

A regular meeting was held by the Town Board of the Town of Ballston on Tuesday evening, September 4, 2012 at the Town Hall on Charlton Road.

PRESENT: Patricia Southworth ----- Supervisor
Mary Beth Hynes ----- Councilwoman
Timothy Szczepaniak ----- Councilman
Jeremy Knight ----- Councilman
William Goslin ----- Councilman
Carol Shemo ----- Clerk
Murry Brower ----- Counsel

Supervisor Southworth called the meeting to order at 7:30 p.m. and the Pledge of Allegiance was recited.

RESOLUTION 12-136

APPROVAL OF MINUTES

A motion was made by Councilman Knight and seconded by Councilwoman Hynes to approve the minutes of the meetings.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

CORRESPONDENCE

The Town Clerk did not have any correspondence.

REPORTS OF TOWN OFFICIALS

Building Inspector Thomas Johnson, Highway/Water Superintendent Joseph Whalen, Animal Control Officer Thomas Shambo, Supervisor Patricia Southworth, Library Director Karen DeAngelo and Town Clerk Carol Shemo submitted reports for June, and they are on file in the Town Clerk's office.

RESOLUTION 12-137

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

Supervisor Southworth submitted reports for July and August.

A motion was made by Councilman Knight and seconded by Councilman Szczepaniak to approve the July and August Town Supervisor's reports.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

Supervisor's Report

There were two water main breaks over the Labor Day weekend at Middle Line Road and Saunders Road and Route 50. Thanks to a great job by the Highway Department; the repairs were completed in 4 hours. The cost of the repairs was \$1200, 25 hours of overtime and a minimum of 500,000 gallons of water lost. In County News, there has been a study on the condition of Maplewood Manor available for review on Saratoga County website. Supervisor Southworth would appreciate any comments or concerns about this study. Also, she is on the committee on transitioning the County to take on environmental health services; this could lead to the establishing of Public Health Board. The Saratoga County Property Tax Auction will be September 18, 2012 at 6:00 p.m.; more information is available at the Office of Real Property and on Saratoga County website. There will not be a Primary Election on September 13th in the Town of Ballston. The Anchor Diamond Park fund has \$109,243.87.

Council Members' Reports

Councilman Szczepaniak would like to discuss the draft purchase plan for Anchor Diamond Park. He would also like to discuss the way neighboring towns deal with neglected properties.

Councilman Knight asked for more time to look at the information before the discussion.

Supervisor Southworth added that Anchor Diamond Park will be discussed in Executive Session.

Councilman Goslin thanked the Library volunteers for an outstanding job. Work is progressing on the 2013 Library Budget. With the Town Budget, he suggests a fund by fund approach and to revise the process by looking at the high end items first and then the smaller items. Councilman Goslin would like to see the plan and view a working demonstration of the computer security software. He asked for an update on the property at 14 Lakehill Road and the revision of Route 50 Turn Lane Bond. Councilman Goslin has a concern with the water financials. He stated the Board should look for outside expertise to look at the water financials, bonds and water districts consolidation.

Attorney Brower stated that Justice Burns signed the subpoena for 14 Lakehill Road last week and it was delivered to the Sheriff; the Town and the Sheriff have an agreement.

Supervisor Southworth said Bond Counsel will put in the Bond resolution the information requested in §8 and §9.

PRESENTATION BY THE FARMLAND PROTECTION AND PRESERVATION COMMITTEE

Mr. Donald Rhodes spoke on behalf of the Farmland Protection and Preservation Committee and reviewed the information presented at the August 28th Town Board Special Meeting concerning Capiello Farm Concept Plan. He accepted comments and questions from the Town Board and the public.

Councilman Szczepaniak stated at last month's meeting Mr. Rhodes' comments added confusion to the process of Anchor Diamond Park. There is a concrete plan to purchase the Lang property. The Parks and Recreation Committee have worked on this project for 2.5 years and now it is nearing completion. Unlike Anchor Diamond Park that is funded by donated money, the Capiello Farm will require a tax for Town residents. The process to bring Capiello Farm to a public referendum is a long and difficult one and it will be difficult to expedite this process for the November ballot. In a Gazette article, the President of the Saratoga County Farm Bureau said that this is an unusual practice to buy development rights for the restoration of old fields.

Supervisor Southworth stated that the specific wording of the public referendum needs to be sent to the Saratoga County Board of Elections 37 days prior to the vote. The timeline is fast approaching. In a special election less people turn out to vote.

Councilwoman Hynes asked if the Farmland Protection Committee will have plans and visioning of this project for the voters before the referendum in November.

Mr. Rhodes replied that the visioning of this project needs to be done before the referendum. The project budget states \$4,500 for public information exhibits to educate the Town residents about this proposal. The Town does not have to spend this money in order to have the public hearing.

Mr. Miller asked Mr. Rhodes to explain about the public referendum. Will the Town budget the \$600,000 or bond this amount?

The Referendum will be whether to spend \$600,000 to buy the Capiello property. The Town will allocate funds and include the bond in the referendum question.

Mr. Miller asked if there is public support for a Town tax.

Mr. Rhodes stated the Land Conservation Committee did a survey of Town residents and determined that residents would be willing to pay a small tax for open space preservation but not for recreational parkland. With the aggressive residential development in the Town, the large parcels of land will disappear.

In addition, Mr. Rhodes responded that the Master Plan established a revenue stream.

Mr. Miller asked how many of the 270 acres are active. This project needs to sell as the best farmland property project.

Mr. Rhodes stated this is the best farmland project. There is something here for everyone, farmland, open space and park recreation. Development is taken off the table. There is a benefit to the lake; reducing development density decreases stormwater runoff. It is adjacent to population centers and park resources. Wetlands provide special community places. There are 90 acres active.

Mr. Guider asked if there was lake access.

Mr. Rhodes stated that there is not lake access.

Mr. Pustolka added that there is an agricultural access that the railroad recognizes.

Supervisor Southworth added that counsel for the railroad has been contacted to see if there is that option for a potential lake access.

Dan Russell, Chairman of the Parks and Recreation Committee, stated his committee has worked for 2.5 years to procure land for the park. They did look at the Cappiello Farm during the process but the Cappiello family was not interested.

Supervisor Southworth said the family has been evolving through the process.

Mr. Lang asked about farm safety and if a turning lane would be needed.

Mr. Rhodes answered that they will work with Saratoga County Cooperative Extension and the Department of Transportation. There will be advance notification of slow moving vehicles.

Ms. Mengle-Rosenkrantz asked about the McDonald graves and the Mohawk Settlement.

Mr. Rhodes stated that historical studies should show the location of those features and the Farmland Protection Committee would preserve them.

Mr. Carusone said he does not think government running business is a good idea and farming is a business. There is a lot of existing farmland not being farmed. Development is not a dirty word; it depends on the type of development. CP Rail will not allow the crossing.

Mr. Rhodes replied that the Town will not be in the business of farming, but rather will issue a long term lease to a qualified farmer.

Ms. Pierce said local business should be asked to help; ask for pledges, donations and have fundraisers not taxes.

Mr. Guider added that eight years ago a group of concerned Ballston citizens got together to stop the development of the Cappiello property and to protect this property. This is one of the prime pieces of property in the Town. He asked the Board to please consider what this property will mean for our community and for our kids in the future.

Councilwoman Hynes asked how much money the Town would realize by people leasing the farmland.

Mr. Rhodes answered \$0 for the first ten years of the lease. The farmland will require significant upgrades to put infield drainage.

Councilman Knight stated that there is a lot of fallow land in the Town of Ballston. It takes capital to make these lands productive. The Soil and Water Conservation in the County give funding for improvements on tiling.

Supervisor Southworth said the next direction, should the Board choose, is to schedule a public hearing to determine if there is public support to have a public referendum to borrow \$600,000 and to budget \$20,000 to make the project viable based on the simple outline given.

Privilege of the Floor:

Mr. Miller would like to have an intelligent budget summary of list of accounts, revenue stream, mortgage tax, sales tax for the previous five years, but for at least 2011 and 2012. He also stated that the County Landfill and New Sewer Plant will increase the farming pressures in Northumberland and is the biggest threat to farmland.

Mr. Carusone asked for an update on White Beach Road project.

Attorney Brower said that Highway Superintendent Whalen signed the last piece of this project. The information will be sent to the Title Company with a copy to CP Rail and the paperwork to become a Town road will be filed. The Railroad can then proceed and continue with their commitment. When the funds are released, Mr. Whalen can proceed with the work on White Beach Road.

RESOLUTION 12-138

APPROVE A BOND ANTICIPATION NOTE FOR THE ROUTE 50 TURN LANE CONSTRUCTION PROJECT FOR \$500,000

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin to approve a bond anticipation note for the Route 50 Turn Lane Construction Project for \$500,000 with the provisions set forth, subject to revision in §7 and §8 by Bond Counsel.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

RESOLUTION 12-139

APPROVE LETTING RFP DOCUMENTS FOR THE REPLACEMENT OF THE HIGHWAY GARAGE ROOF

A motion was made by Councilwoman Hynes and seconded by Councilman Knight to approve the letting of RFP Documents for the replacement of the Highway Garage roof.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

RESOLUTION 12-140

APPOINT THOMAS SHAGINAW TO THE TOWN OF BALLSTON LIBRARY BOARD OF TRUSTEES

A motion was made by Councilman Szczepaniak and seconded by Councilman Knight to appoint Thomas Shaginaw to the Town of Ballston Library Board of Trustees for a term commencing September 4, 2012 and ending June 30, 2017.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

RESOLUTION 12-141

ACCEPT THE RESIGNATION OF MERRILL MCCOLL FROM THE TOWN OF BALLSTON ETHICS COMMITTEE AND CHAIRMANSHIP EFFECTIVE IMMEDIATELY

A motion was made by Councilwoman Hynes and seconded by Councilman Knight to accept the resignation of Merrill McColl from the Town of Ballston Ethics Committee and Chairmanship effective immediately

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

RESOLUTION 12-142

RETAIN THE LEGAL SERVICES OF WHITEMAN, OSTERMAN & HANNA, LLP AS SPECIAL SEQRA COUNSEL FOR THE TOWN OF BALLSTON'S REVIEW OF THE PROPOSED ASPHALT PLANT AT A COST NOT TO EXCEED \$20,000

A motion was made by Councilman Knight and seconded by Councilman Szczepaniak to retain the legal services of Whiteman, Osterman & Hanna, LLP of One Commerce Plaza, Albany, New York 12260 as Special SEQRA Counsel for the Town of Ballston's Review of the proposed asphalt plant to be paid from Contingency to Planning Contractual fund at a cost not to exceed \$20,000 subject to Town Attorney's approval.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and Councilmen Szczepaniak, Knight and Goslin

Nays 0

Councilwoman Hynes asked why this firm was selected instead of a Saratoga County Law Firm.

Supervisor Southworth answered that Mr. Doyle, Chairman of the Planning Board, made a list of prospective law firms specializing in SEQRA process and Peter Reilly, Attorney for Planning and Zoning made the selection.

RESOLUTION 12-143

ACCEPT THE RESIGNATION OF TIMOTHY NORTHRUP FROM THE PLANNING BOARD

A motion was made by Councilman Szczepaniak and seconded by Councilwoman Hynes to accept with regret the resignation of Timothy Northrup from the Planning Board.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and Councilmen Szczepaniak, Knight and Goslin

Nays 0

RESOLUTION 12-144

SET A PUBLIC HEARING FOR THE POSSIBLE ACQUISITION OF CAPPIELLO FARM FOR SEPTEMBER 25, 2012 AT 6:30P.M.

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin to set a public hearing for the possible acquisition of Capiello Farm for September 25, 2012 at 6:30 p.m.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and Councilmen Szczepaniak, Knight and Goslin

Nays 0

DISCUSSION

Supervisor Southworth said that some Town residents have expressed concerns with the use of outdoor wood boilers, especially during the warm summer months. There is a problem with the improper burning of materials. We should review the regulations from DEC.

Councilman Knight stated that he has two outdoor wood boilers. The directions are clear and specific on what to burn and not burn, stack heights and distances from neighbors.

Supervisor Southworth noted that outdoor wood boilers are not addressed in the Town Code. The Board should look into regulations for potential health concerns. The Town of Charlton has a regulation stating the distance from the property line. Approximately seventeen Towns have regulations concerning outdoor wood boilers. Supervisor Southworth asked Councilman Knight to look into these regulations for the Board.

RESOLUTION 12-145

EXECUTIVE SESSION

A motion was made by Councilman Szczepaniak and seconded by Councilwoman Hynes to move into Executive Session at 9:18 p.m. for Personnel History, Litigation and the Proposed Acquisition of Real Property.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin
Nays 0

RESOLUTION 12-146

RETURN TO REGULAR SESSION

A motion was made by Councilman Szczepaniak and seconded by Councilman Knight to return to regular session at 9:55 p.m.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin
Nays 0

RESOLUTION 12-147

NOT TO ACT ON THE PLAINTIFF'S DEMANDS IN BOUCHARD LITIGATION

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin not to act on the plaintiff's demands in the Bouchard litigation.

ADOPTED Ayes 4 Councilwoman Hynes and Councilmen Szczepaniak, Knight and
Goslin

Supervisor Southworth recuse herself from this action.

RESOLUTION 12-148

**PROCEED WITH THE REAL ESTATE TRANSACTION AND AUTHORIZE
THE SUPERVISOR TO SIGN THE CONTRACT, SUBJECT TO THE
REVISIONS DISCUSSED**

A motion was made by Councilman Szczepaniak and seconded by Councilwoman Goslin to proceed with the real estate transaction and authorize the supervisor to sign the contract, subject to the revisions discussed.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin
Nays 0

On a motion of Councilman Szczepaniak and seconded by Councilman Knight, the meeting was adjourned at 9:58 p.m. Carried unanimously.

Respectfully submitted,

Carol R. Shemo
Town Clerk