

**Regular Meeting of the Vestal Town Board  
June 10, 2015**

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, NY on June 10, 2015.

**TOWN BOARD PRESENT:**

**Supervisor John Schaffer  
Councilman Majewski  
Councilwoman Fitzgerald  
Councilwoman Messina  
Councilwoman Agneshwar**

**ALSO ATTENDING:** Town Attorney David Berger, Town Clerk Emil Bielecki, 1<sup>st</sup> Deputy Town Clerk Kathie Young and approximately 15 members of the general public.

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 5      Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
                  Nays 0

Resolved the Minutes of the Regular Meeting on May 20, 2015 are approved.

**BID OPENINGS**

The sealed proposals for the **Sanitary Sewer Line Replacement for Hazel Drive, Harvard Street and Keenan Drive** were received by the Town Clerk and then opened at 2:00 PM on June 4, 2015:

**Vacri Construction**

1 Brick Avenue	\$106,700	\$133,100	\$71,500 OPT #1
Binghamton, New York 13901	\$104,500	\$128,760	\$48,400 OPT #2

**Procon**

100 Vestal Road	\$ 87,120	\$ 99,000	\$42,350 OPT #1
PO Box 1037, Vestal, NY	\$108,020	\$129,140	\$68,706 OPT #2

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

A speaker commented on items on the agenda as follows:

- It appears that the bidders on the sewer line replacement are the same two companies that show up for most of the projects.
- \$530 per month is very expensive for a fiber optic internet service.
- The hiring of another police officer requires an explanation.
- The Hicks lawsuit has gone on for years and we continue to pay legal fees.
- The Human Resource Officer should not be going to the conference. It amounts to a vacation at the taxpayer's expense.

In response, Supervisor Schaffer noted that the conference is required training for the Human Resource Officer. The new fiber optic internet service will actually be less expensive than the current service. When the Town gets sued, we have to defend it. The police officer was hired to fill a vacancy. We have no control over who submits bids for public work projects.

### **RESOLUTIONS & MOTIONS**

#### **Greater Binghamton Marathon**

Councilman Majewski noted that issues have been raised in the other municipalities. Supervisor Schaffer stated that some traffic issues are being discussed. We are approving only the portion of the race that goes through Vestal.

**R131-15** On a motion of Councilwoman Messina, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved to approve the route and the operation and safety plan for the ***Greater Binghamton Marathon*** to be held on September 20, 2015, from 7:30 AM to 2:30 PM, as submitted to the Town by Race Director William Safarik of the Runners Club of America. The race organizers are required to notify the Police Department and Emergency Services of their plans and to cooperate accordingly in addressing all public safety issues. The Town of Vestal is to be added as an additional insured party on the Certificate of Liability Insurance.

#### **Agreement with Plexicomm LLC for Internet Service**

Councilman Majewski noted that the new service will be better and cheaper than the current one and applauds our IT Director for taking the initiative.

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**R132-15** On a motion of Councilman Majewski, seconded by Councilwoman Messina, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved authorizing the Supervisor to sign an agreement with **Plexicomm LLC** of Binghamton, NY to install a new fiber optic internet line at a cost of \$1,000 and to use the existing wireless connection as a backup, with the cost of maintaining the total service at \$530 per month.

**Award Bid for Sanitary Sewer Line Replacement**

**R133-15** On a motion of Councilwoman Agneshwar, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved to authorize the Town Attorney to draw the appropriate paperwork awarding the **Sanitary Sewer Line Replacement for Hazel Drive, Harvard, Street and Keenan Drive** to the low bidder of Option #2, **Vacri Construction**, 1 Brick Avenue, Binghamton, N.Y. Budget line item S8120-4323.

Harvard Street	\$104,500.00
Keenan Drive	\$128,760.00
Hazel Drive	<u>\$ 48,400.00</u>
Total	\$281,660.00

**Award Highway Materials Bid**

**R134-15** On a motion of Councilwoman Agneshwar, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved to authorize the Highway Department to draw the appropriate paperwork awarding the bids for **Highway Materials** opened on May 11, 2015 as follows:

- Transit Mix Concrete: **Barney & Dickenson Inc. and C & C Ready Mix** with the understanding that we buy from the lowest bidder when possible.
- Bank Run Gravel, Type #4 Gravel – NYSDOT approved, Coarse & Fine Aggregates & Road Sanding Materials, Crusher Run Sub-base Type #2 (Item#304), Light and Medium Stone Fill: **F.S. Lopke, Inc.** – Single bidder
- Bituminous Concrete – Hot Mix Asphalt: **Broome Bituminous** – Single bidder

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- Plow Blades, Grader Cutting Edges and Tire Chain Material: Lowest bidder when possible:
  - **Chemung Supply** PO Box 527, Elmira, New York 14902
  - **Northern Supply** 2959 Ashman Road, PO Box 69, Bloomfield, NY 14469
  - **Bradco Supply Company** 80 Mills Road, Towanda, PA 18848

The bid results are available for review in the Town Clerk's Office.

### **Support Tioga Downs for Gaming License**

**R135-15** On a motion of Councilman Majewski, seconded by Councilwoman Agneshwar, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved to adopt the following resolution in support of **Tioga Downs** being awarded the Eastern Southern Tier Region Gaming License:

**WHEREAS:** In November 2013, New York State voters approved a constitutional amendment to allow casino gaming in New York State; and

**WHEREAS:** Tioga Downs has already proven to be a valued community partner by way of job creation, capital investment and revenue generated; and

**WHEREAS:** Tioga Downs owner has also shown experience in the gaming industry, not only at the existing facility in Tioga County but also in other facilities across the state; and

**WHEREAS:** in anticipation of the passing of the Upstate New York Gaming and Economic Development Act, Tioga Downs has made substantial improvements to their already existing facility located in Tioga County; and

**WHEREAS:** the Town of Vestal previously endorsed the prospect of Tioga Downs being awarded the Eastern Southern Tier Region Gaming License; and

**WHEREAS:** the Town of Vestal wishes to reiterate its support and commitment to Tioga Downs being awarded the Eastern Southern Tier Region Gaming License; and

**WHEREAS:** an expanded Tioga Downs facility will serve as a benefit to the Town of Vestal and the Southern Tier; now therefore be it

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**RESOLVED:** That the Town of Vestal, New York pass this resolution in support of Tioga Downs being awarded the Eastern Southern Tier Region Gaming License.

### **Hire New Police Officer - Colby L. Taber**

Supervisor Schaffer noted that this police officer paid for his own training. We are saving a great deal of money.

**R136-15** On a motion of Councilman Majewski, seconded by Councilwoman Messina, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved for Police Chief John Butler to fill a vacancy by hiring **Colby L. Taber**, as a Police Officer, effective June 15, 2015. Per the collective bargaining agreement, his rate of pay will be \$53,698.

### **Highway to Buy Equipment**

**R137-15** On a motion of Councilman Majewski, seconded by Councilwoman Agneshwar, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved to authorize the Highway Department to purchase a **Wacker BS 50-4AS Jumping Jack Tamp** from Admar Supply in Vestal at a cost of **\$2,250** (service and parts are available locally). The Business Office is authorized to execute a transfer of \$2,250 from budget line D5130.2201 to budget line D5130.2200.

### **Grant General Municipal Law 207-c Benefits**

**R138-15** On a motion of Councilman Majewski, seconded by Councilwoman Agneshwar, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved to grant **General Municipal Law 207-c** benefits to:

- **Police Officer Craig Angeline** as set forth in the union contract, effective retroactive to the date of his injury on 5-24-15.
- **Police Officer Shane Rollison** as set forth in the union contract, effective retroactive to the date of his injury on 3-8-14.

### **Authorization for Sale of Portion of African Road Park**

Councilwoman Agneshwar noted that this resolution was not discussed at the Monday Work Session. Supervisor Schaffer explained that this information arrived

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from the State after the Work Session and requires our immediate action before the end of the State Legislative Session. We have been working on this for over a year.

**R139-15** On a motion of Councilman Majewski, seconded by Councilwoman Messina, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

**RESOLVED**, that the Town Board of the Town of Vestal, pursuant to the provisions of Section 64 of the Town Law, hereby authorizes the sale of the property described as a portion of the lands known as **African Road Park** annexed hereto to Vestal Veterinarian for the price of \$5,000.00.

**BE IT FURTHER RESOLVED** that this Resolution is subject to a **Permissive Referendum**, notice of which shall be posted and published in accordance with Section 90 of the Town Law.

This proposed activity has been identified as a Type II action and therefore is not subject to review under SEQRA.

**Home Rule Message concerning Discontinuing Use and Sale of Certain Land**

Supervisor Schaffer stated that this is a piece of land that is unusable by the Town and will be useful to the adjoining property owner.

**R140-15** On a motion of Councilman Majewski seconded by Councilwoman Agneshwar, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved to approve the Home Rule Message Requesting the State of New York to Authorize the Town of Vestal to discontinue use of Certain Land and sell such property to Vestal Veterinary Hospital (Senate Bill S. 5864 and Assembly Bill A 8126)

**Whereas** the Town of Vestal acquired 4.01 acre parcel of land from Roger and Janet Mead on November 2, 1966 and

**Whereas** Vestal Veterinary Hospital would like to purchase a portion of land from the Town and

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**Whereas** the Town of Vestal must obtain State Authorization to sell a parcel which has been dedicated for park purposes, now therefore be it

**Resolved** that this Town Board hereby requests the State of New York to enact Senate Bill 5864 and Assembly Bill 8126 to authorize the Town of Vestal to discontinue the use of certain Town Lands used as park land and to sell and convey such lands to Vestal Veterinary Hospital and be it further

**Resolved** the Clerk of the Town is hereby directed to forward copies of this resolution to Gov. Andrew Cuomo; to the Majority Leader of the New York State Senate John Flanagan, to the Speaker of the New York State Assembly Carl Heastie, to the Minority Leaders of the Senate and Assembly and to each member of the Southern Tier delegation to the New York State Legislature.

### **CONSENT AGENDA**

On a motion of Councilwoman Messina, seconded by Councilwoman Agneshwar, the following resolution was

**ADOPTED** Ayes 5      Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
                             Nays 0

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

#### **PUBLIC WORKS: Majewski/Fitzgerald**

##### **Sell 2001 Dodge Pickup at Auction**

**R141-15**      Authorization for the Engineering Department to place the (M-1 Maintenance) 2001 Dodge pickup - VIN # 3B6KC26Z31M545775 (Mileage 130,713) up for auction. This vehicle was replaced with a 2015 Ford Pickup.

##### **Draw Local Law and Advertise Public Hearing re: FOG Program**

**R142-15**      Approval for the Town Attorney to prepare the Local Law for the **Town of Vestal Fats, Oil and Grease (FOG) Control Program** and to advertise on June 24 for a Public Hearing on July 8<sup>th</sup>, 2015.

#### **FINANCE: Agneshwar/Messina**

##### **Receive and File:**

- **Warrant Reports:** 2015-21, 2015-21E, 2015-21L, 2015-22, 2015-22E, 2015-23, 2015-23E

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- **Town Clerk Monthly Report:** May 2015 Total Local Share Remitted:\$5,986.56
- **Comptroller's Monthly Reports:** January – May 2015

### Close Completed Capital Projects

**R143-15** Authorization for the Deputy Comptroller to **close the completed Capital Projects**, per the memo dated May 26, 2015, and to transfer the fund balances to the respective debt service fund to be used towards reducing the Town's outstanding debt service obligations or future reliance on debt.

### Billable Hours for Town Attorney

**R144-15** Approval for the Business Office to submit payment in the amount of **\$412.50 Town Attorney David Berger** for May 2015 billable hours.

### Payment for Legal Services to Greene, Hershdorfer & Sharpe

**R145-15** Approval for the Business Office to submit payment in the amount of **\$6,025.11 to Greene, Hershdorfer & Sharpe** for legal services for the period March 10, 2015 to May 14, 2015 regarding the Hicks vs. Town of Vestal litigation.

### PERSONNEL: Fitzgerald/Majewski

### Upgrade for Robert Flint

**R146-15** Authorization to appoint **Robert Flint** to the vacant position of *Water Meter Reader & Repair Person*, effective June 15, 2015, at the Operating Engineer rate of \$22.55 per hour. The vacant position was posted as required by Collective Bargaining Agreement. The funding for this position is from line W8340-1000.

### Part-Time Clerk for Museum

**R147-15** Authorization for Museum Director, Ramona Kacyvenski to fill a vacancy by hiring **Alexis Hopersberger** as a Clerk Part-Time to work an average of 8 hours per week in the Museum effective June 25, 2015 at a rate of \$8.75 per hour. This position is non-union.

### Olmstead to Training Conference

**R148-15** Authorization for the Director of Human Resources, Nancy Olmstead to attend the **New York State Public Employer Labor Relations Association Annual Training Conference** July 21, 2015 through July 24, 2015 in Saratoga Springs, NY. Anticipated costs are as follows: Registration \$275; Hotel



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\$179/night; Meals \$135; Mileage \$194.35. Authorization for a budget transfer from budget line A1420 4030 to budget line A1430 4030 to cover conference costs.

### **PLANNING & ZONING: Messina/Fitzgerald**

#### **Block Party for Kimble Road**

**R149-15** Authorization approving the closing of Kimble Road to thru traffic allowing the residents to hold the **3<sup>rd</sup> Annual John Palmiter Memorial Block Party** on June 26, 2015 from 5 pm to 9 pm. The road will still be accessible to emergency vehicles. Police, Fire and Emergency to be notified.

### **ADMINISTRATION: Messina/Agneshwar**

#### **School Resource Officer (SRO) Agreement**

**R150-15** Authorization for the Town Supervisor John Schaffer to sign the **School Resource Officer Agreement (SRO)** for the period September 2015 thru June 2016.

### **RECEIVE AND FILE**

- **Vestal Fire Advisory Board Meeting Minutes** – April 20, 2015.
- **Letter from HH&K** dated May 21, 2015 regarding **UHS** demolition on and building permits at 4433 Vestal Parkway East, BCTMP # 159.10-1-17.1
- **Vestal Conservation Advisory Commission Minutes** of April 16, 2015.
- **Communication from Pat Roberts** dated June 9, 2015 concerning the Town Board's discussion on adopting a Road Use Agreement.

## **END OF CONSENT AGENDA**

### **NEW BUSINESS:**

#### **Amend Pilot Agreements - Vestal Park LLC Project**

Howard Rittberg, the attorney representing Newman Development and Vestal LLC, explained that the existing Pilot Agreement is being modified to reflect changes in the physical layout (footprint), design and the number of units of the project. There is no change to the financial portion of the Pilot Agreement.

Supervisor Schaffer noted that the Planning Board has done a thorough review of the project and has approved the changes. Town Board approval is the next step.

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Councilwoman Agneshwar asked when the agreement will be available in final form. Mr. Rittberg responded that that the IDA attorney is working on it and it should be available within a week.

**R151-15** On a motion of Councilwoman Messina, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

RESOLVED to authorize the amendment and restatement of the **Pilot Agreement covering the Vestal Park, LLC Project**, modifying the legal description and narrative description of the UP-2 portion of the project to reflect changes in the physical layout and construction specifications of the project, and authorizing the execution of any and all documents necessary to effect the same.

BE IT FURTHER RESOLVED to authorize the assignment of the Pilot Agreement covering the Vestal Park, LLC Project from Vestal Park, LLC to an entity to be named later and authorizing the execution of any and all documents necessary to effect the same.

### **Vilma Byrne Donates \$1000 to End of Season Picnic**

Vestal resident Vilma Byrne expressed her concern that the \$2 per person entry fee for the Vestal *End of Summer Picnic* was a burden for families with children. She would like to donate \$1,000 so that the entry fee is waived. This is the third year that she is making a donation for this purpose. Supervisor Schaffer thanked her for the generous gift and for doing something nice for the Town.

**R152-15** On a motion of Councilwoman Messina, seconded by Councilwoman Agneshwar, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Agneshwar, Messina, Schaffer  
Nays 0

Resolved to accept a donation from Vestal resident **Vilma Byrne** in the amount of **\$1,000** and to waive the entry fee for the 2015 *End of Season Picnic*.

### **SUPERVISOR'S ANNOUNCEMENTS**

- We are receiving an increasing number of complaints about dog feces on the new Rail Trail Extension. We remind all dog owners of their legal responsibility to clean up after their pets. If the problem persists, the Board will have no choice but to consider banning dogs from the Rail Trail.

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**ADDITIONAL PUBLIC COMMENTS**

A speaker wondered why Endicott or Owego would not want the *Greater Binghamton Marathon* in their town. Councilman Majewski noted that they were working through some traffic and safety issues.

A speaker noted that there appears to be people residing at the Candle House on Mirador Road and wonders if this is legal. The Town Attorney replied that it was legal for people to be residing at that location.

A speaker stated that when he presented his case to the Assessment Review Board at the grievance hearing, the Town Assessor was there and interfered with his presentation. The assessor should not be involved in the grievance hearing and calling the police on him was unacceptable. Additionally, he still wants the Board to investigate his allegations that the tires on his vehicle were slashed on Town property. Lastly, he accuses the Town Clerk of omitting some of his comments from the minutes. Supervisor Schaffer stated that he would discuss the grievance hearing allegations with the Town Attorney but noted that the Town Assessor has the right to be at the hearing and participate as needed. The police were called in response to the bad behavior exhibited by the speaker. As to the allegations concerning the slashed tires, the investigation is a police matter that the Board will not get involved with.

**Town Clerk's Note:** Although the minutes of these proceedings do routinely include a synopsis of comments made by the public during the privilege of the floor, there is no legal requirement to do so.

**ADJOURNMENT**

On a motion of Councilman Majewski, seconded by Councilwoman Messina, the meeting was adjourned at 6:31 PM. Carried unanimously.

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