

Canandaigua Town Board
Regular Meeting
February 3, 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: P. Herbik, Tom Knapp, Tom Schwartz, Jim Fralock, Pat VanDyne, Kevin Olvany, Kevin Reynolds, Lew Smith, Bob Johnston, Joseph Kardul, William Kenyon, Dan Knapton, Reid Hankin, Margaret Poe, Jim Goodman, J. Miller, Yvonne Chavez and others who did not sign in.

Pledge

Supervisor Kinnear called the meeting to order and read the rules of procedure.

A motion was made by Councilperson Dawson, seconded by Councilperson Brandt to dispense with the reading of the minutes of January 20, 2009.

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

A motion was made by Councilman Brandt seconded by Councilman Dawson to approve the January 20, 2009 minutes as amended.

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

A motion was made by Councilman Dawson, seconded by Councilperson Cassie that after review and audit of the bills abstract #2 \$77,625.51 general fund, \$102,760.19 highway fund, \$1,596.59 water fund, \$9,364.00 Risser Rd. Water district, \$12,008.14 Andrews/North Rd. Ext. \$104,470.30 Cdga/Farm. Water dist. \$57,359.14 Cdga/Hope water dist. \$14,895.78 Emerson/Allen Townline Water Dist. that the bills be paid.

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

PRIVILEGE OF THE FLOOR

Kevin Olvany-Canandaigua Lake Watershed Council gave a presentation on the Fall Brook Stream and Shoreline stabilization project which is located by the Canandaigua Country Club on Fallbrook Park. The issue is that the Fallbrook stream is actively increasing in width and is causing safety and other problems for the golf course along with adding sediment and nutrients to Canandaigua lake. This has been caused by increase in peak flows over the years, lack of substantial vegetation, mowing banks at the stream edge, lack of rock or other structure to stabilize the slope and etc. Requesting that the town highway department work with the Canandaigua Country Club, and himself by providing a bulldozer, 2 equipment operators, and rocks. The budget for this project will be \$20,000. A resolution will be forth coming.

Dan Knapton-Wyffels Rd. - spoke out against the proposed street light at the Acorn Hill/Wyffles Rd. intersection as did Frank Hamlin 5060 Wyffles Rd., and Priscilla Herbik-Wyffles Rd.

Received e-mails from Daniel/Jill Sheedy -3984 Acorn Hill Rd. and David VanDerEms -5031 Wyffles Rd. opposed to the street light.

Councilperson Brandt stated he had received a request from Steve Richardson asking that the motion for Acorn Hill/Wyffles Rd. street light be tabled to give him time to present a petition.

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Councilperson Cassie - expressed that she would like to see a policy in place for future requests of street lights.

By Common consent the following motion remains tabled: A motion made by Councilperson Brandt, seconded by Councilperson Dawson, to authorize the highway superintendent to sign the RG&E proposal for a street light to be installed at the intersection of Wyffels Road and Acorn Hill Drive.

Yvonne Chavez- Middle Cheshire Rd., - expressed her concerns with the wording in the minutes of January 20th, regarding her letter.

PRIORITY BUSINESS

Supervisor Kinnear read a "Proclamation of Gratitude" for former Planning Board member Joe Maslyn.

A motion was made by Supervisor Kinnear seconded by Councilman Brandt to appoint Christian Nadler of Gates & Adams, LLC as the Planning Board attorney and. that the Supervisor/ Financial Officer and Planning Board Chairperson sign the contract.*

Councilperson Cassie made a motion to table the motion till the end of the meeting, seconded by Councilman Dawson,

4 nays: Fuller, Dawson, Brandt, Kinnear 1 aye: Cassie

A motion was made by Councilman Brandt, seconded by Councilman Dawson to move into executive session for matters leading to an appointment at 7:45 pm.

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

The board moved out of executive session at 8:03 pm

The Supervisor reconvened the regular meeting.

*Motion called: 4 ayes: Fuller, Dawson, Cassie, Brandt, 1 nay: Kinnear

Attorney Maue will draw up a contract for the new Planning Board attorney.

TABLED MOTIONS:

A motion was made by Councilman Brandt, seconded by Councilman Dawson to untable the following:

*that Kevin Reynolds be appointed to the Environmental Commission. Said term expires 12/31/10.

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

*motion made by Supervisor Kinnear seconded by Councilperson Fuller. Discussion.

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

**Councilman Brandt, seconded by Councilperson Fuller to move off the table "to retain RLB, Planning Consultant per contract as submitted (Contract expires June 30, 2009)

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

Councilman Brandt moved to amend the motion to "6 months from 2/3/09" seconded by Supervisor Kinnear

3 nays: Fuller, Cassie, Dawson 2 ayes: Brandt, Kinnear

Discussion. **Vote 3 ayes: Fuller, Brandt, Kinnear 2 nays: Dawson, Cassie

PRESENTATION OF PETITIONS, COMMUNICATIONS AND CORRESPONDENCE

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- Monroe County Department of Planning & Development Training Session Application
- Notice of change of services from Time Warner Cable
- Notice of change of services from Time Warner Cable
- Cornell Cooperative Extension Spring Garden Symposium Registration Notice
- Letter of appreciation from Betty & Paul Singer
- Letter of request from Kelly & Lynn Cloyd for small craft launching at Onanda Park
- Ontario County Revolving Loan Fund Meeting Minutes 12/9/08
- State of NY Court of Appeals decision in the Matter of Quail Summit Appeal
- Genesee Finger Lakes Planning Council Regional Review Newsletter
- Communication from Bill Wright, Ontario County Director of Public Works
- Newsletter from Pioneer Library System

Discussion on craft launching at Onanda Park will be discussed at the Parks Committee meeting on 2/4/09.

HIGHWAY REPORT

Bob Johnston - 4110 Co Rd. 16, addressed the board because of a drainage problem he is having at that location. He stated that this has been an on going problem and it is starting to effect his foundation. The run off is coming from a development behind his house.

Jim Hecker is requesting that MRB, do a drainage study, map plan and report for an extension and consolidation of a drainage district

Attended a meeting in Syracuse and there were representatives there from Small Cities Grants and Senator Schumers' office. They stressed it was important to have construction plans ready for projects and SEQR done because they feel there will be a release of funding in the future. These projects would be Grandview/Rt. 21 sewer extension, Mobile Rd. sewer and water extension #36.

MRB, Group has given a proposal to the Town of Farmington for a water extension proposal for Yerkes Rd/ New Michigan. If Farmington decides to go forward with this we would have to have a joint meeting.

A motion was offered by Councilman Brandt and seconded by Councilperson Cassie to authorize the highway supt. to hire Fields Construction to do emergency repairs at Onanda Park for a total cost of \$9550. These repairs are necessary because of a recent ice jam in the bordering stream, and all repairs will be done with appropriate agency approvals. Discussion. This is a Type II action under SEQR for an emergency repair.
5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

A motion was offered by Councilman Brandt and seconded by Councilperson Dawson to authorize the highway supt. To sign the proposal from MRB Group to do a drainage study in the area surrounding 4110 Co Rd 16 as requested by the property owner at a cost not to exceed \$6900.

Discussion. This is a Type II action under SEQR.
5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

A motion was offered by Councilman Brandt, and seconded by Councilman Dawson to authorize the highway supt. To sign the proposal from MRB Group to complete the joint application for the replacement of the bridge/culvert on Buffalo St Ext at the town/city municipal boundary at a cost not to exceed \$5800.

Discussion. This is a Type II action under SEQR
5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

REPORT OF STANDING COMMITTEES

Codes committee - Ralph Brandt

General Code has recieved the analysis. He thanked everyone that served on the General Code committee.

Next meeting on 2/5/09 at 4 pm

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Fire committee - Lloyd Kinnear

Met with Kay James and Ellen Polimeni and they have adopted a regulation that they will start charging for more than 2 false alarms. Believes this is only a regulation for the City as it is not in the contract they have with the Town.

Still waiting for outcome of fire study.

Public works committee - Marion Cassie

Checking into requiring underground utilities and sidewalk districts.

Checked into the dead trees on Route 332 and if we took them out we would have to replant and maintain the trees. Could ask DOT about the trees.

ASSESSOR REPORT

1. Conducting a revaluation for 2009.
2. Quail Summit lost their judicial review. There are no more appeals.
3. On the committee for County wide assessing and this County has the lowest cost for assessing in the State. It would cost more for County wide assessing.

PLANNING DEPARTMENT - Ron Brand

1. Deadline for Pactiv small cities grant is March 31, expect Pactiv to of forfilled their obligations, but if not will ask for an extension.
2. Will be working on getting a couple more surveys back on the Mobile Rd. sewer district.
3. Will be meeting with Maria Rozinski - Ontario County, on the Wyffles PDR and what she needs to do for the site plan. Recieved a letter from the Finger Lakes Land Trust and they are interested in taking over the administration of both grants (Wyffles and Hicks).

Supervisor Kinnear - received notification that nothing will happen on the FPIG grant for John Miller until the state budget is passed.

SUPERVISOR'S REPORT

1. Attended oral arguments for IDA Eminent Domain Case
2. Meeting regarding County wide assessing.
3. Phone System installation has started
4. Will contact the attorney for Hicks regarding the PDR vouchering
5. BAS will be working with Planning and Zoning on 3/16 and 3/17 with a new software program.

RESOLUTIONS:

Supervisor Kinnear moved that the following be tabled indefinitely, seconded by Councilman Brandt.

Discussion.

3 ayes: Cassie, Brandt, Kinnear 2 nays: Fuller, Dawson

1. Motion made by Councilperson _____, seconded by Councilperson _____, to appoint _____ to a "Special Board" for the Comprehensive Plan update.
2. Motion made by Supervisor Kinnear, seconded by Councilperson Brandt to appoint David Dawson, Pat Van Dyne, Graham Smith, Jim Hecker and Lloyd Kinnear to a steering committee to work with CGR.
Discussion. 4 ayes: Fuller, Dawson, Brandt, Kinnear 1 nay: Cassie

3. The following was moved by Councilperson Brandt, seconded by Councilperson Dawson,
**AMENDMENTS TO CHAPTERS 45, 90 AND 105 OF TOWN CODE KNOWN AS A
SMORGASBORD LOCAL LAW OF 2009**

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WHEREAS, the Town of Canandaigua Town Board (hereinafter referred to as Town Board) has received a recommendation from the Town Board Codes Committee (hereinafter referred to as Code Committee) to amend portions of the above referenced Chapters of the Town Code; and

WHEREAS, the proposed Town Code amendments require the preparation of the environmental record on said action; and

WHEREAS, the proposed Town Code amendments requires a referral to the Ontario County Planning Board; and

WHEREAS, the proposed Town Code amendments requires a referral to the Town Planning Board; and

WHEREAS, said action also requires the setting of a public hearing; and

WHEREAS, said action further requires giving public notice of said public hearing.

NOW, THEREFORE, BE IT RESOLVED that the Town Board does hereby direct the Town Planner to prepare the environmental record for the above referenced amendments to Chapters 45, 90 and 105 of the Town Code.

BE IT FURTHER RESOLVED that the Town Planner is hereby directed to submit said Local Law to the Ontario County Planning Board for its review at the March 11, 2009 meeting.

BE IT FURTHER RESOLVED that the Town Planner is hereby directed to submit said Local Law to the Town Planning Board for its review and recommendation prior to March 17, 2009.

BE IT FURTHER RESOLVED that the Town Board does hereby established a public hearing to be held on said local law, for Tuesday, March 17, 2009 commencing at 7:00 p.m., in the Canandaigua Town Hall; and

BE IT FINALLY RESOLVED that the Town Board does hereby direct the Town Clerk to place notice in the official newspaper for said public hearing.

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

At a meeting of the Town Board duly convened on February 3, 2009 at which a quorum of the Town Board was present, the following resolution was moved by Councilperson David Dawson and seconded by Councilperson Cassie.

BE IT RESOLVED, that the following Town of Canandaigua policies be implemented at Town Hall immediately at the direction of the Town Board:

1) No Town staff shall under any circumstances meet with applicants and their attorneys regarding any proposed or filed Municipal Application without an attorney for the Town also being present. If the matter is properly within the purview of the Planning Board, then the attorney for the Planning Board must be present. If the matter is properly within the purview of the Zoning Board of Appeals, then the attorney for the Zoning Board of Appeals must be present. If the matter is a matter properly within the purview of the Town Board or the Town generally, then the Attorney for the Town must be present.

2) No official determination binding on the town of Canandaigua shall be rendered with respect to any Municipal Application without first obtaining legal review from the attorney of the Town or such other legal counsel as the attorney to the Town directs. No such official determination shall be rendered under any circumstances on behalf of any Applicant until there is filed with the Town a Municipal Application in proper form requesting a permit, license, certificate or official review and/or approval from the Town or one of its Boards in accordance with law; and be it further

RESOLVED, that a written copy of this Resolution shall be forthwith provided to all Town of

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Canandaigua Zoning and Planning staff by the Town Clerk

Supervisor Kinnear received letters from Terry Fennelly and Jack Kellogg in opposition to this motion.

A motion was made by Councilman Brandt, seconded by Councilman Dawson for a continuance of time because it was past 9:15 pm.

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

Bill Kenyon, 5960 Rossier Rd., expressed many concerns and opposition to the motion.

Lengthy discussion followed.

A motion was made by Councilman Brandt, seconded by Councilperson Cassie to table the motion.

4 ayes: Fuller, Cassie, Brandt, Dawson 1 nay: Kinnear

By common consent Councilman Dawson will confer with Attorney Maue to get the language the way he wants it.

Councilman Brandt would like input from the Planning Board and ZBA on the impact this motion would have on them. Requested that Councilman Dawson's statement be given to them.

Would like requests for comments from the staff to come from the board so they do not feel like they are under any duress or exposure.

A motion was made by Councilman Brandt, seconded by Councilman Dawson, for a time extension to the meeting.

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

A motion was made by Councilman Brandt, seconded by Councilman Dawson, to allow Thomas Schwartz, Robert Mincer, Pamela Helming and Patricia VanDyne to attend Monroe County Department of Planning training sessions at a total cost of \$175.

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

A motion was made by Councilman Brandt, seconded by Councilperson Cassie for a time extension to the meeting.

4 ayes; Fuller, Dawson, Cassie, Brandt, 1 nay: Kinnear

Supervisor Kinnear adjourned the meeting at 9:50pm, next meeting will be February 17, 2009.

Judith H. Carson
Town Clerk