

MINUTES of the Regular Meeting of the Pembroke Town Board held on April 13, 2011 at the Pembroke Town Hall, 1145 Main Road, Corfu, NY.

PRESENT: James H. Tuttle, Supervisor
John Worth, Councilman
Gary De Wind, Councilman
Peter Sformo, Councilman
Edward Arnold, Jr., Councilman

OTHERS PRESENT: Nicole M. Begin, Town Clerk; Stephen Stocking, Highway Superintendent; Deborah Conti, Assessor; Shellye Dale-Hall, Zoning & Codes; Mike Herec, Planning Board; Lois Brockway, Historian; JoAnn Cummings, Historian; Todd Skeet, Village of Corfu Mayor; Richard Doktor; Taylor McCabe and Joe Suhr, Lyndonville Tigers.

Deborah Conti gave the invocation; Supervisor Tuttle led the Pledge to the Flag.

The meeting was called to order at 7:03 P.M.

On **MOTION** of Councilman Arnold, seconded by Councilman De Wind, to approve the Minutes of the Regular Meeting of March 9th, 2011 and the Workshop Meeting of March 24th, 2011

ALL AYES - MOTION CARRIED.

DEPARTMENT REPORTS

ASSESSOR

- Mrs. Conti reported that by the end of this week all the new assessment letter will go out notifying Town residents that their assessments will go up. There is a 30 day period where people can come in and talk with the assessor about their new assessment. Grievance day is scheduled for Tuesday, May 24th. There is plenty of information available to residents both in the office and online regarding reassessments and procedures. Supervisor Tuttle commented that a Special Election will be held on the same day as Grievance Day so the Grievance hearings will be held in the History Museum.
- There is a resolution for the board to give Attorney Paul Boylan permission to sign the agreement of stipulation for the lawsuit with CFJ properties/Flying J. Supervisor Tuttle stated that this lawsuit has been a four year process and has cost the Town about \$16,000.00 in Attorney fees. Many people put a lot of work and effort into to coming to an agreement for the Town's best interest.

ZONING & CODES ENFORCEMENT

- Shellye Dale-Hall reported that the building Department is starting to get busy again and some complaints have come in so the department is trying to get those taken care of. Councilman Arnold said that the new Zoning report looked good.

HIGHWAY

- Nothing to Report at this time.

TOWN CLERK

- Mrs. Begin reported that tax season went really well. Town Clerk report is submitted and filed.

PLANNING BOARD

- Mr. Herec said the Planning Board held a meeting in March. There were three land separations and one special use permit.
- Mr. Herec said that there is nothing in the Town's existing law limiting special use permits and he asked that the board decide if they would like to put a limit to how many an owner can have per property. Supervisor Tuttle asked if the Planning Board should be limiting the amount per property depending on existing permits and conditions and said that just because they are applied for doesn't mean they have to be approved. Mr. Herec said that if the law was changed it would make them easier to refuse. The Board decided to discuss this further at the Workshop meeting.
- The new Zoning Clerk worked with Nancy Mandolene and is getting acclimated. The overhead projector was also used for the meeting. Chairman Kutter should be back for the April meeting.

ZONING BOARD OF APPEALS

- No meeting was held in March. Report submitted and filed. Supervisor Tuttle read the report.

JUSTICES

- Reports submitted and filed. Supervisor Tuttle read the reports.

SUPERVISOR

- Supervisor's March report was submitted and filed.
- Supervisor Tuttle has spoken with J. O'Connell regarding applying for grant funding for a Water District on Indian Falls Road. All prior income surveys are out of date for a new grant so before submitting a new application J. O'Connell will send out new surveys and then resubmit the grant application.
- The audit with Freed Maxick should be close to being complete and we should find out the results soon. There will be two resolutions this evening requested by Freed Maxick, One for the 2010 money for the GCEDC grant and one regarding dangerous conditions in the Town and how they are handled by the Town before someone can sue the Town due to those conditions. Supervisor Tuttle contacted the Town Attorney Mark Boylan and Mr. Boylan said that this has been done in other Towns and should be done by Local Law. Therefore, there is a resolution introducing the new local law.
- We received a contract renewal for Turnbull Heating and Air Conditioning. There will be a resolution for that renewal.

- There is also a resolution regarding the NYS proposed Gun Legislation. Supervisor Tuttle spoke with members of GAM and there are several people throughout the State who are opposed to it so the legislation died in committee. Supervisor Tuttle believes that the Board should do a resolution regardless and add that we are opposed to this legislation and any other laws similar and forward it to Assemblyman Hawley and Senator Michael Ranzenhofer so that our representatives know where we stand on this issue.
- There will be a resolution regarding the WQIP grant (sewer grant). The Town needs to have a representative that represents the WMB (Women in Minority owned Businesses). In this case Jean O'Connell will be our representative.
- Supervisor Tuttle said that he and Councilman Sformo attended a public information hearing at the GCEDC done by mark Masse. Mark went over the processes of the GCEDC, the PILOT program and any misconceptions the public may have. Supervisor Tuttle felt that it was very informative.

COMMITTEE REPORTS

Audit, Finance, Insurance, Investment, & Purchasing – Councilman Arnold

- Councilman Arnold reported that he will have more information once the Audit report comes back.

Building & Ground – Councilman Sformo

- Councilman Sformo reported that the new hand dryers have been installed at the Community Center. The next project will be the roof. Scott Strollo will use the 14 – 5 gallon buckets of silver seal at the Community Center on the roof. Scott Strollo will also take down the heating tape and get some Mr. Sformo some information on new heating tape. We will also need to put some new electrical boxes along the outside to plug the heating tape in.

Highway/Assessment/Court – Councilman De Wind

- Nothing to report at this time.

Planning, Zoning, Code Enforcement – Councilman Tuttle

- Nothing to report at this time.

Public Services, Water, Sewer, Refuse/Recycling – Councilman De Wind

- Councilman De Wind reported that there is a meeting on April 19th regarding the Sewer project. We will have more information to report after the meeting.

Youth Recreation – Councilman Sformo

- Nothing to report at this time.

Human Resources/Benefits – Councilman Worth

- Councilman Worth said that there is nothing to report on Human Resources but that he and Mrs. Begin have been working on some IT things and some work on the server. Toshiba will be coming to the office to train us on the copier since there are a lot of new people in the office since we first purchased the machine. We are looking into changing our backup technique will portable hard drives. The cost will be about \$1,200.00 and the backup will be forward compatible if a new server is obtained.
- Councilman Sformo asked where we are at with the new scanning program. Councilman Worth said that the server we have now is about 70% maxed out with the capacity it can hold and we will move forward in September when we learn if we received a grant for a new server.

Parks/Land Acquisition – Councilman Arnold

- Councilman De Wind said that all Board members received a letter from the school thanking us for the contribution to the machine for striping the fields at the park. The water will be back on at the park in the next few days as well as the trash receptacles and port-a-johns. The new bleachers have been delivered and will be put together shortly. The new fence will be purchased shortly and 20 tons of sand for the fields will be delivered soon and will cost about \$70 per ton.

Intermunicipal, Economic & Community Development – Supervisor Tuttle

- Nothing to report at this time.

Public Safety – Councilman Arnold

- There will be a resolution for Local Law #1 for reporting hazardous conditions for the Town.

OLD BUSINESS

The Community Center generator has been delivered. At the Boards approval, Supervisor Tuttle contacted Mr. Osbourne from Spring Creek construction and he has begun installation of the generator. A frame was built to put underneath the generator because the wires come in from the bottom. Two quotes were received for the gas line that will need to be run to the generator, one for above ground and one for below. There was about \$1,000 difference in price. Below ground price does not include sealing trench and repaving. We received the grant check for \$16,319.00. Once installed it will be tested and a new meter may need to be installed from National Fuel Gas.

NEW BUSINESS

No new business.

PUBLIC PARTICIPATION

Historian Lois Brockway said that nine years ago she came before the board to inform them of the impending Bicentennial and now we are only one year away. Mrs. Brockway said that the anniversary of the Town is the 7th of June so the opening ceremony of the bicentennial will be held on the same day as Corfu's Memorial Day parade and also that it is the responsibility of the Board to appoint two board members to be in charge of the opening ceremony. The Towns of LeRoy, Bethany and Alexander will also be celebrating their bicentennials in 2012. Mrs. Brockway suggested that the board members chosen speak to Mr. Richard Doktor for the planning of the opening day ceremony. Mrs. Brockway said that this year we will be selling historical Bicentennial calendars at the Brick House Corners Fair and next year will be the big historical Bicentennial book. The book will cost a lot of money to print but will come back in time when books are sold. Councilman Worth suggested some ideas

Mrs. Brockway reported that on Tuesday April 12th every Town, school and government entity was asked to ring bells outside of their establishment to commemorate the 150th anniversary of the first shot of the Civil War so Historian's Lois Brockway and JoAnn Cummings along with Lois' great grandchildren were outside of the Town Hall ringing the bells. The Museum is now displaying Civil War memorabilia.

Mrs. Brockway thanked Highway Superintendent Stephen Stocking for refurbishing the historical signs throughout the Town and thanked Town Clerk Nicole Begin and Councilman John Worth for all the computer help they receive from them.

Richard Doktor asked the Board if the VFW could once again use the Community Center for gathering before the Memorial Day Parade. Permission was granted. Mr. Doktor invited Town Board members to come to the Memorial Day parade to speak.

Taylor McCabe, President of the football operations for the Lyndonville Tigers Semi-pro football team and Joe Suhr, General Manager along with Todd Skeet representing PYA came to request use of the Pembroke Town Park Football field for practices and games. The team currently plays their home games in Roy-Hart but would like to make the Pembroke Park football field their home field. Mr. McCabe said that the team is a semi-pro amateur team, no one including staff is paid, and they are all volunteers. The team is coming into their 8th season and are part of the NFA (National Football Alliance). He stated that this is not a beer league. The team is nationally ranked and there are 600 teams in the league. They have placed 7th out of 600 teams. The team consists of about 50 players, 15 of which are from the Pembroke area. Mr. McCabe said that the Town has a beautiful park and field and the team would love to make it their home field due in part with it's location to the thruway. The team is more that willing to work with PYA and the community to raise money for lighting and score board in the future. They also do community highway clean-ups and other community events. They are willing to come and help Councilman De Wind put together and installing the bleachers at the park. Supervisor Tuttle asked about the season and Mr. McCabe said that the season starts with practices beginning in April and games beginning in June with their season ending in early

September, just in time for the beginning of PYA's football season. Village Mayor Todd Skeet said that the team's season should not affect the PYA practices or games and PYA is willing to work with them. Mr. McCabe said that they would also like to do some workshops with the PYA kids. Councilman DeWind wanted to make sure they will work closely with the school and PYA so that there are no problems with scheduling and use of the field. Councilman Worth asked if over time the team would consider switching their name as they would no longer be playing in Lyndonville and to identify more with the Town of Pembroke. Mr. McCabe said that the team discussed that topic and felt that if in the future this works out and they feel like this is home they would consider changing the name to Genesee Orleans Tigers but would keep the name they have for a season or two. Mr. McCabe said that the team does carry liability insurance of over \$2 million and it covers practices, games and fans. Advertising for sponsors is printed in the pamphlet printed or each game and over the loud speakers at games. Supervisor Tuttle will contact Attorney Mark Boylan to make sure there would be no issues the Town would face by doing this. A decision will be made at the next Town Board Workshop meeting on April 28th, 2011.

RESOLUTIONS

On **MOTION** of Councilman Sformo, seconded by Councilman Arnold, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman De Wind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

RESOLUTION # 21 of 2011 – Resolution to introduce proposed Local Law No. 1 of 2011

WHEREAS, the Town Board of the Town of Pembroke, New York desires to consider adopting legislation to require prior written notice of certain dangerous conditions for the Town of Pembroke, Genesee County, New York, also known as Town of Pembroke Local Law No.1 of 2011. **NOW, THEREFORE, BE IT**

RESOLVED by the Town Board of the Town of Pembroke, New York that proposed Local Law No. 1 of 2011, entitled "Prior Written Notice of Dangerous Conditions", which proposed Local Law is now in its final form as appears by a copy thereof hereto attached, be and the same hereby is introduced for adoption; and, **BE IT FURTHER**

RESOLVED that said proposed Local Law be laid upon the desks of the members of this Town Board on this date and remain there and a copy thereof be kept on file in the office of the Town Clerk until May 11th, 2011, and that a public hearing be held before this Town Board on the 11th day of May, 2011, at 7:00 p.m. at the Pembroke Town Hall, 1145 Main Road, Corfu, New York, on the advisability of enacting said proposed Local Law; and, **BE IT FURTHER**

RESOLVED that a copy of said proposed Local Law be mailed to each member of the Town Board not in attendance at this meeting in a postpaid, properly addressed and securely closed envelope in a post box within the Town of Pembroke, New York, not less than ten (10) calendar days, exclusive of Sunday, prior to the date of said public hearing; and, **BE IT FURTHER**

RESOLVED that the Town Clerk shall cause notice of said public hearing to be published once in The Daily News at least five (5) days prior to the date of said public hearing, which notice shall contain the time and place of said hearing, the title and purpose thereof, as well as a statement that a copy of said proposed Local Law is on file in the Town Clerk's Office.

On **MOTION** of Councilman Arnold, seconded by Supervisor Tuttle, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman De Wind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

RESOLUTION # 22 of 2011 – Highway Shared Services Agreement

BE IT RESOLVED, that the Town Board of the Town of Pembroke hereby authorizes the Town Supervisor to sign the Highway Shared Services Agreement. This contract shall be reviewed each year by the Town Board and shall expire five years from the date of its signing by the Town Supervisor. The Town may extend or renew this contract at the termination thereof for another five year period.

On **MOTION** of Councilman Sformo, seconded by Councilman De Wind, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman De Wind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

RESOLUTION # 23 of 2011 - Contract Renewal – Turnbull Heating & Air Conditioning

RESOLVED, the Town of Pembroke Town Board, authorizes the Town of Pembroke Supervisor to enter into a renewal contract, for 2011 & 2012, with Turnbull Heating & Air Conditioning of 50 Franklin Street, Batavia, NY 14020, for the scheduled maintenance of the Town of Pembroke Community Center, located at 116 E. Main St., and the Town Hall located at 1145 Main Rd., Corfu, NY 14036.

On **MOTION** of Councilman Arnold, seconded by Councilman De Wind, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman De Wind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

RESOLUTION # 24 of 2011 – Water District # 4 Grant Application

WHEREAS, the Town of Pembroke desires to apply for \$600,000 in funds from the Office for Small Cities, Small Cities Community Development Block Grant Program for improvements to

the Town's water delivery and fire protection service along Indian Falls Road, Alleghany Road and Evergreen Drive thru the installation of water main, and

WHEREAS, the Town of Pembroke has authorized J. O'Connell & Associates to act as grant consultants for the Town on this project; **NOW, THEREFORE, BE IT**

RESOLVED that the Town of Pembroke hereby authorizes Supervisor James Tuttle to submit the aforementioned application to the Office of Community Renewal.

On **MOTION** of Councilman De Wind, seconded by Councilman Arnold, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman De Wind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

RESOLUTION # 25 of 2011 - Calling upon New York State Senate to reject 5.2994, a bill to introduce confiscatory annual "registration" fees on legally-owned firearms, and to impose a new mandate upon the operation of County Clerk offices or other laws similar

WHEREAS, the Second Amendment to the Constitution of the United States clearly states that "the right of the people to keep and bear Arms, shall not be infringed," and

WHEREAS, Article XII of the Constitution of the State of New York clearly states, "The defense and protection of the state and of the United States is an obligation of all persons within the state," and

WHEREAS, Senator Eric Adams, who represents Crown Heights and Flatbush in the New York State Senate, did introduce Senate Bill 5.2994, which would impose annual registration of \$10 per firearm on law-abiding gun owners throughout the State of New York, including an initial \$15 registration fee, and

WHEREAS, 5.2994 is intended to affect, in particular, residents of Upstate New York and Long Island, as evidenced by the full title of the bill, "Provides for the registration of firearms by the owner thereof at the county clerks office of the county where the owner resides, except in New York City," and

WHEREAS, in addition to placing an onerous and costly burden on law-abiding gun owners in the State of New York, this view also constitutes an unfunded mandate imposed upon the county clerks of New York State, and

WHEREAS, 5.2994 would seek to impose burdensome new regulations upon law-abiding gun owners for the express purpose of complicating gun ownership, as demonstrated by the words of the bill's sponsors in the "Summary of Provisions" section of the bill filing, which state that "along with the annual registration of firearms, there will be other requirements that firearms owners will have to meet in order to legally possess firearms in New York State," and

WHEREAS, 5.2994 directs the collection of registration information including not only firearm serial numbers, but personal information about the owners of said firearms including the precise location in which said firearms will be stored while not in use, and

WHEREAS, 5.2994 also forces owners of all firearms to carry a government-issued firearm-owner identification card, even though permitting requirements in New York State only apply to pistols and revolvers, and not to various long guns, and

WHEREAS, 5.2994 would treat those who fail to comply for any reason as guilty of misdemeanor crimes, despite their clearly-defined rights under the Second Amendment of the United States Constitution and Article XII of the Constitution of the State of New York, and

WHEREAS, again citing the bill's sponsors' own comments in the "Justification" portion of the bill's filing, "There are many firearms that are illegally possessed in New York State but by implementing a constant registry of firearms we can come a step closer to identifying those illegal firearms," it is clear that the sponsors believe this bill does not actually reduce crime as its stated rationale of "coming a step closer" means that the bill actually does not accomplish the goal of identifying said illegal firearms, and

WHEREAS, it is the right of the citizens of Genesee County and the State of New York to take any measures necessary to be secure in their homes against criminals and other dangerous trespassers; **NOW THEREFORE BE IT**

RESOLVED, that the Town of Pembroke does hereby reaffirm its respect for and submission to both the Second Amendment to the United States Constitution and Article XII of the New York State Constitution, and **BE IT FURTHER**

RESOLVED, that the Town of Pembroke does hereby oppose the enactment of any legislation by the New York State Legislature that fundamentally alters or abridges the right to keep and bear arms, and **BE IT FURTHER**

RESOLVED, that the Town of Pembroke does hereby call upon the entire New York State Senate to reject Senator Adams's ill-conceived anti-Second Amendment bill, and **BE IT FURTHER**

RESOLVED, that the Town of Pembroke does admonish Senator Adams for attempting to legislate the conditions of firearms ownership in Upstate New York while exempting New York City, and **BE IT FURTHER**

RESOLVED, that the Town of Pembroke shall forward copies of this Resolution to New York State Senator Michael H. Ranzenhofer; Assemblyman Stephen Hawley, and all others deemed necessary and proper.

On **MOTION** of Councilman Arnold, seconded by Supervisor Tuttle, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman De Wind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

RESOLUTION # 26 of 2011 – Intent to Designate Jean O’Connell, President of J. O’Connell & Associates, Inc. as the Affirmative Action Representative for the NYS Department of Environmental Conservation, Water Quality Improvement Project Grant for the Town of Pembroke Sewer District #1.

WHEREAS, the Town of Pembroke has contracted with J. O’Connell & Associates, Inc. to administer the NYS Department of Environmental Conservation (DEC) Water Quality Improvement Grant Project (WQIP) for Sewer District #1; **NOW, THEREFORE BE IT**

RESOLVED that the Town of Pembroke authorizes Jean O’Connell, President of J. O’Connell & Associates, Inc. to serve as the Affirmative Action Representative for the Minority and Women-Owned Business Enterprises (M/WBE) / Equal Employment Opportunity (EEO) Program for the NYS DEC WQIP grant project. This resolution shall take effect immediately.

On **MOTION** of Councilman Arnold, seconded by Councilman De Wind, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman De Wind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

RESOLUTION # 27 of 2011 – Designate 2010 funds for Local Law # 1 of 2010

WHEREAS, The Town Board of the Town of Pembroke, enacted Local Law # 1 of 2010, granting \$750,000.00 in funding to the GCEDC, to be used for the development of property to be purchased within the town by the Economic Development Center, and,

WHEREAS, this grant is to be paid over a three year period, pending certain stipulations being met by the GCEDC, beginning in 2010, and

WHEREAS, The \$250,000.00 for the year 2010, has not been paid, the funding has been designated to be funding for payment of the grant as provided by in Town of Pembroke Local Law # 1 of 2010.

On **MOTION** of Councilman De Wind, seconded by Councilman Arnold, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman De Wind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

RESOLUTION # 28 of 2011 - Payment of Abstract 4 of 2011

RESOLVED the Town of Pembroke Town Board, authorizes the Town of Pembroke Supervisor to make all payments and bills contained in Abstract 4 of 2011.

On **MOTION** of Councilman De Wind, seconded by Councilman Arnold, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman De Wind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

RESOLUTION # 29 of 2011 – Agreement of Settlement with CFJ Properties

WHEREAS CFJ PROPERTIES A UTAH PAR has brought a proceeding pursuant to Article 7 of the Real Property Tax Law against the Town of Pembroke, the Assessor and the Board of Assessment Review regarding its property located at 8484 Allegheny Road and known as Tax Map Parcel No.15.-1-24.2, and

WHEREAS both parties have retained attorneys and appraisers and those appraisers have made detailed and extensive reports to the Court, and

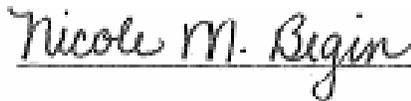
WHEREAS the attorneys have agreed to a stipulated settlement of the proceeding as set forth in the attached Stipulation and proposed Order of the Court , subject to the concurrence of their respective clients, and

WHEREAS, CFJ PROPERTIES A UTAH PAR has concurred with the stipulated settlement **NOW, THEREFORE BE IT**

RESOLVED that The Pembroke Town Board does hereby agree to the settlement as set forth in the attached Stipulation of Settlement and proposed Order of the Court and does ratify and confirm the agreement of the Town's attorney to said settlement.

On **MOTION** of Councilman Arnold, seconded by Supervisor Tuttle, to adjourn the meeting at 8:54 P.M.
ALL AYES – CARRIED.

Respectfully submitted,



Nicole M. Begin
Town Clerk

THESE MINUTES ARE A DRAFT ONLY OF THE TOWN BOARD MEETING OF APRIL 13, 2011 AND ARE SUBJECT TO CHANGE AND/OR REVISION PRIOR TO APPROVAL BY THE TOWN BOARD.