

Regular Meeting of the Vestal Town Board June 24, 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 24, 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, 1st Deputy Town Clerk Kathie Young and 12 members of the general public.

Supervisor Schaffer called the Regular Meeting to order at **6:00 PM**, welcomed everyone and asked that all present join in the PLEDGE OF ALLEGIANCE:

Supervisor Schaffer announced that former Town of Vestal Board Member David Marnicki passed away on June 16, 2015. A civil engineer and land surveyor, he served on the Town Board from 2004 to 2009 and 2010 to 2014. David, a native of Connecticut, was an active community volunteer. He was involved with establishing the Vestal Rail Trail and was a member of the Rounds Coal House Committee. He supported Habitat for Humanity, the Vestal Historical Society and the Town Museum. The Supervisor then offered a moment of silence.

APPROVAL OF MINUTES

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 Minutes of the Regular Meeting on June 10, 2015 are approved.

PRIVILEGE OF THE FLOOR (Agenda Items Only)

A speaker commented as follows on several items on the agenda:

- We continue to pay legal expenses on cases that should have ended by now.
- We are selling police vehicles before the end of their useful lives and we should be realizing some income when scrapping a vehicle.
- We should be getting more bids on our public works projects.

Regular Meeting of the Vestal Town Board June 24, 2015

- Asked how the reimbursed funds from the sewage treatment plant will be used.
- Asked about the status of the discussion with Mirabito concerning fueling. In response, Supervisor Schaffer noted that this topic is not on this agenda but it continues to be discussed at the Work Session level.

RESOLUTIONS & MOTIONS

Adopt Policies for NY Rising Community Reconstruction Grant Program

Councilman Majewski noted that these procedures are being adopted to enable us to gain access to funding for damage done by disasters.

R153-15 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 to adopt the following three documents, as attached, in connection with the NY Rising Community Reconstruction grant program:

- Affirmative Action Plan as required under the NYS Community Development Block Grant-Disaster Recovery (CDBG-DR) Program
- Section 504 (Rehabilitation Act of 1973) Policies and Grievance Procedures for the Town of Vestal
- Subrecipient Coordinator Document

Request to use Library Parking Lot for a Wendy's Kids Fundraiser

Councilman Majewski stated that he supports this request noting that it will help handicapped children locally. The Board has consistently allowed this type of activity in the library lot and he does not understand why there is a sudden change.

Councilwoman Messina stated that she does not support this request noting that that this food vending operation (Doug's Fish Fry) competes unfairly with nearby restaurants and other food establishments. There are plenty of private venues that can host these events.

Councilwoman Fitzgerald stated that she will support this request because it helps the kids but has a problem with the request coming in at the last minute.

Regular Meeting of the Vestal Town Board June 24, 2015

Councilwoman Agneshwar stated that she agrees in principle with Councilwoman Messina. There is an impact on businesses from these events. We need to look at this more closely and establish a firm policy that goes beyond the existing case by case review. In the interim, she will support this request because the event will benefit handicapped children as well as Vestal based Kopernik Observatory.

Supervisor Schaffer feels that these food vendor activities have increased to the point that they are hurting our local businesses. We need to get a better hold on this and the appropriate time to establish a new policy would be at the organizational meeting. These events also raise questions about how much is actually being donated to the sponsoring non-profit groups. There are also costs to the Town if we have to clean up.

Councilman Majewski suggested that if the Board intends to change the policy, it should include local business owners and the fundraising groups in the discussion.

R154-15 On a motion of Councilman Majewski, seconded by Councilwoman Agneshwar, the following resolution was

ADOPTED Ayes 3 Majewski, Fitzgerald, Agneshwar,
Nays 2 Messina, Schaffer

Resolved to authorize **Wendy's Kids** to hold a Doug's Fish Fry Fundraiser on July 22, 2015 in the Vestal Library parking lot. An Indemnification Agreement is to be signed.

CONSENT AGENDA

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 **Consent Agenda** is approved as follows:

PUBLIC WORKS: Majewski/Fitzgerald

Advertise for Bids to Replace Third Ave. Sanitary Sewer

R155-15 Authorization for the Town Attorney to advertise for bids for the **Third Avenue Sanitary Sewer Line Replacement** on July 1, 2015 with opening on July 13, 2015 at 2:00 pm.

Advertise/Public Hearing on Consolidated Sewer District, Extension # 157

R156-15 Authorization for the Town Attorney to advertise on July 8, 2015 for

**Regular Meeting of the Vestal Town Board
June 24, 2015**

a Public Hearing on July 22, 2015 for the following:

Consolidated Sewer District No. 1, Extension No. 157
1021 Main St., B.C. T. M. T.: 173.15-1-44
Petitioner: Rodney A. Imler

FINANCE: Agneshwar/Messina

Receive and File:

Warrant Reports: 2015-24, 2015-24E, 2015-25, 2015-25E, 2015-25L

Pay Invoice to Czerenda Court Reporting

R157-15 Authorization for the Business Office to remit **\$256.00** to **Czerenda Court Reporting** in the Ulrich vs. Town of Vestal case.

Pay Invoice to Gannett Newspaper

R158-15 Authorization for Museum Director Ramona Kacyvenski to use line CM0308 to pay the invoice from **Gannett Newspaper** in the amount of \$200 for an advertisement in the summer planner for summer events at the museum.

PUBLIC SAFETY: Majewski/Agneshwar

Sell Police Vehicles at Auction International

R159-15 Authorization for the Police Department to sell two retired police department vehicles which are no longer in service via **Auction International**.

The vehicles are as follows:

Vehicle Year & Make	Miles	VIN
2006 Dodge Durango	117,602	1D8HB48N97F512627
2011 Chevrolet Impala	104,415	2G1WD5EM4B1232088

Scrap Police Vehicle

R160-15 Authorization for the Police Department to **scrap a retired Police Department vehicle** which is no longer in service via Schultz Auto. The below vehicle does not have a transmission and has body rust.

The vehicle is as follows:

Vehicle Year & Make	Miles	VIN
2004 Ford Taurus	84,000 (approx.)	1FAFP52U04A178211

Regular Meeting of the Vestal Town Board June 24, 2015

RECEIVE AND FILE:

- Letter from the Comptroller of the City of Binghamton, dated June 17, 2015, stating that the Town of Vestal has been allocated \$469,316.44 from a reduction of Capital Funds of the **Binghamton-Johnson City Joint Sewage Board**.
- Fire Advisory Board Meeting Minutes – May 18, 2015

END OF CONSENT AGENDA

Summer Hires for Recreation

At the request of Councilwoman Agneshwar, this resolution was pulled from the Consent Agenda for separate consideration.

R161-15 On a motion of Councilman Majewski, seconded by Councilwoman Agneshwar, the following resolution was

ADOPTED Ayes 4 Majewski, Fitzgerald, Messina, Schaffer
Nays 0 Abstain 1 Agneshwar

Resolved to authorize Recreation Planner Sue Jastran to hire summer employees as listed in her June 17, 2015 memo. All employee pay rates are budgeted items in the 2015 budget and the background checks has been completed.

A7310.1021 Labor – Playground Instructors

Mira Agneshwar - Vestal as Playground Instructor at Pay rate \$8.75/hr.
Emily Brennan - Vestal as Playground Instructor at Pay rate \$8.75/hr.
Patrick Commerford - Vestal as Playground Instructor at Pay rate \$8.75/hr.
Julia Ferrante - Vestal as Playground Instructor at Pay rate \$8.75/hr.
Abby Silverman - Hrubes - Vestal as Playground Instructor at Pay rate \$8.75/hr.
Kelsie Lane - Vestal as Substitute Playground Instructor at Pay rate \$8.75/hr.
Kelly Maloney - Vestal as Playground Instructor at Pay rate \$8.75/hr.
Johauna Morlando - Vestal as Substitute Playground Instructor at Pay rate \$8.75/hr.
Annie Murphy - Vestal as Substitute Playground Instructor at Pay rate \$8.75/hr.
Swako Suzuki - Vestal as Playground Instructor at Pay rate \$8.75/hr.
Mackenzie Watson - Vestal as Playground Instructor at Pay rate \$8.75/hr.
Erin Willis - Vestal as Substitute Playground Instructor at Pay rate \$8.75/hr.

A7310.1026 Labor – Tennis

Ryan Cummings - Johnson City as Tennis Camp Director at Pay Rate \$425.00 salary
Tyler Klossner - Vestal as Tennis Instructor at pay rate \$8.75/hr.
Christopher Murphy - Apalachin as Tennis Instructor at pay rate \$8.75/hr.
Ethan Willis - Vestal as Tennis Instructor at pay rate \$8.75/hr.

SUPERVISOR'S ANNOUNCEMENTS

Supervisor Schaffer announced that the Town will be receiving an allocation of \$469,316.44 from a reduction of Capital Funds at the Binghamton-Johnson City

Regular Meeting of the Vestal Town Board June 24, 2015

Joint Sewage Treatment Plant. We have chosen to receive the refund by check. They are making restitution to us. This is great news and the Board will discuss how we will allocate the use of this money.

ADDITIONAL PUBLIC COMMENTS

A speaker stated that he would like sewage plant refund money to be held in reserve for controlling future tax increases. Supervisor Schaffer noted that this money must stay in the sewer district.

A speaker recommended that the Town establish a policy concerning fund raisers at the library parking lot as they do for the use of outside storage containers.

Several speakers commented on the death of David Marnicki noting that he was an educated person of integrity who had a kind heart for this community.

A speaker stated that the money coming back from the sewage treatment plant should be earmarked for capital projects.

Several speakers expressed support for a more restrictive policy concerning the use of the library parking lot for fund raising activity. To some, it appears that the food vendors benefit more than the sponsoring non-profit groups. The school district doesn't allow this type of activity on their property.

A speaker reiterated his demand that the Town Board investigate incidents of deliberate dumping of snow and ice on his driveway by Town plow trucks and punctured tires on his vehicle while parked on Town property. Also, he objects to the 3 minute speaking limit imposed during the privilege of the floor. Additionally, he feels that Board members should not be paid when they miss meetings and the meeting schedule should not be manipulated to accommodate personal needs. Supervisor Schaffer responded that he has already addressed all of these questions during past meetings. As to the request for an investigation, it is in the hands of the Police Department and the Board has no involvement.

ADJOURNMENT

On a motion of Councilman Majewski, seconded by Councilwoman Agneshwar, the **meeting was adjourned at 6:44 PM**. Carried unanimously.

Approved by _____
Emil J. Bielecki, Town Clerk

Regular Meeting of the Vestal Town Board

June 24, 2015

CONTENT OF RESOLUTION 153-15

A RESOLUTION TO ADOPT AN AFFIRMATIVE ACTION PLAN AS REQUIRED UNDER THE NEW YORK STATE COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY (CDBG-DR) PROGRAM.

WHEREAS, the Town of Vestal is a subrecipient receiving New York State Community Development Block Grant-Disaster Recovery (CDBG-DR) funds, as administered by the Governor's Office of Storm Recovery (GOSR) of the New York State Housing Trust Fund Corporation (HTFC) to assist in addressing unmet needs from either Hurricane Irene, Tropical Storm Lee, or Super Storm Sandy; and,

WHEREAS, participation in the New York State CDBG-DR Program requires the adoption and implementation of an Affirmative Action Plan to meet the Equal Employment Opportunity (EEO) requirements of Executive Order 11246 and other program policies; and,

WHEREAS, the purpose of this plan is to prohibit workplace employment discrimination on the basis of age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.

NOW, THEREFORE, BE IT RESOLVED by the Town of Vestal that the attached Affirmative Action Plan be hereby officially adopted for implementation in the New York State CDBG-DR Program.

**Town of Vestal
NEW YORK STATE
GOVERNOR'S OFFICE OF STORM RECOVERY (GOSR)
COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY (CDBG-DR) PROGRAM**

AFFIRMATIVE ACTION PLAN

The Town of Vestal has adopted the following Affirmative Action Plan to meet the Equal Employment Opportunity (EEO) requirements of Executive Order 11246 and the program policies of the New York State Community Development Block Grant-Disaster Recovery (CDBG-DR) Program. Executive Order 11246 prohibits federal contractors and subcontractors from engaging in workplace employment discrimination on the basis of age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.

- 1) The Town of Vestal is committed to equal employment opportunity and as part of its Affirmative Action Plan shall:
 - a) Recruit, hire, upgrade, train, and promote in all job classifications, without regard to age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.
 - b) Base employment decisions on the principles of equal employment opportunity, and with the intent to further the Town of Vestal's commitment to affirmative action;
 - c) Ensure that all terms and conditions of employment such as compensation, benefits, layoff, return from layoff, training, educational tuition assistance, and social and recreation programs, shall be administered without regard to age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.

Regular Meeting of the Vestal Town Board

June 24, 2015

- d) Ensure that promotion decisions will be made in accordance with the principles of affirmative action by imposing only valid requirements for promotional opportunities;
 - e) Take action to prevent harassment or intimidation of all employees, particularly those encompassed by the Town of Vestal's affirmative action efforts.
- 2) The Town of Vestal will post the federal EEO Poster in a conspicuous location.
 - 3) In all solicitations or advertisements for employment the Town of Vestal shall state that all qualified applicants will receive consideration for employment without regard to age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.
 - 4) The Town of Vestal will maintain written employment records to demonstrate compliance with Executive Order 11246.
 - 5) The Town of Vestal will pursue opportunities to recruit and develop qualified job candidates to avoid employment barriers and to ensure equal opportunity for candidates.
 - 6) The Town of Vestal's Affirmative Action Plan will be posted on the Human Resources Office web page at www.vestalny.com.
 - 7) Town Supervisor has been assigned responsibility for the implementation and administration of this Affirmative Action Plan.
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Section 504 (Rehabilitation Act of 1973) Policies and Grievance Procedures for the Town of Vestal

WHEREAS, Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs and activities conducted by the U.S. Department of Housing and Urban Development (HUD) or by grantees that receive financial assistance from HUD, and

WHEREAS, Part 8 of Title 24 of the Code of Federal Regulations (24 CFR) requires adoption of grievance procedures to address complaints of those who feel they may have been discriminated against on the basis of disability and also requires the provision of notice of said grievance procedures, and

WHEREAS, it is the policy of the Town of Vestal not to discriminate against any individual, person, or group on the basis of disability and the intent of the Town of Vestal to address any complaints that may arise pursuant to Section 504,

NOW, THEREFORE, BE IT RESOLVED that the Town of Vestal does hereby adopt by resolution internal grievance procedures (the "Procedure") providing for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 of the U.S. Department of Health and Human Services regulations implementing the Act, and

BE IT FURTHER RESOLVED, that the Town of Vestal does hereby designate the TOWN SUPERVISOR as the Grievance Coordinator who shall be responsible for receiving and addressing complaints pursuant to the Procedure adopted hereby and attached hereto, and

BE IT FINALLY RESOLVED, that the Town of Vestal will place its employee, the public, and potential beneficiaries of certain federal public programs on notice by undertaking certain actions that will include, but may not be limited to (1) providing a copy of the grievance procedure to its employees, (2) putting the public on notice by placing a notice in the Town of Vestal's official newspaper, posting of notices in the Town of Vestal's

Regular Meeting of the Vestal Town Board

June 24, 2015

offices and facilities, placing notices in the Town's publications, and/or distribution of memoranda or other written communications subsequent to adoption of this Procedure, (3) placing copies of the Procedure in the TOWN CLERK'S OFFICE for review and dissemination, and (4) adding language to federal program brochures to insure all potential program beneficiaries are aware of the Town of Vestal's adopted grievance procedures.

BACKGROUND: Section 504 of the Rehabilitation Act of 1973 (the "Act") as amended prohibits discrimination on the basis of disability in programs and activities conducted by HUD or that receive financial assistance from HUD. This includes the New York State Community Development Block Grant-Disaster Recovery (CDBG-DR) Program funded by HUD, administered by the Governor's Office of Storm Recovery (GOSR), and under which the Town of Vestal's has received financial assistance. The Act specifically provides that no qualified individual shall, solely by reason of his or her handicap, be excluded from program participation, including employment, be denied program benefits, or be subjected to discrimination. The Americans with Disabilities Act of 1990 (ADA) established provisions for assuring equality of opportunity, full participation, independent living, and self-sufficiency of disabled persons relative to employment, benefits and services, accommodations, commercial facilities, and multi-family housing.

SECTION 504 POLICY/COMPLIANCE: Part 8 of Title 24 of the Code of Federal Regulations (24 CFR) requires the adoption and notice/publication of ADA grievance procedures for municipalities with 15 or more employees, Sections 8.53 and 8.54, respectively. Therefore, be it known that it is the policy of the Town of Vestal not to discriminate on the basis of disability. Towards that end, the Town of Vestal has adopted by resolution an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) of the U.S. Department of Health and Human Services regulations implementing the Act. The subject law and implementing regulations may be examined in the TOWN CLERKS' OFFICE. The TOWN SUPERVISOR for the Town of Vestal has been designated to coordinate the efforts of the Town of Vestal with respect to Section 504 compliance. This information can also be accessed on the Internet at the following address:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504. The TOWN SUPERVISOR'S OFFICE is located at 605 VESTAL PARKWAY WEST, VESTAL, NY 13850. The Section 504 Coordinator can be reached at (607)748-1514.

GRIEVANCE PROCEDURE: Any person who believes he or she has been subjected to discrimination on the basis of disability may file a grievance under the procedure adopted by the Town of Vestal outlined below.

- Grievances must be submitted to the Section 504 Coordinator within 60 days of the date the person filing the grievance becomes aware of the alleged discriminatory action.
- A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- The Section 504 Coordinator (or her/his designee) shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Section 504 Coordinator will maintain the files and records of the Town of Vestal relating to such grievances.
- The Section 504 Coordinator will issue a written decision on the grievance no later than 30 days after its filing.
- The person filing the grievance may appeal the decision of the Section 504 Coordinator by writing to the Town of Vestal, TOWN BOARD within 15 days of receiving the Section 504 Coordinator's decision. The Town of Vestal, TOWN BOARD shall issue a written decision in response to the appeal no later than 30 days after its filing.
- The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U. S. Department of Health and Human Services, Office for Civil Rights.

Regular Meeting of the Vestal Town Board

June 24, 2015

The Town of Vestal will make appropriate arrangements to ensure that disabled persons are provided accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinator will be responsible for such arrangements.

It is against the law for the Town of Vestal to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

Subrecipient Coordinator Document

The Governor's Office of Storm Recovery requires that subrecipients designate staff members or officials to coordinate compliance with important state and federal regulations. Please indicate relevant staff or municipal officials below. Please note that a single individual may be designated to serve multiple roles.

Subrecipient: Town of Vestal
Subrecipient Address: 605 Vestal Parkway West Vestal, NY 13850
Subrecipient Phone Number: (607) 748-1514

Equal Employment Opportunity Officer: Town of Vestal Supervisor

Section 3 Coordinator: Town of Vestal Supervisor

M/WBE Utilization Coordinator: Town of Vestal Supervisor

Anti-Displacement and Relocation Officer: Town of Vestal Supervisor

Labor Compliance Coordinator: Town of Vestal Supervisor

Fair Housing/Limited English Proficiency Coordinator: Town of Vestal Supervisor

Section 504 Grievance Coordinator: Town of Vestal Supervisor