

December 8<sup>th</sup>, 2011

The regular meeting of the Town Board was held on Thursday, December 8<sup>th</sup>, 2011 with the following members present: Richard Rowland, Supervisor; Daniel Pemrick, Thomas Kinsella and Walter E. Chandler, Councilman. Daniel Cochran was absent. Also present was Town Counsel Mark Schachner, Highway Supt. Walter Barss, one reporter and 9 residents.

The regular meeting was called to order by the Supervisor at 7:30 PM and opened with the pledge to the flag. On motion of Kinsella, C. and seconded by Pemrick, C., the minutes of 11/10/2011 and 12/1/2011 were approved as submitted by all Board members present. Chandler, C. abstained from the minutes of 12/1/2011 as he was absent.

Letter of Credit for SAS Holdings, Moss Creek Subdivision, was renewed. Term to expire November, 2012.

**RESOLUTION # 159 – Award Bid #2 Fuel Oil**

Motion: Chandler, C..

Seconded: Pemrick, C.

**RESOLVED**, That the Town Board hereby awards the Bid for #2 Fuel Oil for the Year 2012 to C. S. Pita, Fuel Oil, Inc. at the differential price of \$.1999 per gallon.

**VOTE:** Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None

Absent: Cochran

Brookhaven Park – Supervisor Rowland stated that the bid opening was held for proposed timber harvesting at Brookhaven Park. The results were not as good as expected. Chandler, C. added that F & W Forestry Services is working with one of the local mills who purchased some of the logs the first time that timber was harvested several years ago. They will be looking at rebidding.

Supervisor Rowland stated that the new furnace has been installed in the clubhouse. It is up and running and is much more energy efficient which should mean a substantial savings in fuel costs this winter.

Emergency Squad Agreement – Supervisor Rowland stated that he met earlier this week with representatives of the Wilton Emergency Squad. They are interested in providing ambulance service to the Town. If the Town chose to contract with them, they would help us to complete the certificate of need application. Supervisor Rowland added that he had a phone conversation with a current board member of the Saratoga Emergency Squad and he indicated that they were still in negotiations with having Empire Ambulance take over their operations. There has also been some interest expressed by other squads. Supervisor Rowland stated that in the meantime if Saratoga Emergency Squad shuts down the Town will have coverage under mutual aid. He stated that Wilton was very interested in providing services to the Town and would be interested in placing an ambulance in Town somewhere to provide a better response time. This would all have to be worked out, including a discussion regarding cost to the Town. Supervisor Rowland noted that he has not been contacted by anyone from Empire Ambulance Service at all. Kinsella, C. asked what the next step would be. Supervisor Rowland felt that the Board needed to determine whether a certificate of need should be put in the Town's name and begin the process to determine who the Board is going to contract with. Kinsella, C. questioned whether the Board should send out an RFP.

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Supervisor Rowland stated that he was not sure what to include in an RFP at this point. Are we looking for advance life support services, will there be 24/7 coverage, etc.

Kinsella, C. suggested that the Board start with asking for the same coverage that is provided for in our current contract. He asked if all Towns contract for services or do they strictly use the mutual aid system. Chandler, C. felt that the Town had to have a contract for services and could not just count on the mutual aid system.

RESOLUTION # 160 – Approve Community Center Use Request

Motion: Chandler, C.

Seconded: Pemrick, C.

RESOLVED, That the following organization be authorized to use the Community Center for their regular meetings:

Daisy Girl Scout Troop - Samantha Myers, Leader – Sunday afternoons from 11:00 AM to 12:30 PM, January to June.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None Absent: Cochran

Meeting Schedule - Discussion was held regarding the scheduling of the End of the Year and Organizational Meetings. The End of the Year Meeting will be held on Thursday, December 29<sup>th</sup>, 2011 at 7:00 PM. The 2012 Organizational Meeting will be held on Thursday, January 5<sup>th</sup>, 2012 at 7:30 PM. The regular monthly agenda meeting will be held immediately following the organizational meeting.

RESOLUTION # 161 – Establish Petty Cash for Tax Collector

Motion: Pemrick, C.

Seconded: Kinsella, C.

RESOLVED, That the Town Board hereby approves a petty cash fund in the amount of \$200. for the Town Tax Collector.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None Absent: Cochran

RESOLUTION # 162 – Approve 2012 Animal Shelter Agreement

Motion: Kinsella, C.

Seconded: Chandler, C.

RESOLVED, That the Town Board hereby approves the 2012 Animal Shelter Contract with the County of Saratoga in the amount of \$1,373.75.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None Absent: Cochran

RESOLUTION # 163 – Re-Appointment of UDAG Committee Member

Motion: Pemrick, C.

Seconded: Chandler, C.

RESOLVED, That the Town Board hereby reappoints Phillip Engborg as member of the UDAG Revolving Loan Fund Committee, with said term to expire 12/31/2016.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None Absent: Cochran

Bids for Chipper - Highway Supt. Barss stated that he would like to replace a 14 year old chipper. He would either trade in the old chipper or put out on

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auction site. Highway Supt. Barss noted that the surplus plow truck that he recently put on the auction site sold for \$27,100., substantially more than he thought he would receive. The money to purchase the new Chipper is in his 2012 equipment budget.

RESOLUTION # 164 – Schedule Opening of Bids – Chipper

Motion: Chandler, C.

Seconded: Pemrick, C.

RESOLVED, That the Town Clerk be directed to Advertise for Bids for a 2012 Towable Wood Chipper with said bid opening to be held on Thursday, January 5<sup>th</sup>, 2012 at 7:25 PM.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None

Absent: Cochran

RESOLUTION # 165 – Transfer of Funds

Motion: Pemrick, C.

Seconded: Chandler, C.

RESOLVED, That the Supervisor be authorized to make the following Transfer of Funds:

\$ 2,053.63	from	DA5110.4	to	DA5130.4
12,199.03	from	DA5110.4	to	DA5142.4
28,655.17	from	DA5110.1	to	DA5142.1
9,325.31	from	A1990.4	to	A9060.8
3,377.66	from	A7520.4	to	A5132.4
177.96	from	A5010.1	to	A5010.4
15.00	from	A8015.4	to	A8020.4
23.22	from	A8010.2	to	A8010.4
192.65	from	A7510.2	to	A7510.4
35.60	from	A1110.2	to	A1110.4
752.78	from	A8160.45	to	A8160.4
728.70	from	A7140.4	to	A5182.4
987.24	from	A1620.4	to	A1620.1

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None

Absent: Cochran

Nancy Walker, 58 Wilton Road - Ms. Walker wanted to talk about the situation with the horses at the Arnold property on Wilton Road. As a horse person it was very difficult for her and her friends here this evening to watch what is going on at that property. The individual who owns this property can not afford or physically take care of these animals and this has been going on for years. Ms. Walker stated that this situation is devaluing the properties around it. She asked if the Zoning Board has gone to the property to check the water quality, etc. She stated that she has sent letters to the District Attorney's office and has spoken with people at the SPCA. Ms. Walker asked what could be done as a community to clean up this situation. The animals are being starved right in front of us and she was very disappointed that the Town was not doing anything about it. Supervisor Rowland stated that it is not the responsibility of the Zoning Board to evaluate the situation. The Zoning Board of Appeals reviews applications for variances to the Town Code. This farm has been in existence prior to

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Zoning. There is a certain amount of grandfathering involved. Supervisor Rowland added that Mrs. Arnold had been charged with 19 count of Animal Cruelty and is scheduled to appear in Town Court on December 20<sup>th</sup>. There are additional charges that are pending against Mrs. Arnold when the animals were running loose recently which she is scheduled to be arraigned on at that same time. At this point we have to see what the Court is going to do. Supervisor Rowland stated that the Asst. District Attorney is involved in this matter. The SPCA is looking at the horses on the property on a day to day or every other day basis to determine if the horses are being properly cared for. At this point they are. It was his understanding that there were 9 horses remaining on the property at the point when the first charges were brought against Mrs. Arnold. Since then 10 other horses have been brought to the property. It was his understanding through rumor that they were horses that she owned that came from a farm elsewhere due to the fact that the owner of that farm requested that she remove them because they did not want to be involved in a court situation. Supervisor Rowland added that it was his understanding in speaking with the Asst. District Attorney that the horses were being evaluated. At this time, they do not have homes for all the horses. The shelter that took the original horses from the property was only able to take the number that they took. At this point, until the Court makes some sort of decision, Mrs. Arnold has to relinquish the horses in order for them to be taken from the property. Town Counsel Mark Schachner stated that by law, the Zoning Board of Appeals can only react to individuals seeking to obtain a variance of the Zoning Laws. Jill Cunningham, Locust Grove Road – Mrs. Cunningham stated that she was at the property last week when the horses were loose and spoke with Mrs. Arnold. She stated at that time that she would surrender 5 horses. Mrs. Cunningham was willing to take 2 specific horses, however Mrs. Arnold was not willing to let those 2 go. Mrs. Cunningham asked if the Town had a fund available where they could help to put up adequate fencing, provide feed, etc. Mrs. Cunningham stated that she recently had 15 bales of hay donated to her on Monday and she was personally going to drop off 3 bags of feed for them. She suggested that maybe the grandfathering law has to change because this situation was not going to go away. The Town has to take a proactive approach to this situation. Supervisor Rowland stated that the Town can not go on to private property and use taxpayer money to improve the property. He added that in the NYS Ag & Markets Law it states that if more proper fencing needs to be established it can be necessary for the adjacent landowner to have to put up the fence in order to keep the animals out of their property. Kinsella, C. asked if the Health Officer could be asked to visit the property. Supervisor Rowland stated that the Town Code Enforcement Officer has cited Mrs. Arnold on numerous occasions. Each time she has cleaned up the property of refuse & debris and removed abandoned vehicles, etc. to the satisfaction of the Code Enforcement Officer. Supervisor Rowland asked what water had been tested. Was it the water in the field or one of the neighbors' wells? Chances are the water in the field would certainly test positive for e-coli. He added that horses do not shed 157 which is the critical e-coli that everyone claims to cause the health issue. You can get a positive coliform test on water where there are no animals anywhere near it because of iron causing bacteria. There are rules and regulations that the Town has to follow. Mrs. Cunningham asked what the Supervisor would like to see done in a perfect situation.

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Supervisor Rowland stated that the perfect situation would be for the horses to be removed and placed somewhere else where they can be properly cared for. He did not believe that this was something that would happen immediately. The process has to go through the Court system. Mrs. Cunningham asked how many times she could be violated before something is going to be done. Town Counsel Schachner stated that the Town, by law, is not the enforcer of the NYS Ag & Markets Law. Regardless of whether or not the Town wants to do something, they can not. It has to go through the District Attorney. The violations at the Town level are Zoning violations only which Code Enforcement feels have been largely cleared up. The Town can handle Zoning Violations only. He felt that what could be done within the system was being done. The Court system does have the legal authority to not only act on past activities but can prohibit future activities. He was not sure if this would happen, however they could prohibit the individual from owning horses in the future. In this country people can do what they want and it is extremely difficult to get any Court to restrict future behavior. If the horses are removed from the property for a minimum of 1 year, grandfathering would be lost. Ms. Cunningham asked if there was any grant money available that may be obtained. Supervisor Rowland stated that he has discussed this with the District Attorney's Office and Cooperative Extension and they are looking into what can be done. Chandler, C. stated that about a year ago he was speaking to an individual about this situation and they suggested that an account or fund be set up that people can donate to that can be used to help the animals. Mrs. Walker felt that it could become a burden on them to manage the fund and may encourage her to continue to keep the horses which she should not do. Supervisor Rowland stated that he would ask the Code Enforcement Officer to take a look at the property again. He will also ask the Town Health Officer to take a look at the property as well. Unfortunately, at this point, that is all the Town can do. This has to go through the legal process.

Monthly reports were submitted by the UDAG Revolving Loan Fund, Town Clerk, Highway Supt., Building Department, Dog Control Officer and Town Supervisor.

RESOLUTION # 166 – General Bills

Motion: Kinsella, C.

Seconded: Pemrick, C.

RESOLVED, That General Bills # 649 to # 707 in the amount of \$33,740.18 be paid, subject to audit.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None Absent: Cochran

RESOLUTION # 167 – Parks Bills

Motion: Pemrick, C.

Seconded: Chandler, C.

RESOLVED, That Parks Bills # 231 to # 247 in the amount of \$18,687.57 be paid, subject to audit.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None Absent: Cochran

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RESOLUTION # 168 – Highway Bills

Motion: Chandler, C.

Seconded: Kinsella, C.

RESOLVED, That Highway Bills # 218 to # 239 in the amount of \$25,870.66 be paid, subject to audit.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None                      Absent: Cochran

RESOLUTION # 169 - UDAG Bill

Motion: Kinsella, C.

Seconded: Pemrick, C.

RESOLVED, That UDAG Bill # 15 in the amount of \$17, 819.11 be paid, subject to audit.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Chandler

Noes: None                      Absent: Cochran

On motion of Pemrick, C. and seconded by Kinsella, C., the meeting was adjourned at 8:30 PM.

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Town Clerk