

York Town Board Meeting
August 10th, 2021
7:00 p.m.

Present: Supervisor Gerald Deming, Council Members: Lynn Parnell, Amos Smith, Norman Gates and Frank Rose Jr.

Absent: None

Others: James Campbell (Town Attorney), George Worden Jr., (Highway Supt) Kirk Richenberg, Heather & Davies Nagel, Cortney Underwood and Alan Brightman.

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

MINUTES

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to approve the minutes of the July 13th Regular Town Board Meeting and July 20th Public Hearing. Voted on and approved, Yes-5, No-0.

BILLS:

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

- General Fund # 216-244 \$ 19,712.42
- Consolidated Water/Sewer # 167-189 \$ 212,664.59
- Highway Fund # 115-126 \$ 54,955.08

PRIVILEGES OF THE FLOOR:

1) Kirk Richenberg:

Mr. Richenberg asked to speak with the Board pertaining to Water Districts, Highway Department and status of Boy Scout lawsuit.

Q- What was the Pay application #5 amount?

Supervisor Deming replied that Pay Application #5 for Anderson Road is \$40,987.72.

Q- Can you explain why at the July meeting it was stated that Anderson Rd. reflected \$92,405 remaining and now \$88,000?

Supervisor Deming reported tht he was informed that \$88,000 is still remaining in contingency for this project. Costs came in less and with the loan received we still have additional funds available. We are not sure at this time if we will buy additional parts (piping, pumps, hydrants etc.) with it or send remaining funds back. This information was given to us by Municipal Solutions and with the certification they require for Rural Development, this is the most reliable numbers we have.

Q- Is that normal procedure with projects and the bonding format?

Supervisor Deming responded for the majority of our water projects we would receive bonding after we know the costs involved.

Comment: Mr. Richenberg stated if the bid came in low, this would be tough to swallow.

Mr. Worden added there are many variables with projects, if the contractor uncovers rock or other issues, we need to be ready for that and additional money would be needed.

Q- Is it my understanding that when a bid is submitted, that's what the bid is, if they lose money that's their problem, unless there was an overage. Mr. Campbell answered Contingency is usually a 5, 10 or 15% variable figure with projects. Mr. Worden added we did bid for 12 inch and 8 inch which is a substantial amount difference between piping.?

Councilman Smith stated we take the bid that makes the most sense.

Q- Were the change orders put in place?

Mr. Deming reported that other things were added because we had additional funds to work with.

Q- In the non-service area, what are they getting?

Supervisor Deming stated that the non-service area is not receiving anything.

Comment: In the July 20th minutes it reflects that 3 members closed the Public Hearing, it should be 4.

Clerk Harris stated she would make the correction.

Q- What is the status of the Boy Scout Lawsuit?

Attorney Campbell replied that the Plaintiff's attorney is making a motion to amend the pleadings to remove the Town of York and the York Town Hall from the action and such motion is currently pending before the Court. The Town's litigation counsel anticipates that the motion will be granted and the Town will be dropped as parties in the action. At this time, it appears from a significant investigation conducted by the Town, we would

have minimum liability. The case will be heard in late September and hope to end things at that point.

Q- Any idea the amount expended on this lawsuit?

Supervisor Deming replied he does not have the exact amount spent thus far but would estimate roughly \$5,000.00.

Supervisor Deming then asked Attorney Campbell since this is a frivolous lawsuit, can we go back on the plaintiff to recoup monies spent. Attorney Campbell answered that he does not believe the court will see this as frivolous, so he does not feel we would receive any reimbursement.

Q- In March, there were seven sections of roads to be paved, are any done?

Mr. Worden reported that some have been paved and more is scheduled over the next two weeks.

Q- What is the load of material?

Mr. Worden answered that the material is spoils from Federal and Limerick Roads.

Q- Is the pipe getting expanded?

Mr. Worden answered that pipe is getting expanded and explained the process in detail.

HIGHWAY:

Mr. Worden reported the following for the Highway Department:

- Started black topping River and Mt. Pleasant Roads, we still have Limerick Federal and Chestnut to do.
- You will see a big change over the next two weeks with road projects
- Road shoulders will be done thereafter.
- Mowing and trimming continues.
- Installed pipes up Craig Station.

WATER/SEWER:

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

- We began flushing our system August 2nd and will go until August 13th.
- We had damage to our Federal Road hydrant due to farm machinery. We will be sending out a bill.
- We experienced a blockage in the Sewer System due to excess in wipes being flushed into the system. We have been able to narrow the problem area to Main Street & Dow Road. The Town of Mt. Morris assisted us by jetting the area. Mr. Worden commented that a short section of Main

Street is the cause and once we view the area with the camera, we will pinpoint where the situation is generated from. Attorney Campbell suggested to Mr. Worden, once you determine where the issue is, document everything and send a letter. If there is not a resolve and we need to go to court, such documentation will be very useful.

- Jim Jones is in Morrisville currently in his second week of sewer training. He was able to sign up for his labs, which he will be taking in 2 weeks. Riley Stella is doing well, doing water preparation now and getting ready for the test. Next year he will be eligible for the sewer exam.

Supervisor Deming asked with all of the rainfall have we had any issues in Retsof with the Sewer System? Mr. Worden replied we have not had any issues thus far.

NEW BUSINESS:

1) Rt. 20 West:

Supervisor Deming reported that the Board received late today the estimates prepared by CPL for Telephone Rd-West (Rt. 20) water. Four options were outlined with numbers all over the board based on different size piping, grant funding/no grant funding & loan term. Once we have a chance to review what was prepared, we will send information to the residents in that area.

2) Rt. 20 Engineering:

Supervisor Deming stated that we received a proposal from CPL for engineering services related to the installation of approx. 14,160 linear feet of water main along portions of MacIntyre Road, McPherson Road and NYS Route 20, in the amount of \$70,700.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to approve the proposal stated above for engineering services submitted by CPL in the amount of \$70,700.00. Voted on and approved, Yes-5, No-0.

3) Local Law #3 of 2021:

RESOLUTION offered by Mrs. Parnell and seconded Mr. Smith to approve Local Law #3 of 2021, changing Grievance Day to the fourth Tuesday in May. Voted on and approved, Yes-5, No-0.

4) Marijuana Opt Out:

Supervisor Deming explained that he discussed with each Board member after the July 13th meeting the decision made to put the Marijuana Opt-Out matter before the public on the November ballot. Due to the time factor involved it would not allow the Town & County sufficient time to schedule and conduct hearings if the public decided in November that they did not want to participate before the December 31, 2021 deadline. The Board members discussed perhaps sending out an informal survey to the residents to obtain their thoughts on the topic. The Board felt this was a better avenue to proceed with.

RESOLUTION offered by Mr. Smith & seconded by Mrs. Parnell to conduct an informal survey of the Town residents regarding the Marijuana Opt-Out topic, in order to render a decision before the deadline. Voted on and approved, Yes-5, No-0.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Rose to rescind the resolution made at the July 13, 2021 Town Board meeting:

RESOLUTION offered by Mr. Rose and seconded by Mr. Gates directing Town Attorney, Mr. Campbell and Town Clerk, Mrs. Harris to submit the proper language to the Board of Elections before August 2, 2021 in order to place this matter before the public for the General Election on November 2, 2021. Voted on and approved, Yes-3, No-0.

5) Recycling Resignation:

Supervisor Deming informed the Board that we received a letter of resignation from Chris Ward as the Recycling Manager. Due to his full-time responsibilities as a NYS DEC Officer and volunteer assistant Varsity Basketball coach at York Central, he is unable to continue at the Recycling Center effective October 30, 2021.

RESOLUTION offered by Mr. Smith and seconded by Mr. Gates to accept with regrets the resignation of Chris Ward as the Town of York Recycling Manager. Voted on and approved, Yes-5, No-0.

6) Advertisement:

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to advertise for a vacancy attendant at the Recycling Center. Voted on and approved, Yes-5, No-0.

7) Retsof Hamlet:

a-Televising Service Proposals:

Mr. Worden explained that the purpose for televising the area is to fully review where extra connections may be and to verify the condition of the piping. Clark Patterson also recommends such action in order to finalize the design related to the upcoming improvements. Some of the options involve rehabilitation of the existing mains. (Mr. Wies reflected that this will be a project expense that can be applied to the project budget).

Councilman Smith inquired if we have done this before, which Mr. Worden replied we have several years ago when VHS taping was still being used. Mr. Worden stated that we have not worked with one of the companies listed (AROLD Constructed), which is whom CPL is recommending. We have worked with Sewer Specialty Services on a number of occasions and they are familiar with our system. Supervisor Deming questioned why CPL would recommend AROLD when Sewer Specialty looks like the low bidder and they are local.

QUOTES: Sewer Specialty Services	\$16,800.00
Skanex (sent info/no quote submitted)	-
AROLD Construction	\$19,375.00

*AROLD bid 4-5 days: 4 days x \$3,875.00 = \$15,500.00
5 days x \$3,875.00 = \$19,375.00

Supervisor Deming stated we will table this matter until we obtain clarification from Eric Wies.

8) Transfers:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to approve all transfers brought before the Board:

GENERAL FUND - TOWNWIDE

Transfer From:	AUB	Unexpended Balance	\$ 17,455.00
			TOTAL: \$ 17,455.00
Transfer To:	A1110.4	Justice Contr.	\$ 1,897.00
	A1420.4	Legal, Contr.	\$ 5,206.00
	A1440.4	Engineering, Contr.	\$ 2,754.00
	A1460.4	Records Management	\$ 7,000.00
	A3189.4	Mileage	\$ 404.00
	A8010.4	Zoning Contr.	\$ 194.00
			TOTAL: \$ 17,455.00

HIGHWAY FUND - TOWNWIDE

Transfer From:	DA5130.4	General Repairs, Contr.	\$ 34,839.00
			TOTAL: \$ 34,839.00
Transfer To:	DA5130.2	Machinery, Equip. & Cap.	\$ 32,201.00
	DA5140.1	Brush & Weeds	\$ 1,866.00
	DA9050.8	Unemployment	\$ 772.00
			TOTAL: \$ 34,839.00

CONSOLIDATED WATER DISTRICT

Transfer From:	SW8310.4	Water Admin	\$ 13,333.00
			TOTAL: \$ 13,333.00
Transfer To:	SW8340.2	Water Trans. Equip & Cap Outlay	\$ 13,333.00
			TOTAL: \$ 13,333.00

RETSEW SEWER DISTRICT

Transfer From:	SSUB	Unexp. Balance	\$ 10,386.00
		TOTAL:	<u>\$ 10,386.00</u>
Transfer to:	SS1670.4		\$ 6.00
	SS8110.2		\$ 2,000.00
	SS8110.4		<u>\$ 8,380.00</u>
			<u>\$ 10,386.00</u>

SEWER DISTRICT #1

Transfer From:	SS1-8130.2S	Sewage Share of Separator	\$ 42,589.00
			<u>\$ 42,589.00</u>
Transfer To:	SS1-8110.2	Admin. Equipment	\$ 9,333.00
	SS1-8110.4	Admin. Contr.	\$ 32,140.00
	SS1-8340.4	Trans. & Dist. Contr.	\$ 202.00
	SS1-9710.6	Bond Principal	<u>\$ 914.00</u>
			<u>\$ 42,589.00</u>

SEWER DISTRICT #2

Transfer From:	SS2-8130.2S	Sewage Share Separator	\$ 7,701.00
			<u>\$ 7,701.00</u>
Transfer To:	SS2-8110.2	Admin. Equipment	\$ 2,000.00
	SS2-8110.4	Admin, Contr,	<u>\$ 5,701.00</u>
			<u>\$ 7,701.00</u>

9) York Fire Department:

a) New Members:

RESOLUTION offered by Mr. Rose and seconded by Mr. Gates to approve the following new members to the York Fire Company:

Elizabeth Miller
Riley Stella

Voted on and approved, Yes-5, No-0.

10) LED Street lighting/National Grid:

Supervisor Deming stated that we received documentation for National Grid pertaining to street lighting LED conversion. After review of the information, he has several questions that need verification before we can proceed with a decision.

11) Anderson Rd Extension:

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Gates to approve payment application #5 for Morsch Pipeline, Inc. in the amount of \$40,987.72. Voted on and approved, Yes-5, No-0.

12) Dedication/WNY Cheese, CPL

Attorney Campbell stated in April of 2021, the Town Board approved a resolution accepting dedication of certain aspects of the improvements within the WNY Cheese Sanitary Sewer District and that the dedication should come from Dairy Farmers of America (DFA) and CPL. Recently, Mr. Wies contacted him to see if we can change the resolution reflecting that the dedication comes from WNY Cheese Enterprise and CPL because title to the improvements was not directly with DFA.

Supervisor Deming conveyed to the Board that he has several concerns with this new potential resolution and wants to further discuss and verify with all parties involved. We were unable to do so prior to tonight's meeting because we only received this resolution earlier today.

OTHER:

1) York Travel Center:

Attorney Campbell informed the Board of recent discussions he has had with representatives from the York Travel Center. The applicant's project requires a "drive-thru" in one of the sections of the proposed building but our current zoning regulations address specific stipulations for such. In Section 607 "Drive-Thru Facilities", there are four (4) items to adhere to but the 3rd stipulation reflects "cannot be located adjacent to residential uses or districts" which the proposed Tim Horton's will be.

Mr. Campbell stated that the applicant asked that the Town Board consider a change to the existing Zoning regarding this requirement based on updated technology believing it would be a lesser impact with the newer audio systems. They asked to consider a minimum set back of 150 feet.

Attorney Campbell stated they are asking for consideration but the Town Board is not bound to comply. This is an alternate to a Use Variance which is through the Zoning Board of Appeals (for setback or size requirement).

Mr. Campbell mentioned in the Applicant's opinion, if the Code is outdated, maybe go this route and alter the code, instead of a use variance application thru Zoning Board of Appeals. If the Board would like to entertain this option we would have to proceed as a Local Law with a required Public Hearing which is something the Board has done in other requests.

Supervisor Deming stated if the Board would like additional time to consider the matter, we could table this discussion until our September meeting.

Councilman Smith asked if this request has gone to the ZBA, which Attorney Campbell replied that it has not. The request for change in code must be addressed and considered by the Town Board.

Councilman Smith expressed in his opinion, he feels we have codes for a reason and if an applicant does not or cannot adhere to the existing regulations, they need to take the next step with the Zoning Board of Appeals. If the Town Board feels we need to change our code, we will and can ultimately do it when we update our Comprehensive Plan, not because an applicant feels it may be outdated.

Councilwoman Parnell stated she agrees with Councilman Smith and feels the ZBA is the proper route.

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell instructing Attorney Campbell to convey to York Travel Center representatives that the Town Board does not support a change to the Zoning Code at this time and that they must make application to the Zoning Board of Appeals for a potential Use Variance. Voted on and approved, Yes-5, No-0.

2) Senator Gallivan visit:

Supervisor Deming informed the Board that Senator Patrick Gallivan will be visiting the Barn restaurant on Thursday, August 12th at 10:00 a.m. All are welcome to come and ask questions or state concerns.

3) 2022 Budget:

Supervisor Deming stated that he hopes to have budget numbers ready for Board review by August 24th and asked how they wish to review as a group or individually. The Board agreed to schedule a budget workshop to review together.

RESOLUTION offered by Mrs. Parnell and seconded by Mr. Smith to schedule a Special Town Board Meeting for Thursday September 2nd, 2021 at 6:00 p.m. for the purpose of workshop discussion for the 2022 budget. Voted on and approved, Yes-5, No-0.

4) Salt Barn Roof Bid:

Supervisor Deming reported at the June 8th meeting the Board accepted the quote submitted by DioGuardi Construction in the amount of \$10,747.00 for roof replacement of the existing salt shed at the Highway Department. Unfortunately, the contractor came back to us when he tried to order the supplies to inform us that the price of material had increased and wanted to know if we still want to proceed. Mr. Deming noted with the additional amount the contractor told us, he instructed Clerk Harris to let the contractor know we would not proceed at that price, which means we need to reject the approved bid.

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to reject the original bid submitted by DioGuardi Construction and approved by the Town Board at the June 8th meeting and to re-bid for the salt barn roof replacement. Voted on and approved, Yes-5, No-0.

*Bid will take place once specifications have been prepared.

5) Highway:

Councilman Smith stated that we need to address help at the Highway Department. Initially we advertised for a F/T position, then P/T, perhaps we need to look outside of the Town of York in order to draw from a larger pool of qualified candidates.

Mr. Worden express is desire to have an employee within a 15–20-minute window to the Town Barns when he/she is called to work. During the winter months it is important to be onsite in a timely fashion.

Supervisor Deming questioned if we could share Water/ Sewer employees during the winter months when needed. Mr. Worden stated that 1 employee already has a CDL and hope the other may follow suit. Mr. Worden added as far a part-time help, he got his previous two employees back but if we could advertise once again with “no residency requirement” in the notice perhaps we will receive more applicants for the F/T position.

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to advertise for (1) Full Time MEO position at the Highway Department, stating that there is not a residency requirement. Voted on and approved, Yes-5, No-0.

ADJOURNMENT:

RESOLUTION offered by Mr. Smith and seconded by Mr. Rose to adjourn the Town Board Meeting. Voted on and approved, Yes-5, No-0.

Town Board Meeting closed at 7:55 p.m.

Respectfully Submitted,
Christine Harris
Christine M. Harris, Clerk