

REGULAR MONTHLY MEETING
TOWN BOARD OF THE TOWN OF LIBERTY
May 18, 2015

At the Regular Monthly Meeting of the Town Board of the Town of Liberty held on May 18, 2015 at 7:00 p.m. at Town Hall, 120 North Main Street, Liberty, New York, the following Town Board Members were present:

Present:

Supervisor Charlie Barbuti
Councilperson Dean Farrand
Councilperson Russell Reeves
Councilperson Brian McPhillips

Absent:

Councilperson Thomas Hasbrouck

Recording Secretary:

Town Clerk Laurie Dutcher

Also present:

Town Attorney Kenneth Klein
Finance Director Earl Bertsch
Cheryl Gerow Budget and Accounting Clerk
Water & Sewer Foreman Thomas Kehrley
Confidential Secretary Angela Dalton
Deputy Town Clerk Sara Sprague
Nancy Sunshine
Todd Gallo
Mary Heinle
Judy Siegel
Joel Rosenfeld

After the Pledge of Allegiance, Supervisor Barbuti called the meeting to order at 7:00 p.m.

CORRESPONDENCE

1. A copy of the letter sent to Mark Lewis at the NYSDEC regarding the response to the SSES Report.

RECOGNIZE THE PUBLIC

Mary Heinle

Ms. Heinle inquired about the status of the Savad Extension

Dave Ohman

Upper Ferndale Road Waterline

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- Town wanted to do design and get in bids and see what the price is before proceeding
- On-site Surveying wrapping up now
- Delaware has prepared and submitted on May 14 the contract proposal for design and bidding phase work - attached

• Scope and cost breakdown:	
Engineering Services	
• Preliminary Design	\$2,000
• Design Services	\$35,000
• Bid/Award Services	<u>\$6,000</u>
Subtotal – Delaware Engineering	\$43,000
• Subcontracts	
○ Surveying	\$9,800
○ Geotechnical Investigations	<u>\$6,000</u>
Subtotal – Subcontracts	\$15,800
Professional Services Total	\$58,800

See Table 1- Anticipated Work and Fee Schedule for the anticipated cost and fees breakdown.

Current Project cost estimate for 4,400 feet of new 8” waterline = \$989,000

- Costs are very near what was in the January 2015 project estimate. Adjusted subcontract costs based on quote and revised work
- If this is acceptable to the Town, we recommend that the Town Board resolve to authorize the Town Supervisor to endorse the contract dated May 14, 2015 with Delaware Engineering for design and bidding phase services for the Upper Ferndale Road waterline project for a not to exceed price of \$58,800.

2. White Sulfur Springs Phase 5 - CFA Grant Project

- Surveying subcontractor completed collection of topographic/elevation/location information needed for design drawings and provided base drawing to Delaware
- Discussions with NYSDOT continue
- Geotechnical borings – needed for design of the directional boring work - working on subcontract
- Design work underway
- Engineering contract amendment to include OCR requirements prepared and forwarded to Town Supervisor on May 14, 2015 – attached
- Does not affect the scope or cost of our contract.

DELAWARE ENGINEERING, D.P.C.

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- If a Board resolution is required for this type of amendment, we recommend that the Board authorize the Town Supervisor to execute the May 14, 2015 contract amendment with Delaware Engineering to include the OCR requirements.

3. General Services Contract

- General services contract prepared and attached for Town review
- Provided to allow us a way to respond to Town needs on an as needed basis
- Per contract, Delaware will provide/perform work as directed by the Town on a time and expenses basis, for one year period (shown as June 1, 2015- May 31, 2016)
- Work performed will be itemized and invoiced by assigned task, and explained in the invoice cover letter, so that it is clear what is being done and what costs are
- Contract budget left blank in this draft

4. Loomis Sewer District I/I Program

- SSES report prepared and forwarded via Fed Ex to NYSDEC on February 26
- Generated reply to April 22 Mark Lewis, NYSDEC letter – sent out by Town on May 13
- Includes list and schedule of work – see attached
- Most of the work can/will be done by the Town
- Will need to provide DEC with a progress update for 2015 work at end of year
- Our contract work for I/I was complete with submittal of the I/I report
 - If town would like us to assist with I/I work we can do under general services on time and expenses or provide a contract proposal with a budget estimate

5. Loomis WWTP Upgrade – Phase 2

- *Plans/Specs/Engineering Report:*
 - Plans and Specs sent to NYSDEC and NYSEFC on April 9, 2015
 - Engineering Report sent to NYSEFC on April 28 and NYSDEC on April 29, 2015
 - The submittal of these two items satisfy the Order on Consent item 3. G.
 - DRBC – sending along courtesy copy to them – per email, if it is the same as what was proposed previously for Phase 2 they don't need to review.
 - Phase 2 designed assuming Town will modify the SPDES permit to allow for a higher phosphorous limit (see below) and no more development (additional flow sources) will occur
 - May15 telephone conference with Shohreh and Meena George NYSDEC
 - Need SPDES permit modification so that they can get the permit mod in review and out to environmental notice
 - Need SPDES permit modified so that they can approve the design
 - Need permit to match what design says
 - DEC will continue to review the plans and specs

- Town needs to submit SPDES permit mod and amendment to the Engineering Report about what the SPDES permit mod will be for (i.e., 80,000 gpd and “monitor” phosphorous)
- We are working on the SPDES permit mod and Engineering report amendment and plan to get them out this week
- SPDES permit mod not included in our contract so we will log the time and expenses (e.g., mailings to DEC) and submit a contract amendment to the Town once it is all done with DEC.

DELAWARE ENGINEERING, D.P.C.

- Engineering Report Project budget included \$20,000 for SPDES permit mod work so we can roll this work into the project.
- **Phase 2 Project Cost/Budget:**
 - Looking to keep project cost (including construction, engineering, other cost) at less than or equal to \$2M.
 - Project Cost Estimate included in the Engineering Report = \$2.2 million
 - includes \$200,000 contingency
 - **Phase 2 O&M Cost Summary:**
 - Current 2015 O&M Budget - \$104,000
 - Projected after Phase 2 comes on line:
 - 50,000 gpd No Phosphorous Removal Required = \$115,000
 - 50,000 gpd With Phos removal to 1.3 lb/d = \$135,000
 - Will require SPDES permit modification – see below
 - 100,000 gpd with phos removal to 1.3 lb/d = \$198,000
 - Will require SPDES permit modification – see below
 - **SPDES Permit – Flow and Phosphorous:**
 - Preparing SPDES permit mod for limits after Phase 2 is complete to basically revert back to limits that were in place prior to 2012 permit
 - to request flow limit be reduced from 100,000 to 80,000 gpd
 - to request total phosphorous limit be reduced from 0.5 mg/l and 0.4 lb/d to monitor
 - Submit to Region 3 permit person who has been working on this (Aparna Roy)
 - She will review this while DEC plan reviewers are reviewing the Phase 2 design
- 6. Swan Lake WWTP**
- Will be refining the concept for new sludge dewatering with Water and Sewer
 - Looking at screw press for dewatering
 - Recommended increase in sludge withdraw from Loomis WWTP adds incentive to move this ahead

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7. Water System DRBC Application

- No new comments back from DRBC Application

8. Attachments

- May 14, 2015 Upper Ferndale Road Contract proposal for design and bid work
- May 14, 2015 White Sulphur Springs Phase 5 – Amendment to Delaware’s contract to include OCR Requirements
- General Services Contract Proposal
- Reply to Mark Lewis’ April 22, 2015 Loomis SSES Report comment letter

9. Items Reviewed at Meeting but not distributed:

-

Discussion regarding the **Stevensville Hotel Sale**:

CEO VanEtten filled the Board in on the condition of the Stevensville Hotel and the fact that the potential buyers would like to have the camp up and running by June. The CEO advised that the building has mold and a lot of moisture and that it has to be dried out. Discussion followed on the mold standards (which there are none) and the moisture standards and the amounts allowed. The CEO advised that he would provide the board with the allowable moisture standards in the morning. It was decided that an outside firm would be hired at the expense of the owners to do testing & come up with a remediation plan under the direction of CEO VanEtten.

RESOLUTION NO 103-15

APPROVAL OF AUDIT

Motion by Councilperson Dean Farrand, seconded by **Councilperson Brian McPhillips**, the Town Board approved the following:

- May, 2015 Abstract:
Claims #531to #911 totaling \$431,579.38
- April, Post Audit:
Claims #729 to #741 totaling \$148576.41
- General Ledger Abstract:
Claims #93 to #120 totaling \$253,710.89

4 AYES - Carried

1 Absent – Councilperson Thomas Hasbrouck

RESOLUTION NO 104-15

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APPROVAL OF CONTRACT FOR PROFESSIONAL SERVICES SUBMITTED BY DELAWARE ENGINEERING FOR THE DESIGN & BIDDING OF THE FERNDALE WATERLINE PROJECT IN THE AMOUNT OF \$58,800.

Motion by Supervisor Charlie Barbuti, seconded by **Councilperson Dean Farrand**, the Town Board of the Town of Liberty does hereby approve the contract submitted by Delaware Engineering in the amount of \$58,800 for the design and bidding of the Ferndale Waterline Project.

4 AYES - Carried
1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO 105-15

APPROVAL OF MINUTES

Motion by Supervisor Charlie Barbuti, seconded by **Councilperson Russell Reeves**, the Town Board approved the following minutes as submitted:

- Public Hearing 4/20/15
- Dept. Head Mtg. 5/4/15

4 AYES - Carried
1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO 106-15

ACCEPTANCE OF MONTHLY REPORTS

Motion by Supervisor Charlie Barbuti, seconded by **Councilperson Brian McPhillips**, the Town Board approved the following:

- Town Clerk's Monthly Report 4/2015
- Monthly Town Board Revenue & Expense Report as of 4/30/15
- Supervisor's Report 4/15

4 AYES - Carried
1 Absent- Councilperson Thomas Hasbrouck

OLD BUSINESS

RESOLUTION NO 107-15

APPROVAL TO HIRE FOCUS MEDIA FOR (2) SWOT SESSIONS

Motion by Councilperson Dean Farrand, seconded by **Councilperson Brian McPhillips**, the Town Board of the Town of Liberty does hereby hire Focus Media to perform the following:

STRATEGIC PLANNING:

For a flat fee of \$7,500, Focus Media will provide the following:

- Conduct two SWOT sessions with key stakeholders and provide analysis
- Develop key strategic marketing recommendations
- Deliver all top-tier key messaging

4 AYES - Carried

1 Absent- Councilperson Thomas Hasbrouck

NEW BUSINESS

RESOLUTION NO 108-15

TOWN BOARD REQUESTS THAT THE COUNTY OF SULLIVAN PETITION THE STATE OF NEW YORK DEPARTMENT OF TRANSPORTATION TO ESTABLISH A LOWER SPEED LIMIT ON BRISCOE RD., SWAN LAKE, NY

Motion by Councilperson Russell Reeves, seconded by **Councilperson Dean Farrand**, the Town Board of the Town of Liberty does hereby request with the submittal of a completed TE-9 that the County of Sullivan Department of Public Works request the State of New York Department of Transportation to establish a 30 mile per hour speed limit on Briscoe Rd.CR 142, from the intersection of CR 15 to the intersection of TR 85.

4 AYES - Carried

1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO 109-15

APPROVAL OF WATER RATE INCREASES FOR THE SHERWOOD WELLS

Motion by Supervisor Charlie Barbuti, seconded by **Councilperson Dean Farrand**, the Town Board of the Town of Liberty does hereby approve the following water rate increase for the Sherwood Wells:

- \$2.75 per 1,000 gallons

4 AYES - Carried

1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO 110-15

APPROVAL OF ADOPT A ROAD REQUEST BY VALERIE TAGGART FOR DAHLIA RD.

Motion by Councilperson Brian McPhillips, seconded by **Councilperson Russell Reeves**, the Town Board of the Town of Liberty does hereby approve the Adopt A Road application from Valerie Taggart to adopt Dahlia Rd. from Golub Hill Rd. to the Town of Rockland line on Dahlia Rd.

4 AYES - Carried
1 Absent- Councilperson Thomas Hasbrouck

APPROVAL OF CHANGE ORDERS SUBMITTED BY SULLIVAN BUILDERS FOR THE PORCH RESTORATION PROJECT

The board decided to have the contractor cut several test ports before any work begins.

RESOLUTION NO 111-15

APPOINTMENT OF PAIGE RUSSELL TO THE PARKS & RECREATION BOARD AS A STUDENT LIASON

Motion by Councilperson Brian McPhillips, seconded by **Councilperson Dean Farrand**, the Town Board of the Town of Liberty does hereby appoint Paige Russell as a *Student Liason* to the Parks & Recreation Board.

4 AYES - Carried
1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO 112-15

DIANE SILVER APPOINTTED TO THE 2016 BOARD OF ASSESSMENT REVIEW CONTIGENT UPON THE RESIGNATION OF PAUL MURPHY

Motion by Councilperson Brian McPhillips, seconded by **Councilperson Russell Reeves**, the Town Board of the Town of Liberty does hereby authorize the appointment of Diane Silver to the 2016 Board of Assessment Review, contingent upon the resignation of Paul Murphy.

4 AYES - Carried
1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO 113-15

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EXECUTIVE SESSION

Motion by Councilperson Dean Farrand, seconded by **Councilperson Russell Reeves**, the Town Board of the Town of Liberty does hereby go into Executive Session at 9:20 p.m.

4 AYES - Carried
1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO 114-15

OUT OF EXECUTIVE SESSION

Motion by Councilperson Russell Reeves, seconded by **Councilperson Brian McPhillips**, the Town Board of the Town of Liberty does hereby come out of Executive Session at 9:50 p.m.

4 AYES - Carried
1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO 115-15

TO SETTLE THE LITIGATION INITIATED BY
AJM AT SWAN LAKE LLC & AJM @ SWAN LAKE ESTATE, LLC PETITIONER
AGAINST
DEBORAH S. SHEA, ASSESSOR AND THE BOARD OF ASSESSMENT REVIEW OF THE
TOWN OF LIBERTY, RESPONDENTS

WHEREAS, Petitioner has served and filed a notice of protest and petition for review and reduction of assessment found in the years 2011, 2012, 2013 and 2014 with respect to certain parcels owned by the Petitioner located in the Town of Liberty ("Town"); and

WHEREAS, the Town has appeared in said proceedings through Walter F. Garigliano, Esq.; and

WHEREAS, Petitioner has appeared in said proceedings through Jay L. Zeiger, Esq. of Kalter, Kaplan, Zeiger & Forman; and

WHEREAS, following negotiations among the parties hereto and their counsel, a settlement of all matters in dispute has been reached; and

WHEREAS, it appears that the proposed settlement of all matters in dispute will result in a fair and equitable resolution of the Petitioner's complaint with respect to the 2011, 2012, 2013 and 2014 assessment roll.

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NOW, THEREFORE, BE IT HEREBY RESOLVED, that Walter F. Garigliano, Esq. be authorized, directed and allowed to enter into a formal written stipulation of settlement with the attorney of record for Petitioner, which stipulation of settlement has been provided to the Town Board for complete reading and filing on this date; and, be it further

RESOLVED, that the said Walter F. Garigliano, Esq. and/or Deborah S. Shea, Assessor, be, and they hereby are, authorized, empowered and directed to execute the proposed written stipulation of settlement, and to thereby bind the Town thereto; and, be it further

RESOLVED, that the said Walter F. Garigliano, Esq., be, and he hereby is, authorized, empowered and directed to do all other things, and to execute any and all other documents, which are reasonably necessary and incidental to finalization of this settlement.

Moved by Supervisor Charlie Barbuti, seconded by Councilperson Dean Farrand and a roll call vote thereon as follows:

Charles Barbuti	voting AYE
Dean Farrand	voting AYE
Thomas Hasbrouck	voting ABSENT
Brian McPhillips	voting AYE
Russell Reeves	voting AYE

4 AYES - Carried

1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO 116-15

TO SETTLE THE LITIGATION INITIATED BY
MAIN STREET LIBERTY, LLC, PETITIONER
AGAINST
TOWN OF LIBERTY, RESPONDENT

WHEREAS, Petitioner has served and filed a notice of protest and petition for review and reduction of assessment found in the years 2013 and 2014 with respect to certain parcels owned by the Petitioner located in the Town of Liberty ("Town"); and

WHEREAS, the Town has appeared in said proceedings through Walter F. Garigliano, Esq.; and

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WHEREAS, Petitioner has appeared in said proceedings through Shawn Law Offices, P.C.; and

WHEREAS, following negotiations among the parties hereto and their counsel, a settlement of all matters in dispute has been reached; and

WHEREAS, it appears that the proposed settlement of all matters in dispute will result in a fair and equitable resolution of the Petitioner's complaint with respect to the 2013 and 2014 assessment rolls.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that Walter F. Garigliano, Esq. be authorized, directed and allowed to enter into a formal written stipulation of settlement with the attorney of record for Petitioner, which stipulation of settlement has been provided to the Town Board for complete reading and filing on this date; and, be it further

RESOLVED, that the said Walter F. Garigliano, Esq. and/or Deborah S. Shea, Assessor, be, and they hereby are, authorized, empowered and directed to execute the proposed written stipulation of settlement, and to thereby bind the Town thereto; and, be it further

RESOLVED, that the said Walter F. Garigliano, Esq., be, and he hereby is, authorized, empowered and directed to do all other things, and to execute any and all other documents, which are reasonably necessary and incidental to finalization of this settlement.

Moved by Councilperson Dean Farrand, seconded by Supervisor Charlie Barbuti and a roll call vote thereon as follows:

Charles Barbuti	voting AYE
Dean Farrand	voting AYE
Thomas Hasbrouck	voting ABSENT
Brian McPhillips	voting AYE
Russell Reeves	voting AYE

4 AYES - Carried
1 Absent- Councilperson Thomas Hasbrouck

RESOLUTION NO. 117-15

TO SETTLE THE LITIGATION INITIATED BY
SWAN LAKE COMMONS, LLC

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*AGAINST
DEBORAH S. SHEA, ASSESSOR AND THE BOARD OF ASSESSMENT REVIEW OF THE
TOWN OF LIBERTY, RESPONDENTS*

WHEREAS, Petitioner has served and filed a notice of protest and petition for review and reduction of assessment found in the years 2012, 2013 and 2014 with respect to certain parcels owned by the Petitioner located in the Town of Liberty ("Town"); and

WHEREAS, the Town has appeared in said proceedings through Walter F. Garigliano, Esq.; and

WHEREAS, Petitioner has appeared in said proceedings through Jay L. Zeiger, Esq. of Kalter, Kaplan, Zeiger & Forman; and

WHEREAS, following negotiations among the parties hereto and their counsel, a settlement of all matters in dispute has been reached; and

WHEREAS, it appears that the proposed settlement of all matters in dispute will result in a fair and equitable resolution of the Petitioner's complaint with respect to the 2012, 2013 and 2014 assessment roll.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that Walter F. Garigliano, Esq. be authorized, directed and allowed to enter into a formal written stipulation of settlement with the attorney of record for Petitioner, which stipulation of settlement has been provided to the Town Board for complete reading and filing on this date; and, be it further

RESOLVED, that the said Walter F. Garigliano, Esq. and/or Deborah S. Shea, Assessor, be, and they hereby are, authorized, empowered and directed to execute the proposed written stipulation of settlement, and to thereby bind the Town thereto; and, be it further

RESOLVED, that the said Walter F. Garigliano, Esq., be, and he hereby is, authorized, empowered and directed to do all other things, and to execute any and all other documents, which are reasonably necessary and incidental to finalization of this settlement.

Moved by Councilperson Russell Reeves, seconded by Councilperson Brian McPhillips and a roll call vote thereon as follows:

Charles Barbuti	voting AYE
Dean Farrand	voting AYE
Thomas Hasbrouck	voting ABSENT

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Brian McPhillips voting AYE

Russell Reeves voting AYE

4 AYES - Carried

1 Absent- Councilperson Thomas Hasbrouck

ADJOURN

On a motion by Councilperson Brian McPhillips, seconded by Councilperson Russell Reeves the Town Board of adjourned the meeting at 9:51 p.m.

Laurie Dutcher, Town Clerk