgerald**

**Approval of Use of Library Parking Lot**

**R361-12**    Authorization for **Alpha Phi Alpha Fraternity** to hold a *BBQ Chicken Dinner Scholarship Fundraiser* on May 18<sup>th</sup>, 2013 on the Library Parking Lot. An *Indemnification Agreement* is to be signed.

**PUBLIC SAFETY: Majewski/Fitzgerald**

**Hire Police Officer Kyle Telfer**

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**R362-12** Authorization for the Police Department to fill a vacancy by **hiring Kyle Telfer**, a transferring Police Officer, effective December 3, 2012 at the base rate of pay of \$59,161 pursuant to the PBA Collective Bargaining agreement.

### RECEIVE AND FILE:

- Conservation Advisory Commission Minutes of October 18, 2012
- New Liquor License Application – Ebishura Sushi, 4700 Vestal Parkway East
- Vestal Fire Department Advisory Meeting Minutes – October 15, 2012

### END OF CONSENT AGENDA

### ADDITIONAL PUBLIC COMMENTS

Speaker, who resides in the Rivercrest neighborhood, which was designated as a local historic district, feels that some of the properties are in various states of disrepair and neglect and the Town is doing nothing about it. The Supervisor justifies defending the Candlehouse litigation because the Town has a duty to protect all residents. Rivercrest deserves that same protection and it is not getting it from the Town. The code violations of several properties in the Rivercrest area have been ignored by the Town.

The Town's historic preservation law states that: *violator shall be liable to a fine of not less than \$100 nor more than \$500 for each day the violation continues. And: Any person who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Town Attorney.*

The speaker submitted the Town Clerk a folder of photos showing deterioration of several properties on the eastern end of Rivercrest and asked the Board to do something to enforce the property maintenance codes in that area. The enforcement of the code could also bring in some revenues from the fines that would be levied for non-compliance.

A speaker expressed concern about exposure to hydrogen sulfide from gas drilling and referenced sources that show evidence of water contamination from gas drilling.

Several residents expressed opposition to the recently adopted local law that allows alcohol in the pavilions at Arnold Park. The main concern is that the park is

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crowded with children and allowing alcohol consumption in that environment creates a dangerous situation. There is also concern about the Town's liability. This policy sends the wrong message to our children. It is saying that it's okay to drink and drive.

The Town Attorney noted that anyone who wants a permit must provide insurance protecting the Town from liability.

### SUPERVISOR'S ANNOUNCEMENTS

Friday, November 30<sup>th</sup>

7:00 – 7:30 PM

#### Vestal Memorial Park Gazebo at the Four Corners

- ◆ **Vestal's Annual Family Christmas Carol Sing-a-long and Christmas Tree Lighting.** Have fun singing with the Vestal Community Chorus and the Vestal High School Brass Ensemble. The Vestal Service Organization will be serving free hot cocoa, cider and doughnuts. The evening will end with a special visit from Mr. and Mrs. Santa Claus. **You can bring your Santa letter to the Tree Lighting!**
- ◆ **Winter Parking Hours** – 2:00 AM to 6:00 AM December 1<sup>st</sup> – March 31<sup>st</sup>, 2012
- ◆ 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

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

### ADJOURNMENT

On a motion of Councilman Milkovich, seconded by Councilwoman Fitzgerald, the meeting was adjourned at 6:38 PM. Carried unanimously.

Approved by \_\_\_\_\_

Emil Bielecki, Town Clerk