

Regular Meeting of the Vestal Town Board February 27, 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 February 27, 2013

TOWN BOARD PRESENT:

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

ABSENT: Councilman David Marnicki

ALSO ATTENDING: Town Attorney David Berger, Town Clerk Emil Bielecki, 1st Deputy Town Clerk Kathie Young, Fire Chief Patrick McPherson, Assistant Fire Chief Doug Rose and approximately 50 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 Councilwoman Fitzgerald, the following resolution was

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

Resolved the Minutes of the Regular Meeting on February 13, 2013 are approved.

PRIVILEGE OF THE FLOOR (Agenda Items Only)

A speaker, noting a motion appointing election officials, asked what is a Permanent Chairman and how are they selected? Town Clerk Emil Bielecki, responded these actions are housekeeping matters that need to be done for the Special Election being scheduled to purchase a fire rescue vehicle. These appointments are mandated by the Broome County Board of Elections who took over all election related responsibilities a few years ago.

Speaker: The purchase of the fire truck should have been in last year's budget. What is the rush? Why not wait until November? Supervisor Schaffer responded that this is not an operating budget item and approval must be obtained from the public in a Special Election.

Assistant Fire Chief Doug Rose noted that we can't do this in the general election. It must be done in a separate election by the Fire District. We have put off this

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purchase for over 8 years. To make repairs on the old truck would be very expensive. There will be a public information session where we will explain everything and answer all questions. It will be advertised and the media will be notified.

The following are comments from speakers concerned about the impact that the proposed Vestal Nursing Center development will have on their residential neighborhood:

- There are still storm water and sanitary sewer issues. The homeowners on Juneberry Rd. should be asked about their issues.
- This rezoning is being done without adequate input from the neighborhood.
- The Route 26/Sheedy Rd. intersection is very dangerous. This will force people to drive through their neighborhood.
- The area has many issues with sewers as well as flooding problems in the spring. The impact of the development on this neighborhood should be considered.
- The sanitary and storm sewers in that area do not keep up with capacity. The infrastructure can't be ignored.
- The runoff down from Route 26 has increased significantly. Improved drainage infrastructure and curbs should be installed.
- It has been said that the drainage pipes have all collapsed. The new construction above this area has magnified the amount of water. Perhaps dredging the creek would help but the DEC won't allow it.
- The residents don't oppose the new nursing facility, but there are infrastructure problems that need to be addressed.
- It is understood that the developer has not yet obtained funding for this project. If the zoning change is made, and the nursing home center is not built, there is some concern as to what else could go on that property and who has approval authority.

Supervisor Schaffer stated that the Town Board only votes on the zoning change. Notifications about the rezoning were sent out as was required by law. A public hearing was held. The sanitary and storm sewers have been checked. The Board believes that it has adequately addressed all of the issues that it has control of. The remaining issues will be addressed by the Planning Board and the site plan review process.

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Councilwoman Fitzgerald stated that she has spoken to the Water Superintendent and he has no records of any issues in this area. The storm water runoff would be the responsibility of the Town Engineer.

Town Attorney David Berger explained that other development consistent with that zoning classification would be permissible. However, in a Planned Development District (PDD), any new use would need to be approved by the Town Board and be subject to a site plan review by the Planning Board.

RESOLUTIONS & MOTIONS

Tracy Creek Memorial Church to Use Library Parking Lot

R042-13 On a motion of Councilman Majewski, seconded by Councilman Milkovich, the following resolution was

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

Resolved to approve the **use the library parking lot by the Tracy Creek Memorial Church** on May 4, 2013 for a Phil's Chicken BBQ fundraiser and other activities to celebrate their **175th Anniversary**. In addition to signing the standard indemnification agreement, the Church is also to provide an insurance rider for this event. The Vestal Town Board Administration Committee will work with them to finalize any changes that may need to be made to ensure adequate safety at this event.

Library Funds Transferred

R043-13 On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved to authorize the Library Board to transfer \$14,450 from line **L7410.1010** to line **L7410.1020**.

Refunding Bond Resolution

R044-13 On a motion of Councilman Majewski, seconded by Councilman Milkovich, the following resolution was

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

Resolved to adopt the following **Refunding Bond Resolution**:

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A RESOLUTION AUTHORIZING THE ISSUANCE PURSUANT TO SECTION 90.00 OR SECTION 90.10 OF THE LOCAL FINANCE LAW OF **REFUNDING BONDS** OF THE TOWN OF VESTAL, BROOME COUNTY, NEW YORK, TO BE DESIGNATED SUBSTANTIALLY “PUBLIC IMPROVEMENT REFUNDING (SERIAL) BONDS,” AND PROVIDING FOR OTHER MATTERS IN RELATION THERETO AND THE PAYMENT OF THE BONDS TO BE REFUNDED THEREBY

Authorization to Purchase Heavy Rescue Fire-Fighting Vehicle

R045-13 On a motion of Councilman Majewski, seconded by Councilwoman Patty Fitzgerald, the following resolution was

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

Resolved to adopt the following:

A RESOLUTION AUTHORIZING THE PURCHASE OF A HEAVY RESCUE FIRE-FIGHTING VEHICLE FOR THE VESTAL FIRE DISTRICT IN THE TOWN OF VESTAL, BROOME COUNTY, NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$800,000, AND AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$800,000 SERIAL BONDS OF SAID FIRE DISTRICT TO PAY THE COST THEREOF.

It is hereby further determined that the financing of such maximum estimated cost may be completed pursuant to the provisions of Section 109-b of the General Municipal Law and the determination and implementation with regard thereto is hereby delegated to the Fire District Treasurer.

Approval for Special Election

R046-13 On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved that the Board of Fire Commissioners approves calling for **Special Election as follows:**

A **special election** of the qualified voters of **Vestal Fire District** in the Town of Vestal, Broome County, New York, is hereby authorized to be held on the **9th day of April, 2013, at the Town Hall**, in Vestal, New York, in said Fire District, **between the hours of 12:00 o'clock NOON and 9:00 o'clock P.M.**, Prevailing Time, to vote by paper ballot upon the adoption or rejection of the bond resolution heretofore adopted at this meeting.

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CONSENT AGENDA

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

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

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

PUBLIC WORKS: Milkovich/Majewski

Easement 520 Prentice Road – BCTMP 158.10-1-6.1

R047-13 Approval for the Supervisor to sign and then have filed at the Broome County Clerk's Office, a **Permanent Right-of-Way and Sanitary Sewer Easement** on the land owned by **Murphy LLC** at **520 Prentice Road, Vestal, NY, BCTMP 158.10-1-6.1**.

FINANCE: Marnicki/Fitzgerald

Receive and File:

Warrant Reports 2013 –07, 2013 –07E, 2013-07M

Publish Notice of Special Election

R048-13 Authorization Board of Fire Commissioners for the **Town Attorney** to publish *Notice of Special Election* on March 6, 2013.

Appoint Board of Election for Special Election

R049-13 Approval from the Board of Fire Commissioners of the **resolution to appoint a Board of Election** for a Special Election.

WHEREAS, the Board of Fire Commissioners of Vestal Fire District in the Town of Vestal, Broome County, New York, has called a special election of the qualified voters of said Fire District to be held on the **9th day of April, 2013**; and WHEREAS, it is now desired to provide for the appointment of a permanent chairman, inspectors of election and assistant clerks for said special election; NOW, THEREFORE, BE IT RESOLVED, by the Board of Fire Commissioners of the Vestal Fire District in the Town of Vestal, Broome County, New York, as follows:

Section 1. **Mary Hall**, a duly qualified voter of said Fire District is hereby appointed as the **permanent chairman of the special election** referred to in the preambles hereof.

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Section 2. The following named qualified voters of said Fire District are hereby appointed to act as **inspectors of election** of said special election, so that there shall be at least two inspectors for each ballot box to be used thereat: Lucille Giles, Janet Cole and Nancy Gregory.

Section 3. Each inspector of election appointed for said special election, as herein provided, shall be entitled to compensation for services actually and necessarily spent on the duties of his office. The rate of pay shall be \$11.00 an hour for the services of the Chairman and \$10.00 an hour for the services of the Inspectors. The Secretary of said Fire District is hereby authorized and directed to give written notice of appointment to the persons herein respectively appointed as permanent chairman, inspectors of election and assistant clerks for said special election.

Set Time and Place of Inspectors of Election Meeting for Special Election

R050-12 Authorization to approve the following:

RESOLUTION SETTING THE TIME AND PLACE OF A MEETING OF THE INSPECTORS OF ELECTION OF VESTAL FIRE DISTRICT IN THE TOWN OF VESTAL, BROOME COUNTY, NEW YORK, FOR THE PURPOSE OF PREPARATION OF THE FIRE DISTRICT ELECTION REGISTER.

WHEREAS, the Board of Fire Commissioners of Vestal Fire District in the Town of Vestal, Broome County, New York, heretofore resolved on February 27, 2013 to call a special election of said Fire District, such special election to be held at the Fire Station, in Vestal, New York, in said Fire District, on the 9th day of April, 2013, between the hours of 12:00 o'clock NOON and 9:00 o'clock PM, Prevailing Time; and

WHEREAS, pursuant to Section 175-a of the Town Law, only persons registered with the Broome County Board of Elections on or before the date 23 days prior to the date of the election shall be entitled to vote in such special election; and

WHEREAS, such Section 175-a requires that a resolution setting the time and place of the meeting of the election inspectors appointed by said Board of Fire Commissioners of said Fire District for the aforesaid special election be adopted at least thirty days prior to such special election; NOW, THEREFORE, BE IT RESOLVED, by the Board of Fire Commissioners of Vestal Fire District in the Town of Vestal, Broome County, New York;

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Section 1. The inspectors of election approved by resolution duly adopted by said Board of Fire Commissioners on February 27, 2013, shall meet at the Fire District Headquarters, in Vestal, New York, in said Fire District, **the 22nd day of March, 2013 at 3:00 o'clock P.M.** to commence preparation of the register of those persons eligible to vote in such special election, in accordance with said Section 175-a of the Town Law, only those persons registered with the Board of Elections of Broome County on or before the date 23 days prior to the date of the election calculated in accordance with Section 20 of the General Construction Law, will be entitled to vote at such special election.

Section 2. This resolution shall take effect immediately, and neither publication nor posting is required.

Accept Justice Court Assistance Grant

R052-13 Approval for the **Vestal Town Court** to accept a **grant from the Justice Court Assistance Program (JCAP)** in the amount of **\$5,694.00**.

Remit Payment to Hickey & Gates LLC

R053-13 Authorization for the Business Office to remit payment for the legal services of **Hickey & Gates LLC**, 160 Hawley Street, Binghamton, NY in the amount of **\$262.50** for the **period November 1, 2012 through February 14, 2013** regarding the matter of Williams vs Town of Vestal.

PERSONNEL: Majewski/Marnicki

Application for Pension Waiver to Section 211

R051-13 Authorization for the **Town Supervisor to sign** the SECTION 211 APPLICATION, *Application for Pension Waiver to Section 211 of the New York State Retirement and Social Security Law* (CSC-1 09/11 L), as the Appointing Authority to certify the information provided is true and correct to the best of his knowledge.

PLANNING & ZONING: Fitzgerald/Milkovich

Vestal Marching Band to use Library Parking Lot

R054-13 Approval for the **Vestal Marching Band** to use the library parking lot on May 26, 2013 for a Chicken BBQ fundraiser. An Indemnification Agreement is to be signed

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PUBLIC SAFETY: Marnicki/Fitzgerald

Electronic Gate for Police

R055-13 Authorization for the installation of an **electronically controlled gate** in the basement level of the Police Department at a cost of \$4,100.00. Funding for this project will come from the **Asset Forfeiture Budget Line A3120-2626R**.

Fire Training

R056-13 Approval from the Board of Fire Commissioners for the following fire personnel to attend the following **training**:

- a) Up to 16 Members of the Fire Police Squad and apparatus (Brush 32-1, Brush 32-2, Utility 32-3 and Utility 32-4) to attend ***NYS DOT Highway Closure Training*** in Kirkwood on March 11, 2013. There is no cost for this class.
- b) FF Jordan Rogers to attend ***Accident Victim Extrication*** at Prospect Terrace Fire Dept. starting July 22, 2013. There is no cost for this class.
- c) FF John Musser and Michael Shea to attend **NYS Firefighter 2** starting March 4, 2013 at Endwell Fire Department. There is no cost for this class.
- d) FF Dusty McCartney, Paul Goon, Phil R. Walter, Phillip W. Walter and Sacha Sigleman Schwartz to attend **EVOC Training**, May 4, 2013 at Town of Binghamton Fire Dept.
- e) FF Richard Austin and Phillip W. Walter to attend **NYS Fire Officer 1** starting April 5, 2013 at Endwell Fire Dept.

RECEIVE AND FILE

- **Conservation Advisory Commission** Minutes of the January 17, 2013 Meeting
- **CAC Report** - Natural Areas in Vestal Township-Julian Shepherd, January 2013
- **Vestal Fire Advisory Board Meeting Minutes** – 2013 01 21
- **Vestal Volunteer Emergency Squad, Inc.** – Financial Statements – Three Months Ended March 31, 2012 and 2011.
- Letter dated February 13, 2012 from **Michael J. Trudniak** expressing his concerns about truck traffic on a section of Vestal Road between African Road on the east and Main Street on the west.

END OF CONSENT AGENDA

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ADDITIONAL PUBLIC COMMENTS

A speaker expressed concern about the Waiver that was approved which allows our Police Chief to collect his NYS retirement while taking a salary. Councilman Majewski responded that we do not pay into the retirement system for the Police Chief. He earned this retirement while working for another municipality. Supervisor Schaffer added that there is a civil service test coming up for the police chief position and the waiver may not be granted if someone passes the test and an eligibility list is created.

A speaker asked about the emergency generator that is being planned at the Vestal Park Rehab and Nursing Center. The project engineer explained that they will be using a 150KW above ground diesel generator which will be installed with a muffler and insulated tank.

Supervisor Schaffer noted that he attended the NYS Association of Towns Annual Meeting. One of the reasons for his attendance was to see that the Association did not take a position on the lawsuits connected with gas drilling and hydrofracking. The Vestal Town Board supports home rule but will continue to stay neutral in the gas drilling debate. We are waiting for the State to make a decision and will react accordingly. He would like to see more of our officials attending the Association of Towns meetings. We need the continuing education.

A speaker, noting Supervisor Schaffer's expressed intent to go to the Association of Towns meeting to kill a resolution in support of Dryden and Middlefield in a *friend of the court brief*, asked how this is supporting home rule. In addition, the speaker referenced a letter to the Appellate Court which was signed by the Supervisor and the Board members. This letter appears to support statutory limitations to home rule and is written in support of the proponents of gas drilling. In view of the signatures on this letter to the court, he cannot reconcile the repeated claims of neutrality being made by the Supervisor and calls the action hypocritical.

Supervisor Schaffer responded that the Board supports home rule but that gas drilling is controlled by the State. He disputes the speaker's claim that the letter to the court expresses support for either side of the gas drilling issue.

A speaker asked about the status of the complaint filed with the Town concerning a construction business being run out of residential home in the Twin Orchards

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area. Town Attorney Berger responded that the Code Department has issued a cease and desist order to the property owner.

Supervisor Schaffer announce that the NYS Department of Transportation (DOT) has agreed to hold a meeting with the residents concerning the intersection at Route 26 and Sheedy Rd. The time and place of the meeting will be announced at a later time.

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 - 3/16 - Time: 4:00 pm till gone
Firemen's Breakfast - 4/14 - Time: 7:00 am till 11:30 am

OLD BUSINESS

Adopted Local Law "A" of the Year 2013

Councilwoman Fitzgerald stated that the neighbors need to have better answers to their valid concerns and made a **motion to table this resolution**. The **motion to table died for a lack of a second**.

Councilman Milkovich and Supervisor Schaffer acknowledged the concerns and stated that they will be asking the Highway, Water and Engineering Departments to work with the residents in addressing their issues. This development is very beneficial to the Town.

R057-13 On a motion of Councilman Majewski, seconded by Councilman Milkovich, the following resolution was

ADOPTED	Ayes	3	Majewski, Milkovich, Schaffer
	Nays	1	Fitzgerald
	Absent	1	Marnicki

Resolved to adopt proposed **Local Law "A" of the Year 2013 Entitled: *A Local Law Amending*** the zoning map by changing a portion of the premises **1501 Route 26S, Vestal, New York BCTMP Portion of #189.12-1-4.12** from C-2 (Community Business District) to PDD (Planned Development District) and

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further the Town Board of the Town of Vestal hereby finds and determines that it adopts the SEQR findings of the Planning Board as Lead Agency on the project.

Tabled at the February 13th, 2013 Town Board Meeting - Motion to authorize the Highway Superintendent, to transfer a **1981 John Deere 550 Bulldozer** to the Parks Department.

The following motion was passed at the February 25th, 2013 Town Board Work Session:

R041-13 On a motion of Councilman Marnicki, seconded by Councilwoman Fitzgerald, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Milkovich, Marnicki
Nays 1 Schaffer

Resolved to **award the bid for the Rail Trail-Section 2 project** (including a new pedestrian bridge over Choconut Creek) to **Procon Contracting LLC**, the low bidder, in the amount of **\$2,049,000.00** with a revised completion date of December 1, 2013, and authorize the Supervisor to sign all agreements connected with the completion of this project.

ADJOURNMENT

On a motion of Councilman Majewski, seconded by Councilman Milkovich, the meeting was adjourned at 7:26 PM. Carried unanimously.

Approved by _____ **Emil J. Bielecki, Town Clerk**