

**December 9, 2015**

**Work Session**

**6:30 PM**

Supervisor Grant along with Council Members Mohun, Frounick and Hoy audited the Highway, General Fund, Special District claims and Payroll Vouchers. Councilman Gadd absent. Highway Superintendent Czworka received/discussed a proposal from Breton Construction for 24' x 40' building for the Highway Dept. Part of which would be used to cover the fuel tank. Mr. Czworka also reviewed/discussed a letter he received re: towns asking the assistance of farmers/agricultural producers with large equipment in keeping town roads in good condition, especially the shoulders (trying not to park on the shoulders if possible). He reported receiving letter from NYS regarding CHIPS money. Got new tires for the trailer; Truck 127 had a brake job, truck 128 at Caledonia Diesel for rod and suspension issue; Trucks #123, #127 & #128 all have bad boxes on them. Highway men feel that truck #123 is still in pretty good condition would be worth getting a new box for it. Other than that, the Highway Dept. has been grading roads and putting down cold patch where they can, should get the CHIPS money next week, (approx \$102,000), he also got from the Assoc. of Towns, information on a Highway Superintendent program for the computer. Supervisor Grant reviewed her agenda with Board Members and discussed the Special Use permits that the Public Hearings are held for.

**December 9, 2015**

**Regular Meeting**

**7:30 PM**

Supervisor Grant called the meeting to order and asked Councilman Frounick to lead the pledge to the flag. Present were Council Members Hoy, Frounick and Mohun, also Highway Superintendent Czworka and Assessor Wittmeyer. Councilman Gadd absent.

Supervisor Grant opened the following Public Hearings:

1. Special Use Permit for Robert Kaminski ( Kaminski's Plumbing & Heating).
2. Special Use Permits (2) for Justin Marchewski.
3. Local Law #4 – A Local Law Providing Property Maintenance for Vacant and Abandoned Buildings & Properties.

**Financial Matters:**

**General Fund** claims #253 - 274 totaling \$8009.07 presented. Motion made by Frounick/Mohun to approve the General Fund claims presented. Voting all ayes, carried.

**Highway** claims #165– 180 totaling \$27,838.80 presented. Motion made by Hoy/Frounick to approve the Highway Fund claims. Voting all ayes, carried. Note: \$1894.77 was spent on road fuel.

**Special District Claims:**

**Cowlesville Street Lighting** – Voucher #12 in the amount of \$190.73 presented. Motion made by Frounick/Hoy to approve the Cowlesville Street Lighting District claim, voting all ayes, carried.

**Cowlesville Water District** claims #62-66 totaling \$2167.66. Motion made by Mohun/Hoy to approve the Water District claims, voting all ayes, carried.

**Supervisor's Financial Statements for November:**

Supervisor Grant asked if any questions. Motion made by Mohun/Hoy to accept the Supervisor's Financial report, voting all ayes, carried.

**Minutes: November 4 and November 18<sup>th</sup> meetings:** Supervisor Grant asked if any corrections/amendments. Council Member Mohun, Page #245 Property Maintenance Law - Hearing should read Dec. 9, 2015. There being no other corrections/amendment, a motion was made by Mohun/Hoy to accept the minutes as corrected/amended, voting all ayes, carried.

Minutes of the Nov. 4, 2015 Meeting – There being no correction/Amendments, a motion was made by Hoy/Mohun to accept the minutes as submitted. Voting all ayes, carried.

**Correspondence:** Letter dated Dec. 2, 2015 re: Extract from their meeting minutes on Nov. 19<sup>th</sup> enclosing a 16 pages containing the Authority's Tariff amendments effective January 16, 2016.

Certificate of Liability Insurance naming Direct Energy and Its majority owned subsidiaries and affiliates including Astrum Solar, as sent by the Town of Bennington.

Official Election Results from the November 3, 2015 Election received from the Wyo. County Board of Elections.

Supervisor Grant received a letter from Chatfield Engineers requesting to be appointed as the firm for engineering services for the Town in the 2016 calendar year. Supervisor Grant noted that the town doesn't make any appointments now, but will kept the information in case we have any projects that come up.

Received and updated account balance on the HRA account as of 11/30/15 for the highway employees, getting ready to roll over into the coming year.

Iroquois Central School sent the town earlier (couple of months ago) information on a building project that they were considering, sent town a notice of determination of non-significant for the SEQG process for their capital project for next year along with a copy of the document.

**Departments:**

**Assessor:** Assessor Wittmeyer reported she's working on building permits and exemptions.

**Zoning/Planning:**

**Kaminski Special Use Permit application:** An application to operate plumbing and heating contracting business at 1074 Alleghany Road. Supervisor Grant reviewed his application, work

all done off site, not within 500 feet of a working farm, has a van and dump truck, hours of operation are 24 hours/day on call for emergencies,( house is set back quite away from the road, so won't be disturbing the neighbors if has to leave in the middle of the night). Has a 40 x 60 foot storage barn, all materials are stored in vehicles or the barn. There are no signs at that property. The town is the lead agency for the SEQR process, she reviewed the process with Board Members. After review of the SEQR, it was determined unanimously that there will be no significant impact on Mr. Kaminski's application.

Supervisor Grant asked if anyone wanted to comment on Mr. Kaminski's application. No comments. There were 6 people present. One written comment received from Arthur Beitz who's in favor of Mr. Kaminski's application. Supervisor Grant reported she discussed this permit with Art Buckley, the Wyo. Co. Planner and the County Planning Board doesn't have any issues with it.

### **Marchewka's Special Use Applications:**

**#1 – Home Office at 325 Lapp Road for a construction company.** Supervisor Grant reviewed the application as well as the SEQR. Board Members agreed that this would have no significant impact.

**#2 - Special Use applications for parcel #2.-1-10.11 on Lapp Road,** requesting to park vehicles, truck and trailers.

Brian Wolniewicz stated that the concerns that he and some of his neighbors have is that there are approx. 20 porta-johns there along with a tanker truck (assumes he uses that as a septic truck to empty the porta-johns), parking trucks one thing but to also have porta-johns tells you something else is going on, not sure of the rules, regulations, licenses that are required for that part of the business. He also has piles of junk, building materials and tree wood stored there, also has seen a small backhoe on the property. Mr. Wolniewicz asked if the porta-johns were part of his business, he said that he uses them on his construction sites, but also rents them out, it's Fisher Septic which is a part of J&M Construction (Beyer Construction). The septic truck is taken to a licensed disposal place to be emptied, he has all the permits/insurance and meets all of the requirements to operate the tanker truck which gets inspected annually. Asked if the truck is ever left full at the Lapp Road site. Told by Mr. Marchewka that when it reaches a certain point, it's taken to the disposal plant, emptied and cleaned. Mr. Wolniewicz reported that part of this business is on a hill which drains into the stream which runs behind Highland Glens property and since they have private water and septic concerns about something leaking (valve) from the septic truck into the stream and contaminating this system. They (Highland Glens) are monitored/tested daily by the health department. Mr. Wolniewicz asked if he has fuel storage on the property. Mr. Marchewka said no fuel tanks are stored on the property, he has a pick-up truck with fuel tanks on it. Mr. Wolniewicz reported there are piles of scrap metal, also a dumpster, filled with what looks like a lot metal and trash too. outside of dumpster, looks

like a pile of aluminum, siding but if doing remodeling, ripping of shingles, tarpaper, old asbestos siding, doesn't know if there is more, hard to see, asked Mr. Marchewka if he does home construction. Mr. Marchewka said there is window frames there, when they remove asbestos or any hazardous materials, they get disposed of properly. Mr. Marchewka stated that when the market is right they get rid of the salvageable scrap, they don't bring onto the property anything other than the materials they can use or sell, everything else gets disposed of at the construction sites (they are a home construction business). Mr. Marchewka said he utilizes 1 acre of land at that site for his construction business, tries to keep it as neat as he can, he said that Schlossin destroyed that property to shreds, they are refurbishing that property, bringing back soil, cleaning up the place. Council Member Mohun asked Mr. Wolniewicz if he's noticed anything in particular, any disturbance. Mr. Wolniewicz said no, he hasn't just wants to put out the worse case scenario, just wants to make sure everything is on the up and up. Mr. Wolniewicz stated that the sewer treatment plant is just downstream from this property and monitored by Erie County. Supervisor Grant reminded everyone that they always want to look at the worse case scenario and even beyond, so now is the time to establish his base, let people know if you intend on building this business up, get a good base in now while having the public hearing rather than after the fact want to change your operation and have to go through the whole process again. Mr. Marchewka said all he wants to do is occupy 1 acre of land, right now he will not enlarge that area more than the 1 acre. Supervisor Grant stated that his application says he has porta-johns on site, but does not state he runs a porta-john rental business, does he want to amend his application to include the porta-johns rental business or does he want to pay another application fee and go through the whole process again. He wants the application amended. Council Member Mohun asked if going to give the town a copy of his permit that allows him to dump sludge so that the town knows that everything is okay for that part of the business. Mr. Wolniewski reminded everyone of the Schlossin matter when he tried to start a construction business there, he was checked out and found that were complaints, violations on him from other areas and asked Mr. Marchewka if he had any complaints/violations against him. Mr. Marchewka stated he's had no violations cited on his business. Supervisor Grant asked him how many port-johns he would have on his property at one time. Told no more than 20 (on the high side), reason is, if he brings them out here, only has to haul them back into the city, tries to control the hauling costs.

Kathryn Draz, Little Lake, asked Mr. Marchewka about his business. She's concerned, has two sons in that business, have trucks going in and out, mechanics going in and out, wood piles all over, have to worry about the moles. transporting etc. probably asking a whole lot from a homeowner like her paying high taxes and having a construction company across the street. She asked Mr. Marchewka what he does with his wood, has a pile of wood there. Mr. Marchewka stated they haul wood, sells what he can, eliminating their waste. He stated that he chunks it up, sells off site, only keeps the amount that he wants. She asked him if he owns a log

splitter. He stated he does and it's stored at his house in Marilla. She asked him what kind of construction material, waste does he have. He said it depends on the project. If remodeling, any saleable metals might come back, when market right, would sell etc. She asked about the permitting process. Supervisor Grant informed her that the initial permit if approved is issued for one year. Ms. Draz asked if action on this permit could be delayed because the majority of the people in the Glens are out of town, feels that this is not the appropriate time to allow a business of this nature in without public info, would like it delayed for a month or two. Supervisor Grant explained that the special permit process is that the town holds the public hearing, if everything found in order and the Town Board is in agreement, the Town grants a special use permit for one year initially, if during that one year time period, if there are any issues that come up, maybe an issues that wasn't even mentioned in the original permit process that comes up, (ie burning huge piles of wood, there's smoke or whatever), then you come back at the end of the year, the Town Board re-examines the permit, if no complaints, the Town Board will renew the application for up to 3 year periods, if the applicants applies and still want to keep his business there. The town does monitor them, they have to come back and renew them. She asked if the Town Board has to vote on this tonight. Ms. Draz would like the Town Board to hold off for at least another month so they can get more people here. Short discussion held. Mr. Wolniewicz stated that their main concern is the water-sewer being contaminated. Ms. Draz asking for an onsite inspection, could that be done. Mr. Marchewka has permits with Erie County, willing to take them onsite, they are more than welcome, he knows what happened the last time with the construction business on that site, the reputation the previous owner had, he runs a clean business. Councilman Hoy asked Mr. Marchewka, if this gets passed today and he foresees any problems/issues that come up during the coming year, to come to the Town Board or the Zoning Officer, let them know so they go up and take pictures and go down to the Health Dept., obviously here to protect the health and welfare of the community, but to support business too, want to make sure things are done right. Mr. Marchewka said that if the town does have a problem, they will fix it.

There being no further comments, a motion was made by Mohun/Frounick to close the public hearing on Kaminski and Marchewka, voting all ayes, carried. Public Hearings closed at 8:37 PM.

Supervisor Grant, with Mr. Marchewka's consent amended his application to include Beyer Construction and Fisher Porta-John Rentals as the applicants, at 325 Lapp Road with regards to #8 of the Marchewka's application, which list the porta-john business. In the description of proposed action, she added "Beyer Construction- storage of construction equipment, temp. storage of materials including scrap metal, employees vehicles, logs from logging operation, rental porta-john units (Fisher)" After reviewing the SEQR, it was determined that #2 Small

impact on land use intensively due to vehicles & storage. #3 potential impact on water systems due to any leakage from equipment & storage facilities that are not maintained.

Supervisor Grant asked if any Town Board Members had any comments. None.

Conditions:

1. Copies of tanker truck inspections annually to the Town.
2. Include porta-john rental business with permit.
3. Periodic inspection by Town officials for compliance.

**Determination of the SEQR Resolution:**

**Kaminski Special Use Permit:**

Be It Resolved, that the Town Board of the Town of Bennington, upon review and completion of the SEQR process and preparing a negative declaration, and upon review and recommendation of the County Planning Board and based upon public comment at a duly advertised Public Hearing held on this day, hereby approves a Special Use Permit for a period of one year for Robert Kaminski, 1074 Rt. 77, Attica, New York for a plumbing and heating contractor business within the Town of Bennington.

Motion made by Councilman Frounick: seconded by Council Member Mohun

**Ayes: 4          Noes: 0          Absent: 1 (Gadd)**

**Marchewka Special Use Permit:**

**Be It Resolved, that, the Town Board of the Town of Bennington, upon review and completion of the SEQR process**

Be it Resolved, that, the Town Board of the Town of Bennington, upon review and completion of the SEQR processes and preparing a negative declaration, and based upon public comment at a duly advertised Public Hearing held on this date, the Bennington Town Board hereby approves a Special Use Permit for a period of one year for Justin Marchewka, 325 Lapp Road, Alden New York for a construction company home office;

And Be it Further Resolved, that the Town Board of the Town of Bennington, upon review and completion of the SEQR processes and preparing a negative declaration, and based upon public comment at a duly advertised Public Hearing held on this date, the Bennington Town Board hereby approves a Special Use Permit for a period of one year for Richard & Justin Marchewka, 325 Lapp Road, Alden New York for construction company storage and employee/equipment parking and portajohn rental business.

Motion made by Mohun; seconded by Frounick. Ayes: 4 Noes: 0 Absent: 1 - Gadd

**Highway Dept:** Superintendent Czworka received a proposal for a 24' x 40' structure to be split (24' x 20' enclosed & 24' x 20" open all sides) \$39,500. Want to cover the propane tank, get out of the weather, when it rains, sometimes sitting in water. Just a proposal, won't be doing anything in the near future.

Also, as discussed briefly in the work session, the town of Perry has sent letters to their farmers that use large equipment re; the annual Spring spreading of manure, requesting they keep town roads in good condition especially the shoulders. Bennington doesn't have an issue presently.

**Parks/Recreation:** Nothing to report.

**Water Dept.:** Supervisor Grant reported the town has a good balance in the account.

**Transfer Station:** Supervisor Grant reported the town has received a bill from the Highway department for un-clogging the compactor. They threw a couch in the compactor and it jammed the compactor. Highway workers had to physically go into the compactor, remove some garbage to get it cleared out.

**Hear Public Concerns:** None

**Old Business:**

**Local Law #4 year 2015 Property Maintenance for Vacant & Abandoned Buildings & Property**

Councilman Mohun review the changes made in the draft law, short discussion held. Supervisor Grant asked if any comments. Motion made by Mohun/Hoy to close the Public Hearing. Voting all ayes, carried. Public Hearing closed at 9:08 PM.

**SEQR Review- Part 2 – Impact Statement**

Motion made by Hoy/Mohun that the Town Board be named the Lead agency for SEQR purposes for Local Law #4, 2015. Property Maintenance for Vacant & Abandoned Buildings & Property. Voting all ayes, carried.

Supervisor Grant reviewed part 2 of the SEQR with Board Members. Determined that there would be no significant impact by a majority vote of 3 ayes, 1 nay (Frounick) and 1 absent (Gadd).

**Resolution:**

**BE IT RESOLVED**, That the Town Board of the Town of Bennington, New York, upon review and completion of the SEQR process and preparing a negative declaration and following a duly advertised Public Hearing held on the 9<sup>th</sup> day of December 2015, hereby approves Local Law #4, Year 2015 of the Town of Bennington, A Local Law Providing Property Maintenance for Vacant Buildings and Properties.

Motion made by Mohun/Hoy to adopt the resolution for Local Law #3-2015.

Voting - Ayes: Grant, Hoy, Mohun  
Nay: Frounick  
Absent: Gadd

**Website:** Most of the site is ready and online, asking for more information to complete it., like the minutes from 2015.

**New Business: Set dates for year End Meeting; 2016 Organizational Meeting/ January Regular Meeting; Annual audit of Town Records by the Town Board:**

**Year End Meetings:** Dec. 30, 2015 @ 7:30 PM

**2016 Organizational Meeting/ January Regular Meeting:** January 6, 2016 Work session @7 PM and RE-Organizational/Regular Meeting at 7:30 PM

**Annual Audit of Town Financial Records** - January 13, 2016 @ 6:30 PM

Motion made by Hoy/Mohun to set the above meeting dates and time, voting all ayes, carried.

**Agreement to engage Don Przybyl, Municipal Auditor to conduct an audit of the Town Supervisor's, Town Clerk/Collector's, Cowlesville Water District and Town Court's accounts for 2015:** Motion made by Hoy/Frounick to retain Mr. Przybyl to audit the 2015 Town's Financial Records, voting all ayes, carried.

Supervisor Grant asked if there was any other business to come before the Board.

Council Member Mohun mentioned the Employee Handbook, questioned the online software the town purchased.

There being no further business, a motion was made by Mohun to adjourn.

Meeting adjourned at 9:28 PM.

Respectfully submitted:

Judith Brown, Town Clerk