

# REGULAR MEETING OF THE VESTAL TOWN BOARD

JUNE 12, 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 June 12, 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, Human Resource Director Nancy Olmstead, Fire Chief Patrick McPherson, Town Clerk Emil Bielecki, 1<sup>st</sup> Deputy Town Clerk Kathie Young and approximately 20 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 Regular Meeting on May 22, 2013 are approved.

## BID OPENINGS

The following bids for the **FEMA Home Demolitions** were received and opened in the Town Clerk's Office on May 28th at 2:00 PM with the following results:

<u>COMPANY</u>	<u>ADDRESS</u>	<u>BID</u>	<u>BID</u>	<u>BID</u>	<u>Price for 3 groups</u>
<b>Gorick Construction Co., Inc.</b>	27 Track Drive, Binghamton, New York	<b>\$218,440</b>	<b>\$197,420</b>	<b>\$237,350</b>	<b>\$ 653,210.00</b>
<b>LCP Group - Christina Pierce</b>	633 Anderson Road, Vestal, NY	<b>\$178,989</b>	<b>\$163,017</b>	<b>\$193,299</b>	<b>\$ 535,305.00</b>
<b>Ritter &amp; Paratore Contracting</b>	2435 State Route 5, Utica, NY	<b>\$476,400</b>	<b>\$372,750</b>	<b>\$423,450</b>	<b>\$1,272,600.00</b>
<b>T&amp;M Excavating</b>	235 Nowlan Road, Binghamton, NY	<b>\$223,100</b>	<b>\$169,500</b>	<b>\$253,300</b>	<b>\$ 645,900.00</b>
<b>ZMK Construction</b>	3430 Route 434, Apalachin, New York	<b>\$288,226</b>	<b>\$210,605</b>	<b>\$275,596</b>	<b>\$ 774,427.00</b>

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### **PRIVILEGE OF THE FLOOR (Agenda Items Only)**

Several residents expressed their displeasure at the reappointment of Mark Minoia as Tax Assessor citing what they considered to be his rude behavior.

A speaker complained that Town Assessor Minoia unduly influences the Board of Assessment Review and invites grievances. The settlements of the Article 7 Tax Certiorari cases prove that the assessments are not accurate.

### **RESOLUTIONS & MOTIONS**

Councilman Marnicki noted that he has reviewed all of the bids and they were very thoroughly done. We front the money for the demolitions and then we are reimbursed by the State.

**R159-13** 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 authorize the **Town Attorney to draw the paperwork awarding** the bids for the **FEMA Buyout Demolitions** to the low bidder with respect to the 59 homes in the FEMA buyout program.

#### **LCP Group, Inc.**

633 Anderson Road  
Vestal, NY 13850

The 59 homes were divided into 3 groups. LCP was low bidder on all 3 groups at **total bid price of \$535,305.00.**

In the bid package it was noted that one contractor could be awarded more than one group, if they provided a letter showing they can complete the work within the 90 day period set by FEMA. The Town Engineer has received that letter from LCP and concurs that they are capable of completing the work.

The Town Attorney is to include the following modifications to the contract.

- 1) Completion date revised to say the homes will be demolished within 90 days of being notified that the closing is completed.
- 2) LCP will not hold Town responsible if property owner opts out of buyout program.

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**Re-Appoint Mark Minoia as Assessor of the Town of Vestal**

**R160-13** 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 **re-appoint Mark Minoia as Assessor of the Town of Vestal** pursuant to RPTL Section 310 for a 6 year term beginning October 1, 2013. The 2013 base salary for this position is **\$58,083 per year**.

**Highway to Purchase a Used Bucket for the 1999 Lift Truck**

**R161-13** On a motion of Councilman Marnicki, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved to grant approval for the Highway Superintendent to **purchase a used bucket for the 1999 lift truck** available for purchase in Alabama for \$8,000. The total cost of the unit, which includes the outriggers and the shipping, will amount to \$10,000.

The Comptroller is to perform the following Budget Transfers:

Increase Revenue from Sale of Scrap and Increase Equipment  
Appropriation

<b>D2650.2650</b>	<b>D5130.2200</b>	<b>\$3,000</b>
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Transfer Funds from Wages to Fund Equipment

<b>D5110.1020</b>	<b>D5130.2200</b>	<b>\$7,000</b>
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**Negative Declaration of SEQR re: Timber Harvesting Permit**

**R162-13** On a motion of Councilwoman Fitzgerald, seconded by Councilman Majewski, 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 for a **Timber Harvesting Permit** applied for **John Wagner of Wagner Logging**, for 269 Ross Hill Road, B.C.T.M.P. #172.15-1-23.11, zoned RA-1, RA-2 and RR and owned by Richard Stever.

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

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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.

**Timber Harvest License to John Wagner of Wagner Logging**

Councilwoman Fitzgerald spoke with the Code Department concerning the encroachment on the 300' setback. The encroachment will be minimal and will have little impact because of the high slope of the area.

**R163-13** On a motion of, seconded by Councilwoman Patty Fitzgerald and seconded by Councilman Majewski, the following resolution was

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

Resolved the granting of a **Timber Harvest License to John Wagner of Wagner Logging**, for land located at 269 Ross Hill Road, BCTMP 172-15-1-23.11, owner Richard Stever and authorizing timber harvesting within the RA-1 and RA-2 zoning district and within 300 feet of these districts per the areas as shown in the attached maps of their application. Other than the harvest in the RA-1 and RA-2 zoning district and within 300 feet of these districts, all required buffers will be maintained and compliance with Chapter 6 Article V, Division 2, Section 6-168(c) of the Code of the Town of Vestal will be observed.

**CSEA Unit 6170 Agreement**

**R164-13** 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 approve the **May 8<sup>th</sup>, 2013 tentative agreement** between the **Town of Vestal and CSEA Unit 6170** and authorize the Town Supervisor to sign the resulting bargaining agreement

**Article 7 Tax Certiorari Case Settlement - Kintner Estates Enterprises LLC**

**R165-13** On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

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

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Resolved to authorize the Town Attorney to sign a **Stipulation of Settlement of the following Article 7 Tax Certiorari** case filed in Broome County entitled **Kintner Estates Enterprises LLC v Town of Vestal Assessor**, Index Nos. 2009-1831, 2010-1966, 2011-1896, 2012-1880 related to the property owned by Kintner Estates Enterprises, LLC, located at 2942 NYS Route 26S, Tax Map No. 223.01-2-28 reducing said assessment to \$1,075,000.

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

**Article 7 Tax Certiorari Case Settlement - Thomas Barnett**

**R166-13** 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 authorize the **Town Attorney to sign a Stipulation of Settlement of the following Article 7 Tax Certiorari** case filed in Broome County entitled **Thomas Barnett v Town of Vestal Assessor**, Index No. 2012-1647, related to the property owned by Thomas Barnett, located at 577 Ross Hill Road, Tax Map No. 188.11-1-1 reducing said assessment to \$405,000.00.

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

**Highway To Hire Summer Employees**

**R167-13** 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 authorize the **Highway Superintendent to hire 3 summer employees** for 40 hours per week for approximately 10 weeks at a rate of \$8.50 per hour for returnees and \$8.25 for first timers at a cost of roughly \$10,200. These monies are available in Wages line D5110.1020 and a transfer to summer help line D5110.1034 will be performed.

**Block Party Approved on Kimble Rd.**

**R168-13** On a motion of Councilwoman Fitzgerald, 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 **closing of Kimble Road to thru-traffic from Main Street to 145 Kimble Road** allowing the residents of Kimble Road to hold a **block party on June 28, 2013 from 6pm-9pm** in honor of John Palmiter, who recently passed away.

The road will still be accessible to emergency vehicles. Police, Fire, and Emergency Services to be notified.

**DOT Permit for Triple Cities Runners Club**

Councilman Majewski noted that the **Triple Cities Runners Club** has received a certificate of insurance naming the Town of Vestal on their rider.

**R169-13** 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 authorize Town Engineer Gary Campo to apply for a **permit from NYS DOT** and allow the **Triple Cities Runners Club**, the sponsors of the **Vestal XX**, to hold the event contingent upon the approval of the certificate of insurance by the Town Attorney.

**CONSENT AGENDA**

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

**PUBLIC WORKS: Milkovich/Majewski**

**African Road Bridge - NYSDOT Equitable Business Opportunities (EBO)**

**R170-13** Authorization to adopt a Resolution authorizing the Town Engineer to sign and join the **NYSDOT Equitable Business Opportunities (EBO)** system, binding the Town and the Town Engineer to the terms of the system users agreement to be used for the used for billing of the **African Road Bridge over Willow Run Creek PIN 9753.76**.

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### Storm Pipe on Campus Road Bid

**R171-13** Authorization for the **Town Attorney to advertise on June 19<sup>th</sup>, 2013** for bids for the **replacement of the storm pipe on Campus Road** to be opened on **July 8<sup>th</sup>, 2013** at 2:00 PM in the Town Clerk's Office.

### Award Highway Materials Bids

**R172-13** Authorization for the Highway Superintendent to **award Highway Materials bids** to all venders that bid with the understanding that we buy from the low bidder when possible.

### Pay (SRBC# 2011-072) Well 4-4 Withdrawal Application Fees

**R173-13** Authorization for Scott Groats, Water & Wastewater Superintendent to submit the remaining **\$1,760 owed to the Susquehanna River Basin Commission, Harrisburg, PA** regarding **Town of Vestal (SRBC# 2011-072) Well 4-4 Withdrawal Application** and to authorize the Town Attorney to advertise in the *Press and Sun-Bulletin* the legal notice pertaining to Well 4-4 withdrawal application. The notice will be paid for from W8310-4140. Aquifer test balance of \$1,760.00 will be from line W8310-4061.

### FINANCE: Marnicki/Fitzgerald

#### Receive and File:

- **Warrant Reports** – 2013- 21, 21E, 21H, 21L, 22, 22E, 23, 23E
- **Comptroller's Monthly Report** – May 2013
- **Town Clerk Monthly Report** - May 2013 Total Local Shares Remitted:  
\$6,845.86

### Billable Hours for Town Attorney

**R174-13** Approval for the Business Office to pay **David Berger, Town Attorney \$1800.00 for May 2013** billable hours.

### Legal Services for Ahmuty, Demers and McManus

**R175-13** Approval to pay **Ahmuty, Demers and McManus** in the amount of **\$1635.20 for legal services** in the case of **Candlehouse vs. Town of Vestal** for the period ending May 23, 2013.

### PERSONNEL: Majewski/Marnicki

### Reappoint Delivan Gates for Planning Board

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**R176-13** Authorization to re-appoint Delivan Gates to the Planning Board effective July 8, 2013. This term is to expire July 7, 2018.

**Hire Carolyn Almy to Assessor's Office**

**R177-13** Authorization for Mark A. Minoia, Assessor, to hire Carolyn Almy to the vacant part-time clerk position in the Assessor's Office at no more than 19.75 hours per week at the CSEA starting rate of \$8.75 per hour with a start date of July 8, 2013.

**Out of Class Pay for Highway Employees**

**R178-13** Approval for the Highway Superintendent to pay out of class pay as follows:

Bill Garey	\$117.12	Ben Peck	\$379.20
Todd Ingersoll	\$305.44	Jeff Tomczyk	\$117.12
Matthew Millard	\$420.58	Walter Scott	\$351.36
Don Younker	\$557.54		

**PUBLIC SAFETY: Marnicki/Fitzgerald**

**Donation from Miller Motors**

**R179-13** Authorization for the Police Department to accept a donation from Miller Motors in Vestal, of an enclosed white 2004 Homes trailer. This enclosed utility trailer will be used for storage and transportation of child safety seats, traffic cones, barricades, and other safety related items.

**Purchase Replacement Parts for Body Bunkers**

**R180-13** Authorization for the Police Department to purchase replacement parts for the department's body bunkers in the amount of \$500 from the Galls Company. Funding will be taken from the Asset Forfeiture budget line A3120-2626R.

**Fred Singer Training Site**

**R181-13** Request for Commissioner's approval to accept the following leases for the Fred Singer Training Site:

**Owego Fire Department  
Plastisol Composites North America**

These Leases shall be for a period of 3 years at the amount of \$600 per year.



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### **Fire Station 1 - Chicken BBQ**

**R182-13** Approval from the Board of Fire Commissioners for the **Vestal Fire Department Membership** and **Auxiliaries** to hold a **Chicken BBQ** for Fire Station 1 on Saturday, June 15<sup>th</sup> from Noon until sold out at the Tractor Supply Parking Lot.

Approval is also granted for the requested coverage time for the day which includes personnel to set up the event, the event itself and clean up duties. A sign in sheet will be used to track personnel at this event.

### **ADMINISTRATION: Majewski/Milkovich**

### **Hire Summer Recreation Employees 2013**

**R183-13** Authorization for the Recreation Planner to **Hire Summer Employees 2013** per her memo dated June 6, 2013. All employee pay rates are budgeted items in the 2013 budget and the background checks has been completed.

### **A7310.1021 Labor – Playground Instructors**

Chelsea Aiosa - Vestal as Playground Instructor at Pay rate \$7.25/hr.

Logan Calvey - Vestal as Playground Instructor at Pay rate \$7.25/hr.

Cassie Canino - Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.

Thomas Comerford - Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.

Mary Gasper - Vestal as Playground Instructor at Pay rate \$7.25/hr.

Samantha Lee - Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.

Cole Lewis - Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.

Philip Nedlik - Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.

Diana Ruggiero - Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.

Timbray Shafer - Vestal as Playground Instructor at Pay rate \$7.25/hr.

Natsuko Suzuki - Vestal as Playground Instructor at Pay rate \$7.25/hr.

Brittany Ann Taylor - Vestal as Playground Instructor at Pay rate \$7.25/hr.

Marianna Wright - Vestal as Playground Instructor at Pay rate \$7.25/hr.

### **A7310.1026 Labor – Tennis**

Randy Cummings –Vestal as Tennis Camp Director at Pay Rate \$425.00 Salary

### **A7180.1020 Labor – Labor Lifeguards**

Thomas Carlson –Apalachin as Substitute Lifeguard at Pay rate \$7.75/hr.

Note - this Lifeguard is returning and we missed that on the last set of Board approvals.

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### RECEIVE AND FILE

- Fire Advisory Board Meeting Minutes – April 15, 2013
- Communication from South Vestal Neighborhood Association (SWVNA) to Code Enforcement Department concerning complaints about an illegal motocross track at 934 Tracy Creek Rd. – June 10, 2013.

### END OF CONSENT AGENDA

### COMMITTEE CHAIR COMMENT AND UPDATES

Councilman Marnicki explained that the *body bunkers* (referred to in Resolution 180) are shields used by Police Officers for protection. They are in need of repair.

### ADDITIONAL PUBLIC COMMENTS

A speaker expressed concern that the proposed Broome County Road Use Law that the Town is reviewing may not be adequate for our needs. The County Executive is pro-drilling and this proposed law may not be a balanced document. Moreover, she stated that her FOIL request to get a copy of the documents was denied by the Supervisor on the basis that it was marked as a *privileged and confidential document*. Both sides on the gas drilling issue have an interest in protecting our roads and the review process should be transparent with an opportunity for public input. She has appealed the decision to withhold this document and sees no reason to be secretive about this important issue.

Supervisor Schaffer responded that the document was marked by the County as *not open for distribution*. The public will have an opportunity for input because a public hearing would be held before any agreement is adopted.

A speaker complained that the Police Department is not enforcing the law on illegal loud mufflers on motorcycles. He also noted that there has been a sharp reduction in the number of speeding tickets issued by the Police Department. Supervisor Shaffer stated that he would discuss the loud muffler issue with the Police Chief.

A speaker referenced a study from a gas drilling area in Texas that shows the tax revenue received from gas drilling is about the same amount as what it costs to repair the damage to the roads caused by the drilling operations.

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A speaker noted that at various times, the Supervisor, the Town Attorney and Councilman Marnicki have stated that the Town's zoning regulations do not permit gas drilling in Vestal. If that is the case how did the existing gas wells in Vestal get approved?

Councilman Marnicki and Town Attorney Berger confirmed that gas drilling is not a permitted use under our zoning code. However, with gas drilling, the State laws prevail and override local ordinances when there is a conflict. That issue is currently being litigated.

Another speaker noted that if the state approves hydrofracking, we have no way of keeping it out by using our current zoning laws. So clearly it means that drilling can be done anywhere in the Town if that is what the State decides.

Several speakers recommended that when the Board approves the settlement of tax assessment cases, the original assessments of the properties should be included in the resolutions so that the public knows how much the reductions were. Supervisor Schaffer promised that those figures would be included in the future.

A speaker inquired if a permit issued for the compressor station on Owego Road. The Town Attorney indicated that the issue was handled by the Zoning Board.

A speaker inquired about the status of the proposed nursing home facility off of Juneberry Rd. He heard that the construction delay was due to inadequate sewer line capacity in the area. Supervisor Schaffer responded that the delay was due to some funding issues with the IDA that were not yet resolved.

A speaker praised Councilman Majewski for expressing his concern about the impact of logging on a neighborhood. He wishes the Board would express equal concern with the impact of gas 'fracking on Vestal residents. The issue warrants it.

### **SUPERVISOR'S ANNOUNCEMENTS**

**Museum Events:** Kids' summer garden projects planned; July 13, Aug 10. Free

### **ADJOURNMENT**

On a motion of Councilman Majewski, seconded by Councilman Marnicki, the meeting was adjourned at 7:11 PM. Carried unanimously.

Approved by \_\_\_\_\_ Emil J. Bielecki, Town Clerk