

October 8<sup>th</sup>, 2015

The regular meeting of the Town Board was held on Thursday, October 8<sup>th</sup>, 2015 with the following members present: Paul Lunde, Supervisor; Daniel Pemrick, Daniel Cochran and Walter E. Chandler, Councilman. Also present were Town Counsel Mark Schachner, Highway Supt. Walter Barss and approximately 15 residents.

The Board convened as a Board of Health at 7:25 PM.

Unsafe Building – 4119 Rt 9N - Supervisor Lunde reviewed the report from the Code Enforcement Officer dated 10/8/2015. It was his opinion that the structure is still unsafe. Supervisor Lunde added that the Board had granted a couple of extensions to complete the work. He suggested that the property owner be sent a letter and asked to come in to the next meeting on Nov. 5<sup>th</sup> to discuss his plan for the property. Chandler, C. stated that the Board had indicated that if the roof was removed it would be okay. He did not feel that the structure was unsafe. Pemrick, C. suggested that it needed to be clarified as to whether the building was still unsafe according to the Board of Health standards or was it a code violation due to all the debris on the property. Pemrick, C. wondered if maybe there was a foundation or something that was open and accessible.

Unsafe Building – 491 Allen Road - Supervisor Lunde reviewed the report from the Code Enforcement Officer dated 10/8/2015. It was his opinion that this structure was also still unsafe. Supervisor Lunde stated that he would speak with the Code Enforcement Officer regarding this property as to whether it is still an unsafe structure or a code violation. Board members in favor of sending the property owner a letter to contact them or come to the next meeting on Nov. 5<sup>th</sup> to discuss their plan to clean up the remaining debris.

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 Chandler, C. and seconded by Cochran, C., the minutes of 9/10/2015 were approved as submitted by all Board members present.

Memo from the Town of Greenfield Environmental Committee with recommendations for use of the “non golf” land at Brookhaven Park.

Letter from Susan Celia & Ronald Owen, along with petitions signed by 48 residents, asking for steps to be taken to reduce the speed limit on Daniels Road. Susan Celia stated that she was here this evening to represent the residents who had signed the petitions who live on Daniels Road or immediately off of it. Traffic on Daniels Road has increased significantly. There were 6 significant accidents in the “S” curves this summer. The residents would like to do what they have to do to support the Town and Highway Supt. to make this a safer corridor. Town Clerk advised that she believed that the last time that the Town had filed for a speed reduction was in 2008. At that time, the State indicated that there were repeated studies in the area conducted in 1996, 1999, 2001 & 2008 at which times they found that a reduction of the speed limit was not warranted. The problem was with the enforcement of the speed limit. Duane Wright, Deputy Highway Supt., stated that they have taken counts since 2009. The numbers are fairly consistent with what the State found. He agreed that speeding is the issue and the last time school buses were actually traveling at the highest rate of speed. Supervisor Lunde asked if it would help to put up one of the electronic signs and asked if the Highway Department had any access to that kind of device. Highway Supt. Barss stated that the Town of Wilton has a sign and he would see if there was any way that he could borrow it for a short time. Board members in agreement to try and petition the County/State again for a reduction. Chandler, C. felt that the signs would help. Highway Supt. Barss added that he would look into other signage and see if anything could be changed up. Mrs. Celia asked if it would help the argument to say that both Route 9 and Wilton Road were 40 mph roads. Mrs. Celia added that part of the problem is that there is not a traffic light at the Middle School and that there also needs to be a turning lane at the Middle School. The whole corridor needs to be looked at. Mr. Owen stated that their objective in sending the petition

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and for coming to the meeting this evening was to give the Town an opportunity to recognize the problem and take some sort of action. He added that there were a number of things that can be done and that the question was whether the Town was going to shrug their shoulders or were they going to attempt some way to take a serious look at it and make changes that were going to mitigate a dangerous situation. Something needs to be done.

William McLellan, Middle Grove Road - Mr. McLellan stated that he was here to speak about the application for junkyard on Middle Grove Road. He stated that Mrs. Gaba claims to have a permit for the junkyard. He added that it was his understanding that permit goes with the owner and not with the land. If that is the case, when the property was sold, the permit was no longer in place. Therefore, the property as it exists now is in violation. Mr. McLellan stated that the traffic that was just being discussed comes off of Daniels Road onto Route 9N and turns onto Middle Grove Road where they are also going at a high rate of speed. In the past 20 years there have been at least 12 major accidents. Mr. McLellan noted that the SEQRA requirements have not been fulfilled. There has not been a traffic study completed, no lighting study or a study to determine the impact on the surrounding community. He did not believe that it made any sense for the Board to even be considering this application at this time. It is being bounced back and forth between the Town Board and Planning Board. He did not think that it made sense to divide it into two applications and that the project needed to be looked at as a whole, not a Junkyard License from the Town Board and Contractor Storage Yard Permit from the Planning Board. Mr. McClellan stated that they moved into an MDR1 zoned area and he expected it to remain that way. If this project is allowed, he believed that the property values all around that area will drop and have an impact on the tax base. Chris Reville, Middle Grove Road - Mr. Reville stated that the proposed junkyard is located exactly in the middle of the Zone. It is located next to DEC wetlands and the environmental impact is not being considered. Mr. Reville felt that there needed to be some regulation as to what is going to happen on that property. He would hope that the Town Board and the Planning Board would uphold the laws as they are written and interpret them correctly. He added that the current operation is located on a piece of property that is located in an Industrial/Manufacturing Zone. The Planning Board is looking at the Special Use Permit for the Contractor Storage Yard. He stated that the Zoning Law states that all other possibilities have to have been exhausted. He is currently on the correct location in the Town and is looking to move it into the middle of a residential zone. Mary Boldish, Middle Grove Road - Ms. Boldish stated that she is all for new business, but if the only thing that we can get is a scrap yard/storage container/junkyard than that is awful. Ms. Boldish added that she owns 3 ½ acres next door to the property. She cannot develop the back of her property because the junk cars are right on the border of her property. According to the law, he is supposed to have a buffer between the properties. She is the one that is providing the buffer by leaving all the trees and not clearing her property. Ms. Boldish requested that the Town make the applicant move the cars that are located within the required buffer area. She agreed with giving the applicant some time to remove all of the vehicles, however she did not want to let this linger on for years. Ms. Boldish asked what would stop the applicant from bringing his whole operation to Middle Grove Road in the future.

Junkyard License – 7337 Middle Grove Road, LLC - Supervisor Lunde felt that everybody wants the same thing and that is to have the cars that are on the property taken away in a responsible, timely fashion. There are 2 separate issues. What is in front of the Planning Board has nothing to do with the application for Junk Yard License that the Town Board is dealing with. Supervisor Lunde stated that he asked Mr. Ballestero to come back in front of this Board because there are some questions on the application that needed to be answered. He will try to make the right decision for the Town for the long term. Pemrick, C. stated that one of the speakers has stated that the applicant was currently in violation. He asked if the junkyard license transferred with ownership. Town Counsel Schachner stated

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that unlike most land development permits, there is a provision in the Code that states that the Junk Yard License resides with the owner. There is not a valid permit for the current owner and technically the owner would be in violation and the Board could seek enforcement. In the past, the general practice of the Town has been that if someone was in violation but has an application pending to remedy the violation that they do not exercise enforcement authority. That is a matter of policy, not a matter of law. Supervisor Lunde stated that the Board was looking for a detailed explanation of the scope of operation, i.e. hours, nature of junk processed, number of employees, etc. He would also like to know what the time frame is. Supervisor Lunde asked how many actual vehicles were located on the property. Mr. Ballestero has estimated that there are approximately 900 vehicles. Mr. Ballestero agreed that some of the vehicles were located close to the property line. Supervisor Lunde asked Mr. Ballestero what he thought would be a reasonable period of time necessary in order to remove all the vehicles from the property. Mr. Ballestero stated that it was their goal to remove all of the cars from the property. He felt that realistically they should be able to have it all cleaned up in 4 years. He added that they could probably do it sooner if that was what they were doing every day. That is not their job. They brought the property with the intention of being able to store their trucks there. They do not have any intention of running a junkyard. The property will not be open to the public. Pemrick, C. stated the Board needed a completed application. When the application is complete, then the Board can act on the request. He anticipates, as it has been implied here, that the application will state that he has no intention of operating a junkyard and that you are going to request "x" number of years to remove all the vehicles. The Board will then consider the request. It is up to the Planning Board to rule on what the applicant intends to do on the property in the future. The Town Board is strictly dealing with the cars that are located on that property. Mr. Ballestero stated that he purchased property that had a junkyard on it. He is not creating a junkyard. Mr. Ballestero provided the Board with copies of the survey map and answers to some of the questions on the application. He stated that he would provide the Board with the other information that was requested prior to the next meeting.

Old Stone Ridge - Highway Supt. Barss stated that last month the Board agreed to accept the roads at Old Stone Ridge for winter plowing only. He would like the Board to consider just taking the roads over. The Town could then file for CHIPS funding. The Town Engineer was not really in favor of the Town taking over the road permanently. He was not sure if it was for any special reason as far as problems with the road or just because of the problems there have been with the developer regarding this project. Highway Supt. Barss stated that there were stipulations in the agreement that guard rails had to be installed, crack sealing needed to be completed, ditches filled in and a sign installed. The installation of the guard rails has started and will be completed in the next day or two. The remaining items have been completed except the sign. They will reimburse the Town for the cost of the sign if the Town installs it. Highway Supt. Barss stated that it is not in the Code to do it this way. He was not looking at doing this for the developer but for the residents of the subdivision. The Town Engineer and himself are looking at other Towns' codes. Some take over the road as soon as the binder course is on and maintain a road bond. Deputy Highway Supt. Wright stated that he was not sure that there was a downside in this particular case, as long as the Town holds the bond. Town Counsel Schachner stated that there is potentially an awkward situation when a Town accepts a road that is not complete and has a private party continuing to work on the road. Highway Supt. Barss stated that there is much more money in the bond that it would cost to complete the top coat on the road. The only thing left to be done on the road is to put down the top coat. Permick, C. asked if the school buses would go up the road. Highway Supt. Barss stated that they will not go up on the upper ridge for some reason. The road is built to AASHTO specs and there is nothing that makes it unsafe. They will go in to the cut through road and do Lower Meadow Road.

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RESOLUTION # 123 - Accept Old Stone Ridge Road & Lower Meadow Lane as  
Town Roads

Motion: Lunde, Supervisor

Seconded: Chandler, C.

RESOLVED, That the Town Board hereby accepts Old Stone Ridge Road and Lower Meadow Lane as Town roads, and

FURTHER RESOLVED, that there shall be a written agreement in a form acceptable to the Highway Superintendent and Town Counsel regarding the completion of the top coat of the roads by September 1<sup>st</sup>, 2017.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

Budget Workshops - Budget workshops were scheduled for Thursday, October 15<sup>th</sup> at 7 PM and Wednesday, October 21<sup>st</sup> at 7 PM.

Assessor - Lorraine Fiorino, Town Assessor, provided the Board with information regarding a service that she would like to contract with. She explained that Assessor's can not get access to the Multiple Listing Service used by Real Estate. GAR Associates will do the parcel searches for her and provide her with links to the reports. She explained that quite often there are concessions to the sale that are not reflected on the Property Transfer Report filed at the County. She cannot make an adjustment to the sale when she reports it to the State without proof. The sales are used to determine the Assessment Ratio that the State uses to come up with the Equalization Rate. In an effort to maintain 100% Equalization Rate, she would like to be able to use this service. The cost is \$1,000. per year which she has in her budget. Supervisor Lunde asked what effect it would have on the homeowners taxes. Lorraine stated that it would not necessarily effect the homeowner. It would give her accurate sales information. Town Counsel Schachner explained that it was another resource for an Assessor to use to make an accurate assessment. Board members in agreement to allow the Assessor to enter the agreement with GAR.

The Assessor explained that her part-time clerk was going to be moving to the full-time Deputy Town Clerk position. She felt that it was a good move for her since this opportunity will not come up again anytime soon. However, that leaves the Assessor's Office without a clerk again. This is the 2<sup>nd</sup> clerk that she has lost in the last few years due to the fact that she is only offering 12 hours per week and they have moved on to full time positions. Since Kirsten is starting to transition into the Town Clerk's Office she would like to be able to start to transition someone in her office. For the remainder of this year she would like to do about 6 hours per week and go up to 18 hours per week as of 1/1/2016. Lorraine provided the Board with a copy of the resume that she received and stated that she was happy with it. The individual grew up in Greenfield and most importantly she is not interested in a full time job. Supervisor Lunde questioned what was not getting done now at 12 hours per week. Lorraine explained that they are able to keep up on the daily work with 12 hours per week, however it does not give them enough time for the projects. Anytime that there is bulk filing to be done or adjustments that need to be made to Mobile Home Parks or Veterans Codes, for example, they get pushed aside because they are time consuming. Supervisor Lunde was concerned about the additional hours in an effort to keep the budget in line. Once you get above 15 hours per week there is a whole other level of costs. Lorraine believed, that unless she was mistaken, the only cost would be that the Town would pay for vacation time. There are no other benefits provided to part time employees. There will be no costs to this budget. The change would be after January 1<sup>st</sup> and would involve next years budget. Pemrick, C. stated that there is money in the current budget where someone could be brought in now and the Board could talk about the additional hours with the new budget.

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RESOLUTION # 124 - Appoint Part Time Clerk

Motion: Cochran, C.

Seconded: Chandler, C.

RESOLVED, That the Town Board hereby appoints Darlene Singer to the position of Part Time Clerk to work in the Assessor's office for up to 12 hours per week.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

Court Audit - Supervisor Lunde explained that Pemrick, C. and himself met with the Court Clerk and Town Justice Ginley and completed the annual audit of the Court records. Pemrick, C. stated that everything was very well done and that the Court Clerk did a very good job preparing for the audit.

RESOLUTION # 125 – Accept Court Audit

Motion: Cochran, C.

Seconded: Pemrick, C.

RESOLVED, That the Town Board hereby accepts the audit of Court Records conducted by Town Supervisor Paul Lunde and Deputy Town Supervisor Daniel Pemrick dated September 22<sup>nd</sup>, 2015, and

FURTHER RESOLVED that a copy of the completed audit be sent to the NYS Office of Court Administration.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

Humes Road - Highway Supt. Barss stated that the road is complete. It has a binder coat, top coat and shoulders. There are only 2 lots on the actual extension of the road and one of them is being built by the owner. The remainder of the lots are on the existing Town road. Highway Supt. Barss stated that he would like the Town to pay the paving bills using the money from the established road escrow account and accept the road. He spoke with the Town Engineer and he is agreement with keeping 20% (\$21,000.) of the remaining escrow for 1 year and return the balance of the money, \$84,415.55 to Casey Cornell.

RESOLUTION # 126 - Accept Humes Road Extension & Return Portion of Escrow

Motion: Lunde, Supervisor

Seconded: Chandler, C.

RESOLVED, That the Town Board hereby accepts Humes Road Extension as a Town road and,

FURTHER RESOLVED, That 20% of the remaining balance in the Escrow account, \$21,000, shall be held in escrow for a period of one year, and

FURTHER RESOLVED, That a check in the amount of \$84,415.55, representing the remainder of the escrow account, shall be made out to Casey Cornell.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

Noise Ordinance - Supervisor Lunde stated for the past year or so that he has been Supervisor the number one complaint has been noise. They call the Sheriff or State Police but because the Town does not have a noise ordinance they will not do anything. He asked the Sheriffs Dept. what they would enforce and they recommended that the Board look at the Town of Wilton ordinance. Chandler, C. asked what the noise was that most people were complaining about. Supervisor Lunde stated that it was mostly from neighbors who may not get along, complaining about lawnmowers, loud music, etc. Cochran, C. stated that this is an issue that the Zoning Review Committee will be looking

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into. Pemrick, C. reviewed a portion of the Town of Wilton ordinance “.....produce unreasonable or unnecessary noise at any time.” He questioned whether that was enforceable. Chandler, C. also questioned how that would be enforceable. Town Counsel Schachner stated that he has been involved in situations with language very similar that has been deemed unenforceable because it is so subjective. Unreasonable to one person is not unreasonable to someone else. In his experience, noise ordinances are very unsuccessful. The most objective standards based noise ordinances would have decibel limitations. The problem with that would be training someone to run the decibel meter and if someone challenges their citation and there is a trial, then the statement of the individual who ran the decibel meter must be accepted.

Town Garage Cleaning - Highway Supt. Barss stated that the company that is currently cleaning the garage is raising their rate substantially. He has an individual who is a Town resident who would be interested in cleaning the garage on an hourly basis. It would be approximately 3 hours per week.

RESOLUTION # 127 - Town Garage Cleaning

Motion: Cochran, C.

Seconded: Chandler, C.

RESOLVED, That the Town Board hereby establishing the position for a Cleaning person for the Town Garage for approximately 3 hours per week at the rate or \$13.86 per hour, and

FURTHER RESOLVED, That Kaila Baker be appointed to the position.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

Plow Truck - Highway Supt. Barss stated that he has the money allocated in the 2016 Budget to purchase a new Plow Truck. He would like to seek approval of the Board to order the truck at this time, since it will take several months to receive the truck. By the time the truck is delivered, the funds will be available from the 2016 budget. The cost will be approximately \$232,000.

RESOLUTION # 128 - Approve Purchase of Plow Truck

Motion: Cochran, C.

Seconded: Chandler, C.

RESOLVED, That the Town Board hereby authorizes the Highway Supt. to place the order for a new Plow Truck to paid for with funds from the 2016 Town Budget.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

Possible Tax Cap Override – Pemrick, C. asked if there was any interest in doing that. It would not mean that the Board had to go over the cap. It would just allow that option if the Board determined that it needed to be done while discussing the budget. Chandler, C. stated that the Board has done so in the past and some years they have used it and others they have not. Supervisor Lunde explained that with the tax cap, the tentative budget can go up 1 cent. Pemrick, C. explained that we are in as good a shape as we are this year because the Board was brave enough to go over the tax cap more than 1 year. It provided the Town with a much stronger base with the State to determine the current base. The Town is not nearly as bad off as some of the other Towns and the dilemma’s that they are facing because we went over the cap. Pemrick, C. stated that he does not like doing annual budgets. He likes doing budgets that build on one another and prepare the Town in a “10 year” type plan. He added that he had an informational type sheet that came from the State Comptroller who is very critical of the tax cap and the kinds of problems that the Towns are going to be facing in coming years as a result of decisions to cut their budgets to remain under the cap. Board members in agreement to wait

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until the budget workshop and determine at that time if they think there will be a need to go over the cap.

RESOLUTION # 129 - Approve Youth Committee Petty Cash

Motion: Cochran, C.

Seconded: Lunde, Supervisor

RESOLVED, That the Town Board hereby establishes a Petty Cash for the Youth Committee in the amount of \$200.00

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

Ambulance - Supervisor Lunde stated that REMO has accepted the Town application for Municon. No decision has been made at this time. REMO will be scheduling the necessary public hearings. If the Municon is granted, it will give the Town more control as to who they can contract with for ambulance coverage. Chandler, C. added that it will give the Town more options. Supervisor Lunde noted that he read this week that the City of Saratoga is including in their budget the addition of another ambulance. It may be possible that they might be interested in serving a portion of the Town.

RESOLUTION # 130 - Declare Portion of Barney Road as Seasonal

Motion: Pemrick, C.

Seconded: Cochran, C.

RESOLVED, That the Town Clerk be directed to give public notice that in accordance with Town Highway Law, the portion of Barney Road from the end of the blacktop to the Town Line be declared a seasonal highway from November 15<sup>th</sup> to April 15<sup>th</sup>.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

RESOLUTION # 131 - Budget Amendment & Transfers

Motion: Cochran, C.

Seconded: Lunde, Supervisor

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

Budget Amendment:

\$30,295.24	From DA0599	to	DA5112.2
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Budget Transfers:

\$ 1,179.37	From DA9030.8	to	DA5140.4
2,104.44	From DA5110.4	to	DA9050.8
366.89	From CR7110.44	to	CR7110.48
1,751.13	From CR7110.2	to	CR7180.4
1,261.16	From CR7180.43	to	CR7180.42
806.69	From CR7110.2	to	CR7110.4
3,109.15	From CR1990.4	to	CR7110.41
101.29	From CR7110.44	to	CR7110.46
585.00	From CR7110.44	to	CR7180.45
575.78	From CR7110.44	to	CR7180.41
1,850.00	From A8020.1	to	A8010.1
699.03	From A4010.4	to	A3650.4
7,500.00	From A1990.4	to	A4540.4

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

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Monthly reports were submitted by the Town Clerk, Highway Supt and Town Supervisor for September; the Building Inspector (April, May, June, July & August), Town Justice (August) and UDAG Revolving Loan Fund (August).

RESOLUTION # 132 - Park Bills

Motion: Pemrick, C.

Seconded: Cochran, C.

RESOLVED, That Park Bills # 224 to # 252 in the amount of \$12,369.09 be paid, subject to audit.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

RESOLUTION # 133 - General Bills

Motion: Pemrick, C.

Seconded: Lunde, Supervisor

RESOLVED, That General Bills # 535 to # 585 in the amount of \$116,468.53 be paid, subject to audit.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

RESOLUTION # 134 - Highway Bills

Motion: Pemrick, C.

Seconded: Lunde, Supervisor

RESOLVED, That Highway Bills # 197 to # 218 in the amount of \$174,008.41 be paid, subject to audit.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

RESOLUTION # 135 - UDAG Bill

Motion: Cochran, C.

Seconded: Chandler, C.

RESOLVED, That UDAG Bill # 3 in the amount of \$75.00 be paid, subject to audit.

VOTE: Ayes: Lunde, Pemrick, Cochran, Chandler

Noes: None

On motion of Chandler, C. and seconded by Cochran, C., the meeting was adjourned at 8:55 PM.

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Town Clerk