

Regular Meeting of the Vestal Town Board March 13, 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 March 13, 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, Town Engineer Gary Campo, Fire Chief Pat McPherson and approximately 30 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 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer
 Nays 0

Resolved the Minutes of the Regular Meeting on **February 27, 2013** are approved.

PRIVILEGE OF THE FLOOR (Agenda Items Only)

A speaker asked for an explanation concerning the declaration of the 17 buildings as unsafe and to arrange for their demolition. Supervisor Schaffer responded that these are the homes destroyed in the 2011 flood that have asbestos in them but it cannot be abated because it is too dangerous to enter into the buildings.

RESOLUTIONS & MOTIONS

Flood Buy Out Demolitions

Councilman Marnicki noted that the money needed for the demolition of these buildings is part of the buy-out program. We are not financially responsible.

R058-13 On a motion of Councilman Marnicki, seconded by Councilman Milkovich, the following resolution was

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

Resolved the following 17 buildings are declared unsafe and direct the Town Engineer to arrange for their demolition as required by New York State Department of Labor.

220 Crest St	Urban, Gloria	172.11-2-5	Unsafe
224 Crest St.	Rando, Jean E.	172.11-2-6	Unsafe
205 Greenlawn Rd.	Shephard, Robert E.	172.11-2-14	Unsafe
212 Westview Dr.	Watson, Bree A.	172.11-2-19	Unsafe
368 First Ave.	Graham Lyttle, Shirley	157.52-3-43	Unsafe
372 First Ave.	Schwarz, Jeffrey L.	157.52-3-44	Unsafe
373 First Ave.	Deshane, Barbara A.	157.52-3-17	Unsafe
381 First Ave.	Watson, Josephine	157.52-3-15	Unsafe
373 Oak St.	Hughes Oliver, Barbara A	157.52-3-36	Unsafe
1613 Pearl St.	Peris, Edward	157.52-1-6	Unsafe
345 Second Ave.	Proudman, Charles G.	157.60-1-3	Unsafe
332 Third Ave.	Farley, Betty	157.59-2-30	Unsafe
336 Third Ave.	Moody, Mary R.	157.59-2-29	Unsafe
360 Third Ave.	Nelli, Osee& Joseph	157.51-3-14.1	Unsafe
1529 Vestal Rd.	Munley, Jason	157.52-1-51	Unsafe
1533 Vestal Rd.	Jones, Wayne C.	157.52-1-50	Unsafe
1704 Vestal Rd.	Nogaret, Aldo F.	157.52-2-2	Unsafe

Out of Class Pay for Highway Employees

R059-13 On a motion of Councilman Marnicki, seconded by Councilman Milkovich, the following resolution was

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

Resolved to compensate the following **Highway employees for Out of Class Pay per Union contract:**

Donnie Younker a Medium Equipment Operator, for the period January 3rd, 2013 to February 19th, 2013 - 60 hours straight time and 51 hours of overtime out of class in heavy equipment rate. Donnie should be paid the difference between medium and heavy for a total of \$333.06.

Todd Ingersoll a Mechanic I, for the period July 13th, 2012 to February 22, 2013 - 109 hours out of class in Mechanic II. Todd should be paid the difference between

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Mechanic I and Mechanic II for a total of \$276.86. These employees had previously worked the mandatory 30 days.

Negative Declaration of SEQR – Special Use Permit

R060-13 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 to approve the following **Negative Declaration of SEQR:**

Concerning the request by **Ryan G. Titchen** of **Solid State Crossfit**, for a **Special Use Permit in an ID Zone**, to occupy 604 Vestal Parkway West, BCTMP 173.21-1-3, (across from the Town Hall) for use as a gym/fitness center.

The Town Board of the Town of Vestal hereby finds and determines that:

(a) it has considered the action, reviewed the environmental assessment form, reviewed the criteria set forth in 6 NYCRR section 617.7(c), thoroughly analyzed the relevant areas of potential environmental concern, and has duly considered all of the potential environmental impacts and their magnitude in connection with the proposed project

(b) This project will not result in any large and important environmental impacts, and, therefore, is one, which will not have a significant impact on the environment, and, therefore, a negative declaration is hereby adopted.

Special Use Permit to Solid State Crossfit

R061-13 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 to issue a **Special Use Permit in an ID Zone** to **Solid State Crossfit**, to occupy 604 Vestal Parkway West, BCTMP 173.21-1-3, for use as a gym/fitness center.

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:

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PUBLIC WORKS: Milkovich/Majewski

Negative Declaration of SEQR Vestal Rail Trail Section 2

R062-13 Motion approving the following **Negative Declaration of SEQR:** Concerning the construction of **Vestal Rail Trail Section 2, Town of Vestal, Broome County, PIN 9009.29.**

The Town Board of the Town of Vestal hereby finds and determines that:

(a) it has considered the action, reviewed the environmental assessment form, reviewed the criteria set forth in 6 NYCRR section 617.7(c), thoroughly analyzed the relevant areas of potential environmental concern, and has duly considered all of the potential environmental impacts and their magnitude in connection with the proposed project

(b) This project will not result in any large and important environmental impacts, and, therefore, is one, which will not have a significant impact on the environment, and, therefore, a negative declaration is hereby adopted.

Resolution - Vestal Rail Trail Section 2

R063-13 Authorization to adopt a **Resolution** and **authorize Supervisor to sign the agreement** for the **Rail Trail Section 2, Town of Vestal, Broome County, PIN 9009.29**, Economic Recovery Project (hereinafter the “the Project”) in the **Town of Vestal**, (hereinafter ‘the Municipality/Sponsor’) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of **100%** Federal funds and **0%** non-Federal funds for Design, Construction and Construction Supervision and Inspection (PIN extensions .321 and .322), and at the ratio of **80%** Federal funds and **20%** non-Federal funds for Construction and Construction Supervision and Inspection (PIN extension .323).

Supplemental Agreement #2 - African Road Bridge

R064-13 Authorization to **adopt a resolution** and grant authorization for the **Supervisor to sign the Supplemental Agreement #2, with NYSDOT** for the construction and inspection of the **African Road Bridge**. The agreement is in the amount of \$738,000, of which \$590,400 is reimbursed by the Federal Funds and \$106,000 is reimbursed by the State, leaving \$41,600 to be paid by the Town of Vestal.

WHEREAS, a Project for the replacement of the **African Road Bridge over Willow Creek, BIN 2225980, in the Town of Vestal, Broome County,**

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P.I.N. 9753.76 (“the Project”) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds.

Advertise Bids for African Road Bridge

R065-13 Authorization for the Town Attorney to **advertise for sealed bids for the African Road Bridge over Willow Run Creek PIN 9753.76** in the Town of Vestal, New York, to be received by the Town Clerk at his office until 2:00 p.m. on Thursday, the 11th day of April, 2013 at which time they will be publicly opened and read aloud.

FINANCE: Marnicki/Fitzgerald

Receive and File:

- **Warrants**
2013 – 09 2013 – 10 2013 – 09A 2013 - 10E 2013 - 09E 2013 – 6VP
- **Town Clerk Monthly Report** – February 2013 – Total Local Revenues
\$2,559.00

Invoice for Legal Services - Ahmuty, Demers & McManus

R066-13 Authorization for the **Business Office** to pay an invoice from **Ahmuty, Demers & McManus \$20,645.06** for legal services from January to February 2013 in the case **Candlehouse vs. the Town of Vestal**.

Billable Hours for Town Attorney

R067-13 Approval for the **Business Office** to pay **David Berger, Town Attorney \$1237.50** for **February 2013 billable hours**.

Defensive Driving Course

R068-13 Approval for the **Business Office** to schedule a **Defensive Driving Course** on April 10, 2013, Cost is free for employees and volunteer firefighters and \$22 per person for retirees and family members.

PLANNING & ZONING: Fitzgerald/Milkovich

Use of Library Parking Lot

R069-13 Approval for **Reality Check Broome-Tioga** to use the Library Parking Lot on March 20, 2013 from 5-6 pm to create a visual display for ***Kick Butts Day***. An Indemnification Agreement is to be signed.

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PUBLIC SAFETY: Marnicki/Fitzgerald

Fire Training - Harrington

R070-13 Authorization from the Board of Fire Commissioners authorizing **Assistant Chief David Harrington** to attend *Refresher Training* of ICS 300 at the Chenango County Emergency Management Office in Norwich, New York on April 16th, 2013.

There is no cost for this course. A fire department vehicle will be used for travel.

Accept Fire Members

R071-13 Approval to **accept the following as members of the Vestal Volunteer Fire Department:**

- Robert Warner as a returning member of Vestal Fire Station 2
- Daryl Frisbie as a returning member of Vestal Fire Station 2
- Timothy Zimmer as a junior member of Vestal Fire Station 1

ADMINISTRATION: Majewski/Milkovich

Historian to Conference

R072-13 Approval for **Historian, Margaret Hadsell** to attend the *Annual Association of Public Historians of NYS Conference* April 17 – April 19, 2013 at the cost of \$542.49. Expenses will be covered from line A7510-4030.

END OF CONSENT AGENDA

ADDITIONAL PUBLIC COMMENTS

A speaker stated that the *Vestal Service Organization* recently donated money for a bench to be installed on the Rail Trail. They are very pleased with the results and are currently in the processes of raising more money to donate for an additional bench. They would like it to be placed in front of the Library. He would like the Board to consider this at the next work session. The Supervisor responded that he would talk about this with Parks Superintendent, Jim Bukowski.

A speaker who lives on State Line Road stated that there are tankers coming and going up and down the road. She has kept a diary of this. Many of the tankers are very large. There are buses carrying children on this road. She has cost and safety concerns. Some of the trucks appear to be using this road as a shortcut from Binghamton. She would like weight restrictions to be put on the bridge. Supervisor Schaffer responded that he has discussed this with the Police Chief. They are

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keeping an eye on the area. He will also contact the Town of Binghamton Supervisor concerning this.

A speaker thanked Supervisor Schaffer for talking to the residents on Juneberry Road concerning the new Vestal Nursing Center. He made it clear that the neighbors have no concerns about the proposed Muslim Community Center on the corner of Sheedy Rd. and Route 26. The neighbors continue to have concerns about the water and sewer issues in the Juneberry Rd. area and would like some sort of guarantee from the Board that these issues will be looked into. Supervisor Schaffer stated that he would try to arrange something.

A speaker representing Vestal Residents for Safe Energy (*VeRSE*) stated that Supervisor Schaffer's purpose for attending the recent NYS Association of Towns Meeting was to lobby for gas drilling interests and against towns exercising home rule. This is an inappropriate use of the Town's funds and the Supervisor should reimburse the Town the \$1,450 that was taken from the contingency account to pay for the trip. This was not Town business but a personal expression. They will continue to raise this issue. This is an inappropriate use of Town funds.

Supervisor Schaffer strongly disagreed with these assertions, particularly those made in a letter to the editor, noting that those making such statements did not do their homework. At the conference, he attended 10 to 12 seminars on a wide range of town related topics and he has no intention of returning the money. We as town officials have not made a decision on high volume fracking. The Town Board is not supporting either side of his issue and is waiting for the State to complete the review process and make a decision.

A speaker stated that the letter sent to the Appellate Court that was signed by all members of the Town Board runs contrary to the claim of neutrality on the gas drilling issue, as expressed by the Supervisor. The letter was in opposition to the Towns of Dryden and Middlefield exercising their home rule powers and was submitted in support of the pro gas drilling interests. Moreover, by signing the letters as Town officials, the Board acted improperly in that it did not discuss this issue in a public meeting and did not pass a resolution to authorize taking a position on the issue before the Court.

Town Attorney David Berger stated that there was no resolution because there was no official action taken by the Board. All Board members are also Vestal residents and they acted individually.

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A speaker spoke in support of gas drilling, noting that communities across Pennsylvania are being revitalized because of gas exploration and drilling. Revenue is pouring back into local economies. The air quality is improving markedly. More than 240,000 jobs are supported by the natural gas industry. We need to encourage this. Gas shale production has saved consumers over \$45 billion over the last 3 years.

A speaker stated that front door to Town Hall should be opened in a timelier manner on meeting nights so as not to leave early arrivals standing outside in the cold. She also expressed support for a bench in front of the library. In addition, she indicated that the County appears to be moving towards providing some assistance in the handling of asbestos and other flood related debris at the landfill.

The Town Clerk received and filed the following letters/documents submitted during the Privilege of the Floor.

- On behalf of VeRSE: Request to return the \$1,450 to the contingency fund for the Supervisor's trip to the 2013 NYC Association of Town's Meeting.
- Diary of Tankers using State Line Road on February 24-25.
- Article concerning benefits of natural gas drilling in Pennsylvania
- Copy of General Municipal Law § 77-b – Expenses of Certain public officers and employees attending conventions, conferences and schools.

SUPERVISOR'S ANNOUNCEMENTS

- **Museum Exhibits** March 6 - May 25
 - The Mighty Susquehanna: Friend and Foe**
 - A. Natural History
 - B. History of Exploration/Settlement
 - C. History of Use through today
 - D. The Floods
- **Winter Parking Hours** – December 1st - March 31st - 2:00 AM to 6:00 AM
- Vestal Fire Department Auxiliary Membership Station #2 will host a **Soup and Salad** – Saturday March 16, 2013 - Time: 4:00 pm till gone
- **Vestal Fire Department** will hold an **Information Session** on **Thursday, March 28th at 7:00 pm at the Vestal Public Library** concerning the upcoming **Special Fire District Election on April 9th** regarding the purchase of a Heavy Rescue Fire-Fighting Vehicle for the Vestal Fire Department.

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OTHER NEW BUSINESS

Councilman Milkovich stated that he attended the Vestal Museum Open House for their current exhibit and encouraged everyone to go and see the exhibit. The Museum staff plans on providing additional information to the Board about their activities.

ADJOURNMENT

On a motion of Councilman Milkovich, seconded by Councilman Majewski, the meeting was adjourned at 6:48 PM. Carried unanimously.

Approved by _____ Emil J. Bielecki, Town Clerk