

August 10, 2015 – WORK SESSION & 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, August 10, 2015 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
Stephen M. Gardner, Councilman
Sharon M. Exley, Councilwoman
Thomas J. Burns, Councilman**

Absent:

Danny F. Morabito, Councilman

Also attending:

**Oliver N. Blaise III, Esq., Town Attorney
Susan M. Cerretani, Town Clerk
Greg Starley, Dog Control Officer
Jack Cahill, Town Assessor**

CHAIR

PUBLIC HEARING

Supervisor Marinaccio opened the public hearing at 5:30 PM regarding the adoption of a Local Law that would amend Chapter 229 of the Town Code, pertaining to “Animals”. Attorney Oliver Blaise welcomed Dog Control Officer Greg Starley and explained the removal of the exception to the leash law. There were no questions or comments and the public hearing was closed at 5:32 PM.

DOWNS AVE/MARKET STREET PRELIMINARY ZONING REQUEST

As a courtesy, Supervisor Marinaccio moved up the agenda item which allowed town resident Robert Skrabalak to present his proposal to open a **Dunkin Donuts** on Downs Avenue. Mr. Skrabalak would like to combine two properties on Downs Avenue and build a 2,000 square foot **Dunkin Donuts**.

A discussion followed:

Supervisor Marinaccio stated that in order for this to happen a Public Hearing would have to take place and Attorney Blaise added that a **239** review would have to be conducted.

Code Enforcement Officer Steve Rafferty provided background for the proposal:

The Town received a preliminary request to rezone two properties on the end of Market Street from R-2 to Commercial-1. The request was made to allow for a **Dunkin Donuts** to be constructed on two lots. The site sits directly across from **Manley's** on Market Street. After reviewing the area, it does not seem feasible that the properties located between Francis Street and the end of Market Street are suitable for the residential zoning. At the same time, the rezoning of the two lots would result in spot zoning, which is not permitted by law.

The rezoning to C-1 would make the two family uses non-conforming since residential uses are not permitted in the C-1 district. The C-2 district would allow both the **Dunkin Donuts** and would afford the residential uses to be in conformance with the Town Of Dickinson Zoning Ordinance since residential uses are permitted in the C-2 district.

Mr. Marinaccio expressed that he loves the idea of having a **Dunkin Donuts** in the Town of Dickinson but has concerns about the nearby residents and how they feel about the proposed project. He also has concerns about the added traffic, noise and lighting. Supervisor Marinaccio received a note from **DOT** that they have concerns about the proposed driveway entrance.

Broome County Planning Department will refer the plan to **NYS DOT**. A traffic study would not be required for the site plan.

Supervisor Marinaccio, Councilwoman Exley and Code Enforcer Rafferty encouraged Mr. Skrabalak to get the neighbors to join in the application. Attorney Blaise added that in theory, the rezoning could potentially benefit the neighbors because it would give them flexibility in that their properties could be used commercially in the future because the zoning would already be in place.

Code Enforcement Officer Rafferty stated that the next step is up to Mr. Skrabalak to submit a formal rezoning petition. When Mr. Skrabalak formally submits his rezoning application the Planning Board will then make the recommendation to the Town Board to rezone the properties. The first official action will be from the Town Board.

Supervisor Marinaccio stated that the Town's goal is to develop in a reasonable effective manner with our residents' best interest in mind.

SOLID WASTE DISTRICT NO. 1 AND EXTENSIONS 1 AND 2 BID OPENINGS

Supervisor Marinaccio welcomed Mr. Bert Adams representing Bert Adams Disposal who submitted bids for the Dickinson Garbage District No. 1 and Extensions 1 and 2. The bids were as follows:

Adams Disposal Service	\$247,539.60	2 year contract
	\$362,934.00	3 year contract
Taylor Garbage Service	\$250,021.20	2 year contract
		(no bid submitted for 3 year contract)
Joe's Disposal Service, Inc. No bid submitted		

Town Supervisor Marinaccio stated that the bids will be reviewed by the Town Board before the final award is made at the September Work Session and Regular Meeting September 14, 2015.

SUPERVISOR'S REPORT

- Regarding the State and Municipal Facilities Program and Grant, Public Works Commissioner Joel Kie and Supervisor Marinaccio continue to work on getting required amount of quotes to meet the procurement policy before submitting the information to the grantor.
- The Zoning Board met on July 14 to review variance requests for the proposed Farmers Market which will be located behind Cornell Cooperative Extension. The variances were granted.
- Supervisor Marinaccio stated that the Planning Board did a site plan review of the proposed Farmers Market on July 15. The Planning Board voted to accept the plans.
- Supervisor Marinaccio stated that the **NY State Dept. of Transportation** completed the redesigned intersection of Front and Old Front Street. Mr. Marinaccio has received many calls from residents and from others voicing their support of the changes that make this intersection much safer for traffic. He stated that the turning lane is to accommodate large trucks.
- The Town of Dickinson's **State Equalization Rate** is 72.5. Mr. Marinaccio stated that in comparison, Chenango is 70, Fenton is 65.8, Conklin is 65.1, Town of Binghamton 66, Kirkwood 76.5, Maine 64.
- The Annual Ice Cream Social for the Children's Home is August 11, starting at 5 pm.
- Second quarter sales tax revenue share for our town is \$193,366.11. The first quarter amount was \$183,176.81.

SUPERVISOR'S REPORT (CONTINUED)

- As a reminder, Supervisor Marinaccio relayed that Fire District #2, Chenango, and Fire District #3, Port Dickinson contracts expire 12/31/15.
- Fees due to the Town of Dickinson for non-Broome County residents at **the Broome County Correctional Facility** during the second quarter of 2015 are \$15,288.42.
- The next meeting with the County Executive is scheduled for August 27 at 3:30 at the County Office Building.
- The Annual Fresh Food Faceoff/Fund Raiser for **Cornell Cooperative Extension** will take place on August 19 starting around 5 pm. Supervisor Marinaccio will once again be a judge for the many local restaurants that compete in this event. Visit Cornell Cooperative Extension's web site for additional information for the event.

Code Violations:

- 52 Sowden St, tall weeds and grass
- 48 Sowden Street, tall weeds and grass, roof needs to be replaced, siding and windows not properly maintained various debris in yard.
- 48 Downs Avenue, tall weeds and grass

Dog Control Report

The July Dog Control report has been submitted for both the town and village. Stray dogs, man running with dog in Port Dick Park, leash law violations, no dog license, found pit bull on a resident's front porch, dog abuse.

NYSEG Warning Letters:

No letters issued.

PUBLIC COMMENTS

Resident Jim Love requested clarification of a zoning question regarding the proposed **Dunkin Donuts** site plan. Attorney Blaise replied that the zoning board only deals with interpretations of the zoning code and only the Town Board can change the law. Mr. Love then offered the idea to link a walk bridge from the proposed new **Farmers Market** over to **Otsiningo Park**. Supervisor Marinaccio replied that the problem with that location is that at sundown it would become a bridge to nowhere because the park closes at dark. Mr. Marinaccio stated that the walk bridge is heavily used on a daily basis but thinks that it will ultimately be eliminated by the State. The public comment period was then closed by Supervisor Marinaccio.

APPROVAL OF MINUTES

On a motion by Councilwoman Exley, seconded by Councilman Burns to approve the Work Session and Regular Meeting Minutes of July 13, 2015. All in favor. Vote -4 Ayes, Nays-0 Absent - 1

ABSTRACT #8

Abstract Summary of Audited Vouchers for Funds in the amount of **\$185,397.32**. On a Motion from Councilman Gardner, seconded by Councilman Burns to approve. Vote Ayes – 4, Nays – 0. Absent -1

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

Unanimously passed and noted as duly adopted.

CHAIR

NBT

Supervisor Marinaccio stated that the town is in the process of transferring banking to NBT, hopefully to be completed by the end of the month.

PHELPS STREET EXTENSION

Supervisor Marinaccio stated that the town talked to **NBT** to obtain a loan for the Phelps Street extension project. In the process of preparing the resolution authorizing the borrowing for the project, Attorney Blaise stated that it was discovered that the Phelps Street area has been designated on the **DEC** map by the **State Historic Preservation Office** as a potential archeological site. Mr. Blaise’s colleague Attorney Nate Van Why is in contact with Phil, the contact at **SHPO**, and is waiting to hear back if the town is cleared to proceed with the project. If we get the okay from **SHPO**, no submittals will be required. If more information is required, Engineer Ron Lake and Public Works Commissioner Joel Kie will need to fill out a project description with maps locating the project and photographs of the project. The Town has other information that might be requested such as GIS, survey and tax maps.

The second issue is that one of the parcels adjoining Mrs. Burke’s property was previously cited for environmental remediation of hazardous waste. The board cannot put forward the resolution to authorize the loan for the project without doing a SEQRA review.

The process for clearance from **SHPO** could take 2 days to 2 months. Attorney Blaise stated that the board can either wait until the September meeting or call a special meeting for the purpose to prepare a resolution to authorize the bonding. Attorney Blaise will keep everyone posted on **SHPO**'s response. Councilman Burns and Supervisor Marinaccio stressed that the project is planned in order to avert an emergency situation.

MISINFORMATION

Supervisor Marinaccio expressed concern and frustration that misinformation is being spread following our monthly board meetings. Mr. Marinaccio made a request that attendees refrain from spreading misinformation and ask for clarification if they have a question.

2016 BUDGET PROCESS

Supervisor Marinaccio stated that the annual budget letters will be sent out this week regarding the 2016 budget. Supervisor Marinaccio reminded everyone that the tax cap is .73%.

ACCOUNTING FINANCIAL REPORTING

The town received a proposal from financial accounting consultant Mike Giovanazzo in the amount of \$3,500 annual fee. Mr. Giovanazzo is a former state auditor. His proposal was significantly lower than what the town is currently paying.

On a motion by Councilwoman Exley, seconded by Councilman Gardner to approve the authorization of Mike Giovanazzo as financial accounting consultant for the Town of Dickinson for an annual fee of \$3,500.

All in favor. Vote -4 Ayes, Nays-0, Absent-1.

All in Favor.

ATTORNEY

Attorney Blaise stated he will look over the garbage bids and make sure all the paperwork is filled out correctly and signed. The contract will be awarded at the Town Board's September meeting. Attorney Blaise noted that the bids were significantly higher than the current contract. Mr. Blaise will report back on the garbage bids next month.

RESOLUTION 2015-22

The following Resolution was offered by Councilman Gardner, 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:

Resolution declaring no environmental impact re local law amending dog control law.

(Copy on file in Town Clerk’s office).

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, Absent -1.

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

All in favor.

RESOLUTION 2015 - 23

The following Resolution was offered by Councilwoman Exley, 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:

Resolution approving the adoption of Local Law 1-2015 amending chapter 229 “Animals”.

(Copy on file in Town Clerk’s office).

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, Absent – 1.

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

All in favor.

TOWN BOUNDARY ANNEXATION MAP

Attorney Blaise received the revised survey and the check from the Schlesigers to pay for the revised survey. The survey map was submitted to the County but the County said that it needed to be submitted on mylar paper not regular paper. Attorney Blaises' office paid the \$15 for the mylar paper map which was then submitted to the County Clerk's Office. The **Broome County Planning Department** is preparing the maps. Once the maps are prepared, Attorney Blaise will circulate the maps to Town of Dickinson Clerk Susan Cerretani and Town of Chenango Clerk Rhonda Milks.

MARION STREET STUMP REMOVAL

Attorney Blaise received notification from Public Works Commissioner Joel Kie that the tree stump was removed and the DPW did all the work that it intended to do on the Marion Street property. Attorney Blaise gave his partner the go ahead to set up the closing to formally transfer the property over to the Katushas.

DPW AGREEMENT WITH THE VILLAGE

There is a meeting scheduled for Tuesday, August 11 to review the Department of Public Works agreement with the Village of Port Dickinson. Jeff Jacobs, Attorney Blaise's partner will be attending the meeting.

Administrative Assistant Beverly Wike, Public Works Commissioner Joel Kie and Supervisor Marinaccio will also be attending the meeting to explain improving efficiencies.

Supervisor Marinaccio mentioned that there is still some resistance from the Village.

Attorney Blaise stated that there are two key issues the village is concerned about; the Village Hall maintenance and the administrative fee that the Town is proposing. The Village is mostly concerned about the administrative fee escalating from year to year and they are concerned about getting locked in.

Supervisor Marinaccio stated that the administration fee that the town is proposing can be locked in for a number of years, not just the one year the Town is proposing. The Village will have 5 years to acclimate to the new Public Works system. The town needs to impress upon them the cost savings. They will get more efficiencies.

Attorney Blaise stated that for informational purposes, that for the retirement of one or two of their current employees there is a cost savings. The Town needs to show the Village that even with replacing those employees there is a cost savings and that even with the administrative fee there will be a cost savings. Mr. Marinaccio stated that the reason there is an administrative fee is that the Town will incur a 30 percent increase in responsibilities. Time would be taken away from our town residents.

Supervisor Marinaccio remarked that he would not be surprised if the proposal were turned down. He stated that the Village wants to show significant savings right away and that's not going to happen especially at the expense of our residents.

Councilman Burns asked if a vote from the Village Board will decide this. Supervisor Marinaccio said that he will ask that question in tomorrow's meeting. He stated that as of now, the Town has been dealing with Bob Akaar and Mayor Burke only, and that it would only seem fair to have it voted on by the Village Board.

RESOLUTION 2015 - 24

The following Resolution was offered by Councilman Gardner, 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:

Resolution approving NBT as the Town Depository.

Supervisor Marinaccio commented that he believes it will be a real pleasure doing business with **NBT Bank**.

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, Absent – 1.

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

All in favor.

Copy on file in Town Clerk's office

POLISH COMMUNITY CENTER LIQUOR LICENSE

Town Clerk Susan Cerretani notified the Town Board that the **Polish Community Center** submitted a notice of renewal of Liquor License application. Attorney Blaise stated that no further action is required on the Town's part.

COMMUNITY CHAMPIONS

Attorney Blaise commented on a letter that Code Enforcement Officer Stephen Rafferty received from an organization called **Community Champions**. This company provides services to municipalities to help them track, research, communicate and follow up with vacant and foreclosed properties and the banks that have mortgages on them. Attorney Blaise stated that the Town of Kirkwood is also interested in this service and they have invited a representative of **Community Champions** to meet with the **Kirkwood Town Board** September 1st at 6 PM. Supervisor Marinaccio expressed interest in attending the meeting.

TAX PETITION LITIGATION NEWMAN DEVELOPMENT GROUP

A Tax Petition has been filed by the **Newman Development Group** on two parcels. The Town Assessor, Jack Cahill stated that he will be in receipt of a report from Assessment Appraiser Consultant John McDonald tomorrow regarding this complaint. The litigation will be handled outside of the retainer so a resolution is needed to appoint Attorney Blaise to handle the matter. Attorney Blaise’s office has done work in the past for the **Newman Development Group** so Attorney Blaise has sent a waiver form to them. The **Newman Development Group** has another firm representing them. Supervisor Marinaccio needs to sign off waiving any potential conflicts with Attorney Blaise representing the Town in this case even though Attorney Blaise’s office has done work for the **Newman Development** group in the past.

RESOLUTION 2015 - 25

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:

**Resolution appointing Town Attorney Oliver Blaise to handle Art. 7 tax petition filed by Newman Development as litigation matter outside the retainer.
(Copy on file in Town Clerk’s office)**

Supervisor Marinaccio remarked that he appreciates all the work that Assessor Jack Cahill is doing on this matter and he is confident that the town will win. Attorney Blaise stated that these cases usually have to be negotiated and take time to play out.

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, Absent – 1.

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

All in favor.

HOTEL OCCUPANCY TAX LEGISLATION

Attorney Blaise presented a hotel occupancy tax draft handout from the State code for the board members to review and revisit at the September meeting. Supervisor Marinaccio stated that he thinks Assemblyman Clifford Crouch might be willing to sponsor us.

CHAIR

GARAGE SALES

Supervisor Marinaccio remarked that he has received several phone calls from people who want to know why the Town allows a particular house on Front Street, across from McDonald's to continually have garage sales. Supervisor Marinaccio refers to it as a 'Flea Market'. This resident has about six sales per year and operates as a business. There are concerns about parking and traffic safety issues. Supervisor Marinaccio talked to Kate Newcomb at the Sheriff's office who said that she will have someone check it out when there is another sale. Supervisor Marinaccio would like to see something change. He feels that safety is the biggest concern.

Code Enforcer Steve Rafferty sent the board members some information and laws to review about how other towns deal with yard and garage sale issues.

Councilman Gardner stated that there is another property on Front Street across from **GHS** that also has several garage sales per year. Councilman Burns stated that it presents a dangerous situation as far as traffic and parking is concerned.

PHELPS STREET EXTENSION

Supervisor Marinaccio has put together a letter to be reviewed by Commissioner Kie, Administrative Assistant Beverly Wike and the Town Board regarding the Phelps Street extension project. Mr. Marinaccio will send the letter to the Town of Kirkwood Supervisor asking for help paying for the project as 25 percent of the people who live on the road are Kirkwood residents. Another letter will be going out to all of the different entities affected - police departments, **NYS DOT**, fire departments, adjoining towns, etc.

DETENTION POND

In his absence, Councilman Morabito asked Supervisor Marinaccio to bring up the subject of the detention pond on Front Street next to **Starbucks** and ask if it is time to mow. All agreed that it needs to be mowed. Commissioner Kie remarked that in **Regal Theater's** defense, June was the second rainiest month and it has been difficult to mow.

PUBLIC WORKS – WATER DEPARTMENT & HIGHWAY DEPARTMENT

- Public Works Commissioner Kie reported that Bellaire was paved.
- **Polish Community Center** was paved along with the City of Binghamton.
- There is logging being done at the **Brickyard**, but the bigger issue is that a subcontractor for the State has been dumping concrete and steel re-bar off the highway at the bottom of **Brickyard**. Some questions that were posed were:
 - a. If the State is doing the dumping is it part of the mining permit?
 - b. Are they exempt because it's part of the project or part of the mining project?
 - c. Is it more than an acre?
 - d. Do we have authority to question?
 - e. Call **DEC**?
 - f. Call **DOT**?

It was decided that as a preliminary action Supervisor Marinaccio will contact **NYS DOT Director Jack Williams** to see what is going on.

- Town Landscaper is doing a great job.
- Public Works Commissioner Kie stated that he had a gentleman approach him the other day who is interested in giving the Town a proposed price on converting poles to LED lighting.

PLANNING & ZONING BOARD

None.

CODE ENFORCEMENT

Supervisor read a report from Code Enforcer Stephen Rafferty that stated that there was a fire at 211 Rundall Place on Friday as the result of an occupant working on his car near the garage and the car caught on fire:

“On Friday evening, at the request of Chief Delanoy, I responded to a fire call at 211 Rundall Place. The fire occurred as a result of an occupant working on his car near the garage and the car caught on fire. There were numerous code violations including propane tanks and five gallon gasoline cans in one of the bedrooms used by the occupants. There were also substances found that are used in the manufacturing of illegal substances, including muriatic acid and numerous propane tanks in the building, including bedrooms, kitchen and living room. There were also numerous electrical violations including 50 or so extension cords and each duplex wall outlet had a converter to change it to a four plug outlet. The back yard, not visible from the street was loaded with debris and unlicensed vehicles. In interviewing the son of the owner, he revealed that his former girlfriend was involved with drugs.

It appears that this son is working on vehicles at the house for his friends and some of the cleaning materials used in the automotive industry is also used in the manufacturing of drugs. It was for this reason that the drug task force made a sweep of the house and didn't find anything to indicate the manufacture of drugs.

After I receive the report from Broome County Fire Investigators and the Fire Chief, we will prepare a violation letter to be sent to the owner detailing the violations.”

MONTHLY FINANCIAL REPORTS

Councilman Gardner made a motion to accept the **2015 Monthly Financial Report** from the **Supervisor** dated **July 24th, 2015**. Motion to approve. On a motion by Councilman Burns seconded by Councilwoman Exley.

All in favor

TOWN CLERK MONTHLY FINANCIAL REPORTS

Councilman Gardner made a motion to accept the **Financial Report** for the **Town Clerk** for the month of July in the amount of **\$1,345.80**. On a motion by Councilman Burns seconded by Councilwoman Exley.

All in favor.

Town Clerk’s Report

JULY 2015 in the amount of: \$1,345.80.

<u>NYSDOH</u>	<u>\$45.00</u>
<u>NYS Ag & Markets spay/Neuter program</u>	<u>\$63.00</u>
<u>Supervisor Town of Dickinson</u>	<u>\$1,237.80</u>

PUBLIC COMMENTS

Councilwoman Exley commented that there are rumors circulating that **BOCES** has submitted an application for a building permit for something. Public Works Commissioner Joel Kie stated that **BOCES** is planning to re-do and re-shape the parking lot and the landscaping.

Public Works Commissioner Joel Kie stated that the drainage issues that the residents complained about at the last meeting have been corrected by the County.

Mr. Kie commented that two neighbors who live at the end of Maiden Lane don’t get along and are having water drainage issues. Commissioner Kie stated that the Publics Works Department is working with the neighbors to address and resolve the drainage issues at the end of the street.

On July 21st a very large Horse Chestnut tree fell onto the southbound lane of Front Street. Councilman Gardner praised Joel Kie and his Public Works Department for removing it. It was luck that no one was in the way of the falling tree.

The meeting was adjourned on motion of Councilman Gardner and seconded by Councilman Burns at 7:19 PM

Respectfully submitted,

Susan M. Cerretani

Town Clerk