

A regular meeting of the Lysander Town Board was held at 7:00 p.m. on July 22, 2013 at 8220 Loop Road, Baldwinsville, New York.

MEMBERS PRESENT: John A. Salisbury, Supervisor
Melinda Shimer, Councilor
Andrew O. Reeves, Councilor
Arthur C. Levy, Councilor
Russ W. Johnson, Councilor

MEMBERS ABSENT: None

OTHERS ATTENDING: Anthony Rivizzigno, Town Attorney; Gene Dinsmore, Highway Superintendent; Al Yager, Town Engineer; Timothy Wolsey, Code Enforcement; Lisa Dell, Town Clerk and several residents.

**APPROVAL OF MINUTES
JUNE 24, 2013***

RESOLVED that the minutes from the regular Town Board Meeting of May 30, 2013 be approved.

*Tabled

TOWN BOARD COMMENTS

Councilor Shimer reported on a very valuable training session she attended at Cornell University recently.

SUPERVISOR COMMENTS

None

DEPARTMENT HEAD REPORTS

Theresa Golden, Town Assessor and Tim Wolsey, Deputy Code Enforcement Officer made reports to the Board and their reports are attached to these minutes.

ANNOUNCEMENTS

Supervisor Salisbury reported the following:

- Route 370 Bridge: 2 way traffic beginning on Monday July 22, 2013.
- NYS Public Service Commission public statement hearings concerning options for the area code region on August 7, 2013 at the Hughes State Office Building, 2 pm and 6 pm.
- Brian May, County Legislator, has advised the Town that we will receive an additional \$12,600 on the Towns' snow plowing contract with the county because of the severity factor which was added to the usual snow contract.

CITIZENS' COMMENTS ON AGENDA ITEMS

None

OLD BUSINESS:

**TRANSFER OF DEVELOPMENT RIGHTS PROGRAM
STATUS/UPDATE**

July 22, 2013

Supervisor Salisbury made the following statement:

“We had a public hearing and we have been discussing it at our work sessions and at one whole work session on the TDR (Transfer of Development Rights Program). We have reviewed the local law in depth and consulted with the Town Attorney as well as outside counsel. We have determined that the language contained in the local law does not allow the program to go forward in its current form. Consequently we will not be taking any action on this matter. The law was written that the law really killed itself within one year after it was actually started so that the law was ineffectual as of I think, 2010. And I don’t know how many people have read that law and nobody caught it and finally it was caught and the number of attorneys that looked at it all agreed and in fact one of the attorneys said that it is not even ambiguous, it states right there. It’s just as plain as day but it is one sentence in one little paragraph and it was overlooked all these times. Right now the TDR still remains on the books but it is not in effect.”

NEW BUSINESS

APPROVAL TO ADVERTISE
PUBLIC HEARING
PROPOSED ASPEN SPRINGS SEWER DISTRICT

RES. #142/2013 Motion by Reeves, Second by Johnson

RESOLVED that the Town Clerk be authorized to advertise for a public hearing to be held before the Lysander Town Board at 7:01 p.m., August 12, 2013 at the Lysander Town Building to hear all persons for or against the proposed Aspens Springs Sewer District including a 4.968 acre parcel located on Aspen Springs Drive owned by J. Alberici & Sons

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

APPROVAL TO ADVERTISE
PUBLIC HEARING
PROPOSED ASPEN SPRINGS WATER DISTRICT

RES. #143/2013 Motion by Levy, Second by Shimer

RESOLVED that the Town Clerk be authorized to advertise for a public hearing to be held before the Lysander Town Board at 7:02 p.m., August 12, 2013 at the Lysander Town Building to hear all persons for or against the proposed Aspens Springs Water District including a 4.968 acre parcel located on Aspen Springs Drive owned by J. Alberici & Sons.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

APPROVAL OF CONTRACT
UPPER DEXTER PARKWAY DRAINAGE IMPROVEMENT PROJECT
LAFLEUR CONSTRUCTION

July 22, 2013

RES. #144/2013 Motion by Johnson, Second by Reeves

RESOLVED that the Supervisor be authorized to sign the agreement for the Upper Dexter Parkway Drainage Improvement Project with LaFleur Construction in the amount of \$145,712 subject to the submission of the required insurance documents and the approval of the Town Attorney.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

APPROVAL TO ADOPT PROCLAMATION
PARKS AND RECREATION MONTH

RES. #145/2013 Motion by Shimer, Second by Johnson

RESOLVED to adopt a Proclamation to declare the month of July 2013 as Parks and Recreation month in the Town of Lysander.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

PARKS AND RECREATION
APPOINTMENTS
2013 SUMMER STAFF

RES. #146/2013 Motion by Reeves, Second by Johnson

RESOLVED to appoint the following list of individuals to the Parks and Recreation summer staff at the hourly rate's listed below, effective July 1, 2013:

Tresa Piedmonte Camp Crayola Staff \$8.00 hr
Anthony Caselle Day Camp Life Guard \$7.50 hr
Erin Knaul Extended Day Camp Counselor \$7.50 hr
Morgan Hartley Day Camp Counselor \$7.50 hr

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

TOWN CLERK'S OFFICE
APPROVAL TO SELL NYS THRUWAY E-Z PASSES

RES. #147/2013 Motion by Johnson, Second by Levy

July 22, 2013

RESOLVED to authorize the Town Clerk's office to sell NYS Thruway Authority E-Z passes.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

Councilor Johnson stated he wanted to commend Town Clerk Lisa Dell for yet another service to the constituency and that this is an important one for him, that he has this, and it is very beneficial, believing that having an E-Z Pass rates are less than paying on the Thruway.

CHASE CEMETERY
APPROVAL OF MOWING CONTRACT

RES. #148/2013 Motion by Reeves, Second by Levy

RESOLVED to authorize the Town Supervisor to sign a contract with Proscapes, Inc. for mowing and trimming at the Chase Cemetery for the 2013 growing season in the amount of \$471.00 per mowing and trimming service request, effective July 1, 2013.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

MELVIN DRIVE SEWER PUMP STATION
APPROVAL FOR REPAIRS

RES. #149/2013 Motion by Shimer, Second by Levy

RESOLVED to replace the original pumps in the Melvin Drive Sewer Pump Station, which were installed in 1984 and are in need of new impellers and bearings and wear rings, under county bid pricing at a cost not to exceed \$10,000.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

RADISSON DRAINAGE DISTRICT
APPROVAL TO EXPEND FUNDS ON SPECIFIED PROJECTS

RES. #150/2013 Motion by Levy, Second by Shimer

RESOLVED to authorize the Town Engineer to expend Radisson Drainage District funds on the following projects:

Oakbrook Drive South rear yard drainage, not to exceed \$5,000
Oak Brook Drive North rear yard drainage, not to exceed \$15,000
July 22, 2013

Grey Birch Drive, rear yard drainage not to exceed \$9,500
Hadley Lane, rear yard drainage not to exceed \$15,000
This work will be completed under Onondaga County DOT bid for trench and culvert repair.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

Supervisor Salisbury commented that what they have been looking at over the last few months is that there are serious shortages in some of the Town's districts and that is just because they were not paying enough per year into the District to cover the expenses. The Districts that have the biggest problems we talked to and will be working with them. When the Town goes into the budget for next year they will look at what each district is paying and if there are additional funds that need to be raised because the Town does not want to get to a point where there may have to be a repair done and there is not enough money in the account. The Town is only trying to protect the districts.

CLINTON HEIGHTS DRAINAGE DISTRICT
APPROVAL TO EXPEND FUNDS

RES. #151/2013 Motion by Levy, Second by Shimer

RESOLVED to authorize the Town Engineer to expend funds in the Clinton Heights Drainage District, Abbots Landing subdivision, to clean and maintain the rear yard swale between the Baldwinsville Seneca Knolls Treatment Plant and the properties on Killoe Road under the Onondaga County DOT bid for equipment with operator, Hydraulic Excavator – Gradall 1000, in an amount not to exceed \$16,000.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

LANDINGS DRAINAGE DISTRICT
APPROVAL TO SEEK REQUEST FOR PROPOSALS
SURVEY AND STAKEOUT OF SWALE

RES. #152/2013 Motion by Reeves, Second by Johnson

RESOLVED to seek proposals for survey and stake out of the Landings Drainage District perimeter swale for an upcoming drainage maintenance project.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

Town Engineer, Al Yager, reported that there is a perimeter swale around the Landings from lower Doyle Road to upper Doyle Road and is approximately 4500 feet long and has never received any maintenance from July 22, 2013

the day the Town accepted dedication of the easement. It is severely overgrown to the point of there are trees up to 8 inches in diameter growing in the middle of the ditch. Water is currently backing up all the way from lower Doyle Road and upper Doyle Road that in some places is a couple of feet deep. Because it is so overgrown and so flooded at this point in time, the Town doesn't feel comfortable going in and doing any ditching knowing that the Town only has a 20 feet easement there and it's in the woods without having it staked first and then going forward from there. There may be just enough money in this drainage district to cover the survey and stakeout. This is one where the Town is looking at a serious problem and the district is underfunded and there is a need to fix the problem. The Town needs to get a better handle on how much clearing has to be done in order to fix it before a proposal can be put together to take care of the needed maintenance. This is a subdivision that is on septic systems and back up drainage can have an effect on the functioning of septic systems. There is a dry sewer in this development but unfortunately there has not been a way to connect it at this time but the Town is working on it.

DEPUTY CODE ENFORCEMENT OFFICER
APPROVAL TO INSTRUCT
FIRE/EMS ELECTIVE COURSE

RES. #153/2013 Motion by Shimer, Second by Johnson

RESOLVED to authorize Tim Wolsey of the Lysander Code Enforcement Office to participate as a substitute instructor in the Fire/EMS elective course at Baker High School.

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye
All Ayes, Motion Carried and Adopted

A lengthy discussion ensued among the Board with the following points discussed regarding if the Deputy Code Enforcement Officer has the time to teach despite the demand of the work load in the Code Enforcement Office. Mr. Wolsey advised the Board that he would teach on his lunch hour.

CONSOLIDATION OF FIRE SERVICES
APPROVAL TO ENTER INTO GRANT APPLICATION*

RESOLVED to authorize the Supervisor to enter into a Grant Application and Memorandum of Understanding with the Lysander Fire District and the Town of Van Buren to consolidate fire services.

*A lengthy discussion ensued among the Board and the Town Attorney, (after a motion and a second to vote on the matter was made), on the necessity of the grant, what were the results of past grant, and that more information was requested regarding this particular grant before voting on it this evening. A motion was then made by Councilor Levy, Second by Councilor Reeves, to withdraw the original motion moved by Councilor Johnson, Second by Councilor Levy.

TAX CERTIORARI
SEDGEWICK PROPERTIES, LLC VS. TOWN OF LYSANDER
APPROVAL OF REPRESENTATION

RES. #154/2013 Motion by Salisbury, Second by Reeves

RESOLVED to authorize the Bond Schoeneck and King, PLLC to represent the Town of Lysander in a tax certiorari matter with Sedgwick Properties, LLC.

July 22, 2013

VOTE:

Supervisor Salisbury Aye Councilor Shimer Aye Councilor Levy Aye
Councilor Reeves Aye Councilor Johnson Aye

All Ayes, Motion Carried and Adopted

RECOGNITION OF CITIZENS

TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

Norm Ashbarry, Hidden Lake Drive, expressed his concern to the Board that Supervisor Salisbury did not share a letter regarding the TDR issue, received from a citizen at the last town board meeting, to the entire Board and asked that in the future this be done.

Supervisor Salisbury replied that he appreciated the information and his suggestion but as far as the TDR it is a dead issue right now.

Mr. Ashbarry replied that whatever letters he receives, he thinks it is important that he shares them with all the members of the Board.

Supervisor Salisbury said that he does and must have missed this one.

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Hugh Kimball, Dexter Parkway, addressed the Board and expressed the following concern:
He has read what he thinks is the section in the Code that the Supervisor referred to earlier (under Old Business). Originally when he read it he read it the way he wanted to read it and the way his own memory remembered it from 5 or 6 years ago. When he re-read it after he heard what the Supervisor said, he can read it his way also. But he is really concerned that if the Town Board goes ahead somewhere in the next few meetings and approves a zone change in the Cold Springs peninsula that perhaps it might be challengeable that the TDR program does exist.

He was involved to a degree, attending all the meetings when the TDR was discussed. At the very end he was on the Zoning Board of Appeals (ZBA) and was appointed to the Ad Hoc Committee and took place in the last two meetings of the Ad Hoc Committee where the compromise was resulted. Some of the Town Board members and some members of the Ad Hoc Committee had a very conservative view that they did not want to use tax dollars for the program that included the state grant in their view, because that is still tax dollars. They took the approach that they really didn't want the grant, but they wanted the TDR program and would only vote for the grant, and the program as a whole, if the open market section was included.

Mr. Kimball then read from the Code, the section of law that he believed the Supervisor was referring to. Mr. Kimball read that the open markets system may be exercised within sending and receiving areas within the three regions in a chronological time line relative to the TDR program and refers to Region A, the Cold Springs peninsula. No sooner than the requirements of the NYS Department of Agriculture and Markets farmland protection implementation grant are full filled, but not later than one year from the adoption of this article. He said he can read it his way and put his finger over the first part of that and simply say that in the timeline relative to the TDR program, but not later than one year after the adoption of the article which to him says that the article was adopted on December 1, 2008 and the law become effective December 1, 2009. He can see it the other way to but would also point out that there is an item B in the Town Code that says Region B and C, one year from the time of the adoption of the article with no caveat. He is not sure on the interpretation.

Supervisor Salisbury commented that one would normally go to an attorney for interpretation.

Mr. Kimball said that he has seen instances where attorneys went to court and they were wrong.

Attorney Rivizzigno commented that if the wording was changed from not later than, to not earlier than, then

Mr. Kimball would be right.

Mr. Kimball said he just wanted to be sure that the Town Board has thought this all through and if the Board takes an action down the road or a subsequent Board does, that the Board does not want to put themselves in a situation where they can be challenged.

Supervisor Salisbury asked Mr. Kimball if the Ad Hoc Committee looked at the cost that had been spent on the TDR program.

Mr. Kimball replied that at the time it had not all been spent by any means and that we can all agree it cost too much and it took too long.

Supervisor Salisbury commented that he thinks it is more than what was paid to Barton & Loguidice; the Town increased the size of the sewer pipe from Whispering Oaks to accommodate a TDR program in the west.

Mr. Kimball said that he did not want to get into that.

Supervisor Salisbury said that Mr. Kimball had brought it up so he is just trying to explain.

Mr. Kimball said that all he brought up is the law that is in the book and he is concerned.

Councilor Reeves asked Mr. Kimball what he would suggest the Board do with that law.

Mr. Kimball said he did not know and he would re-do it without the grant. He thinks that the Town needs some kind of a framework as he said before to control density especially given the comments from the State and County DOT (Department of Transportation) with the problems with the bridges, etc. His concern is that at some point County and State DOT are going to say enough, and the Board is going to have a big fight on their hands with future development.

Supervisor Salisbury replied, asking Mr. Kimball, if he assumes because of the TDR program committing suicide that the Board is going to offer density on the whole peninsula.

Mr. Kimball replied no, and asked Supervisor Salisbury not to put words in his mouth. All he wants to do is make sure that the Board is aware that it still can be questioned.

Supervisor Salisbury said that they are very aware and they know what the DOT has done and he thinks that right there is a huge restriction on development on the peninsula.

Mr. Kimball said he did not want to get into an argument and he felt that he could not just sit here and not say something to the history of it and so forth.

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Jim Stirushnik, Dinglehole Road, addressed the Board and stated he supported Mr. Kimball's comments and expressed concern, from his own experience, that attorneys can interpret things and can be wrong.

Supervisor Salisbury said that three attorneys have looked at the law and they have spent enormous time on it. One attorney said that if the particular paragraph was ambiguous, than there might be a question, but it is not

ambiguous as far as he is concerned. Two attorneys from the Town's law firm agree.

OTHER BUSINESS

EXECUTIVE SESSION

RES. #155/2013 Motion by Shimer, Second by Johnson

RESOLVED to adjourn to executive session to discuss matters relating a personnel matter.

VOTE:

Supervisor Salisbury	Aye	Councilor Shimer	Aye	Councilor Levy	Aye
Councilor Reeves	Aye	Councilor Johnson	Aye		

All Ayes, Motion Carried and Adopted

ADJOURNMENT

At 8:11 P.M the Board adjourned to Executive Session and returned at 8:26 p.m., no action taken, meeting adjourned.

This is a true and complete recording
of the action taken at this meeting.

Lisa Dell
Town Clerk