

**Regular Meeting of the Vestal Town Board
May 8, 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 May 8th, 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 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 Marnicki, seconded by Councilman Majewski, the following resolution was

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

Resolved the Minutes of the Regular Meeting on April 24th, 2013 are approved.

BID OPENINGS

Bids for Highway Materials were opened on April 25th, 2013 in the Town Clerk's Office where they are on file.

Bids for water and wastewater line replacement projects were opened on May 2nd, 2013 in the Town Clerk's Office with the following results:

VESTAL PARKWAY EAST – WATER MAIN REPLACEMENT

Parmenter, Inc.	Horseheads, NY	\$90,007.50
ZMK Construction	Apalachin, NY	\$65,967.00
Drilling Technologies, Inc.	Wyanantskill, NY	\$86,815.96
Vacri Construction	Binghamton,	\$42,900.00
Procon	Vestal, NY	\$66,605.00

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GEORGE STREET – WATER MAIN REPLACEMENT

Parmenter, Inc.	Horseheads, NY	\$90,007.50
ZMK Construction	Apalachin, NY	\$41,228.00
Drilling Technologies, Inc.	Wyanantskill, NY	\$35,290.64
Vacri Construction	Binghamton, NY	\$25,300.00
Procon	Vestal, NY	\$33,550.00

LEWIS STREET – WATER MAIN REPLACEMENT

Parmenter, Inc.	Horseheads, NY	\$96,008.00
ZMK Construction	Apalachin, NY	\$40,700.00
Drilling Technologies, Inc.	Wyanantskill, NY	\$35,290.64
Vacri Construction	Binghamton, NY	\$30,800.00
Procon	Vestal, NY	\$34,210.00

KATHERINE LANE – WATER MAIN REPLACEMENT

Parmenter, Inc.	Horseheads, NY	\$114,009.00
ZMK Construction	Apalachin, NY	\$36,850.00
Drilling Technologies, Inc.	Wyanantskill, NY	\$37,050.64
Vacri Construction	Binghamton, NY	\$30,800.00
Procon	Vestal, NY	\$34,210.00

CORTLAND DRIVE – WASTEWATER LINE REPLACEMENT

Parmenter, Inc.	Horseheads, NY	\$108,094.00
ZMK Construction	Apalachin, NY	\$75,130.00
Drilling Technologies, Inc.	Wyanantskill, NY	\$164,450.00
Vacri Construction	Binghamton, NY	\$37,400.00
Procon	Vestal, NY	\$55,850.00

PUBLIC HEARINGS

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

The Supervisor offered *Proof of Posting* and *Affidavit of Publication* regarding the **Public Hearing for Local Law “D” of the Year 2013 to amend Chapter 18** of the Town Code, amending the rules and regulation relating to the use of the Binghamton-Johnson City Joint Sewage Treatment Plant.

Hearing or seeing no one wishing to speak the Supervisor closed this Public Hearing and called for a vote on the Local Law “D”, as requested by the Board.

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Adopt Local Law “D” of the Year 2013 – Amend Chapter 18 of Town Code

Town Attorney Dave Berger stated that adoption of these amendments is mandatory to comply with new regulations at the Binghamton/Johnson City Joint Sewage Plant.

R123-13 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 that this action has been identified as a **Type II action** and therefore is not subject SEQRA review and hereby adopt **Local Law “D” of the Year 2013 – To Amend Chapter 18** of the Town Code, amending the rules and regulation relating to the use of the Binghamton-Johnson City Joint Sewage Treatment Plant.

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

The Supervisor offered *Proof of Posting* and *Affidavit of Publication* regarding the **Public Hearing regarding Local Law “C” of the Year 2013** to rezone **2100 Owego Road**, BCTMP #172.14-1-26.1 plus remaining CD portion of 172.14-1-27 (2016 Owego Road) from CD (Commercial District) to RA-2 (Residential). (Harrington), stated that the 239 l & m review has been received and opened the Public Hearing.

The owner of the property, Mr. Harrington, provided the *Affidavit of Mailing*.

Hearing or seeing no one wishing to speak the Supervisor then closed this Public Hearing and called for a vote on the Local Law “C”, as requested by the Board.

Negative Declaration of SEQR

R124-13 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 adopt the following **Negative Declaration of SEQR**:

Concerning proposed **Local Law “C” of the Year 2013 Entitled: A Local Law to amend the Town of Vestal Zoning Map** by changing the premises located at **2100 Owego Road**, Vestal, New York BCTMP # 172.14-1-26.1 and a **portion of**

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2016 Owego Road, Vestal New York BCTMP # 172.14-1-27, from CD (Commercial District) to RA-2 (Residential One and Two Family).

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.

Adopt Local Law “C” of the Year 2013 to Rezone 2100 and 2016 Owego Road

R125-13 On a motion of Councilman Marnicki, seconded by Councilman Majewski, the following resolution was

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

Resolved to adopt **Local Law “C” of the Year 2013** to rezone **2100 Owego Road**, BCTMP #172.14-1-26.1 plus remaining CD **portion of 2016 Owego Road** BCTMP #172.14-1-27 from CD (Commercial District) to RA-2 (Residential).

PRIVILEGE OF THE FLOOR (Agenda Items Only)

A speaker stated that he believes that we are *cherry picking* those who get breaks on their assessments.

RESOLUTIONS & MOTIONS

Donation From *The Friends of the Vestal Public Library*

Supervisor Schaffer stated that a letter from the Board will be sent to the **Friends of the Vestal Public Library** thanking them for their generous donation.

Councilman Marnicki recommended that they also be invited to a Town Board meeting to be acknowledged for their donation.

R126-13 On a motion of Councilman Marnicki, seconded by Councilwoman Fitzgerald, the following resolution was

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

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Resolved to accept from the **Friends of the Vestal Public Library** a **contribution in the amount of \$4,359.93** to purchase seven (7) computer systems (Inspiron One 2020). The computers will be installed by the Information Technology staff of the Town of Vestal at the Vestal Public Library.

Award the Bid for Replacement of the African Road Bridge

R127-13 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 **award the bid for replacement of the African Road Bridge** over Willow Creek to **Gorick Construction Company** of Binghamton, NY per the low bid of \$573,375.00. This bid was opened April 11, 2013. This project is an 80% Federal, 15% State and 5% Town cost share type project.

Stipulation of Settlement of Article 7 case

Councilman Marnicki spoke with the Assessor concerning this Article 7 case and was told that the value agreed upon was the mid point between what the owner was asking and the current assessed value.

R128-13 On a motion of Councilman Marnicki, seconded by Councilman Majewski, the following resolution was

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

Resolved the to authorize the Town Attorney to sign a **Stipulation of Settlement** of the following **Article 7 Tax Certiorari** case filed in Broome County entitled **Crawford v Town of Vestal Assessor**, Index No. 2012-1726 related to the property owned by Dean Crawford, located at 433 Brook Hill Avenue, Tax Map No. 189.16-3-30 reducing said assessment to \$414,000.00.

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

Settlement Agreement

Councilman Marnicki explained that this case stemmed from a sewer back up in a home caused by a blockage in the line. This is a settlement for those damages.

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R129-13 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 authorize the Town Attorney to sign a **settlement agreement** of the following Civil Action filed in Broome County:

Richard Baron, Susan Baron, Walter Byrnes, and Frances Byrnes vs. Town of Vestal and Town of Vestal Consolidated Sewer District #1; Broome County Supreme Court File No. 2011-2323, for the **total sum of \$9,000.00.**

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

Closing of the Town Offices on Friday, July 5, 2013

Councilman Majewski believes that the town should not be closed on four consecutive days. This is not in the best interest of the Town.

R130-13 On a motion of Councilman Marnicki, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved to authorize the **closing of the Town Offices on Friday, July 5, 2013.** All employees impacted by this closing will be required to use vacation time, other available paid time off, make up time or go without pay on this day. In no way should this closing be construed as the granting of additional paid time off to employees or of the granting of additional holiday time.

Reduce the 2013 Contribution to the LOSAP

Councilman Majewski noted that the Town is obligated to fund this award program for our volunteer fire fighters; however, the fund is doing so well that we can reduce our contribution for 2013 and move the savings to a capital reserve fund for the purchase of needed fire equipment in the future.

R131-13 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 by the **Board of Fire Commissioners** to reduce the **2013** contribution to the **LOSAP** contribution from the budgeted amount of **\$118,000 to \$50,202.51** for 2013 and to transfer to the **Fire District Capital Reserve Fund** the difference between the 2013 contribution amount budgeted and the actual contribution.

Request to Waive Pavilion Rental Fee Denied

Councilman Majewski does not believe that we should waive this fee. This will set a poor precedent. This rental fee is meant to generate money for the Parks Department for maintenance of our parks infrastructure.

R132-13 On a motion of Councilwoman Fitzgerald, seconded by Councilman Majewski, the following resolution was

DEFEATED Ayes 0

Nays 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer

Resolved to have the **rental fee waived for Arnold Park Pavilion** on June 17, 2013 for the **Americans for Restoring the Constitution (AFRTC)** annual picnic.

Adopt Supplement to Bond Resolution

Councilman Majewski stated that he opposes the purchase of this equipment. This equipment is used infrequently and should be rented.

Supervisor Schaffer noted that often this equipment is unavailable for rent when needed during peak season.

R133-13 On a motion of Councilman Marnicki, seconded by Councilman Majewski, the following resolution was

ADOPTED Ayes 4 Fitzgerald, Milkovich, Marnicki, Schaffer

Nays 1 Majewski

Resolved to adopt a Resolution supplementing the Bond Resolution (R365-12) dated December 12, 2012 authorizing, subject to **Permissive Referendum**, the issuance of an **additional \$150,000 bonds** of the Town of Vestal, Broome County, New York, to pay a portion of the cost of the purchase of equipment for construction and maintenance purposes, in and for said Town.

This supplement to the Bond Resolution dated December 12, 2012, will allow us to finance the purchase of the loader and roller that the Board approved **April 24, 2013 (R110-13)** for the Highway Department.

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CONSENT AGENDA

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

PUBLIC WORKS: Milkovich/Majewski

Water/Sewer Vehicles to Auction International

R134-13 Authorization for the Water/Sewer Department to list with **Auction International** to accept bids for the sale of the following department trucks:

Water: 1999 Ford E-350

Miles 44,857

VIN # 1FDWE37FXXHB12190

Sewer: 2003 Sterling L7501

Miles 23,224

VIN # 2FZAATAK73AL90884

FINANCE: Marnicki/Fitzgerald

Receive and File:

- **Warrant Reports –2013-17, 17E**
- **Town Clerk Monthly Report - April – Local Shares Remitted - \$5,879.16**
- **Comptrollers Monthly Report – April 2013**

Billable Hours for Town Attorney

R135-13 Approval for the Business Office to **pay \$1050.00 for Legal Services** rendered by **David Berger, Town Attorney** for the billable hours in **April 2013**.

PERSONNEL: Majewski/Marnicki

Out of Title Pay for Robert Flint

R136-13 Authorization to reimburse **Robert Flint for Out of Title Pay for the period** January 1, 2013 to April 22, 2013 (36 days). The difference in his hourly wage and Meter Reader wage is \$1.58 per/hr. The total for this time is \$455.04 per Union agreement.

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Olmstead and Berger to attend PERMA Conference

R137-13 Authorization for **Nancy Olmstead, Director of Human Resources** and **David Berger, Town Attorney** to attend the PERMA Workers' Compensation annual conference in Lake George May 22, 2013 through May 24, 2013. There will be no cost to the Town except for transportation. A Town vehicle will be used if available. If no car is available mileage will be paid.

PLANNING & ZONING: Fitzgerald/Milkovich

Use Library Parking Lot

R138-13 Approval for the **League of Woman Voters of Broome and Tioga Counties** to use the Library parking lot on September 14, 2013. An Indemnification Agreement is to be signed.

Amend Advertising Date for Bid

R139-13 Authorization to change the advertising date (approved on April 10, 2013 R105-13), for the **FEMA Buy-Out Program – Home Demolitions bid**, to May 8th, 2013 and the bid opening date to May 28th, 2013.

PUBLIC SAFETY: Marnicki/Fitzgerald

Police to Sell Vehicle

R140-13 Authorization for the Police Department to advertise the sale of its **retired SWAT/Command vehicle** on Auction International. This vehicle is no longer feasible to maintain and has been replaced. The vehicle is as follows:

Year	Make/Model	Mileage	VIN Number
1994	Ford E350	183,524	1FDJE30M5RHB01961

Police to Purchase Training Simmunitions

R141-13 Authorization for the **Police Department** to allocate **\$2,812 for the purchase of training simmunitions** (non-lethal training ammunition) from Atlantic Tactical Co. The funds will be used from the asset forfeiture budget line A3120-2626R.

Singer Training Site Leases

R142-13 Authorization from the Board of Fire Commissioners to accept the following leases for the **Fred Singer Training Site**:

**Prospect Terrace Fire Department
Apalachin Fire District**

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Fire Training

R143-13 Authorization from the Board of Fire Commissioners approving the following:

Midi 32-2 to be used to go to the EVOC Training, May 4, 2013 and May 11, 2013 at the Town of Binghamton Fire Department with FF Dusty McCartney, Paul Goon, Phil R. Walter, Phillip W. Walter and Sacha Sigleman Schwartz.
(The firefighters were approved February 27, 2013- R056-13.)

ADMINISTRATION: Majewski/Milkovich

Power of One and The PRIDE Program To Utilize Pavilions

R144-13 Authorization for **Power of One** and **The PRIDE Program** to utilize two pavilions at Arnold Park to run a camp from June 25 – July 3, 2013.

END OF CONSENT AGENDA

COMMITTEE CHAIR COMMENTS AND UPDATES

Councilwoman Patty Fitzgerald reported that she has checked with the Library concerning the use of their parking lot by the League of Women Voters. Their activity will have a small footprint and will not interfere with the Farmer's Market or with the other routine activities on that day.

ADDITIONAL PUBLIC COMMENTS

A speaker, who identified himself as an electrical inspector, stated that he was banned from doing electrical inspections in the Town of Vestal by Code Enforcement Director Mark Dedrick. He feels that the accusations are false but that he has not been given an opportunity to clear this up. He has been inspecting for 13 years and has high standards. This action threatens his livelihood. He wants to know what the Town is going to do about this. Councilwoman Fitzgerald has provided some assistance but the Supervisor has yet to respond about a meeting.

A speaker, who identified himself as a Master Electrician, defended the barred electrical inspector, stating that he was an excellent inspector and should be reinstated.

Supervisor Schaffer stated that he is working with the Code Department to help resolve this issue in the near future.

A speaker agrees with Councilman Majewski concerning the equipment purchases and feels there should be additional study of the rental options.

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A speaker stated that *Frack Focus* is not a reliable source of fracking disclosure, noting that significant errors were discovered in their chemical disclosure reports.

A speaker expressed agreement with Councilman Majewski in opposing the closing of Town Hall for four consecutive days and in rejecting a pavilion fee waiver at Arnold Park.

A speaker asked why the Town Board took no action in filling vacancy on the Board of Assessment Review. He sent in his resume and asked why he was not considered. The alternate members on the review board have taken a lead role and this should not happen.

Supervisor Schaffer explained that the training class for the upcoming grievance day hearings was held four weeks ago. It is too late to appoint anyone to serve on this month's grievance hearings. The Board of Assessment Review will have additional term expirations at the end of September and a more formal process will be initiated to fill the positions. All the applicants who have expressed an interest will be considered.

A speaker stated that she was pleased that a recent court ruling concerning the Candlehouse lawsuit appears to be favorable to the Town.

SUPERVISOR'S ANNOUNCEMENTS

- **BRUSH PICK UP** - April to September – Branch Pickup will be 3rd Friday of the month.
- **Public Hearings on May 22, 2013 regarding the Petitions for the Establishment of :**

Consolidated Water District No. 1, Extension No. 194

Consolidated Sewer District No. 1, Extension No. 155

PETITIONER: Tari L. Grant, B.C.T.M.P.: 175.15-2-12.11, 1405 Campus Drive

ADJOURNMENT

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

Approved by _____
Emil J. Bielecki, Town Clerk