

Canandaigua Town Board
Regular Meeting
March 17, 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. Herbig, Pat VanDyne, L. Smith, Tom Knapp, Matt Knopf, Terry Fennelly, Jim Fralick, Dennis Brewer, Kevin Reynolds, John Miller, Reid Hankin, Yvonne Chavez, Rocco Venezia, and others who did not sign in.

6:00 pm - A motion was made by Councilman Brandt, seconded by Councilman Dawson to move into executive session to discuss a persons' employment history at 6:00 pm

The board moved out of executive session at 6:35 pm

The workshop presentation on Geotilities was postponed to April 7, @ 6:30pm due to technical difficulties.

Supervisor Kinnear convened the Regular Town Board meeting at 7:00 pm

Pledge of allegiance.

Supervisor Kinnear read the rules of procedure.

A motion was made by Councilman Brandt, seconded by Councilman Dawson to dispense with the reading of the minutes of March 3, 2009.

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

Supervisor Kinnear moved that the minutes of March 3, 2009 be approved as written.

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

Supervisor Kinnear opened the public hearing on the Purdy/Mobile Road Sewer District Small Cities Grant at 7:03 pm. and advised it had been properly advertised.

Ron Brand explained that this was the first of two public hearings to determine if the residents want us to pursue a small cities CDB grant for this sewer district and if there are other residents here that want us to pursue some other area for a small cities grant.

Last year we were determined by the State to not be eligible for the original grant due to an 88% response from the residents when the minimum response due back was 90%. Letters were sent to those that did not respond and we have received 6 back with hope that we will receive more.

The deadline to apply for this grant is 4/24/09. An additional 98 million has been funded to the State this year in addition to what they already have. This money is coming from a block grant from US Department of Housing and Urban Renewal. If we do get the number of responses back from the residents that we need to submit and we are not chosen for this grant then we are told we can be put on the Governors' list for a stimulus package.

Ron Brand asked the residents present if they would like this project considered and if there was anyone in the audience who would like the Town Board to consider any other projects.

Christine Tuccio a resident of Purdy Rd. would like the Purdy Rd. Sewer District project to be considered.

Supervisor Kinnear closed the public hearing at 7:17 pm. The next public hearing is scheduled for April 7, @7:00pm.

Supervisor Kinnear opened the public hearing on the proposed Local Law amending Chapter 45 and Chapter 105, Articles III, V, VI, IX and Zoning Schedule 1 of the Town Code and advised it had been properly advertised at 7:18 pm.

Ron Brand-this hearing is to take public comment and no action will be taken as it has to still be reviewed by the Ontario County Planning Board.

Explained that this law deals with new definitions, amendments to regulations pertaining to accessory storage buildings and barns in AR-1, AR-2, RR-3 and SCR-1 zoning districts. Amendments to sign regulations for farm signs and temporary business signs, amendments to outdoor furnace regulations, amends process for formal complaints being received by the town; and amendments to the various zoning schedules relating to front setbacks.

A memorandum from Christian Nadler - Planning Board Attorney, was handed out regarding comments from the Planning Board.

Councilperson Cassie - expressed that she had several concerns regarding inconsistencies with the number of accessory structures in different districts.

The codes committee will take all comments and review this law at their next meeting and decide if there are substantial changes to the proposed law.

Supervisor Kinnear adjourned the hearing to April 21, @7:04 pm.

Supervisor Kinnear asked for approval of pass through bills. He explained that this was a new procedure due to the recent adoption of the Local Law 5 of 2008 amending Section 52 of Town Code. These bills have to be approved then the vendor (s) bills can be paid and then the individual (s) can be billed and the Town will be reimbursed.

Short discussion followed on this procedure and the possibility of adding a finance charge for late payment. Councilperson Fuller will work on a motion for the finance charge.

Supervisor Kinnear moved for approval of approving the charge backs presented on the revised 3/17/09 list entitled "pass through charges", seconded by Councilman Brandt.
4 ayes: Fuller, Dawson, Brandt, Kinnear 1 nay: Cassie

Payment of bills: Councilperson Fuller asked that the Morris and Jones bill be pulled and everyone agreed.

A motion was made by Councilperson Cassie, seconded by Councilman Dawson, that after audit and review of the bills abstract #5 and that the Morris Jones bill is pulled that the bills be paid; \$202,608.12 general fund, \$8,281. highway fund, \$1,211.91 water fund, \$240,245. Fire protection district \$811.76 Fox Ridge lighting \$123.65 Centerpoint lighting, \$102.29 Fallbrook Meadows lighting.

PRIVILEGE OF FLOOR

No one spoke

PRIORITY BUSINESS

TABLED RESOLUTIONS: From 2/3/09

Councilman Dawson moved that the following resolution be taken off the table, seconded by Councilman Brandt,

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

Councilman Dawson withdrew this resolution* from 2/3/09.

*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

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 Canandaigua Zoning and Planning staff by the Town Clerk

TABLED RESOLUTIONS: FROM 2/13/09

By common consent it was agreed to leave the following resolution on the table till a recommendation comes back from the Parks and Recreation Committee.

The following resolution was moved by Councilperson, seconded by Councilperson,

**CANANDAIGUA TOWN BOARD RESOLUTION
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.

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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.

A motion was made by Councilperson Brandt, seconded by Councilperson Dawson to table the above resolution for further research by Codes Committee.

4 ayes: Fuller, Dawson, Brandt, Kinnear

TABLED RESOLUTIONS: From 3/3/09

Councilperson Cassie moved to take the following resolution** off the table from 3/3/09, seconded by Councilman Dawson

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.

Attachment "A"

Media Relations Policy and Disclosure of Information Policy

(to be added to the Employee Handbook)

Media Relations

Policy Statement – The Town Board will designate an individual (*or individuals*) to act as Media Relations Officer. All press releases, publications, articles, and any other documents for release to the media must be approved in advance by the Media Relations Officer. Certain issues may be identified by the Town Board as requiring special attention. With respect to such issues, all requests for information from the media (e.g., television, radio, and newspaper) must be referred to the Media Relations Officer.

Disclosure of Information

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 contain sensitive and confidential information about Town residents and others who do business with or on behalf of the Town and/or its residents. Such information cannot be photocopied, duplicated, discussed, or otherwise disclosed to any outside party except in accordance with the Freedom of Information Law or any other applicable laws and regulations. An employee is also prohibited from sharing or otherwise disclosing such information with other Town employees, family members or friends who do not have a Town business reason to have such information.

Responsibility for Security of Confidential Information – Elected Officials, Department Heads, employees, and paid consultants are responsible for maintaining the security of documents, records and other information that fall

within their department operations. Any request from outside parties for disclosure of information under the Freedom of Information Law or any other applicable laws or regulations must be submitted to the Records Management Officer. Any distribution of documents, records and other information to outside parties shall be from the Records Management Officer.

Employee Personal Information – An employee should never provide a caller or visitor with confidential information regarding employees, including home addresses and personal telephone numbers. An employee should take the person's name and telephone number and inform the caller/visitor that a message will be forwarded to the employee.

Councilperson Cassie moved to amend “Attachment A” to the verbiage that the Attorney for the Town provided (shown below as revised attachment A) , and to also send the definition and a copy of revised attachment “A” to Public Sector HR Consultants so it can be included in the employee handbook (see below). Seconded by Councilman Dawson
5 ayes: Fuller, Dawson, Cassie, Brandt, Kinnear

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.

Councilman Brandt moved to table the amended resolution so it can be posted on the web site for public comment seconded by Councilperson Fuller.

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

PRESENTATION OF PETITIONS, COMMUNICATIONS, AND CORRESPONDENCE

- City of Canandaigua Fire and Rescue Monthly Report for February 2009
- Meeting Minutes from Ontario County IDA January 26, 2009
- Letter from the Office of State Comptroller regarding Annual Performance Report of NYS IDA's
- Notice from NYS Office of Real Property Tax Service regarding Residential Assessment Ratio
- Letter from Charles Evans regarding excessive airport noise
- Announcement of Spaghetti Dinner from the Cheshire Community Action Committee
- Announcement of "Land Use In NY" Conference
- Cornell Cooperative Extension newsletter "On The Land"
- Cornell Cooperative Extension newsletter "The Inside Dirt"

HIGHWAY REPORT

1. Doing winter clean up
2. Stock piling stone
3. Ladies washroom at Onanda is almost completed.
4. Water Ext. 36 will be filed at Audit and Control.

REPORT OF STANDING COMMITTEES

Codes committee-Ralph Brandt

Next meeting 3/23 @4:00 pm

Working on shoreline, ridge line, residential rental property

Discussion on Special Use Permits. Councilperson Cassie expressed that she felt several special use permits had been granted when they should of been variances. The Planning Board is also struggling with the special use permits.

Councilperson Cassie made a motion to schedule a workshop on special use permits with the Town Board and Planning Board. No second.

Supervisor Kinnear moved that he present a motion at the next meeting for a recommendation of who should serve on a special use advisory committee. Seconded by Councilman Brandt

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

Discussion followed on creating a committee.

Councilman Brandt moved that a committee consisting of Attorney Maue, Attorney Nadler, Councilperson Cassie, a Planning Board member, and Ron Brand - Planning Consultant to review the special use permits seconded by Councilperson Cassie,

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

Park and Recreation committee -Reid Hankin

Next committee meeting is March 25th. They will be discussing the kayak/canoe issue.

Trails Committee- Dennis Brewer

Working on trails master plan.
Next meeting March 30 @6:45pm

SUPERVISOR'S REPORT

- Meeting with Maria Rudzinski, County Planning and Jason Engle of NYS Ag. & Mkts.

RESOLUTIONS:

1. A motion was made by Councilperson Brandt, seconded by Councilperson Dawson, that the following items be surplused from inventory for Ronco phones, including the Northern Telecom Meridian M12XO electrical hookup phone box.
#0717, 0718, 0719, 0724, 0739, 0734, 0741, 0742, 1031, 0743, 0748, 0751, 0772, 0773, 0814, 0815, 0817, 0818, 0820, 0822, 1029, 1030, 0827, 1507.

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

2. A motion was moved by Councilperson Brandt, seconded by Councilperson Dawson,

WHEREAS, on January 6, 2009 at the Town of Canandaigua's Organizational Meeting, the Canandaigua Town Board adopted Water Rates for the Canandaigua/Farmington Water Districts and extensions thereof, and

WHEREAS, the City of Canandaigua had projected the wholesale rate for 2009 will increase by approximately 20% over the 2008 rate.

WHEREAS, the City of Canandaigua has revised their Wholesale Water Rate for water purchased in a letter dated February 13, 2009, from a projected rate of \$1.90 per thousand gallons to \$1.83 per thousand gallons, and

WHEREAS, pursuant to Inter Municipal Water Sales agreements between Canandaigua/Farmington Water District and other Towns the District supplies water must also be revised (see attached schedule)

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Canandaigua acting on behalf of the Canandaigua/Farmington Water District hereby revised the Wholesale Rate and established the updated Water Rates per the attached Rate Schedule for 2009 effective the first billing quarter of 2009.

BE IT FURTHER RESOLVED, that all Rates shall be in effect for 2009-2010 subject to any rate increase from the City of Canandaigua and shall be on file with the Town Clerk's office.

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

3. A motion was made by Councilperson Brandt, seconded by Councilperson Dawson ,that the Town Clerk attend the NYSTCA in Rochester April 26-29, 2009 at a cost of \$75.00, plus travel expenses.

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

4. A motion was made by Councilman Brandt, seconded by Councilperson Fuller that Tom Knapp and Gary Davis, Priscilla Herbikand Jim Fralick as recommended by their respective boards to serve on the Comprehensive Plan Advisory Committee.

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

5. A motion was made by Councilperson Brandt seconded by Councilman Dawson to reword the "2009 Fee Schedule" on page 3 to simply read "home occupation".

A motion was made by Councilperson Cassie to table this motion seconded by Councilman Dawson. 3 ayes: Fuller, Dawson, Cassie, 2 nays: Brandt, Kinnear

ATTORNEYS REPORT

1. Received communication from Finger Lakes Land Trust that they will handle easement for Hicks PDR.
2. Explained that when the Supervisor signs a non-disclosure statement that it binds the whole Town Board and it is not necessary for each board member to sign a statement.

Councilperson Cassie will write up small changes that she would like General Code to change in the code and give them to Judy Carson and she will follow up with General Code.

Supervisor Kinnear was asked by Jim Holden of Rotary to waive the fee for use of Crouch Hall for the Inner-Act club. By common consent they all agreed that the fees at Onanda are for everyone across the board.

A motion was made by Councilperson Brandt, seconded by Councilman Dawson that the Board move into executive session to discuss land acquisition, pending litigation and employment history of an individual at 8:50 pm.

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

The board moved out of executive session at 10:00 pm.

The regular meeting was adjourned at 10:00 pm

Judith H. Carson
Town Clerk