

August 13, 2012 – REGULAR MEETING

The Work Session and Regular Meeting of the Town of Dickinson Town Board was called to order with the pledge of allegiance by Supervisor Michael A. Marinaccio at 5:32 PM on Monday, August 13, 2012 in the Town Hall, 531 Old Front St., Binghamton, NY.

This is the second of the regular meetings which begins the summer schedule of July, August and September combining our Work Session with the Regular Meeting on the second Monday of those months with a start time of 5:30 P.M.

The members of the Town Board present were:

Michael A. Marinaccio, Supervisor

Thomas J. Burns, Councilman

Sharon M. Exley, Councilwoman

Stephen M. Gardner, Councilman

Also attending:

Oliver N. Blaise III, Esq., Town Attorney

Wanda R. Broczkowski, Town Clerk

Absent: Danny F. Morabito, Councilman

Supervisor Marinaccio held a moment of silence on the passing of Catherine McNally, a past town Historian who resided in the Village of Port Dickinson.

SUPERVISOR'S REPORT

Supervisor Marinaccio gave his report for the month of August. His report will be placed on file. Here are some highlights:

- The Town has still not received our annual reimbursement from the Binghamton JC Sewage Plant which was due in May. The same is true for all of the Plant's outside users. Our line budget is presently in the minus until we receive our money in the amount of approximately \$60,000.
- We received the OK from State Farm Insurance to move forward with getting our building repaired due to the damage that occurred on June 13, 2012. Fahs Construction will be the contractor and they did the initial construction to the building. We will make sure the construction does not interfere with our town operations, especially with the Town Clerk's office and the Tax Collector which is due to collect school taxes the 1st of September.

- Broome Community College student housing project meeting at the college was well attended and residents had some good questions. They are reaching out to inform us of what is going on there. Front Street is the preferred location, but it is up to the college on the location.
- Voter registration will be held at our town hall on Wednesday, October 10, Noon – 9:00PM and Saturday October 13, 2:00 – 9:00PM. This will be conducted by 2 members of the BC Board of Elections and an inspector.
- Supervisor received a letter from a town resident regarding our highway superintendent and his employees. The letter was very positive about Joel and the department’s hard work.
- Post Cards have been sent out by NYSEG informing residents they will begin tree and brush work in an effort to clear electrical lines.
- Wal-Mart replacing some vinyl fencing with a chain link fence and adding a walkthrough gate for pedestrians.
- Our State Equalization rate remains at 65.0.
- Sales Tax revenue for the town:
 - ✓ 2nd quarter \$183,641
 - ✓ 2011 \$181,822
 - ✓ 2010 \$181,025
- There were 8 various Code Violations issued which included anything from Storm water management erosion and sediment Control Law and not providing **SWPPS** review and proper safe guards. One was for illegal water hook-up. Others were a hole in a roof to Vehicle Junk Law and tall grass.
- Dog Control Officer’s report was reviewed and placed on file.

PUBLIC COMMENT

None

APPROVAL OF MINUTES

On a motion by Councilman Burns seconded by Councilwoman Exley to approve the Work Session and Regular Meeting Minutes of July 9, 2012. All in favor. Vote -4 Ayes, Nays-0.

ABSTRACT #8

Abstract Summary of Audited Vouchers for Funds in the amount of \$233,000.62. On Motion from Councilman Gardner, seconded by Councilman Burns to approve. Vote Ayes – 4, Nays – 0. Councilman Burns noted it included four (4) water payments that were made.

Supervisor Marinaccio voting Aye
Councilman Morabito Absent
Councilman Burns voting Aye
Councilwoman Exley voting Aye
Councilman Gardner voting Aye
Unanimously passed and noted as duly adopted.

ATTORNEY

RESOLUTION 2012-32

The following Resolution was offered by Councilwoman Exley, who moved its adoption, seconded by Councilman Gardner to wit:

BE IT RESOLVED, by the Town Board of the Town of Dickinson, Broome County, New York as follows:

Approval of the intermunicipal agreement with Fenton-dog Control Officer. The agreement will renew automatically every year beginning January 1, 2012 until the towns agree to amend or cancel it. Councilman Burns' questioned whether the present Dog Control Officer, Greg Starley, can continue with being the DCO since he recently took a position in the Town of Fenton's Water Department. Attorney Blaise will inquire with the town of Fenton on Greg's intention.

The question of adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows: All in favor. Vote Ayes – 4, Nays – 0.

Supervisor Marinaccio voting Aye
Councilman Morabito voting Absent
Councilman Burns voting Aye
Councilwoman Exley voting Aye
Councilman Gardner voting Aye

All in favor: Agreement attached

PROPOPERTY NUISANCE LOCAL LAW

Attorney Blaise explained the differences between the two samples of property nuisance laws from The Town of Union and the Town of Chenango. The question for us is what we feel more comfortable with.

The Town of Union sample is comparable to the City of Binghamton where they shut down a property indefinitely. The owner would need to show the judge and Town they comply. This is a much more arduous, but legally safer, process.

Who is responsible? Property owner is. Criminal activity, health and welfare are at the core.

Under the Chenango law, the property can be shut down for up to a year based on the determination of the Code Enforcement Officer.

Supervisor Marinaccio is interested in doing this but not comfortable yet with these two samples and wants the Broome County Sheriff to review any proposal since they will play an important role in this. Documentation is crucial. One small area is with a few properties such as Prospect Terrace area. We would have to prove illegal activity with the courts.

This would address nuisances of non-property maintenance related code issues of problem properties. Supervisor Marinaccio requested to have Attorney, Blaise give his further recommendations.

Not on arrests but on convictions is the wording with the Town of Union law. Oliver will continue to research and work on it. Before becoming a local law, a public hearing would need to be held. The plan is to have the Sheriff's office to attend a meeting to go over this with them.

DEFINITION OF EDUCATIONAL AND RELIGIOUS USES IN R-1 ZONE

Attorney Blaise stated our zoning local law lacks a definition of educational and religious use. How do we define: To ensure it is not too liberal and meaningless or is unreasonable. In any case we must have the county approval. Look at the Town of Hempstead as a sample.

When the zoning was changed many years ago, the main objective was to encourage new construction of single family homes. We are committed to pass changes this year, 2012 by the end of the year.

What is law in our own local areas? Refer to Planning Board for comment. Councilman Gardner would like to see towns of our similar size for comparison or like communities.

Engineer for the Town, Ron Lake suggested the definition of educational and religious use based on the principal of use rather than the accessory use.

Ron Lake comments the State is responsible for the education law and the Federal regulates the religious law. Keep it as simple as possible. Resident Gerry Ford agreed that the law should focus on the primary or existing use, rather than an accessory use.

Question: Supervisor Marinaccio had a question of the Town attorney, could we form a small committee.

Response: Yes. They could look at and provide feedback on the proposed definition, but it would ultimately be the Town Board's decision.

It was recommended the committee be comprised of James Exley, Gerry Ford and Rosie Pudish. Dave Wasser asked if someone from another part of the town be considered. Board agrees on all points.

Attorney Blaise stated that the appeal filed on the 270 Glenwood Road to the ZBA was moot. He directed Wanda Broczkowski, Town Clerk to return the \$25.00 check to Rosie Pudish.

PROPERTIES

34/36 NORTH BROAD STREET

Mr. Blaise' office continues to follow up with the owners about the transfer documents and the results of the title search. Nothing new to report.

13 BELLAIR AVENUE

The property has been demolished as of July25th.

Regarding all these demolished properties, all of them should have a formal appraisal with the best use and fair market value, for the town prior to them going up for sale to the public. It was requested DPW Commissioner, Joel Kie contact David Hamlin, Assessor for the town to conduct the appraisal.

EMPLOYEE HANDBOOK

Oliver Blaise presented a hard copy draft of the document to be given to Beverly and Joel to review. Advise him of any questions or concerns upon their review.

FLOW MANAGEMENT – BINGHAMTON-JOHNSON CITY JOINT SEWAGE TREATMENT PLANT – INTERMUNICIPAL COOPERATION AGREEMENT BETWEEN THE TOWN OF DICKINSON AND THE CITY OF BINGHAMTON RELATIVE TO SEWAGE DISPOSAL SERVICES

Attorney Blaise referred to the draft to the Intermunicipal Cooperation agreement between the Town of Dickinson and other municipalities relative to outside use of Town sewage lines. This has been on HOLD since June 22, 2012. Supervisor Marinaccio asked Ron Lake, Engineer for the Town to work through the numbers for proposed charges.

CHAIR

FLAP GATE INSTALLATION

Supervisor Marinaccio reported that DOT reviewed the report in our favor and will install the flap gate on the 54" diameter CMP culvert. Once it is installed, it should protect Broome Community College, lower Boland Road, the Nimmonsburg Methodist Church and Front Street. Once we have a date he will let us know.

LOCAL LAW FOR APPOINTMENT OF ALTERNATE TO PLANNING AND ZONING BOARDS

Regarding alternate appointments of the Planning and Zoning boards Supervisor Marinaccio has four (4) openings on the Planning board and will discuss with the board, his list of six (6) names for consideration. He usually goes with people who show interest.

SEWER LINES

Sewer Line charges in regards to the lines involving Town of Union and City of Binghamton. There is a lot of waste and wear and tear on our lines in the Glenwood Road area. Ron Lake and Dan Miller will confer on these sewer line charges needed for budget discussions.

COMMITTEE REPORTS:

PUBLIC WORKS – WATER DEPARTMENT & HIGHWAY DEPARTMENT

1. Dan Miller reported the generator for Town Hall was now on line. He will notify Emergency Services and the Fire Department for use of the site as an emergency center.
2. Pulaski Street Water Repair project slate for spring 2013. He received 3 bids for piping
 - o EJP \$11,350.92 Lowest, but did not meet the specs
 - o HD Supply \$13,402.10 This bundle bid included items we did not need
 - o Vellano \$14,489.50 Met Specs
 - o Danny's recommendation would be to award bid with the supplier, Vellano. On a motion by Councilman Burns, seconded by Councilwoman to approve the order be placed with Vellano. All in favor. Vote -4 Ayes, Nays-0. Supervisor Marinaccio complimented Danny Miller and expressed appreciation for his hard work.

3. August 4th the sewer station on Linda Drive was hit by lightning. \$5K damage.
4. Joel Kie wants to know if 13Bellaire should have 'no trespassing' signs. We would provide top soil, grade and seed the property to make it as presentable as possible for the neighborhood. We would have to mow the grass from now on as the Town owns the property.
5. July 25th Joel and the other highway superintendents met with the County Executive regarding all municipalities to all have the same Road Preservation Law. Currently it is determined by weight and usage. We passed our local law about a year ago. The County wants one (1) uniform system across the County that the County would administer by issuing permits as was explained by Attorney Blaise. We'll wait and see what happens and if it would benefit the Town of Dickinson. Joel will advise us on any follow-up.
6. Village of Port Dickinson noise complaints have been lodged. The Village of Port Dickinson Chief of Police, Sean Krause and Attorney Blaise had been meeting late 2010 and early 2011 regarding uniform ticketing process. Per Joel Kie, we have the teeth but not a means to deliver on non-property maintenance including the noise ordinance or peddling. We will revisit this with the Chief.
7. Joel Kie is planning to schedule a light pole installation for N. Ely Street now that the residents have come to an agreement. A hearing would first have to be held. Mr. Kie will contact NYSEG for the GPS Coordinates and work with the Town Clerk on notifying residents of the hearing at the September 10th Board monthly meeting. Councilman Burns and Councilwoman Exley agreed. All in Favor
8. Mr. Kie plans to replace the 15 year old riding mower and purchase a John Deere zero turn riding mower with bagger for \$9K. It will be a line item in his budget which he has the authority to purchase.

PLANNING BOARD

Currently updating the Town's Comprehensive Plan and working on the board vacancies.

ZONING BOARD

None

CODE ENFORCEMENT

None

MONTHLY FINANCIAL(S) APPROVAL

On motion from Councilman Gardner moved to approve all (5) months financials, seconded by Councilwoman Exley. All in favor. The monthly financial reports are for the months of March, April, May, June and July of 2012.

333 PROSPECT STREET ABANDONED SERVICE STATION

Councilwoman Exley contacted the City of Binghamton Code Enforcement regarding 333 Prospect Street. This abandoned service station has a history of junk cars. It was rid of all junk cars but recently the trend has started up again along with high weeds. Since then the weeds have been cut down. According to the City it may take awhile but they are working on removal of the junk cars.

PUBLIC COMMENT

270 GLENWOOD ROAD PROJECT

Supervisor Marinaccio opened a public comment period on the Glenwood Road project topic. The duration of the exchange was approximately 25 minutes.

1. Jim Love a resident of the town directed his comments to Oliver Blaise regarding the religion and education definitions in reference to the BOCES portion of the project. It seems more important to determine instances of other towns' failures in defining these terms, and is there a data base to show where they failed. Attorney Blaise stated it depends on what zoning reform is being challenged. There are a number of cases where these types of things have been challenged. No two cases are ever exactly the same. The information is out there; not necessarily in data base format.
2. Resident of Maiden Lane, Rosie Pudish had several items:
 - a. What is the town noise ordinance and stated the trucks are out there at 6:30AM and how can we get this to stop. Supervisor Marinaccio and the Code Department will address this.
 - b. The current Fracking scenarios in the nearby towns. We should institute a moratorium here in the town before it becomes an issue.
 - c. It is alleged BOCES intended to add on to the printing building after it would have been erected.
 - d. Why in Chenango Shores, did the board support that no dorms be built in this residential area? Feels the town should treat the Glenwood Road project the same. It was determined the dorms will be built on the BCC Campus. Supervisor Marinaccio responded that this project is not the same as the BOCES project.

- e. Residents commented the owner of 270 Glenwood Road has cut down trees and been logging up there over one year ago. If logging is going on up there, the SWPPS law should have him to proceed properly and follow the regulations. Mr. Rafferty and Mr. Lake stated that under the Town Code Book, the Town was enforcing a New York State Law, namely MS-4 Regulation(s). The owner has been cited such that he must re-seed and replant the area within a specified number of days. Supervisor Marinaccio's response is that it is his property; he can do whatever he wants under the regulations to protect roads and the environment.
3. A discussion ensued for another 15 minutes about the area.

The meeting was adjourned on motion of Councilman Burns and seconded by Councilwoman Exley at 7:32 PM

Respectfully submitted,

Wanda R. Broczkowski

Town Clerk