

York Town Board Meeting
October 13th, 2020
7:00 p.m.

Present: Supervisor Gerald L. Deming, Council Members: Lynn Parnell and Amos Smith

Absent: Frank Rose Jr. and Norman Gates

Others: James Campbell (Town Attorney), Henry Fuller, George Worden Jr. (Highway Supt.) Kirk Richenberg, Carl Peter (Zoning/Code Officer) and Lewis Price.

Supervisor Deming opened the Town Board Meeting at 7:00 p.m. and invited Councilman Smith to lead in the Pledge of Allegiance.

MINUTES

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve the minutes of September 8th, 2020 Regular Town Board Meeting, September 25th and October 6th Special Town Board Meetings. Voted on and approved, Yes-3, No-0.

**** 7:04 p.m.- Councilman Rose arrived at this time.**

HIGHWAY

Mr. Worden reported the following for the Highway Department:

- The department wedged and put in shoulders on Casey Road.
- We were notified that they did cut the CHIPS funding by 20%.
- We have also assisted the County with wedging.
- We are preparing the plow equipment for the winter season.
- Still mowing roadsides for a bit longer.

Mr. Worden did report that he was contacted by a cable company regarding internet service. Currently they have been marking Right of Ways. They indicated that some cable will be underground while in other areas poles will be installed. They did replace one on Batzing Road at one end and will directional drill a second one at the other end. Mr. Worden stated that they plan to extend on the West end of Ellicott Road which will align with the other poles. They also intend to expend at the west end of Anderson Road as well, which should not have any issues with the neighbors.

After some discussion, Attorney Campbell suggested that Highway Supt. Mr. Worden have this company contact him directly to obtain all details regarding their upcoming plans.

WATER/SEWER:

Mr. Worden reported the following for the Water & Sewer Department:

- Our test results from the recent TTHM test came in at 74. The number we documented at the Piffard Pump station coming in from Geneseo was 68.

Supervisor Deming stated that he along with George, Jim Hodges and Eric Wies met with residents on Tenth Street (Stella, Costa and Vattimo) to discuss the ongoing water issues in the Retsof hamlet. Mr. Deming stated that water is actually coming in through the walls, which is ground water issues. We hope this issue will be corrected with the sanitary sewer installation project.

Mr. Worden reported that he and Mr. Hodges met with the Cheese Factory personnel regarding their wastewater inspection which ultimately had no issues but they did indicate that they wanted to alter their permit for wastewater purposes. Mr. Worden informed them that any modification to the existing permit must go through DEC and the Town. Their desire is to bypass their industrial pretreatment which the Town will not agree to.

PRIVILEGES OF THE FLOOR:

1) Henry Fuller:

Mr. Fuller posed several questions to the Board this evening:

Q-What is the status of the cheese plant?

Supervisor Deming replied that no additional information has been received, it has been very quiet. Mr. Deming added that he has a call into Bill Bacon but has yet to receive a return call.

Q-After reading the recent minutes, did the town have a Bond in place for the Cheese Plant for protection?

Supervisor Deming answered that we did not have a bond in place.

Q-What are the ramifications of breaking the contract?

Attorney Campbell stated that we do not normally do a Bond for a business, we make them pass along development costs involved to the developer. Mr. Campbell added, we are very disappointed on what has happened but did obtain water to Linwood Road residents due to this project.

Q-The Board spoke about a few cable poles being installed tonight but had nothing in place for protection of the Cheese Plant.

Attorney Campbell replied once again that Bonds are not normally done for businesses but have learned a great deal through this process which has not been done here previously, which will assist us in future projects.

Supervisor Deming added, as Mr. Campbell stated, we are disappointed on what has happened but we are grateful because we asked for \$1.4 million to fund a water project and they agreed to do so.

Q-Who pays the salaries because of the Cheese Plant?

Supervisor Deming answered the Town of York pays our employees to keep track of the day to day requirements for permit purposes.

Comment: People have expressed to him their disappointment on how quickly this project was processed and now we have to deal with the potential financial issues.

Q- I was at a meeting when it was discussed about Noble's taking out the woods on Casey Road. George said he was going to bill the farmer but had to discuss it first with Soil & Water. The pipe is in, who paid for it?

Mr. Worden replied that we paid for the pipe, it had to be replaced because it was rotted out. If we hadn't replaced it at some point, we would have had to close the road with an issue. Mr. Worden stated that he did speak with Soil & Water and they informed him that the Casey Road farmer had a permit to proceed.

Q-In the minutes of the last meeting (9-8-20), how come Noble's wasn't mentioned when you talked about out of district water supply agreement to Noblehurst?

Supervisor Deming stated that the water supply agreement discussed involved the Town of York and Noblehurst Farms but they have since withdrawn their request deciding to go another route.

Q-What are the penalties for zoning violations?

Mr. Peter replied the penalties for a zoning violation is \$250.00 per week and for each week it constitutes a new violation with another \$250.00.

2) Lewis Price:

Mr. Price stated that he came tonight to speak with the Board about an ongoing need for ditch repairs on Chandler Road. Mr. Price commented that he asked Mr. Worden a year ago to clean the ditch but nothing has happened to date. Mr. Price stated that Donnan Farms have the field behind his home and all water run off goes to his property instead of the ditch because it has not been cleaned out. Mr. Price also said a letter was sent to the Highway Dept. in April of this year but again no resolve and decided to ask the Town Board for assistance.

Mr. Worden replied that he did have a conversation with Mr. Price about the matter and did receive the letter as well. He did prepare a stakeout which unfortunately did not pan out the first time. Mr. Worden assured Mr. Price that the ditch will get cleaned out and stated his plans to go straight down Chandler Road from Rt. 36 to the creek.

Mr. Price commented that all he wants is to divert water from his property because it is washing away his lawn.

NEW BUSINESS:

1) Bill Korth correspondence:
Supervisor Deming read aloud a letter we received from Bill Korth thanking Town officials for their assistance with the water line project on Rt. 20.

Bill Korth
1638 McVean Rd
Caledonia, NY 14423

Dear Jerry,

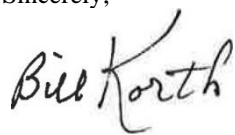
This note is long overdue. We want to thank you personally as well as your staff at the York Town Hall; Chris Harris and Patty Barefoot. Also George Worden and the Highway and Water Department employees.

We appreciate all that you did and the people mentioned above to make the water line a reality to residences on Route 20. I appreciate your willingness in helping us out with this project.

Sorry this took so long to get to you.

Thank you again for your interest and help.

Sincerely,

A handwritten signature in cursive script that reads "Bill Korth". The signature is written in black ink and is positioned below the word "Sincerely,".

Bill Korth

2) DOT Shared Services Agreement:

Mr. Worden explained that he had a conversation recently with Michael Hinds of NYS DOT (Region 4). Mr. Hinds discussed plans going into the snow & ice season and possible impacts the virus might have. Mr. Hinds mentioned that NYS DOT does not currently have a Shared Services Agreement with the Town of York and asked to send us a copy for review and consideration. This proposed agreement allows DOT to give assistance or receive assistance when needed (typically in emergencies).

Mr. Richenberg questioned whether or not we have a current plan or trying to put something together as we go? He feels this is premature. Just because DOT asked for this now, why do we have to agree. If they can't find people to assist them, how can we with a smaller crew?

Mr. Worden answered this is why we would want to proceed; we are taking steps now to have assistance or give assistance if needed. We would only do the state roads in our township. Mr. Worden also stated we do have the option at any time to refuse their request for assistance if we are too busy with our duties.

Attorney Campbell stated that Mr. Richenberg is correct that a plan should be in place and we need to look ahead and at the big picture for the State's request.

RESOLUTION offered by Mrs. Parnell & seconded by Mr. Rose to approve following Shared Services Agreement:

Shared Services Agreement between NYSDOT and the Town of York

THIS AGREEMENT, dated October 13, 2020 is between the People of the State of New York, hereinafter referred to as "State" or "NYSDOT" and the Town of York, hereinafter referred to as "Municipality". Pursuant to Section 99-r of the General Municipal Law, the State and the Municipality wish to share services, exchange or lend materials or equipment which shall promote and assist the maintenance of State and Municipal roads and highways and provide a cost savings by maximizing the effective utilization of both parties' resources. Shared Services shall mean any service provided by one party (Provider) to another party (Recipient). The State and the Municipality agree to share services as follows:

1. Description and Cost of Services, Materials or Equipment to be shared: Provide details of the services, materials or equipment to be shared in standard Schedule A. The total amount of the agreement shall not exceed twenty-five thousand dollars (\$25,000). If applicable, indicate that the return exchange will be determined at a later date.
2. The Provider's employees shall remain under full supervision and control of the Provider. The parties shall remain fully responsible for their own employees for all matters, including but not limited to, salary, insurance, benefits and Workers Compensation.

3. If the borrowed machinery or equipment is damaged or otherwise needs repair arising out of or in connection with the Recipient's use, the Recipient shall be responsible for such repairs.
4. The Municipality agrees to defend and indemnify the State for any and all claims arising out of the Municipality's acts or omissions under this Agreement. The term of this Agreement shall be for two (2)___ or four (4) X years from October 14, 2020 to October 14, 2024. The parties will endeavor to provide no less than thirty (30) days' notice of its intent to extend the Agreement. Either party may revoke this Agreement by providing sixty (60) days written notice of such revocation. Upon revocation, any outstanding obligations of the parties must be satisfied within thirty (30) days of the date of such revocation.

Voted on and approved, Yes-4, No-0.

3) Livingston County Intermunicipal Agreement:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to extend the terms of the Intermunicipal Agreement for Machinery, Tools, Equipment and Service Sharing for an additional term of one (1) year, expiring December 31, 2021. Voted on and approved, Yes-4, No-0.

4) Zoning Board of Appeals:

a- Appointment

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to appoint Scott Hulburt to the Zoning Board of Appeals to fill the current vacancy, term expiring December 31, 2022. Voted on and approved, Yes-4, No-0.

5) Board of Assessment Review

a- Appointment

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to appoint Edward Orman to the Board of Assessment Review. Mr. Orman's term will run from October 1, 2020- September 30, 2025. Voted on and approved, Yes-4, No-0.

*Mr. Orman is replacing Dwayne Dougal.

Both positions were advertised previously.

6) Local Law #1-2020:

a- Gullo re-zoning

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to schedule a Public Hearing to consider public opinion and comment on proposed Local Law #1 of 2020 to modify the boundaries of the Industrial District to Hamlet Residential located on the north side of North Road, part of 3229 Genesee Street owned by Donald Gullo, for **Tuesday October 27th, 2020 at 5:00 pm**. Voted on and approved, Yes-4, No-0.

7) 2021 Town Budget:

Supervisor Deming stated that Clerk Harris presented the 2021 Tentative Budget to the Board, so we must now set the Budget Hearing date and time.

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to schedule the 2021 Town of York Budget Hearing for **Tuesday, October 27th 2020 at 5:30 pm**. Voted on and approved, Yes-4, No-0.

8) Special Town Board Meeting:

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to schedule a Special Town Board Meeting for **Tuesday, October 27th at 6:30 pm** for the purpose of rendering a decision on the 2021 Town of York Budget. Voted on and approved, Yes-4, No-0.

OTHER:

1) Retsof Long side services:

Mr. Worden stated that we have another issue to deal with on Retsof Road between Evans Avenue and Retsof Ave. In the 70's, a water project took place but several homes were never connected to the new service. It was first brought to our attention when Geraldine Giglio asked to have her shut off located in order to deal with an issue in her basement. When we were unable to find it, further review of the area took place and this matter was discovered. Mr. Worden stated it would be his recommendation to make all of these homes a longside service and abandon the old service. The engineers have estimated this project to be roughly \$54, 000.00.

Councilman Smith inquired if there are any options for a more efficient way to proceed. Mr. Worden answered that it would actually cost more for a new line. There would be a total of 8 homes on Retsof Road and the first 2 on Evans Ave.

Mr. Richenberg asked if it is cost effective to hook into the old line. Mr. Worden replied due to the age of that line, it may be too brittle to tap it so the best option is to abandon. Mr. Worden added that the new main is on the old post office side of the road.

Supervisor Deming stated due to the cost involved we will need to bid this project out.

Mr. Richenberg asked if this pipe is some of the oldest existing pipe. Supervisor Deming answered that it was but Mr. Worden added that Chandler Road and some piping on Piffard Circle was actually put in the 60's.

Mr. Richenberg questioned the life span of ductile pipe and asked if there were other departments we could inquire with. Mr. Worden stated that we spoke with our engineers on the subject and their recommendation was to get rid of the ductile piping rather than tapping it.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose authorizing CPL permission to prepare the necessary documentation to begin the bid process for the Retsof Road area long side service project. Voted on and approved, Yes-4, No-0.

2) Drainage issues:

Councilman Smith inquired about the drainage issues on Linwood Road and stated he believes we replaced the culverts in the past. Mr. Worden replied an issue began to take place when a resident put their leach lines in the ditch area. Mr. Smith asked if we could obtain an easement from the owner to take the drainage out back on private property. Mr. Worden answered that when the district was created; some questions arose about drainage up there but ultimately his first priority is the roads. I am worried about drainage of the roads not property drainage.

3) Historical Society:

Supervisor Deming informed the Board that he was approached recently from Steve Gates, Town Historian about the need for storage of historical documents, due to the home being sold on Dow Road and items needing to be removed by the end of the year. Mr. Gates stated that he contacted JAZKAM in Retsof to inquire about pricing for a storage unit/small office space. The area he is interested in has a total of 155 square feet of space and the cost is \$140.00 per month. Mr. Deming commented if approved the money for the storage unit will be taken from the yearly Historical Society budget.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to approve rental space in Retsof at JAZKAM Indoor Storage, for the Town of York Historical Society in the amount of \$140 per month. Voted on and approved, Yes-4, No-0.

*money for the rental space will be deducted from the yearly Historical Society budget.

BILLS:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve all claims brought before the Board. Voted on and approved, Yes-5, No-0.

- General Fund #252-282 \$ 24,305.65
- Consolidated Water/Sewer #211-237 \$ 674,501.86
- Highway Fund #163-180 \$ 35,279.91

Mr. Richenberg inquired if he could ask a few questions:

Q- Looking at the highlights of the budget, there isn't an increase?

Supervisor Deming replied that was correct, there is a 0% tax increase.

Q- At the August meeting the Board discussed the TY Lin bill, who paid that?

Supervisor Deming answered that the Town paid this bill and have billed back Solar Park their portion. Mr. Deming added that the monies in their account have been depleted, so we are waiting for additional funds from them to reimburse us. Supervisor Deming stated that he has made it clear to Solar Park that we will not issue any future permits until we have received such reimbursement.

Q- Does the Town of York have any recourse if it is not paid?

Supervisor Deming replied once again that no permits will be issued until reimbursement. Mr. Deming indicated to Solar Park if we had not terminated TY Lin, their project may not be this far along. We have tried to work with Solar Park to make this a smooth process.

8:05 P.M.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to enter into Executive Session for Pending Threatening Litigation and employment history of a particular individual, to include: Town Board, Town Attorney, Town Clerk and Highway Superintendent. Voted on and approved, Yes-4, No-0.

8:30 P.M.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to end Executive Session. Voted on and approved, Yes-4, No-0.

Supervisor Deming reported that no action was taken in Executive Session.

4) Legal Matter:

The Board and Attorney Campbell briefly explained a new development. Mr. Campbell stated that the Town of York and the York Town Hall recently had a lawsuit filed upon us regarding the matter of Van Allen Spring vs. The Town of York and York Town Hall. (including also: Iroquis Trail Council and Boy Scouts of America, ET AL).

Mr. Campbell suggested to the Board to enter into an agreement with Michael P. McClaren of Webster Szanyi, LLP, a municipal litigation attorney from Buffalo, New York, to handle this case. Mr. Campbell has worked with Mr. McClaren previously and feels he is the appropriate professional for this situation.

Mr. Campbell reviewed with the board the firm's billing rates for such services:

- \$ 255 per hour for Mr. McClaren's time
- \$ 225 per hour for senior associates
- \$ 205 per hour for associates; and
- \$ 115 per hour for paralegals

Mr. Campbell stated in order to file the proper documentation in a timely fashion, the board should engage in an agreement very soon. Mr. Campbell explained that this case goes back to the 1960's, and is filed under the Child Victims Act, where the Plaintiff claims abuse at the hands of a Boy Scout leader.

After little discussion...

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve Webster Szanyi, LLP to represent the Town of York in the matter of Van Allen Spring vs Town of York, York Town Hall, ET AL. Voted on and approved, Yes-4, No-0.

Supervisor Deming commented in light of this lawsuit, the Board is contemplating not using this building for rental purposes going forward. This lawsuit will cost the Town a great deal of money to defend, regardless of the outcome.

ADJOURNMENT:

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to adjourn the Town Board Meeting. Voted on and approved, Yes-4, No-0.

Town Board Meeting closed at 8:35 p.m.

Respectfully Submitted,
Christine Harris
Christine M. Harris, Clerk