

May 5, 2009  
4:30 p.m.  
Town Hall, Route 434  
Owego, New York

## REGULAR MEETING OF THE OWEGO TOWN BOARD

Present: Supervisor Carol B. Sweeney  
Board: Dean A. Morgan, Donald Castellucci, Jr., John P. Schumacher and  
Lynne L. Davis  
Absent: None

### **A. Call to order, roll call and the Pledge of Allegiance.**

Supervisor Sweeney called the Meeting to order and led the Pledge of Allegiance.

### **B. Minutes of the previous meeting**

The Minutes of the April 27 Meeting were placed on file as presented.

### **C. Consideration of Bids (none)**

### **D. Public Hearing**

#### **1. Local Law regarding pipe used for water service**

Supervisor Sweeney opened the public hearing. Mick Trivisonno, Director of Utilities gave an overview of the proposed legislation to amend Chapter 120 Water, Article V. Services, Section 120-27 Materials, paragraph A regarding pipe for water service.

**Motion by Schumacher, seconded by Morgan and unanimously carried, with no one wishing to be heard the public hearing was closed.**

**Motion by Morgan, seconded by Davis and unanimously carried, Local Law #5 for 2009 was adopted.**

1. SECTION 1. Chapter 120 Water, Article V Services, Section 120-27 Materials, paragraph A is hereby amended as follows:

#### A. Pipe

(1) Pipe for three-fourths inch through one and one half inch services shall be Type K soft copper and meet ASTM Serial Designation B-88 for underground service, or copper tubing size materials consisting of DR9 polyethylene pipe with a minimum rating of 200 pounds per square inch.

(2) Pipe for two inch service may be Type K soft copper as above or two inch copper tubing size consisting of a DR9 polyethylene pipe with a minimum rating of 200 pounds per square inch.

(3) Pipe for three inch or larger services shall be ductile iron pipe class 52 meeting the requirements of §120-12 of this chapter.

2. SECTION 2. SEVERABILITY. If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

3. SECTION 3. EFFECTIVE DATE. This local law shall take effect immediately upon filing with the Secretary of State.

### **E. Reports of Department Heads**

The following Department Heads were present:

Andrea Klett, Assessor, Debra Standinger, Planning & Zoning Administrator, Mick Trivisonno, Director of Utilities, Judy Quigley, Town Attorney, Carol Sweeney, Supervisor and Mike Zimmer, Town Clerk/Receiver of Taxes.

Andrea Klett, Assessor, reported that the Tentative Assessment Roll has been filed and her office is taking reservations for Grievance Day.

Mick Trivisonno, Director of Utilities, reported that only approximately 14 residents out of a possible 1900 attended the meeting on smoke testing for illegal connections of eave troughs to the sanitary sewer system. Trivisonno was hoping to start testing on May 19.

Debra Standinger, Planning & Zoning Administrator, announced that the Assessor's office has prepared a listing of property owners that will be used to identify residents for the tire clean up day. It was reported that 63 tires were picked up at Exit 66. Tire Clean up day will be conducted May 14-16 at the Town Hall in the back parking lot between the hours of 8:30 a.m. and 4:0 p.m.

Included in her report was a discussion regarding the dog census and the \$5.00 charge to be added to the dog license fee for the sale of original licenses for dogs counted in the census.

Judy Quigley, Town Attorney, requested that Ketchuck v. Town be added to the Executive Session.

Mike Zimmer, Town Clerk/Tax Receiver, stated that he is experiencing problems with the closeout of 2009 Town and County Taxes. He updated the Board regarding Sporting license changes and the necessity to change the dog license program to allow for the additional \$5.00 charge.

Supervisor Sweeney's report included:

1. I attended the Tioga County Public Transit Advisory Council Meeting last week. The new

provider is doing a good job and the number of riders for the first three months of this year are up considerably compared to last year. They have received a waiver from the DOT to purchase some 8 - 10 passenger vans instead of larger buses. This will save on operational costs. They have received approval to purchase, out of stimulus funding, two large commuter buses that are used on their routes to Ithaca. The buses that have been used on that route have had a significant number of issues with reliability and comfort. New schedules for the bus routes have been printed and distributed throughout the community. They also can be viewed from the Tioga County web page.

2. The 2008 AUD was completed and filed with the State on time last week. I wish to thank Cheri Grenier for her hard work on this.

3. We will be renewing our \$1.9 million BAN with Chemung Canal for one year at an interest rate of 2.35%. The BAN is callable at any time so that we can go into long term financing when that is arranged.

4. We received a call from Assemblyman Finch's office at 3:32 pm on a Friday afternoon wanting to know if we had any highway projects to be submitted to him by 4 pm. Ruth Casterline was able to pull together a request for Apalachin Main Street repaving for \$290,000 and submit it on time. I wish to thank her for her extra effort on this.

5. We just received word from Partners Insurance concerning the Town's insurance renewal quote from NYMIR. The total premium amount has increased due to a sizable increase in the property values. Last year NYMIR hired a firm to provide updated replacement values for each property. The overall change in premium from last year to this year is \$947.00. The problem is that we will be over budget by \$3,363.89 since we were told at budget time that rates were going down and budgeted accordingly. Water and Sewer will be the departments hit the hardest by the change in property values. Fortunately, we will be receiving about a \$6,000 check from NYMIR soon for repayment of our capital contribution.

6. I would like to move to have the resolution approved for Mary Edsall, the 2009 Tioga County Senior of the Year.

7. We met with Don Patterson from NYMIR concerning payment of the \$70,452.28 that FEMA and SEMO did not pay for the reconstruction of the Apalachin Sewage Treatment Plant. He is going to put through our claim and is hopeful that we will get this amount.

#### **F. Privilege of the floor**

With no one wishing to be heard, privilege of the floor was closed.

#### **G. Presentation of Petitions, Communications, Notices & Transfers**

**1. ARC - Funding** (letter reviewed)

**2. Office of the Aging - Senior of the Year**

**Motion by Sweeney, seconded by Davis and unanimously carried, the following resolution was adopted:**

**WHEREAS Mary Edsall has been a member of our community for over 50 years having moved to Newark Valley in 1957 where she and her husband, Charles (Pete) Edsall bought a small farm where they raised their four children; and**

**WHEREAS upon moving to Newark Valley Mary joined the Fairfield Methodist Church where she continues to serve on many committees and taught Sunday School for many years; and**

**WHEREAS Mary and her children were involved in the 4H Program and Mary became leader of their 4H club, the Fairfield 4Hers, which was the top club in Tioga County for 8 years; and**

**WHEREAS Mary drove a school bus for the Newark Valley School District for 20 years and was voted Driver of the Year for the 1983-1984 school year; and**

**WHEREAS Mary is currently a member of the P.E.O. (Philanthropic Educational Organization) Sisterhood, Chapter B Newark Valley which promotes educational opportunities for women; and**

**WHEREAS Mary is a member of the Red Hat Society, an organization that encourages women of middle age to face life with determination and purpose; and**

**WHEREAS Mary is known for her caring spirit toward her neighbors at Long Meadow Apartments where she currently resides and helps with a disabled neighbor and initiated a collection at her church for a woman whose husband lost his job; and**

**WHEREAS May is Older Americans Month throughout the nation and Mary Edsall has been chosen by Tioga Opportunities Department of Aging as the 2009 Tioga County Senior of the Year, which selection is made from applications submitted by members of the community and is awarded to the senior citizen who stands out in the community for using their time and talent in various areas that benefit individuals in the community and the community as a whole;**

**NOW, THEREFORE, BE IT**

**RESOLVED that the Town Board of the Town of Owego on behalf of the Town of Owego and its residents, offer their sincere appreciation to Mary Edsall for her service to the community and its residents and congratulate her on being chosen 2009 Tioga County Senior of the Year.**

**3. Certification of School Tax Relief Exemptions**

The State office of Real Property announced that the Star Enhanced Exempt Assessed Value for the 2009-2010 School Levy is \$46,880 and the Basic Exempt Assessed Value of \$23,400.

#### **4. Owego Town Court - Court Security**

The memo from Justice Henning regarding security will be discussed at budget time.

#### **H. Abstracts**

**Motion by Morgan, seconded by Schumacher and on a roll call vote unanimously carried, the following bills were approved for payment:**

<b>General Fund</b>	<b>\$67191.57</b>
<b>General Fund - Town Outside</b>	<b>4039.43</b>
<b>Highway - Town Outside</b>	<b>45233.67</b>
<b>Water Districts</b>	<b>17123.46</b>
<b>Route 38 Water</b>	<b>380.11</b>
<b>Sewer Districts</b>	<b>28968.23</b>
<b>Route 38 Sewer</b>	<b><u>9089.40</u></b>
<b>Total All Funds</b>	<b>172025.87</b>

#### **I. Unfinished Business**

##### **1. Strawberry Festival Parade**

Supervisor Sweeney will notify the Parade Committee that both she and Councilman Castellucci will participate in the parade.

#### **J. Reports of Standing Committees**

Councilman Schumacher reported that he received a suggestion with a price quote for a public address system in the park.

Councilman Castellucci announced that he must cancel his reservation for the Finance Training due to personal reasons.

Supervisor Sweeney stated that she has received only one response to the letters she sent to vendors that overcharged the town on highway projects.

#### **K. Presentation of Motions, Resolutions and New Business**

##### **1. Union Endicott School District - TJ Watson Tennis Courts**

**Motion by Morgan, seconded by Schumacher and unanimously carried, the following resolution was adopted:**

**WHEREAS the Town of Owego entered into an agreement on August 29, 2005 with the Union Endicott School District wherein the Town agreed to split equally with the district the cost of repairing two tennis courts located on district property at the T. J. Watson School; and**

**WHEREAS after the agreement was signed, the estimates for the cost of repair far exceeded the expectations of both parties, resulting in a reconsideration of the manner in which the cost would be divided; and**

**WHEREAS a new agreement has been reached with the U-E School District that the Town of Owego will contribute \$16,565.00 towards the reconstruction of the tennis court area for basketball and handball courts and play area and thereafter be released from any responsibility regarding the maintenance of this area; and**

**WHEREAS it appears appropriate to pay for such repairs from the Crestview/Pine Knoll Capital Equipment Reserve Fund/Playgrounds-Contractual Expense;**

**NOW, THEREFORE, IT IS**

**RESOLVED that the Town Board of the Town of Owego authorizes and directs the Supervisor to execute a new written agreement with U-E School District setting forth the most recent agreement between the Town and the school district regarding payment of \$16,565.00 towards this reconstruction project and releasing the Town from further responsibility for maintenance of this area; and it is further**

**RESOLVED that upon execution of said agreement, payment shall be made to U-E Central School District in the amount of \$16,565.00 from the Crestview/Pine Knoll Capital Equipment Reserve Fund/Playgrounds-Contractual Expense - Account HD.7140.4101.**

## **2. Order Calling for a Public Hearing - Extension 25, Consolidated Water District**

At a regular meeting of the Town Board of the Town of Owego, in the

County of Tioga, New York  
held at the Owego Town  
Hall on the 5<sup>th</sup> day of  
May, 2009.

PRESENT: Supervisor Carol Sweeney  
Councilman Donald Castellucci  
Councilwoman Lynne Davis  
Councilman Dean Morgan  
Councilman John Schumacher

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In the Matter of the

Establishment of Extension No. 25 of the

ORDER  
CALLING

Consolidated Water District of the Town of Owego,  
County of Tioga, and State of New York.

PUBLIC  
HEARING

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WHEREAS, a petition dated April 23, 2009 has been submitted in due form by Tony Cataldo, containing the required signature, and a map, plan and report having been presented and placed on file with the Owego Town Clerk, County of Tioga and State of New York requesting the establishment of an extension to the Town of Owego Consolidated Water District, to be known as Extension No. 25, which is bounded and described in Schedule A attached hereto and made a part hereof, and

WHEREAS the improvements proposed consist of the construction and maintenance of a water line to serve said extension in the district in accordance with certain plans made a part of such petition, now on file in the office of the Town Clerk of said Town; and

WHEREAS it is the intention of the petitioner to construct said water line at his own expense and to connect with the water line of said Town of Owego Consolidated Water District;

NOW, THEREFORE, BE IT

ORDERED that a public hearing be held by the Owego Town Board on the 19<sup>th</sup> day of May, 2009 at 7:00 p.m. at the Owego Town Hall, Route 434, Owego, New York to consider said petition including the environmental significance thereof and to hear all persons interested in the subject thereof and for such and further action on the part of said Town Board with relation to the premises; and it is further

ORDERED that the Owego Town Clerk shall cause a certified copy of said order to be published at least once in the Press and Sun Bulletin not less than ten nor more than twenty days before the date set for the public hearing, and shall cause a copy thereof to be posted on the sign board of the Town not less than ten nor more than twenty days before the date designated for the hearing.

Dated: May 5, 2009		<u>Vote</u>
	Carol Sweeney	Yes
	Donald Castellucci	Yes
	Lynne Davis	Yes
	Dean Morgan	Yes
	John Schumacher	Yes

### **3. Resolution - Environmental Conservation Law RE: Natural Gas Exploration**

**Motion by Castellucci, seconded by Morgan and unanimously carried, the following resolution was adopted:**

**RESOLUTION**

**Town of Owego, County of Tioga, State of New York**

**REQUESTING SENATOR THOMAS W. LIBOUS AND ASSEMBLYMAN GARY D. FINCH TO SPONSOR LEGISLATION TO AMEND SUBSECTION 2 OF SECTION 23-0303 OF THE ENVIRONMENTAL CONSERVATION LAW OF THE STATE OF NEW YORK (OR SOME OTHER SECTION OF NEW YORK STATE LAW) TO ALLOW GOVERNMENTAL SUBDIVISIONS OF NEW YORK STATE TO ADOPT LOCAL LAWS REQUIRING PERMITS AND PROVISION FOR FINANCIAL SECURITY AS TO POTENTIAL DAMAGE TO LOCAL ROADS BY VEHICLES INVOLVED IN NATURAL GAS EXPLORATION TRAVELING THEREON**

**PRESENT: Carol B. Sweeney, Supervisor  
Donald Castellucci, Councilman  
Lynne Davis, Councilwoman  
Dean Morgan, Councilman  
John Schumacher, Councilman**

**ABSENT:**

At a regular meeting of the **Town Board of the Town of Owego** held at the Town Hall on the 5<sup>th</sup> day of May 2009, the following resolution was

**OFFERED BY:** Castellucci and

**SECONDED BY:** Morgan

**WHEREAS**, Section 23-0303(2) of the Environmental Conservation Law of the State of New York provides that “[t]he provisions of this article shall supersede all local laws or ordinances relating to the regulation of the oil, gas and solution mining industries; but shall not supersede local government jurisdiction over local roads or the rights of local governments under the real property tax law;”

**WHEREAS**, Section 385(15) of the Vehicle and Traffic Law of the State of New York authorizes a local (governmental) authority to regulate and issue permits for the operation of vehicles with weights or dimensions exceeding the limitations provided for in said Section 385 when those vehicles are traveling over the local (governmental) authority's roads or highways; and

**WHEREAS**, certain governmental subdivisions of the State of New York located in Broome County desire to require permits and financial security for potential damage likely to be caused to local roads and highways by vehicles utilized in exploration for natural gas that exceed the limitations provided for in Section 385 of the Vehicle and Traffic Law of the State of New York; and

**WHEREAS**, it is the position of the Town of Owego that Section 23-0303(2) of the Environmental Conservation Law of the State of New York authorizes the Town to regulate by local law the use of its roads and highways by requiring permits and financial security (i.e. road remediation fees, bonds, letters of credit, etc.) explicitly allowed under Section 385(15) of the Vehicle and Traffic Law of the State of New York for damage to roads and infrastructure caused by vehicles utilized in exploration for natural gas; and

**WHEREAS**, vehicles engaged in natural gas exploration that exceed the weight and dimension limitations provided for in Section 385 of the Vehicle and Traffic Law of the State of New York or use and travel the roads and infrastructure so regularly that the frequency of use, are likely to damage local roads and infrastructure, the potential expense of repairing such damage is great, and financial security in connection with a local permit in the form of a road remediation fee, bond, letter of credit or some other form of security is necessary to protect the local governmental subdivisions of the State of New York from the expense of repairing such

damage.

**NOW, THEREFORE, BE IT RESOLVED** by the **Town Board of the Town of Owego**, in regular session duly convened, as follows:

**RESOLVED**, that the Town of Owego hereby requests that Senator Thomas W. Libous, Assemblyman Clifford W. Crouch, Assemblywoman Donna A. Lupardo and Assemblyman Gary D. Finch sponsor legislation to be introduced in the New York State Senate and the New York State Assembly amending Section 23-0303(2) of the Environmental Conservation Law of the State of New York or another applicable law of the State of New York to:

1. clarify the exception for local government jurisdiction over local roads contained in Section 23-0303(2); and
2. specifically authorize local governmental subdivisions of the State of New York to regulate by local law the use of local roads and highways by vehicles engaged in natural gas exploration by requiring permits and financial security, including, but not limited to, requirements for road remediation fees, deposits, bonds, letters of credit or other forms of security to insure the availability of funds for needed repairs for damage to local roads, highways and infrastructure caused by such vehicles; and
3. confirm that a requirement for some form of financial security (i.e. road remediation fees, deposits, bonds, letters of credit, escrow accounts, etc.), contained in a local law as a prerequisite to obtaining a permit for use of local roads and highways, does not constitute an impact fee.

**RESOLVED**, that certified copies of this resolution shall be forwarded to Senator Thomas W. Libous and Assemblyman Gary D. Finch, the Tioga County Legislature and

Governor David A. Paterson.

**RESOLVED**, that this resolution shall take effect immediately.

**Vote of the Board:**

Carol B. Sweeney	x Yes	No
Donald Castellucci	x Yes	No
Lynne Davis	x Yes	No
Dean Morgan	x Yes	No
John Schumacher	x Yes	No

Motion Approved.

**Resolution Adopted: May 5, 2009.**

**5. Apalachin Garden Club - Hickories Park and Town Hall**

**Motion by Schumacher, seconded by Davis and unanimously carried, the Apalachin Garden Club was authorized to plant flowers in the Hickories Park at a cost of \$218.90 and at the Town Hall at a cost of \$60.65.**

**L. Second Privilege of the floor**

With no one wishing to be heard the second privilege of the floor was closed.

**M. Executive Session RE: Lease of Town Property and Ketchuck v. Town**

**Motion by Morgan, seconded by Davis and unanimously carried, the Board entered Executive Session RE: Lease of Town Property and Ketchuck v. Town at 5:28 p.m.**

**Supervisor Sweeney reconvened the meeting at 6:09 p.m.**

**Motion by Morgan the meeting was adjourned at 6:09 p.m.**

Respectfully submitted,

Michael E. Zimmer  
Town Clerk