

Regular Meeting of the Vestal Town Board October 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 West, Vestal, New York on October 23, 2013.

TOWN BOARD PRESENT:

Supervisor John Schaffer
Councilman Fran Majewski
Councilwoman Patty Fitzgerald
Councilman David Marnicki

ABSENT: Councilman Steve Milkovich

ALSO ATTENDING: Town Attorney David Berger, Police Chief John Butler, Town Clerk Emil Bielecki, 1st Deputy Town Clerk Kathie Young and approximately 40 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, Marnicki, Schaffer
 Nays 0 Absent 1 Milkovich

Resolved the Minutes of the Regular Meeting on October 9, 2013 are approved.

Stace Kintner Promoted to Police Sergeant

R287-13 On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved **Police Chief John Butler** to promote **Police Officer Stace Kintner** to the recently vacated position of **Police Sergeant effective October 24, 2013** at the Vestal Police Supervisors' Agreement collective bargaining agreement entry rate of **\$69,837**.

SWEARING IN OF POLICE SERGEANT STACE KINTNER

Vestal Police Chief John Butler noted that Stace Kintner acted as our School Resource Officer and did a wonderful job but he his deserving of this promotion.

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His father, Terry Kintner, a retired Vestal Police Detective, then pinned the Sergeant stripes on his son.

PUBLIC HEARINGS

Public Hearing for Local Law “F” of the Year 2013

The Supervisor offered *Proof of Posting* and *Affidavit of Publication* regarding the Public Hearing for proposed **Local Law “F” of the Year 2013** entitled: “A Local Law Rezoning 4696 Vestal Parkway East, Vestal, New York (BCTMP # 159.15-2-21.1) from C-2 Community Business District to PDD (Planned Development District)”.

The Board is in receipt of: 1) the *239-l and m* from Broome County Department of Planning & Economic Development 2) letter from Planning Board Chairwoman Joyce Majewski noting that the Planning Board unanimously voted to recommend that the zoning change to PDD be approved by the Town Board pursuant to Town Code section 24-532 (b), 3) *Affidavit of Mailing*.

Ken Ellsworth from Keystone Engineering, Jeff Smetana from the Newman Development Group and Cheryl Sacco, Attorney from Coughlin and Gerhart, spoke on behalf of Vestal Park, LLC, seeking to rezone the parcel to PDD.

Jeff Smetana showed posters of the plaza as it exists and how it will look after it is developed. The plaza serves as a gateway into the Town of Vestal. Two large commercial tenants (NCI and AIG) will be moving out next year. They have determined that building a student housing complex with approximately 750 beds would be the best reuse of the location. Binghamton University has added over 2,000 to their enrollment and additional growth is anticipated. This development will be a significant benefit to the community.

Mr. Smetana noted that the site has more than adequate parking and the spaces will be more conveniently located. They hope to do improvements to the plaza to upgrade and remodel the facades to give the area a more cohesive look.

In response to questions from the Town Board and the audience, Jeff Smetana and Ken Elsworth also provided these additional comments:

- They are working with the Fire Department to address issues concerning the turning radius for the fire equipment as well as compliance with 13 vs.

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13 R fire regulations. Although not legally required, some of the more stringent regulations will be applied.

- The new complex will actually result in additional green space thereby improving the appearance and the drainage at the site.
- Plans for a restaurant shown in the initial presentation have been omitted.
- A traffic study has been done and will be submitted to the Town.
- The developer will be seeking a deviated payment-in-lieu of taxes (PILOT) agreement for this project. The agreement would have a 20 year term and would provide a fixed guaranteed income stream for the Town. The agreement is necessary make this a viable project.
- The new design should ease parking issues because the student spaces will be moved to areas where they will compete less with public parking spots.
- There will likely be a decrease in traffic during construction and when the project is completed, it will likely result in less traffic during peak hours because student traffic will be more spread out compared to the 800 plus employees who currently come to work at 8 AM and leave at 5 PM. Also, a student bus service will alleviate some of the traffic.
- They anticipate that construction will start in the spring of 2014 with a completion time in the summer of 2015.
- The engineers are looking at the use of porous pavement as a possible option to address drainage, but they are uncertain if the conditions are right at this site. Regardless, they have to meet stringent drainage regulations.

A speaker noted that the area of this proposed development is prone to traffic congestion which hinders the ability of the Fire Department to respond. Having to respond to a large volume of false alarms at the University is already burning out our fire department volunteers. He is concerned that this additional housing will further strain our volunteer Fire Department.

Jeff Smetana responded that these buildings will be professionally staffed and fire issues should be alleviated by a new protocol. The records indicate that there are few fire calls from the student housing that is currently at the plaza.

Councilman Marnicki stated that he still has concerns about the PILOT agreement that is being proposed.

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Upon closing of the public hearing, Supervisor Schaffer stated that there are still a number of unresolved issues concerning this project and the Board will not act on this rezoning request until a later date.

PRIVILEGE OF THE FLOOR (Agenda Items Only)

A speaker expressed his objections to the tax settlements given to commercial properties and not to residential properties. Also, he is irritated with the amount of budget transfers being done and the legal fees we are paying for lawsuits. Lastly, he feels that the referendum for the fire truck should be held on the regular Election Day to save money and make it easier for more people to vote.

Supervisor Schaffer explained the budget transfer in question is needed to make up for a shortfall to purchase a generator. The generator is needed to protect us in the event of another flood. As to the fire district referendum, the county elections board advised against combining it with the general election. He recommends that the speaker attend the budget sessions to get a better understanding of the budgetary issues.

RESOLUTIONS & MOTIONS

Article 7 Tax Certiorari Settlements

R288-13 On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved to authorize the **Town Attorney to sign a *Stipulation of Settlement*** for the following **Article 7 Tax Certiorari** cases filed in Broome County entitled:

Barnes and Noble #2981 vs. The Assessor and the Board of Assessment Review of the Town of Vestal and the Town of Vestal, Index Nos. 2009-1802, 2010-1801, 2011-1683, 2012-1636 and 2013-1598, as follows:

1. For tax year 2009/2010, there will be no reduction in the assessment on Subject Parcel.
2. For tax years 2010/2011, there will be no reduction in the assessment on Subject Parcel.
3. For tax year 2011/2012, the total assessment on 2443 Vestal Parkway East shall be reduced from \$3,023,000 to \$2,700,000.
4. For tax years 2012/2013, the total assessment on 2443 Vestal Parkway East shall be reduced from \$3,023,000 to \$2,600,000.

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5. For tax years 2013/2014, the total assessment on 2443 Vestal Parkway East shall be reduced from \$3,023,000 to \$2,500,000.
6. On the 2013 final assessment roll, the total assessment on 2443 Vestal Parkway East shall be reduced from \$3,023,000 to \$2,500,000.

| Roll Year | Assessment | FMV | STIP AV | Change in AV From Prior Year | School Tax | Town / County Tax | Town Refund |
|---------------|-------------|-------------|-------------------|------------------------------|------------------------------|-------------------|-------------|
| 2013-14 | \$3,023,000 | \$3,023,000 | \$2,500,000 | -\$523,000 | \$66,908.66 | TBA | TBA |
| 2012-13 | \$3,023,000 | \$3,023,000 | \$2,600,000 | -\$423,000 | \$64,268.38 | \$ 37,863.60 | \$1,771.00 |
| 2011-12 | \$3,023,000 | \$3,023,000 | \$2,700,000 | -\$323,000 | \$61,756.56 | \$106,720.58 | \$1,287.68 |
| 2010-11 | \$3,023,000 | \$3,023,000 | \$3,023,000 | \$0 | | | \$0.00 |
| 2009-10 | \$3,023,000 | \$3,023,000 | \$3,023,000 | \$0 | | | \$0.00 |
| TOTALS | | | \$3,058.69 | | * Town = General and Highway | | |

The Town Attorney and Business Office are authorized and directed to take all necessary steps to implement this resolution.

Settlement with NES Equipment Services Corporation

R289-13 On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved to approve settlement in **NES Equipment Services Corporation DBA NES Rentals, and NES Rentals Holdings Inc. v Town of Vestal**, United States District Court for the Northern District of New York, Case No. 3:10-CV-01380 for the total sum of \$18,000. The Town Supervisor and Town Attorney and Business Office are authorized to take any and all steps to implement this resolution.

Advertise Public Hearing for Amending Sewer Rents

R290-13 On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved for the **Town Attorney to draw a local law amending the sewer rents and to advertise on November 6, 2013, for a Public Hearing on November 20, 2013.**

Advertise Public Hearing for 2014 Preliminary Budget

R291-13 On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved for the Town Attorney to advertise on October 30, 2013 a Notice of Public Hearing on the 2014 Preliminary Budget with the Public Hearing being held on November 6, 2013 at 6:00 pm.

CONSENT AGENDA

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

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

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

PUBLIC WORKS: Milkovich/Majewski

Highway Department Inventory Adjustment

R292-13 Authorization for the **Highway Department** to remove saw TS-700 from the asset inventory. This saw was not able to be repaired and was used for a trade-in in the amount of \$71.96 on September 11, 2013 to purchase a new Stihl T5-420 Saw for \$953. Final cost for new Stihl T5-420 Saw was \$881.99. The new Stihl T5-420 saw will be tracked in asset inventory.

FINANCE: Marnicki/Fitzgerald

Receive and File:

Warrant Reports – 2013 - 41, 41E, 42, 42B, 42E, 42L

Budget Transfers Approved

R293-13 Authorization for the Comptroller to perform the following **Budget Transfers** dated October 11, 2013 to make up the shortfall for the Town Hall Generator.

| <u>From Line Item</u> | <u>To Line</u> | <u>Item Amount</u> | <u>Requested Explanation</u> |
|------------------------------|-----------------------|---------------------------|--|
| A9010.8401 | A9950.9000 | \$ 25,000.00 | Transfer from Retirement expense to cover generator. |
| A9050.8407 | A9950.9000 | \$ 4,000.00 | Transfer from unemployment Insurance to cover generator. |
| A1990.4322 | A9950.9000 | \$ 2,200.00 | Transfer from contingency to cover cost of generator. |

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Approval of Penflex Agreement for LOSAP

R294-13 Authorization for the Chairman of the Board of Fire Commissioners to sign the **Service Fee Agreement with Penflex** in the amount of **\$6,200**, permitting them to provide the Vestal Fire District actuarial and administration services for the Service Award Program (**LOSAP**) in 2013/2014.

Invoice for Hickey & Gates for legal expenses

R295-13 Authorization for the **Business Office** to pay an invoice for the legal work of **Hickey & Gates** in the amount of **\$2921.72** for work from June to August 2013 in regards to the *Williams vs. Town of Vestal* legal matter.

PERSONNEL: Majewski/Marnicki

Oggins Reappointed to Library Board of Trustees

R296-13 Authorization to re-appoint **Robin Oggins** to the **Library Board of Trustees** effective January 1, 2014 and expiring on December 31, 2018.

Wilcox Reappointed to Recreation Commission

R297-13 Authorization to re-appoint **Mary Ann Wilcox** to the **Recreation Commission** effective January 1, 2014 and expiring on December 31, 2020.

Highway Out of Title Wages Approved

R298-13 Authorization to pay the following **Out of Title wages** for the following **Highway Employees**:

| | | |
|------------------------|--------------|---|
| Matt Millard | - \$1,361.60 | May 13, 2013 to September 27, 2013 |
| Bill Garey | - \$1,112.64 | June 3, 2013 to October 15, 2013 |
| Greg Burd | - \$1,007.26 | August 19, 2013 to September 27, 2013 |
| | - \$ 836.90 | Light Equip July 16, 2013 to Aug 16, 2013 & Medium Equip May 31, 2013 & July 24 & 25 th |
| Donnie Younker | - \$ 917.44 | May 6, 2013 to September 25, 2013 |
| Eric Van Fossen | - \$ 936.96 | June 12, 2013 to September 24, 2013 |
| Walter Scott | - \$ 895.79 | July 31, 2013 to October 21, 2013 |
| Chris Lupold | - \$ 727.12 | January 2013 to September 26, 2013 |
| Jeff Tomczyk | - \$ 408.70 | August 1, 2013 to September 26, 2013 |
| Todd Ingersoll | - \$ 389.89 | September 17, 2013 to October 15, 2013 |
| John Angelo | - \$ 547.78 | July and August, 2013 |
| Ben Peck | - \$ 459.04 | Mech 1 March 20 to August 12 MEO/Med June 5 to September 25 MEO/Heavy April 19 to September 6 |
| Richard Martin | - \$1,482.91 | January through August 27, 2013 |

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PLANNING & ZONING: Fitzgerald/Milkovich **Sertoma to Use Library Parking Lot**

R299-13 Authorization for the **Vestal Sertoma Club** to hold its annual Chicken BBQ on **December 7, 2013** in the parking lot of the **Vestal Public Library**. An indemnification agreement is to be signed.

PUBLIC SAFETY: Marnicki/Fitzgerald **Approval of Fire Bake Sale**

R300-13 Authorization from the Board of Fire Commissioners to approve the Vestal Fire Department Membership and Station 2's **Ladies Auxiliary Bake Sale** being held on Tuesday, November 5th from 6am to 9pm at Vestal Fire Department Station # 2, Route 26 South in Vestal Center. Coverage time will be from 6am to 9pm and a sign in sheet will be used to track personnel at this event.

RECEIVE AND FILE:

- Letter from **Coreen Sines at Hillel Academy** thanking the Vestal Firefighters for presenting a Fire Safety Program at the school.
- Fire Advisory Board Minutes for September 16, 2013
- Notices of Intention from **Talisman Energy** dated October 9 and October 16, 2013 to commence natural gas drilling operations in Susquehanna County, PA.
- Notice of **Issuance of Magazine Certificate** for Home Central issued 10/15/2013
- **2013 Continuing Judicial Education Certification** for Justice Michael D. Sherwood

END OF CONSENT AGENDA

ADDITIONAL PUBLIC COMMENTS

A speaker complained that there are too many absences at Town Board meetings. Board members have a responsibility to attend meetings. They should not be paid if they are not here.

SUPERVISOR'S ANNOUNCEMENTS

- The Highway Department has begun leaf pick up.
- Public Hearing for the [2014 Vestal Town Budget](#) will be held November 6, 2013.

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- [Fire District Special Election](#) to be held on November 19, 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.
- **Events at the Vestal Museum**
The Wheel Spins Round - Exhibit thru November 22, 2013
Open Wednesday - Saturday 10am - 3pm.
Museum exhibit is Free Admission
November 2: Felted beads and book marks, a family event by Lamb to Loom Fiber Guild. All welcome.
Saturdays: Kids crafts
- **Monster Mash Halloween Party**
Saturday, October 26 - 1:00 PM - 3:30 PM
Arnold Park, Andrews Road
Rain date – Sunday, Oct. 27 – 1:00 PM – 3:30 PM
In case of bad weather go to www.vestalny.com under [Town Calendar](#) or call 754-3368

OTHER NEW BUSINESS

Councilman Majewski read the letter of resignation from Sergeant Joe Kennedy, Jr. in which he thanks the Town for its commitment to public safety but cautions about further reductions of the police force in response to budgetary constraints.

ADOPT FINAL 2014 VESTAL FIRE DISTRICT BUDGET

R301-13 On a motion of Fire Commissioner Majewski, seconded by Fire Commissioner Fitzgerald, the following resolution was

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

Resolved to adopt the **Final 2014 Vestal Fire District Budget** with total appropriations of **\$1,218,231**.

ADJOURNMENT

On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the meeting was adjourned at 7:32 PM. Carried unanimously.

Approved by _____ Emil J. Bielecki, Town Clerk