

**TOWN OF HECTOR
REGULAR AUDIT MEETING
March 8, 2005**

Members Present:

Benjamin R. Dickens, Supervisor
Alvin White, Councilman
Diane Carl, Councilwoman
Sherry Mangus, Councilwoman
Deborah Kelley, Councilwoman
S. David Poyer, Councilman

Others:

Jane M. V. Ike, Clerk
Philip Biever, Highway Supt.
Dan Thorpe Robert Simpson
Tim Mattison, Attorney
Charlie Bliss, State Codes Representative
Carl Langenfeld, Code Enforcement
Jeff Mangus We Jaynes
Ray Jaynes Jylle Benson-Gauss
John & Sue Gregoire
Elaine Dalrymple Charlie Voorheis
Sue Argetsinger Per Navestad
Tim Dunlap Mike Bergen
JoAnne Carson William Smith
Susanne Lipari Brian Ridley
Margaret Melner Jeremy Blazzo
Kay Benford Mac Benford
Jonathan Bernstein Irene Brown

Others: Marie Baumgardner

Doris Karius Ed Gates
Keith Voorheis Nancy Voorheis
Monica Zgola Beren Argetsinger
Danielle Hautaniemi Linda Arcangeli
Brian Fish Dan Lee
Del Bleiler Andre Goncarovs
Vicky Bond Kelly Tim Kelly
Mike DeMunn John Voorheis
Nancy Richards 2 others

Called to order at 7:00pm by Supervisor Dickens.

RESOLUTION #32 – offered by D. Carl, seconded by A. White

Resolved to approve the minutes of February 8, 2005 as written. Ayes 6, Nays 0

RESOLUTION #33 – offered by A. White, seconded by D. Carl

Resolved to authorize the Supervisor to pay the bills from the following funds: General Fund Vouchers #64 thru #89 - \$16655.81; Highway Vouchers #42 thru #66 - \$31683.92; Water District #1 Vouchers #25 thru #39 - \$5417.81. Ayes 6 (with D. Carl and D. Kelley excepting General Voucher #81), Nays 0

Public Comment: 7:05pm – John Gregoire asked the Town Board not to participate and pay the fee to SCOPED.

Tim Dunlap asked questions regarding the engineering study on Cass road and the need versus some other roads that are currently very difficult to travel due to mud and ruts. Requested a map of the Town be mounted on the wall of the Board room. Feels other Town roads need attention before Cass Road.

Wes Jaynes asked how to get a copy of the minutes and how he could get information on expenses, revenues and maintenance costs. Supervisor Dickens offered to meet with him and review the Town's budget. He also asked when the remainder of Newtown Road would be paved. Discussion of costs to maintain, gravel, grade, pave, etc. We receive funding of \$186,000 for 150 miles of road.

Tim Dunlap asked where the water project was? Supervisor Dickens explained the route up County Road 2 to Logan, south on County Road 4, west on Matthews Road to Route 414.

Del Bleiler mentioned that Tompkins County was looking at a commuter or income tax. County's are in tough shape and are looking for ways to generate revenues and share services. Diane Carl informed him that taking sales tax from the Town's was not the answer. She questioned him regarding the number of employees in the county, salaries, etc. Supervisor

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Dickens stated the Town's rely on sales tax revenues and asked what would be accomplished in taking that away? Only shifting the burden. Del Bleiler said shared services regarding Highways and Courts might be an option. Supervisor Dickens stated that with the exception of Medicaid – the Town's have the same struggles with retirement, health insurance, fuel and other uncontrolled costs. Public comment period closed at 7:20pm.

Empire Zone Boundary Revision Project: Finger Lakes Farmstead Cheese Co. LLC submitted an agreement for Town approval.

RESOLUTION #34 – offered by D. Carl, seconded by A. White
Resolved to accept and authorize the Supervisor to sign the Empire Zone Boundary Revision Project Agreement with Finger Lakes Farmstead Cheese Co., LLC. Ayes 6, Nays 0

Tall Structures: 7:28 pm - Supervisor Dickens set the ground rules for those wishing to speak regarding tall structures and the proposed cell tower. The Board will attempt to allow all to speak and the Town Board has devoted a great deal of time to this issue in the past month.

Carl Langenfeld – a permit has been issued for the site of the cell tower for the building to house equipment. Introduced Charlie Bliss from the State Codes Division, Senior Building Construction Engineer. Mr. Bliss brought information with him that a permit was not required for the actual tower as it is not attached to another structure, but the building that houses the electric and other equipment does require a permit. As to a SEQRA study – it is up to the cell phone company to initiate and file and over 199 feet requires lights per FAA regulations. There is no mechanism in place for the Town of require a SEQRA as the Town does not have zoning or local land use ordinances and therefore the Town cannot prevent the tower construction.

Tim Mattison, Attorney for the Town – Discretionary governmental action would have to take place in order for a SEQRA study. As there are no local laws/ordinances – they do not need Town's permission. The permit process is ministerial not discretionary.

We Jaynes asked if the new International Code superceded the old State Code – yes and free standing towers are not defined or covered by the code. The code covers building and structures intended for occupancy.

John Gregoire – have documented a large avian migration in the spring and fall for the past 19 years. Briefed the Town Board regarding the dangers of lighted tall structures on bird migrations in December 2004 as a result of the problems with the lights on the FAA tower in the National Forest. He asked the Town Board to consider a tall structures law at that time to restrict heights to 199 feet AGL. Felt the Town Board should have done something regarding the tower permit and they should be looking at environmental issues. John & Sue Gregoire requested the Town Board issue a moratorium on tall structures for six months in order to have time to draft and adopt of Tall Structures Local Law. They would also like the current proposed cell tower to be included.

Charlie Bliss stated that Carl does not have discretionary powers – code compliant plans were submitted and he must issue the permit for the building.

John Gregoire stated that view shed, propagation and many other things should be requirements for the permit. Charlie stated that those are items generally in a zoning or land use law and the Town of Hector does not have either.

Tim Mattison stated the Town Board has no authority – No zoning, no site plan regulations in the Town. Cannot close door afterwards – must look forward. A moratorium must be reasonably crafted and reasonable time frames set to study, draft and adopt a tall structures local law.

Tim Dunlap stated the top of the tower will be roughly level in elevation with Newtown Road. Concerned with how public found out about cell tower installation.

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Irene Brown stated attention to economy should be considered – all appreciate sales tax revenues – as a tour guide she would like to promote bird walks in the National Forest and raised concerns with lights and avian deaths.

Dave Poyer stated the Concerned Citizens group fought several years ago to abolish the Planning Board – did not want zoning or land use regulations. Every year things change and spot issues come to the attention of the Town Board. The Town and the public need to be proactive not re-active. Diane Carl stated it's good to see people at the meetings – however – we never see them unless there is a problem. She would like to see a moratorium until a local law could be researched and adopted.

Supervisor Dickens stated the best course of action would be to craft a moratorium in a timely fashion and then proceed with drafting and implementing a local law. Feels we cannot change the tower under construction.

Carl Langenfeld informed the public that the last person at Cingular that he spoke with regarding the tower would pass along the concerns to his superiors.

Jylle Benson-Gauss suggested that people contact the CEO of Cingular and Tim Fitzpatrick at General Dynamics to voice concerns regarding the height and lights on the tower.

Jeremy Blazzo stated that this should never have happened this way. Seems ridiculous to say it's too late for this proposed tower. A moratorium is essential but suggested the Town Board look at other measures to include this tower also.

Tim Mattison, Attorney for the Town stated that no legislation can be created after the fact – it would be illegal and he would not advise the Town Board to do so. A suit for damages beyond an Article 78 proceeding would be devastating to the Town. It is not up to the Town Board to ask Carl what types of permits are being issued.

Danielle Hautaniemi, Schuyler County Planner – Suggested the Board contact the Department of State when crafting the moratorium for ways to include the current tower. If construction has not started, it may be able to be included with the proper wording, but still may be exposing the Town to legal risk.

John Gregoire asked the Town to send a letter to Cingular and General Dynamics and site environmental hazards, bird migrations, view shed, and dark night skies and further to request they keep the height under 199 feet AGL.

Susanne Argetsinger suggested the idea of hand written letters was good. It is important to do what we can. There are issues coming we need to be aware of and concerned with. Part of process is finding out what we can do.

Jeff Shamponois also suggested the Town send letters.

Wes Jaynes asked if there was a form letter available for people to use. John Gregoire would draft one but suggested individual letters would have more weight than multiple identical letters. People also asked Del and Doris to send letters – they stated it would be hard to take a stand on this issue for just one Town but would possibly consider as individuals not legislators.

Dan Lee – If we had zoning or land use laws this would not be happening. Land use law was voted down and Planning Board abandoned. Need to look forward and consider limitations on yourself and others with land use regulations of some sort.

Diane – can we set a date to work on moratorium? Consensus of full board was to proceed with a moratorium with a goal toward implementation and drafting a local law regulating tall structures.

Danielle Hautaniemi informed all that a land use law would be required to get any type of site plan review, etc.

Mike DeMunn asked what the impact of this tower would be on the National Forest?

Attorney Mattison stated there would have to be some sort of action by State or Federal Agencies for a SEQRA – the Town cannot start the action.

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Mike Bergen – Not in favor of land use or zoning regulations. Asked if everyone was opposed to cell towers? Mostly the height and lights.

Elaine Dalrymple was in favor of writing letters and also asking what made the decision on the height of the tower. The National Forest is dark and that is valued by users and residents.

John Voorheis asked if so many birds are killed by lights on towers, why have they not been collected from the tower on Matthews Road? Geese pollute the water in Seneca Lake – do residents complain?

Supervisor Dickens stated the goal would be to create a moratorium on tall structures to allow time to research, draft and proceed with some sort of local law regulating tall structures. March 29th at 7:00pm was set for a special meeting to review the moratorium local law and complete Parts 1 and 2 of the SEQRA.

Beren Argetsinger asked the Town Board to enthusiastically embrace a tall structures law and to include the current tower in the moratorium. He also asked if the Town Board would exhaust every option regarding tall structures.

Supervisor Dickens stated that depending upon advice of the Attorney for the Town, opportunity may be lost to do anything about the current proposed tower as legal costs, risks, etc. must be considered. The Town Board will investigate opportunities to have an impact on this tower and future tall structures.

Dave Poyer – Understand concerns of residents. Consider it an insult to indicate the Town Board is sitting around doing nothing. With no zoning, they do not have the ability to place regulations or restrictions outside of the State Building Codes. 8:40pm

Department Reports:

Water District #1: Payment to Williamson Law Book Company for software support has been voided for the present time as no response has been received regarding programming changes requested. Tom will send a letter via certified mail this week. Water Supply Agreement Amendment will be changed and probably the entire agreement re-written.

RESOLUTION #35 – offered by D. Carl, seconded by D. Kelley
Resolved to rescind Resolution #23 dated February 8, 2005 regarding the Water Supply Agreement with the Village of Burdett. Ayes 6, Nays 0

RESOLUTION #36 – offered by A. White, seconded by D. Carl
Resolved to authorize Tom Ruda to attend the Water Works Conference in Geneva on April 7, 2005. Ayes 6, Nays 0

Assessment: Bev has been busy catching up permits and with STAR and Ag exemptions.

Highway:

RESOLUTION #37 – offered by B. Dickens, seconded by D. Carl
Resolved to approve and advertise temporary 8-ton weight limits on the following roads effective immediately and until further notice in compliance with V&T Laws Section 1660: Ball Diamond from County Road 4 to Round School House Road; Black Road from State Route 79 to State Route 227; Buck Hill Road from State Route 79 to State Route 228; Carmen Road from State Route 228 to Buck Hill Road; Coats Road from Kellogg Road to State Route 79; Dugue Road from Fausold Road to County Road 4; Newtown Road from Bergen Road to Fitzgerald Road; South Hill Road from Upper Foothills Hill to State Route 79 and Upper Foothills Hill Road from County Road 7 to Montour Town Line. Ayes 6, Nays 0

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RESOLUTION #38 – offered by A. White, seconded by D. Carl
Resolved to authorize Philip Biever to attend the Local Road/Bridges Summit in Albany March 22 and March 23, 2005. Ayes 6, Nays 0

RESOLUTION #39 – offered by B. Dickens, seconded by A. White
Resolved to set the rate of pay for two part-time laborer positions for the Highway Department at \$7.00 per hour. Ayes 6, Nays 0

Bower Road: A petition with 91 signatures (52 residents) was delivered to Phil requesting the road be paved. Three quarters of a mile from the Town Line to Rumsey Road was scheduled for reconstruction in 2004 and has been delayed until 2005. It was suggested that Phil send a letter to Melodie Hammond who circulated the petition regarding the plans for the road.

Resignation: Edwin Kelley submitted a letter of resignation with explanations to the Town Board. The personnel committee and/or board will review the letter at a later date.

RESOLUTION #40 – offered by D. Poyer, seconded by D. Carl
Resolved to accept the resignation of Edwin Kelly as MEO for the Highway Department effective March 9, 2005. Ayes 5, Nays 0, Abstain 1 (D. Kelley)

Highway conditions: Dave Poyer asked Mike Bergen to have farm help use the main roads to access their fields as much as possible due to the poor conditions of our gravel roads. Mike apologized for any damages and said they would use better discretion in the upcoming weeks.

Phil asked all to be patient, they are doing temporary repairs as fast as they can. This winter has been very hard on our gravel roads and they will probably get worse before they get better and spring is finally here. They are aware of the hazards, but there is not much that can be done until the frost is out and things dry up.

Wes Jaynes apologized for any statements regarding Town sitting on hands – looking to help and/or make suggestions – not looking for a position with the Town.

Smith Park: The gas tank at the Park belonged to Wickham's. They have sent a letter offering to sell the Town the tank and pump for \$200 as they are no longer in the fuel business. Ben researched a new tank and pump – costs estimated near \$600. The tank should have a containment built around it and it should be relocated somewhere in the Park.

RESOLUTION #41 – offered by A. White, seconded by D. Carl
Resolved to approve the purchase of the used tank and pump from Wickham's at a cost of \$200. Discussion: How old is the tank? Decision to table until the April meeting in order for Ben to check out the condition on the tank. No vote.

Dumpster Day: The date of June 4th from 9am to 3pm has been set with the same four sites as last year. Linda Arcangeli will man the Village site and will try to get the same helpers from last year. Questions asked regarding tires – County has planned tire collection for April 2nd.

County Planning Commission: Sub-committees are working on implementation of the goals and objectives of the plan. Ed Gates is the current Chairperson.

EFarm Program: Bergen Farms asked the Town Board for support and approval of their application as it would make them eligible for funding.

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RESOLUTION #42 – offered by A. White, seconded D. Carl

Resolved to approve the EFarm Program application for Bergen Farms and further resolved to authorize the Supervisor to sign the Municipal Approval form. Ayes 6, Nays 0

Winery License Renewals: Letters on intent to renew farm winery licenses were received from Bloomer Creek, Inc. and Rasta Ranch Vineyards.

Southern Tier Regional Leadership Conference will be held in Corning April 14th. Ralph, Ben, Jane, Phil and Carl has requested permission to attend.

RESOLUTION #43 – offered by A. White, seconded by D. Poyer

Resolved to authorize Ralph Gould, Jane Ike, Ben Dickens, Phil Biever and Carl Langenfeld to attend the Southern Tier Regional Leadership Conference April 14th in Corning at a cost of \$20 each. Ayes 6, Nays 0

Haefele TV: A letter of rate increase for basic cable effective April 1, 2005 was received.

RESOLUTION #44 – offered by D. Carl, seconded by D. Kelley

Resolved to authorize the Supervisor to send a letter of support to Bishop Sheen for the HOME Program. Ayes 6, Nays 0

SCOPED: 2005 Agreement discussed – cost to Town \$11,240 for promotion of economic growth. Dave Poyer stated is the County was seeking the take away revenues from other sources that we should re-think this expense. Several businesses in the Town of Hector have benefited from services provided by SCOPED.

RESOLUTION #45 – offered by A. White, seconded by D. Poyer

Resolved to authorize the Supervisor to sign the 2005 SCOPED Agreement. Ayes 4, Nays 2 (D. Carl and D. Kelley)

RESOLUTION #46 – offered by D. Kelley, seconded by D. Poyer

Authorize the Supervisor to issue a refund of 2003 Town & Fire taxes of \$10.13 and 2004 Town & Fire Taxes of \$11.12 for a total of \$21.25 to Richard and Sally Chambers as a result of the correction in their acreage and assessment for tax parcel 45.00-1-27.1. Ayes 6, Nays 0

RESOLUTION #47 – offered by A. White, seconded by D. Poyer

Resolved that the following recommendations be submitted to New York State Senators George Winner and Joseph Bruno, New York State Assembly Representatives Thomas O'Mara and Sheldon Silver, and Governor George Pataki, with a letter of behalf of the citizens of the Town of Hector urging their immediate attention.

WHEREAS the residents of the Town of Hector have collectively considered the local issues of greatest concern to them and identified high property taxes as one of the highest priority among them; and

WHEREAS funding for local governmental services, including public education, is provided primarily through a tax on the estimated value of property; and

WHEREAS the welfare of Town of Hector homeowners in jeopardized by the rapid increase in the costs of public education and the inability of many homeowners to pay these increased costs; and

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WHEREAS the increasing burden of public education on taxpayers also impacts on the ability to raise other taxes to provide services and to fund Town-specific and local initiatives important to the well-being of the community.

THEREFORE the Town Board of the Town of Hector appeals to New York State public officials to implement new measures for financing public education, including the following suggested actions:

1. Ensure equity in a formula for funding public education based on the taxpayers' ability to pay.
2. Decrease the revenue raised from tax sources based on the value of dwellings.
3. Refrain from imposing state mandated requirements upon school systems without corresponding state funding.
4. Adjust the formulas on revenues earmarked as aid to education from state lottery and other future gaming activities so that the annual percentage is substantially increased from current levels.
5. Maintain the enhanced STAR exemption for the town's neediest citizens, but also increase the STAR exemption for senior citizens specifically at all income levels.
6. Regain lost tax revenue from the above actions through income tax.

Roll Call Vote: Deborah Kelley – Aye

S. David Poyer – Aye

Diane Carl – Aye

Benjamin Dickens – Aye

Alvin White – Aye

Sherry Mangus – Aye

Ayes 6, Nays 0

RESOLUTION #48 – offered by A. White, seconded by D. Kelley

Resolved to authorize the Supervisor to calculate and pay Edwin Kelley all unused sick time being ¼ hour and 64 hours vacation time accumulated through March 9th. Ayes 5, Nays 0, Abstain 1 (D. Kelley)

Annual Financial Report for 2004 has been completed and filed with the State.

Junk Yard Licenses: Letters will be sent and renewal will be scheduled for March 29th.

Personnel Committee: Will meet March 22nd to review Park Laborer applications.

John Bernstein thanked the Board for attending to Town business and suggested name plates for Town Board members.

Recessed at 10:15pm.

Respectfully submitted,

Jane M. V. Ike, Clerk