

Canandaigua Town Board  
Regular Meeting  
April 7, 2009  
7:00 pm

Present: Oksana Fuller	Councilperson
David Dawson	Councilperson
Marion Cassie	Councilperson
Ralph Brandt	Councilperson
Lloyd Kinnear	Supervisor
Jim Hecker	Highway Superintendent
Ron Brand	Planning Consultant
Carol Maue	Attorney for the Town

Others present: Tom Knapp, Ron Stringham, Dennis Brewer, Reid Hankin, J Goodman, Vince Burke, Jack Kellogg, P. Herbig, Terry Fennelly, Kevin Reynolds, Victor Arsenhut, Greg Hotaling, Yvonne Chavez and others who did not sign in.

6:30 pm - presentation of Geotilities by Rocco Venezia

Pledge of allegiance

Supervisor Kinnear called the meeting to order at 7:00 pm and read the Rules of Procedure.

A motion was made by Councilman Brandt, seconded by Councilman Dawson to suspend with the reading of the minutes of March 17, 2009.

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

All those in favor of adopting the minutes of March 17, 2009, as written.

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

By common consent the bill of Morris and Jones will not be added to this abstract.

A motion was made by Councilperson Cassie, seconded by Councilman Brandt that after audit and review of the bills abstract #6 -\$152,210.64 general fund, \$116,047.21 highway fund, \$14,549.91 water fund, \$5,875.00 Hicks Dev. Capital Project, \$3,825 Landings Drainage District pay bills as on the abstract.

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

7:10 pm Supervisor Kinnear opened the public hearing on the Purdy/Mobile Road Sewer District Small Cities Grant and advised it had been properly advertised.

Ron Brand -this is the second public hearing on the above project that the Town will be re-submitting for a CDB grant. The purpose of this public hearing is to explain the process that is involved. We have received additional response from the surveys that we sent out. The process calls for the application to be submitted April 24, 2009. We have been working with Ontario County Soil and Conservation to make sure the soils in that area will accept on site waste water treatment systems. Also, working with the Town Engineer on historical information on water lines. The project cost is estimated at \$1,007,000.00 with \$600,000 coming from the Small Cities Grant and \$407,000 from debt service to the extension. We also submitted an application to the Governor's office for an economic stimulus package on February 28<sup>th</sup>, that puts us in competition with everyone else.

Greg Hotaling - gave an overview of the scope of the project that will serve approximately 105 equivalent dwelling units. Estimated cost to a typical single family home is:

Debt service (30 yr @ 6%)	\$282 year
2009 annual O & M and treatment	<u>280</u>
Total	\$562.

Plus a one time hook up charge        \$1,900

Estimated cost of the sewer service line between your home and the clean out at the road r.o.w. and the abandonment of the septic tank is between \$2,000 and \$3,000.

Approvals are also needed from NYS Ag and Markets, SHIPPO, DOT, DEC and Town of Farmington. If the annual cost of sewer exceeds \$739 approval will be needed from Audit and Control.

Supervisor Kinnear closed the public hearing at 7:22 pm.

A motion for MRB, to prepare a resolution for the formation of the Purdy Rd Sewer District moved by Councilman Brandt, seconded by Councilperson Cassie. Motion was amended to Attorney Maue to prepare the resolution. 5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

Amended motion that Attorney Maue prepare the resolution for the formation of the Purdy Rd. Sewer District:

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

### **PRIVILEGE OF THE FLOOR**

Fran Killian from Finger Lakes Vacation Rental Manager's Association was going to give a presentation tonight but had a conflict. The Board all received an e-mail of his presentation.

### **TABLED RESOLUTION FROM 2/13/09**

The following resolution remained on the table.

ESTABLISHING FORMAL ADOPTION PROCESS

AMENDMENT TO CHAPTER 24 OF TOWN CODE

WHEREAS, the Canandaigua Town Board (hereinafter referred to as Town Board) has received a draft local law amending Chapter 24, Section 24-6. O., Park Use Regulations, of the Town Code from the Town Code Committee; and

WHEREAS, the Town Board desires to give formal consideration to said amendment.

NOW, THEREFORE BE IT RESOLVED that the Town Board does hereby authorize a public hearing be scheduled on said text amendment to be held on Tuesday, March 17, 2009 commencing at 7:00 p.m., in the public meeting room, in the Town Hall.

Town Board Regular Meeting - February 17, 2009

BE IT FURTHER RESOLVED that a copy of said local law be forwarded to the Town Parks & Recreation Committee for their review and comment prior to the public hearing date established above herein.

BE IT FURTHER RESOLVED that the Town Planner is directed to prepare a draft determination of significance on said text amendment as provided for under the State Environmental Quality Review (SEQR) Regulations.

BE IT FINALLY RESOLVED that the Town Clerk is hereby directed to publish a legal notice of said public hearing in the Town's Official Newspaper, in accordance with the provisions of New York State Town Law.

### **Tabled Resolution from 3/3/09**

Motion made by Councilperson Cassie, seconded by Councilman Dawson to bring the following off the table.

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

RESOLUTION TO AMEND THE EMPLOYEE MANUAL TO INCLUDE A MEDIA RELATIONS POLICY AND DISCLOSURE OF INFORMATION POLICY

WHEREAS, the Town's human resources consultants, Public Sector HR Consultants LLC, have recommended that all towns include a policy regarding "Media Relations" and a policy regarding "Disclosure of Information" in the Town's "Employee Manual", and;

WHEREAS, Public Sector HR Consultants LLC, has provided sample policy language for inclusion in a town's Employee Manual, and;

WHEREAS, confidential information (a Board of Ethics determination) that was exclusively in the possession of 6 elected Town Officials (Supervisor, Town Clerk, and 4 Town Board members) has previously been sent anonymously to the local newspaper, and;

WHEREAS, sensitive attorney-client privileged information in "draft form" has also been given to the local newspaper in the past without authorization of the client (the full Town Board), and;

WHEREAS, these previous releases to outside parties of attorney-client privileged information and confidential Board of Ethics determinations constitute a breach of New York State General Municipal Law Section 805 B, and the Town of Canandaigua Code of Ethics, and;

WHEREAS, other Town documents have indiscriminately been sent to outside parties by Town Staff without going through the proper channel for release after review by the Records Management Officer, and;

WHEREAS, it is in the best interest of the Town of Canandaigua to have a policy and procedure for media relations, as well as a uniform procedure for the distribution of Town information and documents that insures conformance with the Freedom of Information Act.

NOW, THEREFORE BE IT RESOLVED that the policies articulated in "Attachment A", provided herewith, are adopted by the Town of Canandaigua Town Board and become effective immediately, and;

BE IT FURTHER RESOLVED that "Attachment A" shall be forwarded to Public Sector HR Consultants LLC to be added to the Employee Manual, and;

BE IT FURTHER RESOLVED that a copy of these adopted new policies be distributed to all Town employees and paid consultants immediately.

### Revised Attachment "A"

#### Disclosure of Information and Media Relations Policy

(to be added to the Employee Handbook)

Policy Statement – The Town promotes open government and complies with all requirements regarding public access to information. However, the Town recognizes that certain documents, records and other information pertaining to Town operations and activities may contain sensitive and confidential information, for example, information regarding matters under consideration for implementation by the Town, the acquisition or sale of land, and information about Municipal Officers and other public officials, Employees, Consultants, Town residents, applicants, vendors and other individuals or entities who do business with the Town, on behalf of the Town and/or its residents ("Town Information"). Town Information cannot be photocopied, duplicated, scanned, emailed, mailed, discussed, disseminated or otherwise disclosed to any individual or entity, by any Municipal Officer (including but not limited to any board or committee member), Employee or Consultant except as may be required by the Freedom of Information Law (FOIL) or any other applicable laws and regulations. All Town Information shall be disseminated and disclosed to Municipal Officers, Employees and Consultants on a "need to know" basis. Municipal Officers, Employees and Consultants are prohibited from discussing or otherwise disclosing Town Information to other Municipal Officers, Employees and Consultants who do not have a legitimate Town business reason to know or possess such information. Town Information shall not under any circumstances be discussed with or disclosed to family members or friends by any Municipal Officer, Employee or Consultant. As stated in more detail below in the "Responsibility for Security of Confidential Information" section, any Town Information to be disclosed pursuant to FOIL may be disclosed only by the duly appointed Records Management Officer.

Responsibility for Security of Confidential Information – All Municipal Officers, Employees and Consultants, including but not limited to elected officials, board members, committee members, department heads, consultants and Employees are responsible for maintaining the security of all Town Information, including any documents, records and other information within their department operations. Any request from any person or entity for disclosure of information under the Freedom of Information Law (FOIL) or any other applicable laws or regulations must be submitted to the Town's Records Management Officer. Town Information that has not been officially requested under FOIL from the Records Management Officer shall not be disclosed to any person or entity in any format by any Municipal Officer or Employee. Town Information that is deemed confidential by applicable laws and regulations shall not be disclosed absent a prior, written opinion from the attorney for the Town that such disclosure is permitted as a matter of law.

Employee Personal Information – Municipal Officers, Employees and Consultants shall not provide a caller or visitor with confidential information regarding any Municipal Officer, Employee, Town Legal Counsel or Consultant, including home addresses and personal telephone numbers. The caller/visitor's name and telephone number should be recorded and a message forwarded to the intended recipient for response.

Media Relations Officer - The Town Board may designate at any time one or more individuals to act as a Media Relations Officer for the Town. Such person(s) shall be the sole conduit for any and all official communications in any form to the media regarding Town operations, business and affairs. Such person(s) may be a member of the Town Board, an attorney for the Town, or a professional media spokesperson in the sole discretion of the Town Board. All such Media Relations Officers serve at the pleasure of the Town Board and may be removed at any time by majority vote of the Town Board for any reason.

#### Discussion.

Kevin Reynolds - County Rd. 30 - thought that there needed to be more clarification on what "town information" is.

Terry Fennelly - felt that the language in the policy statement regarding matters under consideration for implementation by the Town is just about anything and this could be construed to be sensitive information.

Jack Kellogg-Ashton Place, - didn't feel that this motion was necessary.

Dennis Brewer - asked if he could speak to the media about the parks and rec and the trails committee without going through the Media Officer. They replied yes.

Priscilla Herbig - thought people should review the Dept. Of State web site for Freedom of Information.

Discussion followed on the definition of "Town Information", Media Officer, difference between Records Management Officer and Media Officer and etc.

Supervisor Kinnear called the question.

Roll Call: Fuller	aye
Dawson	aye
Cassie	aye
Brandt	nay
Kinnear	nay

General consensus that the employee handbook be amended as of 4/7/09 to include this policy.

### **Tabled resolution from 3/17/09**

A motion was made by Councilperson Cassie, seconded by Councilman Dawson to take the following off the table: A motion to reword the "2009 Fee Schedule" on page 3 to simply read "home occupation".

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

Discussion

Motion made by Councilman Brandt to table the motion to allow the "special use committee" to continue their review seconded by Councilperson Fuller

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

#### PRESENTATION OF PETITIONS, COMMUNICATIONS, AND CORRESPONDENCE

- Letter from Bill Wright regarding Stimulus Package Money allocations
- Schedule of Ontario County planning Department Sponsored Training 2009
- Southern Tier West Local Government Conference Training May , 2009
- Meeting Minutes from Ontario County IDA February 23, 2009
- Meeting Minutes from Ontario County Revolving Loan Fund 2/2/09, 2/3/09, and 2/17/09
- Notice of divestment from Time Warner
- Notice of change of Services from Time Warner
- Invitation for The 2009 Lake Ontario Basin Forum
- Announcement of Spring 2009 Local Government Workshop May 15, 2009 presented by GFLRPC
- Media Briefing Presentation by Finger lakes Vacation Rental Manager's Association (disseminated via e-mail)

### **HIGHWAY DEPARTMENT**

1. Planning Buffalo St. Ext. Culvert
2. Passed out information for a field mower. Will discuss further on 4/21
3. Presented the Geotilities proposal for review. Will work up a return of investment.

### **ASSESSORS REPORT**

1. Has had 240 informal visits on the re-val.
2. Explained the sales in the Town, and that they went up 2% from 7/1/07 - 7/1/08. They are now pretty flat. The trend is that it is taking longer to sell and that there are more houses on the market.
3. Received the 2008 Annual Aid certification for the 4<sup>th</sup> year making the Town eligible to receive up to \$5.00 per parcel in State Aid.

### **PLANNING DEPARTMENT**

1. Pactiv grant was extended 6 months for close out and inspections.
2. The PDR for Hicks could be wrapped up by June.

Supervisor Kinnear - we were told that once the budget was adopted we would be told the results of the FPIG 12, and we do not know when we will get those results. We have no ideal where we stand with FPIG 13 as the state has taken money from the EPA fund.

Short discussion on the easement from the Wegman's Villas to the City. A stone dust trail will go over the sewer line into the City.

**The following was moved by Supervisor Kinnear seconded by Councilman Brandt**

**CRITERIA FOR DETERMINING SIGNIFICANCE**

**ACTION - Buffalo Street Extension Culvert Replacement at Sucker Brook**

**Whereas**, the Town of Canandaigua Town Board (hereinafter referred to as Town Board) has determined the proposed Buffalo Street Extension Culvert Replacement at Sucker Brook Project (hereinafter referred to as Action) to be an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

**Whereas**, the Town Board has reviewed and does hereby accept Parts 1 and 2 of the Short Environmental Assessment Form, dated March 9, 2009 prepared by Gregory Hotaling, P.E., Town Engineer; and

**Whereas**, the Town Board has reviewed and does hereby accept the supplemental information provided by the Director of Planning & Development, dated March 31, 2009; and

**Whereas**, the Town Board finds that the Short Environmental Assessment Form creates a reasoned elaboration of the impacts likely to result from the Town Board's action to approve the proposed Action; and

**Whereas**, the Town Board has given consideration to the criteria for determining significance as set forth in Section 617.7 ( c ) (1) of the SEQR Regulations and the information contained in Parts 1, and 2 of the Short Environmental Assessment Form prepared by both the Town Engineer and the Town Planner.

**Now, therefore, be it resolved** that the Town Board has reasonably concluded the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 of the State Environmental Quality Review (SEQR) Regulations:

- there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

**The Town Board finds that there has been no identified adverse impacts associated with any of the above elements of the environment that would likely be affected from the Action.**

- there will not be large quantities of vegetation or fauna removed from the future planned development site or destroyed as the result of the proposed action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed action; there will not be a significant impact upon habitat areas on any site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on any future development of the subject site;

**The Town Board finds that there has been no identified adverse impacts associated with any of the above elements of the environment that would likely be affected from the Action.**

(iii) there are no known Critical Environmental Area(s) that will be allowed to be disturbed on the PD zoned site which will be impaired as the result of the proposed action;

**There are no established Critical Environmental Area(s) in the Town of Canandaigua.**

(iv) the overall density of the site will be consistent with the adopted Town Comprehensive Plan land use recommendations;

**The intensity of site development is consistent with previously approved Planned Unit Development District Maps for Old Brookside and the Zoning Criteria for lands adjacent to the culvert replacement.**

(v) there will be no disturbance of any known important historical, archeological, architectural, or aesthetic resources on the site, or will the proposed action impair the existing community or neighborhood character;

**The Town Board finds that there has been no identified adverse impacts associated with any of the above elements of the environment that would likely be affected from the Action.**

(vi) there will not be a major change in the use of either the quantity or type of energy resulting from the proposed action;

**The Town Board finds that there has been no identified adverse impacts associated with any of the above elements of the environment that would likely be affected from the Action.**

(vii) there will not be any hazard created to human health;

**The Town Board finds that there has been no identified adverse impacts associated with any of the above elements of the environment that would likely be affected from the Action.**

(viii) there will not be a substantial change in the use, or intensity of use, or land including agricultural, open space or recreational resources, or in its capacity to support existing uses;

**The Town Board finds that there has been no identified adverse impacts associated with any of the above elements of the environment that would likely be affected from the Action.**

(ix) there will be a large number of persons attracted to the site for more than a few days, when compared to the number of persons who would come to such place absent the action;

**The Town Board finds that there has been no identified adverse impacts associated with any of the above elements of the environment that would likely be affected from the Action.**

(x) there will not be created a material demand for other actions that would result in one of the above consequences;

**The Town Board finds that there has been no identified adverse impacts associated with any of the above elements of the environment that would likely be affected from the Action.**

(xi) there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact; and

**The Town Board finds that there has been no identified adverse impacts associated with any two or more of the above elements of the environment that when considered together would likely be affected from the Action.**

(xii) there are not two or more related actions which would have a significant impact on the environment.

**The Town Board finds that there are not two or more related identified adverse impacts associated with any of the above elements of the environment that would likely be affected from the Action.**

**Be it further resolved that** based on the information and analysis above and the supporting documentation referenced above, the proposed action WILL NOT result in any significant adverse environmental impacts.

**Be it finally resolved that the Town Board does hereby make a Determination of Non-Significance on said Action and directs the Town Supervisor to sign and date the Short Environmental Assessment Form.**

**5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear**

**Moved by Councilman Brandt, seconded by Councilman Dawson  
2009 NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL GRANT  
APPLICATION – PURDY ROAD SEWER PROJECT**

**WHEREAS**, the Town of Canandaigua Town Board (hereinafter referred to as Town Board) has conducted two public hearings on the 2009 State of New York Division of Housing and Community Renewal (DHCR) Notice of Funding Availability and Grant Application; and

**WHEREAS**, the Town Board has received public support and endorsement for re-submitting a grant application, in the amount of \$600,000.00, to enable the construction of the Purdy Road Sewer Project; and

**WHEREAS**, the Action to submit an application for grant funding is identified as a Type II Action in accordance with the provisions of Section 617.5 (27) and (28).

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board does hereby authorize the Town Planner to prepare the necessary documentation for submission of a grant application to the State Division of Housing and Community Renewal, on or before April 24, 2009.

**BE IT FURTHER RESOLVED** that the Town Supervisor is to file said application for federal funds from the 2009 Competitive Round of Grant Funding from the New York State Division of Housing and Community Renewal (DHCR) in the total amount of \$600,000.000.

**BE IT FURTHER RESOLVED** that upon the Town's receipt of approval of said grant request the Town Supervisor is hereby authorized to enter into and execute a project agreement with the State DHCR for such financial assistance to the Town of Canandaigua for the construction of the Purdy Road Sewer Project.

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

**Moved by Councilman Brandt, seconded by Councilman Dawson  
ACCEPTING CONSERVATION RESTRICTION AND DRAINAGE EASEMENT OVER LAND  
IDENTIFIED AS PORTIONS OF FOX RIDGE SUBDIVISION, PHASE 5 B**

**WHEREAS**, the Town of Canandaigua Town Board (hereinafter referred to as Town Board) has received a document entitled "Grant of Conservation Restriction," dated October 15, 2008 by Property Development of WNY, INC., to the Town of Canandaigua, regarding the placement of a Conservation Restriction over portions of Lots 53, 54, 55, 56 and 57 of the above referenced Phase 5 B of the Subdivision Tract; and

**WHEREAS**, the Town Planning Board has determined that a Conservation Restriction is warranted over these portions of said Lots; and

**WHEREAS**, the Town Board has received a document entitled "Drainage Easement," dated October 15, 2008 between Property Development of WNY, INC. and the Town of Canandaigua regarding the ongoing maintenance of drainage facilities along with the rights of access to lands described in Exhibit A of said document; and

**WHEREAS**, the Town Planning Board has determined that a Drainage Easement is warranted over portions of the land described in Exhibit A to said Drainage Easement; and

**WHEREAS**, the Town Engineer, MRB Group, P.C., in their October 16, 2008 letter notes that they have completed a review of the above referenced Conservation Restriction Description finding it to be accurate and acceptable; and

**WHEREAS**, the Town Board does hereby determine that said Conservation Restriction and Drainage Easement are necessary to insure that the Town has control over the preservation and protection of certain areas of the Fox Ridge Subdivision Tract, Phase 5 B; and

**WHEREAS**, the Town Board has examined said instruments and finds the consideration described in said easements to be fair and reasonable.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board does hereby accept the dedication of the above cited Conservation Restriction and Drainage Easement.

**BE IT FURTHER RESOLVED** that the Town Supervisor shall be and hereby is authorized to take any and all further action necessary to carry forth the intent of this resolution, including but not limited to the execution of all documents necessary to complete the conveyance of the premises referenced herein.

**BE IT FURTHER RESOLVED** that the Attorney to the Town Board is to record the above cited documents

with the Ontario County Clerk's Office, with all filing fees to be paid by Property Development of WNY, INC.

**BE IT FURTHER RESOLVED** that the originals be returned to the Town Clerk's Office after they have been recorded, to be filed in the Town Clerk's Office and in the respective files in the Town's Development Office.

**Discussion.**

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

Motion moved by Councilman Brandt, seconded by Councilman Dawson

APPROVING A TEMPORARY USE PERMIT – PORTABLE HOT DOG STAND – 3445  
NEW YORK STATE ROUTE 364

**WHEREAS**, the Town of Canandaigua Town Board (hereinafter referred to as Town Board) has received a request for a Temporary Use Permit to operate a Portable Hot Dog Stand on property owned by Michael Frasca, located at 3445 State Route 364; and

**WHEREAS**, the Town Planning Review Committee (PRC) has submitted a report dated April 1, 2009 which provides information relating to the proposed Temporary Use Permit; and

**WHEREAS**, the PRC report identifies the Action to be a Type II Action under the provisions of the State Environmental Quality Review (SEQR) Regulations; and

**WHEREAS**, the Town Board accepts this Action as a Type II Action under SEQR; and

**WHEREAS**, Type II Actions are not subject to further review or determination under SEQR, therefore, satisfying the procedural requirements of said State Regulations; and

**WHEREAS**, the Ontario County Planning Board has provided a recommendation to the Town Board under the provisions of Sections 239-l &-m of the New York State General Municipal Law, identified as Referral # 48 -2009, dated March 27, 2009 which allows the Town Board to make a decision upon this Action; and

**WHEREAS**, Town Board did grant a Temporary Use Permit for a portable hot dog stand to operate at this site last year; and

**WHEREAS**, the PRC report did not identify any complaints were filed with last year's operation of said portable hot dog stand.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board does hereby approve the request for a Temporary Use Permit with the following conditions:

- Said Temporary Use Permit is granted for a six month period commencing on April 8, 2009 and ending on September 8, 2009.
- The Temporary Use Permit is based upon the Statement of Operations provided by the applicant and set forth in comment #5 of the PRC report. Any departure from these four items will automatically null and void the Temporary Use Permit.
- There is to be no parking of vehicles along the shoulders for this portion of State Route 364 that are associated with the subject Temporary Use Permit operations.
- All permits required from the Town Code Enforcement Officer and the New York State Department of Health which are identified in the above referenced PRC report are to be obtained by the applicant. Failure to obtain all permits shall render the Temporary Use Permit null and void. The applicant is required to post a copy of both permits at the site. The applicant is also required to file with the Town Code Enforcement Officer a copy of New York State Department of Health Permit for the operation of a mobile food service.

**BE IT FURTHER RESOLVED**, that the Town Board does hereby authorize the Town Code Enforcement Officer to issue a Temporary Use Permit with the conditions set forth above herein.

**FINALLY BE IT RESOLVED** that the Town Clerk is to provide written notice of this decision to both the Town Code Enforcement Officer and the applicant within five business days from today.

A motion was made by Councilman Brandt, seconded by Councilman Dawson to amend #1 to read: Said Temporary Use Permit is granted for a six month period commencing on April 8, 2009 and ending on October 8, 2009.

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

A motion was made by Councilperson Cassie, seconded by Councilman Brandt to amend #3 to read: There is no parking of vehicles or placement of sandwich board signs along the shoulders for this portion of State Route 364 that are associated with the subject Temporary Use Permit operations.

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

Motion made by Councilman Brandt, seconded by Councilman Dawson to amend comment #5 of the PRC report to hours of operation will be 10:30 am 8:00 pm except on event nights at CMAC and the hours will be 10:30 am to 11pm.

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

Motion made by Councilman Dawson, seconded by Councilman Brandt to add to #5d of the PRC report that second employee may be added on event nights at CMAC.

5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

Motion as amended moved by Councilman Brandt, seconded by Councilman Dawson,  
5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

Moved by Councilman Brandt, seconded by Councilman Dawson

**ACCEPTING PEDESTRIAN EASEMENT OVER LAND IDENTIFIED AS LOT # 5 OF THE VILLAS AT CANANDAIGUA**

**WHEREAS**, the Town of Canandaigua Town Board (hereinafter referred to as Town Board) has received a document entitled Pedestrian Easement dated February 23, 2009, 2008 by Wegman Family (Canandaigua) LLC XV, regarding the placement of a Pedestrian Easement across the frontage of Lot # 5, as further shown on the drawing entitled "Villas @ Canandaigua, Section 1, Final, Easement Plan," prepared by BME Associates, having drawing number 2186A-22, dated September, 2008; and

**WHEREAS**, the Town Planning Board has determined that a Pedestrian Easement is warranted over this portion of said Lot; and

**WHEREAS**, the Town Board has received, from Phillips Lytle, LLP, a document entitled "Pedestrian Easement," dated February 23, 2009 between Wegman Family (Canandaigua) LLC XV and the Town of Canandaigua, which grants and conveys to the Town a permanent, non-exclusive easement for pedestrian access as more particularly described in "Exhibit A" attached to said Easement document across the entire frontage of Lot # 5 along Middle Cheshire Road; and

**WHEREAS**, the Town Planning Board has determined that a Pedestrian Easement is warranted over the portion of the land described in Exhibit A to said Easement; and

**WHEREAS**, the Town Engineer, MRB Group, P.C., in their September 25, 2008 letter notes that they have completed a review of the above referenced Pedestrian Easement finding it to be accurate and acceptable; and

**WHEREAS**, the Town Board does hereby determine that said Pedestrian Easement is necessary to insure that the Town has control over the preservation and protection of this area of the above referenced subdivision; and

**WHEREAS**, the Town Board has examined said instruments and finds the consideration described in said easements to be fair and reasonable.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board does hereby accept the dedication of the above cited Pedestrian Easement.

**BE IT FURTHER RESOLVED** that the Town Highway Superintendent shall be and hereby is authorized to take any and all further action necessary to carry forth the intent of this resolution, including but not limited to the execution of all documents necessary to complete the conveyance of the premises referenced herein.

**BE IT FURTHER RESOLVED** that the Attorney to the Town Board is to record the above cited documents with the Ontario County Clerk's Office, with all filing fees to be paid by

**BE IT FURTHER RESOLVED** that the originals be returned to the Town Clerk's Office after they have been recorded, to be filed in the Town Clerk's Office and in the respective files in the Town's Development Office.

**Discussion.**

**5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear**

#### **PARKS AND RECREATION COMMITTEE**

         Dennis Brewer-have a proposal for review of canoes and kayaks

- all last years lifeguards and gate keepers are coming back
- input from public on trails will be part of the Comprehensive plan survey
- next meeting April 15<sup>th</sup> @6:30 at West Lake Road School house

Short discussion on soliciting for a pavilion at Fire House Park. Committee will come back with a recommendation.

#### **CODES COMMITTEE**

         Ralph Brandt - working on administrative review, shoreline and ridgeline and residential rental property local laws.

An opinion from the Dept. Of State in the "Town Topics" regarding "codes advisory committee's" states that these committees are not subject to the Open Meetings Law as they are only advisory in nature and can not set policy. Therefore, the codes committee will no longer be open to the public. Attorney Maue agreed with this.

#### **SUPERVISOR'S REPORT**

- Phone call from Jim Holden 3/19/09 regarding Park Fees for non-Profits
- Meeting with Carol McTague NYS Department of Public Service regarding Cable Franchise Agreement
- Meeting with County Planning regarding PDR's
- Canandaigua Watershed Council Meeting

#### **RESOLUTIONS:**

**1. Motion made by Councilperson Brandt, seconded by Councilman Dawson to amend the 2009 adopted budget to finance installment payments on equipment.**

**Discussion.**

**From: A8160.200           \$52,696.16**

**To:     A9785.700         \$ 5,243.28**  
**A9785.600         \$47,452.88**

**From: D9785.700         \$ 2,628.00**  
**To:     D9785.600         \$ 2,628.00**

**From: A1990.400         \$22,500.00**  
**To:     H131420.240       \$22,500.00**

**5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear**

**A motion was made by Councilperson Brandt, seconded by Councilperson Dawson, to appoint Tom Schwartz to “Special Use Permit Advisory Committee” as recommended by the Planning Board.**

**5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear**

**Motion made by Councilperson Brandt, seconded by Councilperson Dawson, to amend the Town of Canandaigua Investment Policy “Section VII Designation of Depositories” to Maximum amount \$12 Million. Discussion**

**5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear**

**A motion was made by Councilperson Brandt, and seconded by Councilperson Dawson, to authorize Highway Superintendent James Hecker to declare surplus for Truck 15 with plow equipment and sander to be sent to the municipal auction May 9, 2009.**

**5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear**

**A motion was made by Councilperson Brandt, and seconded by Councilperson Dawson, to authorize Highway Superintendent James Hecker to declare surplus for Truck 18 pickup with utility box to be sent to the municipal auction May 9, 2009.**

**5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear**

**Motion moved by Councilperson Brandt, seconded by Councilperson Cassie for the Highway Superintendent to direct the Town Clerk to file a TE-9 for a speed zone study at Stablegate Subdivision off of Canandaigua/Farmington Townline Road.**

**5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear**

**Short discussion on whether the Town wants to assess a 1% fee on pass through bills that are late. In the past, the third final notice states if not paid that it will be turned over to collections and this works very well. This practice will continue.**

**A motion was made by Councilman Brandt, seconded by Councilman Dawson to move into executive session for attorney/client privilege and pending litigation at 9:55 pm**

**5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear**

**The board moved out of executive session at 11:20 pm**

**The meeting was adjourned at 11:20 pm.**

**Judith H. Carson  
Town Clerk**