

Regular Meeting of the Vestal Town Board January 23, 2013

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 January 23, 2013.

TOWN BOARD PRESENT:

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

ALSO ATTENDING: Town Attorney David Berger, Town Clerk Emil Bielecki, 1st Deputy Town Clerk Kathie Young, Fire Chief Patrick McPherson and approximately 70 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:

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 Organizational Meeting and the Regular Meeting on January 9th, 2013 are approved.

PUBLIC HEARING

The Supervisor opened the Public Hearing for Proposed Local Law "A" of the year 2013 entitled: "A Local Law Rezoning BCTMP# 189.12-1-41.2 on West Sheedy Road from C-2 to PDD (Planned Development District).

He then offered the Affidavit of Publication, Proof of Posting, Affidavit of Mailing and 239 L&M review from Broome County.

Dave Schlosser, Project Architect for Schopfer Architects, LLP, and Denise Johnson, Administrator for Vestal Park Rehabilitation & Nursing Center, spoke on behalf of this project. The following information was provided:

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- The applicant wishes the Board to rezone the property from a C-2 Zoning classification to a PDD Zoning classification for the purposes of constructing a new nursing home and rehabilitation center. This new expanded facility would replace the old facility on Vestal Road which was closed due to flood damage.
- All of the necessary studies for the project have been done and the project was presented to the Planning Board for a preliminary site plan review.
- The financing is complicated. They have received a grant and the remaining financing will come from HUD. This land was previously a gravel pit. 13 acres are flat and 6 acres rise to Route 26. The land falls into two different flood maps. The lots will be subdivided. The 4.6 acres will remain undeveloped except for storm water controls.
- There will be a 160 bed skilled nursing facility, 40 bed assisted living facility and also an adult day health care program. All of these are licensed by the NYS Department of Health.
- The footprint and setbacks of the project meet and/or exceed the requirements under the C2 zoning.
- No future expansion is being planned for this site. A storm water study and a traffic plan have been filed with the Town and are available for review.
- At this time, the Vestal Road facility is abandoned and its residents are located in NYSDOH-approved "temporary" facilities: Willow Point Nursing Home (60 beds) and the Greater Binghamton Health Center (50 Beds).
- The Vestal Nursing Home has received NYS Department of Health approval to "reconstruct & expand" its facilities on a new site. The new facility will be named *Vestal Park Rehabilitation and Nursing Center*.
- This project is in keeping with the Medicare re-design of care in New York.
- The new facility is expected to employ about 240 people.

The Supervisor opened the Public Hearing for public comment. A summary of the comments and responses is as follows:

- Is a traffic light planned at the intersection of Route 26 and West Sheedy Rd.? David Schlosser response: DOT determined that there was no necessity for a traffic light because of this project. Denise Johnson response: the traffic is staggered because of their varied staffing shifts. Supervisor Schaffer response: he is working with the Town Engineer to address the need for a traffic light at that location.

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- Vestal Fire Chief Pat McPherson expressed concern that the current design does not allow full access for fire apparatus to all of the buildings. Dave Schlosser response: he will work with the Fire Department to address these concerns. A meeting with the Fire Department is on February 18th. He noted that the driveways were planned for the fire truck sizes and their turning radiuses.
- What is the criterion for a Planned Development District? Town Attorney Berger response: there are no set criteria for PDD. It is up the Planning Board and the Town Board to decide what is permitted for any project presented for this rezoning. Any changes must come back to the Planning Board or the Town Board. What is approved is only what is being presented at this time.
- Speaker congratulated the developer for putting in rain gardens and asked about the plan for outdoor lighting. David Schlosser response: *Dark Sky* lighting will be used. Only the immediate site will be illuminated.
- There is concern about the additional water and sewer that will be used by this facility and whether it may cause a loss of water pressure. Supervisor Schaffer response: we have the capacity to handle both and no negative impact is expected from this development
- Is this project at grade or is there elevation involved? Much of the problems during 2006 and 2011 were caused by filling in of lowland areas. There is concern about storm water run off and maintenance of the creeks. Construction vehicles should be restricted to using Route 26.
- Several speakers were concerned about the retention ponds and the potential for flooding at this site. Dave Schlosser responded that they are aware of the flooding situation in this area and have studied it. The required MS4 storm drainage study has been submitted to DEC. Everything they are doing is intended to help flood conditions in this area. This project is designed to actually reduce the amount of runoff from the site.
- Speaker expressed concern about excessive noise from outdoor equipment. Denise Johnson response: There will be a single generator on the site. It is for emergencies only. It is tested one hour per week under load.
- Speaker asked if there will be a PILOT (Payment In-Lieu of Taxes) for this project? Supervisor Schaffer response: he has not received any information about an application for a PILOT agreement. Dave Schlosser response: it is his understanding that a standard PILOT agreement is being requested through the IDA.

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- Speaker asked if the facility will be paying commercial rates for water and sewer. Councilman Marnicki response: the same rates apply to commercial and residential customers. They will pay the regular rate.
- Several people spoke in support of this project citing a growing elderly population and desire for Vestal residents to stay close to family and friends.

Responding to a question from Councilman Majewski concerning a potential problem with water runoff at lower elevations, Mr. Schlosser noted that the project will actually improve the situation because it will utilize retention ponds to slow the water flow off the site.

Councilwoman Fitzgerald stated that a traffic light is needed. She believes that employees will go through the neighborhoods rather than try to turn left onto Route 26. In her opinion, this is the most dangerous intersection on this stretch of road.

Councilman Milkovich stated that a decision on this project should be tabled until the Board thoroughly reviews the traffic issue and gets more information about the PILOT (Payment In-Lieu of Taxes) agreement being discussed with the IDA.

Seeing or hearing no one else wishing to speak, the **Supervisor closed this Public Hearing** and stated that the Board will defer any action until a number of the issues that have been raised are adequately reviewed.

PRIVILEGE OF THE FLOOR (Agenda Items Only)

Seeing or hearing no one wishing to speak the Supervisor closed the Privilege of the Floor.

RESOLUTIONS & MOTIONS

Sign Contract with Broome County for Snow & Ice Control – Tracy Creek

R012-13 On a motion of Councilman Marnicki, seconded by Councilman Majewski, the following resolution was

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

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Resolved to authorize the **Supervisor** to sign a **Contract with Broome County for Snow & Ice Control CA 11-80-1** for the term 1/1/13-12/31/13 at **\$3700.00** per centerline mile of **Tracy Creek Road** - CR No. 005 - for a total of 3.8 miles.

Adjust and Update Fixed Asset Inventory

R013-13 On a motion of Councilman Majewski, seconded by Councilman Majewski, the following resolution was

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

Resolved to authorize the **Comptroller** to **adjust and update our fixed asset inventory**. A recent review of the fixed asset inventory has identified a number of items that should be removed from the inventory. The items to be removed (with appropriate explanations) are as follows:

Water

- **Asset # 10884** Bobcat Welder MEG is a *duplicate* listing for Asset # 10883 Miller Bobcat Welder.
- **Asset # 11025** Pump Trash equipment is out of service and being used for parts on another pump.
- **Asset # 12129** Sewer Root Cutter is out of service and being used for parts on another cutter.
- **Asset # 11049** Tren Shore is out of service and there are no plans to repair it. Another shore unit was fabricated in-house and replaces this one.
- **Asset # 11892** Water Repair Kit should not have been listed as an asset. This is a parts kit.

Highway

- **Asset # 11354 Plasma Cutter** was examined. It is out of service and has been replaced. They are exploring a means to dispose of it (recycle). It has no cash value and it is not cost effective to repair it.

Appropriate Fund Balance A1012

R014-13 On a motion of Councilman Majewski, seconded by Councilman Marnicki, the following resolution was

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

Resolved to **Appropriate Fund Balance A1012** in the amount of **\$24,300** to allow the **IT Director** to make needed upgrades. The budget lines affected will be as follows:

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- **A1680.4499 increase \$10,700** - \$6,000 – Whats Up Gold w/ Whats Configured Plug-in
\$4,700 – Office Licenses
- **A1680.2220 increase \$ 6,400** - \$6,400 – New UPS for new servers/switches/cabinet
- **A1680.4060 increase \$ 3,400** - \$ 500 – Cable management
\$2,900 – Replace switches (CG, CH, KO, SB, Well,
VFD1, VFD2, VFD3, VFD4, 2x Spare)
- **A1680.4064 increase \$ 3,800** - \$3,800 – Remote Location UPS Replacements

CONSENT AGENDA

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

PUBLIC WORKS: Milkovich/Majewski

Parks to Scrap Metal

R015-13 Authorization for the **Parks Department** to dispose of a Gladiator Universal Gym for **scrap metal**.

FINANCE: Marnicki/Fitzgerald

Receive and File:

Warrants	2012 – 52	2013 – 02	2013 – 03E	2013 – 1EA
	2012 – 52E	2013 – 02PD	2013 – 3L	2013 -- 03
	2013 – 01	2013 – 02A	2013 – 3A	
	2013 – 01A	2013 – 2EA	2013 – 3LA	

Senior Center Lease

R016-13 Authorization for the Supervisor to sign an agreement with **Vestal Central Schools** for the space that is occupied by the **Vestal Senior Citizens**, rent will increase to **\$744** a month from **\$720**. This rent figure is calculated based on 3,517 square foot lease multiplied by \$2.54 per square foot. This agreement is effective March 1, 2013 to February 28, 2014.

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Billable Hours for Town Attorney

R017-13 Authorization for the Business Office to issue payment to the **Town Attorney for billable hours for December 2012**. Total hours are 12 hours, 30 minutes **totaling \$1875**.

Payment for Candlehouse vs Town of Vestal Legal Services – Ahmuty, Demers & McManus

R018-13 Authorization for the Business Office to issue payment to **Ahmuty, Demers & McManus** for legal services rendered for the period ending January 9, 2013 in connection with *Candlehouse vs Town of Vestal* in the amount of **\$14,265.20**.

Town Vehicle to Auction

R019-13 Authorization to send the following Town vehicle to auction:
1997 Chevy Lumina
Mileage: 99,000
VIN#: 2G1WL52M7V9133410

Fiscal Advisors & Marketing, Inc. to Advise on 2006 Bond refunding

R020-13 Authorization for the **Comptroller to contact Fiscal Advisors & Marketing, Inc.** of Syracuse, New York, to **proceed with the potential refunding of the 2006 bond**.

PERSONNEL: Majewski/Marnicki

Approve Tentative Agreement CSEA Library Agreement

R021-13 Approval of the **December 21, 2012 Tentative Agreement** between the Town of Vestal and the **CSEA Library Unit #6171** and authorization for the Town Supervisor to sign the resulting collective bargaining agreement.

Out of Class Pay for Highway Employees

R022-13 Authorization to compensate the following **Highway employees for Out of Class Pay per Union contract:**

Scott Walter - Medium equipment operator for the period November 20th, 2012 to December 20th 2013 - 12 days (96 hours) out of class in heavy equipment rate. Scott should be paid the difference between medium and heavy for a total of \$234.24.

Matt Millard - Light equipment operator for the period November 2nd, 2012 to December 22nd - 18 days (144 hours) out of class in medium equipment.

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Additionally he worked from December 26th to January 3rd, 2013 - 17.5 hours over time. Matt should be paid the difference between light and medium for a total of \$286.02.

Donnie Younker - Medium equipment operator for the period November 26th 2012 to December 30th 2013 - 15 days (120 hours) out of class in heavy equipment rate. Additionally, on Dec. 25th he worked 3.25 hours double time. December 29th and 30th he worked 17.5 hours over time. Donnie should be paid the difference between medium and heavy for a total of \$372.71.

All employees had previously worked the mandatory 30 days.

PLANNING & ZONING: Fitzgerald/Milkovich

Indemnification Agreement with NYSDEC for Rail Trail Section II

R023-13 Authorization for the Supervisor to sign an **Indemnification Agreement** with **NYSDEC** for the **Rail Trail Section II** that will be built along the ponding area on Pumphouse Road. This relates to the DEC permit for land use of their property.

PUBLIC SAFETY: Marnicki/Fitzgerald

STOP DWI Overtime Agreement

R024-13 Authorization for the **Supervisor to sign an agreement** with Broome County for **STOP DWI Task Force Overtime Program**. Said agreement shall be modified to provide for a substitution of the sum of **\$13,500.00** for the previous sum of \$19,500.00. Said agreement shall be modified to provide for a substitution of the term 1/1/13 – 12/31/13, for the previous term.

Fire Training

R025-13 Approval from the Board of Fire Commissioners authorizing **Fire Fighter Christopher Gitro** to attend *Intermediate ICS (I-300) Course* at the NYS Fire Academy in Montour Falls February 25-28, 2013.

The cost of this course is \$149.00 which includes Registration, Meals and Lodging plus mileage if a Fire Department vehicle is unavailable.

Accept Fire Fighter Terrell

R026-13 Authorization from the Board of Fire Commissioners to **accept Brian Terrell** as a member of Fire Company Number 2.

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Accept Membership Listing for 2012 Length of Service Awards Program

R027-13 Authorization from the Board of Fire Commissioners to accept the final Membership Listing for the **2012 Length of Service Awards Program** for certification and approval in accordance to Article 24, Section 5 (C).

In order for members to be placed on this list they had to have achieved 50 points at the end of September of the 2012 year so that they would be placed on the Active Membership Roster in accordance to Article 4 of the Vestal Fire Department By-Laws.

RECEIVE AND FILE:

- **Vestal Volunteer Emergency Squad, Inc.** – Financial Statements for the Years Ended December 31, 2011 and 2010.

END OF CONSENT AGENDA

ADDITIONAL PUBLIC COMMENTS

Approximately 5 speakers addressed the Board. A synopsis of the comments is as follows:

- Speaker would like the Town Board to pass a resolution banning the spreading of hydro-fracking brine water on our roads. Supervisor Schaffer response: the Town Board has been looking at all information and data concerning fracking. He does not foresee drilling in the near future. The Board will continue to look at recommendations designed to protect the Town's interests.
- Speaker asked why the Town needs to sign an indemnification agreement with DEC. Supervisor Schaffer explained that this is needed so we can use and access DEC property for the Rail Trail II project. The State has decided that it will allow the use of funds slated for Rail Trail Sections III and IV to be used for completing Section II.
- Speaker objects to spending any more money to defend the Candlehouse lawsuit? The amount is unjustified. The Vestal residents are not gaining anything by fighting this case. Supervisor Schaffer explained that we are obligated to defend the interests of our residents. This case may be going to trial this summer.

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- Speaker asked that if the Town Board truly represents all the residents of the Town, why is it not supporting the Historic Commission and the Rivercrest Historic District?
- Speaker expressed concern about the documented evidence of methane migration from gas hydro-fracking. He is worried about the migration of methane and hydrogen sulfide in Vestal if hydro-fracking is permitted.

SUPERVISOR'S ANNOUNCEMENTS

- **Winter Parking Hours** – December 1st - March 31st - 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

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

Firemen's Breakfast

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

ADJOURNMENT

On a motion of Councilman Majewski, seconded by Councilman Marnicki, the meeting was adjourned at 7:29 PM. Carried unanimously.

Approved by _____

Emil J. Bielecki, Town Clerk