

MINUTES of the Regular Meeting of the Pembroke Town Board held on October 12, 2011 at the Pembroke Town Hall, 1145 Main Road, Corfu, NY.

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

OTHERS PRESENT: Nicole M. Begin, Town Clerk; Stephen Stocking, Highway Superintendent; Richard Kutter, Planning Board Chairman; Tom Schneider, ZBA Chairman; Shellye Dale-Hall, Zoning & Codes Officer; Richard Doktor; Ed Mileham; Aaron Blake; Bob Alexander; Brandi Watts.

Supervisor Tuttle gave the invocation and led the Pledge to the Flag.

The meeting was called to order at 7:01 P.M.

**PUBLIC HEARING
2012 TOWN BUDGET**

The Public Hearing for the 2012 Preliminary Budget was called to order at 7:04 P.M. Town Clerk Nicole M. Begin reported she had the Notice of Public Hearing as printed in the Daily News as well as posted on the Town's bulletin board; and the Affidavit of Posting is also on file.

Supervisor Tuttle gave a brief summary of the proposed budget explaining a couple of items that will be coming out of the budget.

~ It is time to replace one of the Town plow trucks. This money comes from the reserve fund and does not need to be put as a line item in the highway budget.

~ The proposed budget includes a 3% raise increase to Town employees. The employees did not receive a raise in 2010.

~ The Board did put some money in the Park budget again this year for expansion and improvements for the residents of the Town.

~ There was a small increase in funding to the Corfu Free Library and the VFW.

The floor was opened to the public & Town Board for comments or suggestions; no one spoke.

On **MOTION** of Councilman Arnold, seconded by Councilman DeWind, to close the Public Hearing at 7:14 P.M.

ALL AYES - MOTION CARRIED.

Everyone being heard that wished to be heard the public hearing was declared closed.

On **MOTION** of Councilman Arnold, seconded by Councilman DeWind, to approve the Minutes of the September 14th Regular Meeting and the September 22nd Regular and Budget Workshops and the Special Budget meeting of October 4th 2011.

ALL AYES - MOTION CARRIED.

DEPARTMENT REPORTS**ASSESSOR** ~ Deborah Conti

No Report

ZONING & CODES ENFORCEMENT ~ Shellye Dale-Hall

Reports submitted and filed. September was a busy month, some items were sent to the Planning Board and Zoning Board. The department is still working on a few more complaints, letters were sent and there will be follow-through. Shellye Dale-Hall and Charles Reid are signed up for a three day training in January and the cost will be split with the two other Town's that they each work for respectively.

HIGHWAY ~ Steve Stocking

Fall mowing is almost finished. The shoulders on Read Road were oiled and stoned. The plows will be put on a couple of the trucks shortly.

TOWN CLERK ~ Nicole Begin

Reports submitted and filed. The Town Clerks office has issued 23 marriage licenses this year. Mrs. Begin stated that we have not issued this many since 2006. The Clerk's office sold \$11,847.00 in hunting licenses since the sale start date of August 15th, 2011. Of that the Town keeps \$617.14. Letters are being sent to elections inspectors this week.

PLANNING BOARD ~ Richard Kutter

There was a public hearing in September on an application for a Truck Wash to be located in the building on Vision Parkway off of Route 77 near the Town Hall. The building is currently empty. The State DOT feels that there is no need for traffic study. The applicant will contact the Health Department to see if they will require anything. All water they use will be recycled and any solid waste is sent to garbage disposal offsite. The water is put through a process and is purified for reuse. They would also like to catch all rainwater for their use. They may do some light repair work. They expect to have around 25 employees. A special use permit was granted. The Collier property on Lake Road cannot be sold as it is zoned Commercial, no bank will finance it. They are asking for a re-zone to change it back to Ag-Residential. The Planning Board is recommending a zone change for three of the connected parcels on Lake Road to be re-zoned. There will be a public hearing at the Planning Board meeting on October 19th 2011 for a special use permit for Bailey Electric.

Mr. Sformo asked if any of the three property owners on Lake Road were interested in keeping their property commercial. Mr. Kutter said of the four properties zoned commercial, three said that they want to be re-zoned ag-residential.

ZONING BOARD OF APPEALS ~ Thomas Schneider

The ZBA met in September to discuss a pond that was constructed on Colby Road without a permit. The landowner did not show up so the board was not comfortable acting on it without the presence of the landowner. He is on the ZBA agenda again for October 19th 2011. Mr. Kutter and Mr. Schneider have been looking at some zoning text changes and will recommend them to the board.

JUSTICES

Reports submitted and filed. Supervisor Tuttle read the reports.

SUPERVISOR ~ James H. Tuttle

Reports submitted and filed.

We have been contacted by the Genesee County Health Department regarding wells that were tested on Genesee Street. Five of the wells tested positive for E-coli. Supervisor Tuttle said he is waiting for a reply from the Health Department to find out what the next step is. A property map was plotted with the different locations of the contaminated wells. They are not next door to each other but are relatively close on the map. With help from the health department the Town will look at the area affected to see if emergency funding can be applied or if the wells contaminated are a result of self contamination from damaged septic systems.

The State DOT sent back to us Amendment B to the Municipal snow and ice extension which was voted on in June.

The Chamber of Commerce travel guide is up for renewal. The Board should decide if they want to renew and we can have a resolution at the next meeting. There is money in the budget to do this.

Supervisor Tuttle gave some information to the Board regarding Phone Review. They would like to review the Town Office's phone charges. There is no expense to the Town. If they find that we've been over billed they would take 50% of the refund that would be due to the Town as their payment.

The Board received copies of information regarding the Veterans Blue Star Memorial. The company makes a plaque similar to the one in front of the Town hall to commemorate veterans of the Town. There are many sizes to choose from and many options. Mr. Tuttle also gave the information to the Cathie Wild VFW post 9000.

There is a resolution for the Cohocton Road detour. The advantages of doing a resolution allowing the State DOT to use Cohocton as a detour as they work on Route 77 is that if there is damage to Cohocton Road because of their use the State will pay for it. Mr. Tuttle stated that they will use it no matter what even if we don't do the resolution but this way we cover the Town.

There is a resolution to renew the contract with our grant writers. We did question the increase in price but we have informed them that we may reconsider renewal in the future.

Supervisor Tuttle said that there is money in the budget for a Town employee to attend Leadership Genesee 2012. There is a resolution to allow the Supervisor to attend in 2012.

There is a resolution to accept the performance bond to cover and allow the Town Tax Collector to collect taxes in 2012.

COMMITTEE REPORTS

Building & Grounds – Councilman Sformo

We are waiting for an estimate for the heat tape for the Community Center building.

We've received three bids for installation of Radiant Heating at the Corfu Fire Department. Rettke Heating (\$7,560.00), Turnbull Heating (\$13,212.00) and Seaman's Hardware (\$9,795.00) are offering a different version of radiant heaters so the prices are not comparable. Councilman Sformo will get the Board information on the difference in prices and units and get that information back to the Board at the next Workshop meeting.

Scott Strollo has been working on the leaky faucets at the Pembroke Community Center and doing some other minor maintenance work.

Councilman Sformo asked Mr. Stocking if the ditch issue next to Bill Joyce's property has been done yet. Mr. Stocking said it has been approved, it is on the schedule and Mr. Joyce has been notified. Mr. Sformo asked if it makes sense to put a pipe in the ditch opposed to cleaning it.

Mr. Sformo would like to get together soon with Mr. Stocking to look at repairs that are needed in the Highway Garage.

Highway/Assessment/Court – Councilman DeWind

There was an issue a few weeks back with the County Highway Department stoning Indian Falls Road, Slusser Rd., and North Pembroke Rd. The County had left way too much stone on the road causing issues for drivers and residents on those roads. Councilman DeWind spoke to County Highway Superintendent Tim Hens and County Legislator Annie Lawrence. After speaking to them the roads were swept and seem to be in good shape.

Public Services, Water, Sewer, Refuse/Recycling – Councilman DeWind

The Town is going through the SEQR process right now for the BETP North Tech Park and is waiting for work to be done on the sewer project.

Human Resources/Benefits – Councilman Worth

Some updates were received regarding the new website design. It should be up and running within the next month. Mr. Worth is hoping to get some numbers together for the new server for the next Town Board workshop meeting.

Parks/Land Acquisition – Councilman Arnold/ Councilman DeWind

Mr. Arnold thanked the Highway Department for their work on cleaning up the front of the Town Park and for the extension of the back parking lot. The work done by the Town highway department saved the Town an awful lot of money.

The Town Park had a lot of use this year. Hopefully there can be more improvements to the park in 2012.

Intermunicipal, Economic & Community Development – Supervisor Tuttle

The SEQR process for BETP North is taking time as was expected. We have not received any letters expressing disinterest in the Town being Lead Agency. We have received letters from the Genesee County Sheriff's Department and Genesee County Planning Department expressing concerns about traffic studies. Supervisor Tuttle said that the build out plan for the project is 10-15 years so the Town has time to work out those concerns.

OLD BUSINESS

There is a resolution on the NYS DOT Cohocton Road Detour.

Councilman Sformo asked if the Town received all the plans from the DOT in regards to what they are planning on doing. Supervisor Tuttle said that there were no changes to their original plans that they gave us other than to cut back some trees on Lake Road for visibility. Traffic traveling North on Allegany Road will stay on Route 77 and all traffic traveling South will be detoured at Route 33 to Lake Road, Cohocton Road and back to Allegany Road. There will be temporary sign installation and addition of guardrails. Councilman Sformo felt that there were still a lot of safety concerns involved in this detour.

NEW BUSINESS

Assemblyman Hawley has forwarded the Town a letter he sent to Governor Cuomo requesting that the assembly go back into session to discuss and resolve mandate relief to municipal and County governments. Supervisor Tuttle said that the 2% Tax cap that the State imposed under the guise that it will save or reduce taxes certainly is not going to do what it claims. The new law gives local officials the opportunity to opt out of the tax cap by local law as most local governments will need to do in order to afford the unfunded State mandates imposed upon local governments. It is simply going to shift the blame of property tax and assessments from the State to the local level when local officials need to opt out. We have a resolution for local law to opt out of the tax cap law. The local law must be adopted before the budget is adopted.

PUBLIC PARTICIPATION

Judge Alexander asked when Indian Falls Road will be lined because it is difficult to see at night. Superintendent Stocking said that the County bid the job out and it will be done in the next few weeks.

Judge Alexander also asked if automatic flusher could be installed on the urinals at the Town Court? Councilman Sformo will look into it.

Judge Alexander stated that Court Justices are legally responsible for the security of the courts. He asked if the cleaners could schedule their cleaning time during office hours instead of after hours.

Judge Alexander said that he received a letter from Supervisor Tuttle stating that the Town Board was approached by Village Trustees regarding an issue that the Village was having with him as Village Justice. Judge Alexander explained that a Village Trustee had been spending excessive time in the Town Court offices and that Judge Alexander asked him not to do so unless it was for court business. Mr. Alexander said that he knew of no other issues that the Village has with him that would make them approach the Town Board.

Judge Alexander explained that he is legally responsible for both the Town Court and Village Court security and asked that the Town Board, in the interest of security, consider changing the locks on the Village Court office since the Town owns the building. He also stated that by law only he and the Town should have keys. He said that he will have a request in writing to the Town Board. He also stated that he has a police investigation going on now regarding non-court officials being in the Village Court office without Court supervision. Supervisor Tuttle stated that the meeting with Village officials was in executive session and cannot be elaborated on and that the Town Board feels they do not want to be put in the middle of the problems that the Judge Alexander may be having as Village Justice with Village Officials. Supervisor Tuttle thought that having the locks changed may not be a problem. Councilman Worth said that there may be something in writing that states we must provide the Village with a key.

Brandi Watts, previous Village Court Clerk said she received a letter from the Village stating she was not to be in the Corfu building and that the Town of Pembroke was in agreement. Supervisor Tuttle said that the Town did not see the letter until she provided him a copy and was not in full agreement. Mr. Tuttle said that if the Village wants to stop Mrs. Watts from entering the Village offices they can but she can enter the Community Center and Town Court if the need arises.

Mr. Richard Doktor asked the Board to consider letting the VFW put a permanent Board on the wall of the Community Center instead of the rolling board that they now use. The VFW board showcases local members of the Cathie Wild VFW post 9000 and also commemorates local veterans who have passed away. The board keeps getting pushed into the kitchen or hallway by users of the Community Center. Councilman Sformo will meet with the members of the VFW and work on a plan for a permanent wall mounted showcase.

Mr. Doktor asked how the Town newsletter gets sent out and to whom? Mrs. Begin said that the labels for the newsletter come from the Office of Real Property in the County and that if someone contacts her she can send one to them if they don't receive one.

Mr. Monroe Sommers asked if there was any way he could expedite his application with the Planning Board so that can get his home in place on North Lake Road as soon as possible. Supervisor Tuttle told him to go into the Zoning office because as we speak the Planning Board and ZBA chairmen were meeting with the Zoning officer and they may be able to help him. Councilman DeWind told Mr. Sommers that the property looks great and that he is doing a great job.

RESOLUTIONS

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

RESOLUTION # 49 of 2011 – Contract Renewal / J. O’Connell & Associates

RESOLVED the Town of Pembroke Town Board authorizes the Town of Pembroke Supervisor to enter into a renewal contract with J. O’Connell & Associates of 10646 Main Street, Clarence, NY 14031, for the purpose of grants, investigation, application and administration for the Town of Pembroke; **BE IT FURTHER**

RESOLVED that the contract is for two (2) years commencing September 1, 2011 and ending on August 31, 2013 for a total cost of \$32,000 per year.

A **MOTION** was made by Councilman Arnold, seconded by Councilman DeWind to adopt a **RESOLUTION** to allow the next Town Supervisor to attend Leadership Genesee.

There were some questions by the board regarding meeting in 2012 and conflicting time schedules and it was decided that some time was needed to discuss further.

The **MOTION** was then **RECIENDED** by Councilman Arnold.

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 DeWind, AYE; Supervisor Tuttle, AYE. ALL AYES - MOTION CARRIED

There was a lot of discussion regarding safety issues with this detour. The Board felt that they did not want to vote on this resolution without the addition of the line “under protest due to safety concerns” (see in bold).

RESOLUTION # 50 of 2011 – Cohocton Road Detour

WHEREAS, the New York State Department of Transportation is undertaking the repairs of culverts on State Route 77, S.H. 922 (Indian Falls — Corfu, Part 2), in the Town of Pembroke, located in Genesee County, P.I.N. 4077.08; and

WHEREAS, the New York State Department of Transportation plans to temporarily close portions of State Route 77, S.H. 922 (Indian Falls — Corfu, Part 2), to facilitate the culvert repairs; and

WHEREAS, in conformance with Section 42 of the New York State Highway Law, the New York State Department of Transportation proposes to utilize the following road as a detour for southbound traffic during the period of necessity: Cohocton Road from its intersection with State Route 77, west to Lake Road, CR 4; and

WHEREAS, the New York State Department of Transportation will provide for traffic control devices and make improvements and/or repairs where necessary to the above mentioned road to make it adequate to handle additional detour traffic; including but not limited to, installation of approximately 110 m of guide rail on the approach to the Cohocton Road bridge over Murder Creek as shown on the contract plans.

WHEREAS, the New York State Department of Transportation will make repairs, where necessary, to the above mentioned road at the end of its use as a detour to return it to its pre existing condition; **NOW, THEREFORE BE IT**

RESOLVED that the Pembroke Town Board does hereby **under protest due to safety concerns** authorize the New York State Department of Transportation to utilize the above mentioned road as a detour and maintain traffic on it in accordance with the contract plans and Subsection 619 of its Standard Specifications during the period established by the New York State Department of Transportation; **BE IT FURTHER**

RESOLVED that guide rail installed by New York State Department of Transportation on Cohocton Road will be left in place at the end of the period of construction and become the property and maintenance responsibility of the Town of Pembroke; **BE IT FURTHER**

RESOLVED that the Town of Pembroke will continue to provide routine maintenance on the above mentioned road, including snow and ice control; **BE IT FURTHER**

RESOLVED that the clerk of this Board is hereby directed to transmit five (5) certified copies of this resolution to the State Department of Transportation.

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

RESOLUTION # 51 of 2011 – 2012 Performance Bond

RESOLVED that the Town Board of the Town of Pembroke approves the sum and form of the Performance Bond in the amount of \$500,000 for the tax collection for the year 2012.

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

RESOLUTION # 52 of 2011 - Payment of Abstract # 10 of 2011

RESOLVED the Town of Pembroke Town Board, authorizes the Town of Pembroke Supervisor to make all payments and bills contained in Abstract # 10 of 2011.

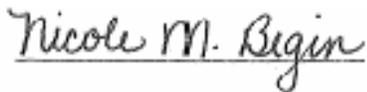
The Board discussed doing a resolution to introduce proposed Local Law # 2 of 2011 – Exemption from 2% Tax Cap. The board asked if Laura Landers, the Town’s auditor, could come to the next workshop meeting to explain it better before it was voted on.

Mr. Doktor thanked the Town Board for considering the VFW in the 2012 budget.

On **MOTION** of Councilman Arnold, seconded by Supervisor Tuttle, to adjourn the meeting at 9:04 P.M.

ALL AYES – CARRIED.

Respectfully submitted,



Nicole M. Begin
Town Clerk

THESE MINUTES ARE A DRAFT ONLY OF THE TOWN BOARD MEETING AND BUDGET PUBLIC HEARING OF OCTOBER 12, 2011 AND ARE SUBJECT TO CHANGE AND/OR REVISION PRIOR TO APPROVAL BY THE TOWN BOARD.