

## **September 10, 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 5:30 PM on Monday, September 10, 2012 in the Town Hall, 531 Old Front St., Binghamton, NY.**

**This is the third of the regular meetings which includes 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**

**Danny F. Morabito, Councilman**

**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**

Supervisor Marinaccio held a moment of silence on the passing of John DeMaria, a past Prospect Terrace volunteer fire fighter town in the Town of Dickinson.

### **SUPERVISOR'S REPORT**

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

- The Town will now be credited for our annual reimbursement from the Binghamton JC Sewage Plant which was due in May. That credit will go towards what we owe the plant for sewage services.
- We are still waiting for a start date from Fahs Construction to repair the building damage from the accident that occurred on June 13, 2012. We did receive the check to cover all the expenses for repair from State Farm.
- Tree and brush trimming by a contractor hired by NYSEG has begun in an effort to clear electrical lines. We are starting to receive some complaints due to trees being trimmed and not looking good.
- Supervisor Marinaccio attend the American Red Cross event that commemorated the September, 2011 flood. It was very well done and well attended.
- We have begun the process of developing the 2012 Town Budget.
- Our Town Court has been rated 3rd in the entire county in revenue generated from fines, \$699,718. No. 1 is Kirkwood with \$988,240. Out of 1,239 courts throughout the state, we rank #69.

- There has been no further information on the possible logging on the Marchuska property. Once we hear something definite, we will make that information known.
- Mike Marinaccio will be attending breakfast meeting sponsored by the Chamber on September 13<sup>th</sup> at the Riverwalk hotel to discuss issues that affect the Greater Binghamton economy. Meeting starts at 8AM. Guests will include Andrew Kennedy, from Governor Cuomo's office who is the Asst Secretary for Economic Development, Ken Kamlet, attorney from HHK, who will discuss the TIF Program (Tax Increment Financing), and Ryan McAllister, Senior Counsel, NYS Senate.
- Supervisor Marinaccio will also be attending the 60<sup>th</sup> Anniversary Celebration event for ACHIEVE on Sept. 21. At this event, he will present a letter of congratulations and support to ACHIEVE.
- There were two (2) Code Violations issued.
- Dog Control Officer's report has not been submitted yet.

### **ATTORNEY**

### **PUBLIC HEARING**

#### **POLE LIGHT AT N. ELY STREET**

The public hearing on the street light at N. Ely Street was opened by Supervisor Marinaccio at 5:42PM. He asked if there was anyone present interested in the installation of a pole light at N. Ely Street. The cost is about \$200 a year to operate and maintain. No opposition to the pole. The hearing was closed at 5:43PM.

#### **FLAP GATE UPDATE - INSTALLATION**

Supervisor Marinaccio reported the flap gate is now in design, in the process. Hopefully it will be done before year-end if not then by early spring 2013.

### **COURT SIGN**

Supervisor Marinaccio stated a sign will be installed directing the court clients to the entrance at the front of the building to cut down on traffic in the Town Clerks office.

## **PUBLIC COMMENT**

*Jeanne Compton reported that several residents approached her regarding several items in Sunrise Terrace:*

Currently residents are parking on both sides of Terrace Drive and Rosedale Drive on down and over to Elaine Drive. It is dangerous for pedestrians who are walking and there is a curb on both sides. It is recommended they should contact the Supervisor or the Highway department. Previously we held an information sharing session about parking rather than a public hearing. One recommendation is to send a letter out to the residents of considering parking on one side and request their cooperation to instead park in driveways.

Secondly, the hedges on the corner of Rosedale and Terrace are obscuring the right of way, motorists cannot see oncoming traffic. We have talked to the owners before and the neighbors were not happy about it. It was requested, DPW Commissioner Joel Kie will attempt to speak to them to remedy this hazardous corner. If nothing is done, we will then draft a letter to take a legal approach regarding the right of way.

The third item is regarding a property maintenance code near the triangle of Elaine and Iris Drive. We are aware of it and working on it.

Resident Leonard Gee spoke about work occurring at the brick yard by Saunders. They are subletting to another company who is doing some work there. It is city property.

At the bottom of Old State Road the railroad is dumping dirt, tree roots, and other debris and temporarily piling it up by the railroad tracks. Dumping is not in our jurisdiction, as this is in the Village. It was requested Joel Kie to contact the Village of Port Dickinson and inform them of what is going on there.

Resident Jim Love spoke about the NYSEG contractor hired to trim the trees around the power lines and commented per the crew supervisor that authorization is set by state regulation. It used to be five (5) yards now it is 15 yards from the power line to cut back trees. It appears they are only trimming the top of trees and leaving a hole. The information is for awareness if the Town receives complaints from residents regarding this newest state regulation.

**APPROVAL OF MINUTES**

On a motion by Councilwoman Exley seconded by Councilman Gardner to approve the Work Session and Regular Meeting Minutes of August 13, 2012. All in favor. Vote -5 Ayes, Nays-0.

**ABSTRACT #9**

Abstract Summary of Audited Vouchers for Funds in the amount of \$124,344.95. On Motion from Councilman Gardner, seconded by Councilman Burns to approve. Vote Ayes – 5, Nays – 0.

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

Unanimously passed and noted as duly adopted.

**ATTORNEY**

**RESOLUTION 2012-33**

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

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

**No significant environmental impact for installation of N. Ely Street street light.**

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 – 5, Nays – 0.

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

All in favor: Agreement attached. Resolution attached.

**RESOLUTION 2012-34**

The following Resolution was offered by Councilman Morabito, who moved its adoption, seconded by Councilman Burns to wit:

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

**Approving installation of N. Ely Street street light. Supervisor Marinaccio reminded the resident it will take time to order the pole for installation, possibly a few months**

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 – 5, Nays – 0.

Supervisor Marinaccio voting Aye

Councilman Morabito voting Aye

Councilman Burns voting Aye

Councilwoman Exley voting Aye

Councilman Gardner voting Aye

All in favor: Agreement attached. Resolution attached.

**PROPOPERTY NUISANCE LOCAL LAW DISCUSSION**

Attorney Blaise reviewed two competing samples of property nuisance from Towns of Union and Chenango. It would be more likely we could be sued with the sample from Town of Chenango. With the Town of Union example he recommends with a few tweaks', this would better suit the Town. He suggests a SPECIAL PROCEEDING, rather than a more traditional lawsuit, to file a petition to get you in front of a judge a lot sooner. This shorts the normal law suit process. One hearing gets you in and out in Supreme Court. Town court does not have equitable jurisdiction. This would have the Town attorney initiate the by gathering information from the Sheriff's department. The plan is to have Sheriff's Harder's office to sit down with us.

Supervisor Marinaccio suggests a few more changes to the Town of Union sample before we proceed and finalize as law. Attorney Blaise stated this is no small undertaking before becoming a law and will move forward. Before becoming a local law, a public hearing would need to be held.

## **PROPERTIES**

### **34/36 NORTH BROAD STREET**

Mr. Blaise' stated they have all the paperwork to transfer ownership to the Town, and have stopped paying taxes but they are very slow to resolve this matter. This is the last of these types of properties to be condemned and transfer ownership to the Town. If there is no response by the October work session his recommendation would be to knock it down and access the costs to taxes.

### **213 BEVIER STREET**

Mr. Blaise stated it is cleared off and now waiting on Broome County tax sale. Once the tax auction is over it will be deeded over to the Town.

## **JOHN STREET EASEMENTS**

The Bolands requested some language change on the liability issues while work is being done on the property. Regarding the easement, right now we are not sure who is holding things up, the Boland family or the Attorney. There's no guarantee they will sign off. Joel wants to get work done but will work on another street in the interim. If no response, we will do the work in the spring of 2013.

## **EMPLOYEE HANDBOOK**

Supervisor Marinaccio will give it to Beverly to review. The hope is to have it in place by January 2013.

## **DEFINITION OF EDUCATIONAL AND RELIGIOUS USES IN R-1 ZONE**

Rosie Pudish spoke on behalf of the committee and that they will meet soon as Mark Hillegas would be available. Attorney Blaise provided a copy of standard definitions from Broome County and other areas of the state. Councilwoman Exley provided the Town of Hempstead example. Oliver stated this is a good starting place and this would be a 2 step process:

- Getting a religious and education definition in place. It is not complicated.
- Do we want to define what accessory uses are to primary use? It cannot cover everything, philosophical use and leave it at that.

A lengthy discussion ensued with Rosie of what direction it should take to word the definition. At this point Attorney Blaise recommended Rosie's group should get definition and then present it to the attorney. First the committee is to go over it with Code. Then review with Oliver to iron out the wrinkles prior to presenting it at a Public Hearing. Code Enforcement officer Steve Rafferty will access the Town of Hempstead worksite.

### **UNIFORM TRAFFIC TICKET WITH VILLAGE**

Attorney Blaise addressed the need of a uniform ticket for the Village traffic tickets over the past few years. Parking tickets under town and village traffic codes. The Attorney for the Village of Port Dickinson, Herb Kline says it would be a great idea. In his research he found it is illegal for a municipality to have a set standard fine for a parking violation. This is from opinions by the Attorney General that each case has to be assessed on its own merit and decided by the judge hearing the traffic ticket case. This law is against what municipalities are doing.

Councilwoman Exley asked whether the revised ticket could be used for other violations, such as noise. Mr. Blaise said it would primarily be used for an officer to write it up on the spot. Majority of the tickets would be for traffic and parking, but would be applicable to other violations. Attorney Blaise will continue to work on this.

### **270 GLENWOOD ROAD UPDATE**

Nothing to report.

### **CHAIR**

### **ALTERNATE POSITIONS FOR PLANNING AND ZONING BOARDS & TRAINING CHANGES**

Regarding alternate appointments of the Planning and Zoning boards Supervisor Marinaccio is still reviewing them. He is requesting now to appoint David Hamburg, replacing Mr. Gray.

## **RESOLUTION 2012-35**

The following Resolution was offered by Councilman Burns, who moved its adoption, seconded by Councilman Morabito to wit:  
BE IT RESOLVED, by the Town Board of the Town of Dickinson, Broome County, New York as follows:

**To appoint David Hamburg to replace Planning Board member Gray who resigned the end of June. Mr. Hamburg will be filling the remainder of his 5 year term for the next 2 years.**

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 – 5, Nays – 0.

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

All in favor.

## **INTERMUNICIPAL COOPERATION AGREEMENT – SEWAGE DISPOSAL SERVICES UPDATE**

Sewage rates need to be recommended by Ron Lake, Engineer for the Town. He stated he could have them by as early as next week for reviewing with the Board.

## **COMMITTEE REPORTS:**

### **PUBLIC WORKS – WATER DEPARTMENT & HIGHWAY DEPARTMENT**

1. Joel Kie reported after a pounding rain, there are ponding and erosion issues up there at 270 Glenwood Road. Ron Lake went up there to review the area. There have been no more noise issues.
2. Danny Morabito, Councilman, reported on Old Front Street there are branches hanging over the sidewalk that need to be trimmed for the safety of runners and cyclists. Will be taken care of.
3. Danny Miller of Water and Sewer Department reported a pump which was affected by a power surge causing the pump(s) to fail. Covered under insurance and checks have been received.



4. A discussion was held on the review of sewer and water rates under flow management. Attorney Blaise needs to know the amount of the rate, so we can incorporate into the Town Code to take effect in January 2013. The next reading is set for December 2012. A public hearing would need to be held in October or November for an effective date of January 2013.
5. Oliver needs to sit down with Danny Miller to ensure the new rules and regulations from the new Sewage Treatment Plant are incorporated into our local law. He needs to know what we are amending.
6. Currently the Town does not have a Minimum Rate for water usage. The rate increase would be to cover water lines and maintenance. The water department is recommending that the overall rate of any amount over 100 Cubic Feet would increase by \$15.37. Councilman Morabito questioned or needed clarification. Need it in our revenue to pay the bills, cover Administrative Work and water line usage.
7. Danny Miller reported all of our water tanks (5) were inspected for \$2,700. The last time they were painted, welded and sand blasted was 1989 for \$13,000. The one on Old State Road, there is much deterioration and corrosion. A new one would cost us \$1 million dollars. To repair, the costs would be in the neighborhood of \$200,000. The repair process is they must be taken out of service, drain it, sand blast it, make repairs and paint it. Emergency services must be notified of the maintenance work being done. Bids must go out. This one, on Old State Road will be scheduled for Spring 2013. A lengthy discussion of all of the tanks ensued. Councilman Morabito suggested he give us a 5 year plan. We must go out to bid, so a motion was made by councilman Morabito and seconded by Tom Burns. All in favor.

## **CHAIR**

## **PLANNING & ZONING BOARD**

Supervisor Marinaccio will verify the new Planning and Zoning training requirements.

## **CODE ENFORCEMENT**

None

## **SEWER LINE REQUEST ON 116 OLD STATE ROAD**

Supervisor Marinaccio had received a copy of correspondence from Nora Smith residing at 116 Old State Road, in regards to consider hooking her up to the sewage lines. Ideally it would have been nice to have the old paperwork to see that she agreed to the hook up. It was dated 1982, signed by James Wahl, who was the Town Supervisor. She will be contacted.

## **BROOME COMMUNITY COLLEGE SMOKING BAN UPDATE**

Councilman Gardner reminded us that it has been reported the student smoking on Hickory has started up since the fall semester. President Kevin Drumm will be contacted by Supervisor Marinaccio.

## **COURT AUDIT**

A court audit was compiled by Councilman Morabito on July 31, 2012. All went very well. All is in good order and he made a few recommendations and findings. The New York State Court system likes when self-audits are conducted. The next audit will be conducted on the Town Clerk's office.

## **PUBLIC COMMENT**

*Supervisor Marinaccio opened a public comment. The duration of the exchange was approximately 15 minutes.*

1. Resident of Maiden Lane, Rosie Pudish is recommending an anti-fracking law be in placed in the Town of Dickinson. The Town takes a conservative approach and most of the towns are supporting the DEC. We currently have a Road Preservation Law in place. We would like to see results of a final study that was done, as time goes on. We need to see the State of New York plan first. Currently state limits wells within 1,000 feet from someone's house. It is not that simple per Oliver. We are not confident to pass something like that. Avoid being sued. Right now the state moratorium is now in place; cannot frack at all in a residential area. When SGEIS is passed by the state then will we take a look at all of this and then take the appropriate action, most likely in Spring 2013.
2. Leonard Gee wondered what kind of work is going on at the dam on Whitman Lane off of Old State Road. Nothing is going on there.

The meeting was adjourned on motion of Councilman Morabito and seconded by Councilman Gardner at 7:46 PM

Respectfully submitted,

**Wanda R. Broczkowski**

Town Clerk