

Regular Meeting of the Vestal Town Board February 12, 2014

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 February 12, 2014.

TOWN BOARD PRESENT:

Supervisor John Schaffer
Councilman Fran Majewski
Councilwoman Patty Fitzgerald
Councilwoman Sue Messina

ALSO ATTENDING: Town Attorney David Berger, Town Clerk Emil Bielecki, 1st 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 Councilwoman Messina, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
 Nays 0

Resolved the Minutes of the Regular Meeting on January 22, 2014 are approved.

PUBLIC HEARINGS

Public Hearing regarding the request of **Marchuska LLC for a Special Permit** under section 24-385 of the Town of Vestal Code, for a Vehicle Service Station to occupy 3151 Vestal Parkway East, B.C.T.M.P # 158.11-1-19. The Town is in receipt of the 239 l&m a well as the Affidavit of Mailing. No issues were cited by the BMTS or the Broome County Health Department; however the NYS DOT is requesting that the existing western driveway be moved to the east.

The Supervisor described the location of the property and opened the Public Hearing. Hearing or seeing no one wishing to speak the **Supervisor closed the Public Hearing.**

Negative Declaration of SEQR re: Marchuska LLC:

Town Attorney Berger asked Ken Kamlet, the attorney representing Marchuska LLC, if the applicant has thoroughly reviewed Section 24.385 of the Vehicle Service Station Permit Ordinance and they are in full compliance or will be in full

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compliance of each and every provision of that particular section and that there is nothing that needs board attention other than what has been set forth in the statute? Mr. Kamlet replied that the applicant has met those conditions.

Town Attorney Berger: Is it your request that the Board find that the public convenience and welfare will be substantially served by the issuance of this permit?
Ken Kamlet, Esq.: Absolutely

R035-14 On a motion of Councilwoman Messina, seconded by Councilwoman Fitzgerald, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

Resolved to approve the following **Negative Declaration of SEQR:**

Concerning proposed issuance of a **Special Permit** under section 24-385 of the Town of Vestal Code for a **Vehicle Service Station** at the request of **Marchuska LLC** to occupy the premises situate at 3151 Vestal Parkway East, B.C.T.M.P #158.11-1- 19.

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 Permit for a Vehicle Service Station- Marchuska LLC

R035-14 On a motion of Councilwoman Messina, seconded by Councilman Majewski, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

Resolved to grant a Special Permit under section 24-385 of the Town of Vestal Code, to **Marchuska LLC**, for a **Vehicle Service Station** to occupy 3151 Vestal Parkway East, B.C.T.M.P # 158.11-1-19.

PRIVILEGE OF THE FLOOR (Agenda Items Only)

A speaker expressed displeasure with the Town's intention to settle another tax assessment case and was critical of the way the Town Attorney and the Assessor

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are handling these cases. He also opposes sending Town officials to the NYS Association of Towns meeting in NY City, believing it to be a waste of money. Moreover, he opposes signing a contract with the Town Attorney.

RESOLUTIONS & MOTIONS

Negative Declaration of SEQR - Power of One:

R036-14 On a motion of Councilman Majewski, seconded by Councilwoman Messina, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

Resolved to approve the following **Negative Declaration of SEQR:**

Concerning the request by **Power of One** to allow the operation of a fitness center within an ID Zone on the premises located at 604 Vestal Parkway West BCTMP # 173.21-1-3 (across from Town Hall):

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 Permit - Power of One

R036-14 On a motion of Councilman Majewski, seconded by Councilwoman Messina, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

Resolved to grant a **Special Permit to Power of One**, allowing the operation of a **fitness center** within an ID Zone on the premises located at 604 Vestal Parkway West BCTMP # 173.21-1-3 (across from Town Hall).

Negative Declaration of SEQR - Rick Simon:

R037-14 On a motion of Councilman Majewski, seconded by Councilwoman Messina, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

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Resolved to approve the following **Negative Declaration of SEQR**:

Concerning the request by **Rick Simon**, 427 South Street, Endicott, NY to allow the **operation of a light manufacturing or fabricating business** within a C-2 zoning at **2315 Vestal Road**, BCTMP # 158.09-1-5.

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 Permit - Rick Simon

R037-14 On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

Resolved to grant a **Special Permit** to **Rick Simon**, 527 South Street, Endicott, NY, for the **operation of a light manufacturing or fabricating business** within a C-2 zoning at 2315 Vestal Road, BCTMP # 158.09-1-5.

Transfer of 2006 Ford Ambulance from Vestal Emergency Squad to Town

R038-14 On a motion of Councilman Majewski, seconded by Councilwoman Messina, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

Resolved to authorize the **transfer** of a 2006 Ford (Ambulance) from the Vestal Volunteer Emergency Squad (VVES) to the Town of Vestal. The Town will credit VVES account \$36,500.00, which is the fair market value.

Contract with the Town Attorney

R039-14 On a motion of Councilman Majewski, seconded by Councilwoman Messina, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

Resolved to authorize the Supervisor to **sign a contract with the Town Attorney** as prepared on January 21, 2014.

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Stipulation of Settlement – Article 7 certiorari cases

R040-14 On a motion of Councilman Majewski, seconded by Councilwoman Fitzgerald, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

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:

Clayton Village Apartments, LLC Wiesner Clayton Village Apartments, LLC, Clayton 2010, and Greenwood Commercial Investors, Inc. vs. The Assessor of the Town of Vestal, New York and the Town of Vestal, Broome County, New York, Index Nos. 2009-1780, 2010-1838, 2011-1931, 2012-1895, 2013-1841, as follows:

1. For tax years 2009/2010 the total assessment on 400-428 Clubhouse Road shall be reduced from \$4,312,000 to \$3,450,000
2. For tax years 2010/2011 the total assessment on 400-428 Clubhouse Road shall be reduced from \$4,312,000 to \$3,450,000
3. For tax year 2011/2012, the total assessment on 400-428 Clubhouse Road shall be reduced from \$4,312,000 to \$3,450,000
4. For tax years 2012/2013, the total assessment on 400-428 Clubhouse Road shall be reduced from \$4,312,000 to \$3,450,000
5. For tax years 2013/2014, the total assessment on 400-428 Clubhouse Road shall be reduced from \$4,312,000 to \$3,450,000.

Roll Year	Assessment	FMV	STIP AV	Change in AV From Prior Year	School Tax	Town / County Tax	Town Refund
2013-14	\$4,312,000	\$4,312,000	\$3,450,000	-\$862,000	\$95,438.36	\$55,751.40	\$3,695.97
2012-13	\$4,312,000	\$4,312,000	\$3,450,000	-\$862,000	\$91,672.26	\$54,698.25	\$3,602.87
2011-12	\$4,312,000	\$4,312,000	\$3,450,000	-\$862,000	\$88,089.41	\$53,161.75	\$3,436.50
2010-11	\$4,312,000	\$4,312,000	\$3,450,000	-\$862,000	\$84,663.10	\$51,387.73	\$3,328.99
2009	\$4,312,000	\$4,312,000	\$3,450,000	-\$862,000	\$95,438.00	\$48,800.26	\$3,130.00

* Town = General and Highway

TOTALS \$14,064.33

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

CONSENT AGENDA

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

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0

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

PUBLIC WORKS: Majewski/Fitzgerald

Budget Transfer for the Highway Boiler Replacement

R041-14 Authorization for a **Budget Transfer of \$800** from A5132.4080 to A5132.2100, as needed for the **Highway boiler replacement** which was budgeted for 2014 replacement under line A5132.2100 for \$11,000. The lowest quote received was for \$11,800.

Sell Water Department Inventory - Auction International

R042-14 Authorization to advertise and sell the following Water Department inventory with **Auction International** as follows:

- 1- 1995 Sewer inspection camera serial number 3543
- 3 - Truck mounted light bars

Rebid Uniforms for Operating Engineers

R043-14 Authorization to discard the bids opened on January 13, 2014 for **Uniforms for Operating Engineers** and for the **Town Attorney to advertise** on **February 19, 2014** with bids to be opened on **March 11, 2014 at 2:00 PM**.

FINANCE: Majewski/Messina

Receive and File:

- **Warrant Reports – Warrant Reports** – 2014 04, 04A 04E, 04L, 4AL, 05, 5VP, 05A, 05T, 05E, 05R, 05M, 06, 06A, 06E, 06W
- **Town Clerk Monthly Report** – January 2014 – Local Share Remitted: \$4,843.95

Agreement for STOP DWI Task Force Overtime Program

R044-14 Authorization for the **Supervisor to sign an agreement** with Broome County for the **STOP DWI Task Force Overtime Program**. Said agreement shall be modified to provide for a substitution of the sum of **\$13,000.00** for the previous sum of \$13,500. Said agreement shall be modified to provide for a substitution of the term 1/1/14 – 12/31/14, for the previous term.

Remit for Town Attorney Billable Hours

R045-14 Authorization for the Business Office to remit **\$1757.50** for billable hours for the month of January 2014 to **Town Attorney David Berger**.

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PERSONNEL: Fitzgerald/Majewski

Employee Vacation Carry Over

R046-14 Authorization approving additional vacation to be carried over for the following employees:

Richard Buckingham	20.5 Hours	Scott Groats	4.5 Hours
Bill Peltz	4.5 Hours	Robert Flint	31.5 Hours
Dan Williams	9.25 Hours		

PLANNING & ZONING: Messina/Fitzgerald

Kopernik Observatory and Science Center to use Library Parking Lot

R047-14 Authorization for the **Kopernik Observatory and Science Center**, a non-profit educational organization, to hold a **Dicky's Barbeque Pit** fundraiser on March 15, 2014. The food wagon will be located at the Vestal Library from 10:00 am - 7:00 pm and a representative from KOSC will be on site at all times. An **Indemnification Agreement** is to be signed.

PUBLIC SAFETY: Majewski/Messina

Fire Department Defensive Driving Courses

R048-14 **Retro-approval** from the Board of Fire Commissioners to hold a **Defensive Driving Course** that was held on Saturday, January 25th from 9am to 4pm at Vestal Station #1.

The cost of the course is \$25 for Department and Auxiliary Members which will come out of budget line F3410 4030. For family and non-Fire Department Members the cost is \$30.00.

R049-14 Authorization from the Board of Fire Commissioners for the Vestal Fire Department to offer **Defensive Driving Courses** at one of the four Fire Stations throughout 2014 at the cost of \$25 for Department and Auxiliary Members, and Town Employees and for family and non-Fire Department personnel at a cost of \$30.00. All costs associated with this course will come from F3410 4030 for Fire Department and Auxiliary personnel.

Lease for the Fred Singer Training Site

R050-14 Approval from the Board of Fire Commissioners authorizing the acceptance of the following **lease for the Fred Singer Training Site** for a period of 2 years at the amount of \$600 per year.

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Susquehanna County Fireman's Association

Send Engine 32-3 to Little Meadows

R051-14 Authorization by the Board of Fire Commissioners granting *retro-approval* for the Vestal Fire Department to **send Engine 32-3 to Little Meadows** on January 31st, 2014 to stand by their station while the Little Meadows Fire Department honored their Chief, Chip Barnum. The Detail ran from 2:30 pm to 8:30 pm.

Frederick Ostrander - Member of Station 4

R052-14 Authorization by the Board of Fire Commissioners to accept **Frederick Ostrander** as a member of Station 4.

ADMINISTRATION: Fitzgerald/Messina

Vestal Youth Basketball Employee Approvals

R053-14 Authorization granting **Employee Approvals** to the **Recreation Department** for the following employees. All employee pay rates are budgeted items in the 2014 budget and the background checks have been completed.

A7310.1027 Labor - Vestal Youth Basketball Organization League

Rob Carr - Apalachin as VYBO Director at \$1,250.00 salary

Troy Aikey - Vestal as VYBO Referee at \$8.00/hr.

Peyton Alig - Vestal as VYBO Referee at \$8.00/hr.

Joe D'Esti - Vestal as VYBO Referee at \$8.00/hr.

Kevin Franz - Vestal as VYBO Referee at \$8.00/hr.

Ben Kerns - Apalachin as VYBO Referee at \$8.00/hr.

Mike Kosty - Vestal as VYBO Referee at \$8.00/hr.

Josh Lewis - Apalachin as VYBO Referee at \$8.00/hr.

Elijah Mushalla - Vestal as VYBO Referee at \$8.00/hr.

Jake Nelson - Vestal as VYBO Referee at \$8.00/hr.

Andrew O'Hara - Vestal as VYBO Referee at \$8.00/hr.

Nick Rinde - Vestal as VYBO Referee at \$8.00/hr.

Jake Spellane - Vestal as VYBO Referee at \$8.00/hr.

Nick Wegmann - Apalachin as VYBO Referee at \$8.00/hr.

RECEIVE AND FILE:

- Building Department Year End Report for 2013
- Empire State Development – Public Hearing Notice February 11, 2014 Regarding Flood Mitigation Capital Project

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- Fire Advisory Board Meeting Minutes – December 2, 2013
- Notice of Appeal from UHS re: Decision and Order of the Broome County Supreme Court dated December 17, 2013.
- 2013 Annual Report – Margaret Hadsell Town of Vestal Historian

END OF CONSENT AGENDA

COMMITTEE CHAIR COMMENTS AND UPDATES

Councilman Majewski stated that the Vestal Volunteer Fire Department would like to meet with the Board of Fire Commissioners to discuss the future goals and agenda of the Fire Department for 2014 and 2015. Supervisor Schaffer noted that a date will be set for this meeting.

ADDITIONAL PUBLIC COMMENTS

A speaker noted that the Town Board has discussed the request from the Highway Superintendent to issue weight limits on certain Town roads. The issue first surfaced in early January. She would like the Board to act more quickly on addressing this issue.

A speaker noted that there was a huge showing at Binghamton University (BU) to hear the discussion on gas drilling and prospects for shale gas in New York. He is disappointed that no one from the Board was present. The Board members were invited and seats were reserved for them. He expects that the video of the meeting will be available online at a later date.

Councilwoman Messina noted that she did respond to this invitation for the BU meeting when she received it and replied that she had another commitment.

Supervisor Schaffer stated that he did not attend the BU meeting because he was turned away at the door and he was not informed that there were reserved seats. He is aware of several other people who were not able to get into the meeting.

A speaker spoke in support of Town officials attending the NYS Association of Towns conference noting that it is important to get the education and training.

In response to a question about the status of the vacant position on the Town Board, Supervisor Schaffer explained that he has asked the Board members to review the 16 applications and select their top choices for discussion at the next Work Session. Although one Board member already indicated a preference not to

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fill the vacancy for this year, Supervisor Schaffer expressed hope that the Board can still agree on selecting someone to fill the vacancy.

In response to a question about the status of the demolitions of the flood buyout homes, Supervisor Schaffer promised to check on it and report back.

A speaker expressed a preference for letting the people decide who should fill the vacant Board seat. Also, he asked that a report be provided by the Board to explain what was learned at the NYs Association of Towns conference.

SUPERVISOR'S ANNOUNCEMENTS

- The U.S. Senate passed the [Home Flood Insurance Affordability Act](#), S. 1926, to [Delay Flood Insurance Premium](#) increases for National Flood Insurance Program (NFIP) policyholders that are scheduled to take effect this year. The bill would delay the increases for about four years.
- **Winter Parking Hours** – December 1st - March 31st. No parking on Town and County streets and highways between the hours of 2:00 AM and 6:00 AM.
- The Town has an ordinance requiring property owners to [remove snow and ice from sidewalks adjacent to their properties](#). Compliance continues to be a problem in some areas of the Town. If this problem persists, the Town will issue appearance tickets for these violations.

ADJOURNMENT

On a motion of Councilman Majewski, seconded by Councilwoman Messina, the meeting was adjourned at 6:38 PM. Carried unanimously.

Approved by _____
Emil J. Bielecki, Town Clerk