

CHILI TOWN BOARD
October 15, 2008

A meeting of the Chili Town Board was held on October 15, 2008 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:00 p.m. The meeting was called to order by Supervisor David Dunning.

PRESENT: Councilwoman Ignatowski, Councilman Schulmerich, Councilman Slattery, Councilwoman Sperr and Supervisor David Dunning.

ALSO PRESENT: Richard Brongo, Town Clerk; Dawn Forte, Supervisor's Secretary; Sandra Hewlett, Stenographer; Chris Karelus, Building Department Manager; David Lindsay, Commissioner of Public Works/Highway Superintendent; Dianne O'Meara, Director of Finance; Richard Stowe, Counsel for the Town; Eric Vail, Insurance Counselor.

The invocation was given by Richard Brongo.

The Pledge of Allegiance was cited. The fire safety exits were identified for those present.

PRESENTATIONS/ANNOUNCEMENTS:

SUPERVISOR DUNNING: I know there is nothing listed on the agenda. I apologize for that. However, I received some information late this afternoon that is worth noting. Today I received a phone call from the President of the New York State Planning Federation, Ron Brand, in regards to a new member for the New York State Planning Federation who happens to be our Planning Board Chairman, Jim Martin. Jim Martin will now be sitting at the State level, the New York State Planning Board, our Planning Federation, and he is one of two people that will be representing the Finger Lakes region. I thought that was noteworthy to let everyone know.

That -- I think, it is great, you know, to have someone at that level, and it is a representation at the State level.

COUNCILMAN SLATTERY: Will that interfere with his Town duties?

SUPERVISOR DUNNING: It will not. It will not. As I understand, he was sworn in yesterday, and I believe there are some pictures of the ceremony forthcoming.

COUNCILWOMAN SPERR: Yes. I was there.

SUPERVISOR DUNNING: I think if anything, I think it will actually enhance his duties with the Planning Board, and it will help us out a lot.

At this point, a Public Forum was conducted to allow public speakers to address the Town Board. Four speakers addressed the Town Board on various subjects, and the Public Forum concluded at 7:35 p.m.

TOWN BOARD LIAISON REPORTS:

Conservation Board Report by Virginia Ignatowski:

COUNCILWOMAN IGNATOWSKI: Avery Engineering was present to discuss plans for two projects that they are representing at the next week's Planning Board meeting.

The first project was for Yaro Enterprises on Beahan Road. Avery Engineering expressed they found it difficult to put landscaping on the site due to the configuration of the lot. It has a very narrow entry point, a flag lot and the prevalence of gravel on the property. They were looking for guidance from the Conservation Board as to what to do with this, and the Board agreed with their assessment of the situation and suggested that money be placed in the Town landscaping fund in lieu of plantings on the site.

As a side note, the Conservation Board members were visiting this application site and they noticed that the BT Trucking, which is adjacent to the Yaro property on 795 Beahan Road, was not in compliance with their agreed-upon planting, landscaping. Nothing has been planted, so I would pass that along, I guess, to the Building Department. I think Pat Tindale has already been in contact with you about that.

They also note, on the other side of the property, at 799 Beahan Road, County-owned metal building is in extremely poor shape, and they were wondering if there would be any opportunity to work with them to address that situation.

SUPERVISOR DUNNING: I think that is probably something -- I believe I know the building you're talking about, and actually, I had a little bit of a conversation, I believe, with Mr. Karelus about that building. That is something we'll have to talk to the County about and we'll have a conversation to see what we can do to clean that up a little bit.

COUNCILMAN SLATTERY: Is that the ARC building?

SUPERVISOR DUNNING: I think it's the old Gottry building. I think that's what they're referring --

COUNCILWOMAN IGNATOWSKI: 799. It just had the address.

SUPERVISOR DUNNING: I'm not positive about that, but I know that is a County-owned building.

COUNCILMAN SLATTERY: Paul and Beahan Road.

COUNCILWOMAN IGNATOWSKI: See what happens? One little visit.

SUPERVISOR DUNNING: I should have taken an opportunity tonight to discuss that.

COUNCILWOMAN IGNATOWSKI: They notice the adjacent properties, as well.

The other project Avery Engineering reviewed with the Conservation Board was the Microtel proposal. The Conservation Board did approve the plans by a vote of 6 to 0, and they also noted that Microtel went above and beyond what is required of them. They are going to be spending 1 1/2 percent of the total project for landscaping when it is only required 1 percent.

I would like to personally acknowledge the amount of time that the Conservation Board spent on this proposal, probably about six hours worth that they spent on this landscaping to try to really make sure they addressed the buffering, screening and aesthetics on the project, and they're very pleased with what is going on forward that.

The Board then reviewed the other Planning Board agenda items. Those were either not applicable to them or they had already approved the landscaping plans.

Drainage Committee Report by Virginia Ignatowski:

COUNCILWOMAN IGNATOWSKI: Two Committee members were introduced at the last meeting and time was spent just reviewing how the Committee works and what their tasks are they're involved with.

Dave Lindsay reported that the drainage crew worked on the Black Creek bank stabilization on Chili Avenue, and they're working on the dry pond at Matlyn Circle.

And the Committee also reviewed the Planning Board agenda items.

SUPERVISOR DUNNING: I know we touched briefly on it at the last meeting, but that Black Creek improvement, that is just absolutely gorgeous down there. I don't know if anybody had an opportunity to see that, but they did just an absolutely wonderful job.

David (Lindsay), hats off to your guys for what they did over there. I got a little personal tour over there to take a look at the property and I was impressed. It is absolutely beautiful. They did a nice job.

Thank you.

Planning Board Report by Dennis Schulmerich:

COUNCILMAN SCHULMERICH: Planning doesn't meet until next week.

Zoning Board Report by Dennis Schulmerich:

COUNCILMAN SCHULMERICH: Doesn't meet until two weeks.

SUPERVISOR DUNNING: That was easy.

Architectural Advisory Committee Report by Michael Slattery:

COUNCILMAN SLATTERY: They meet later in the month.

Library Board Report by Michael Slattery:

COUNCILMAN SLATTERY: They don't meet until later in the month.

Historic Preservation Board Report by Mary Sperr:

COUNCILWOMAN SPERR: They canceled their October meeting, but I do have Traffic & Safety to report on.

SUPERVISOR DUNNING: Why do I not doubt that?

COUNCILWOMAN SPERR: Make you feel better.

There were comments made off the record. (Laughter.)

COUNCILWOMAN SPERR: I go too long one night with my report, and I hear about it forever. Okay.

Traffic Safety Committee Report by Mary Sperr:

MS. SPERR: Briefly, there were three guests that attended the meeting. One was a resident of the Union Station Subdivision, and -- or -- Union Station concerned about speeding on Rio Grande and they will continue to look at that. We weren't able to come up with a solution for him that night. Many offers were discussed.

A resident came forth to ask questions about the Microtel Subdivision, concerned about the low-hanging wires that are on the edge of the Chili/Paul Plaza, where the -- right next to the bank. There is some low-hanging wires and a friend of this gentleman had been electrocuted when he was spraying off a grain elevator, and they were afraid because the wires were hanging down, the water hit that and it caused the electricity to flow through and he was electrocuted. And they were concerned should a fire truck be needed to run through that development and they had put their ladder up, it might hit those wires and a similar fate might occur. That was mentioned, brought forward and discussed. But the Fire Chief, our liaison, did reassure them that they would be okay and have plenty of room.

Just a couple of new things. The temporary slow-down signs were put back up on Archer

Road. They're continuing to complain about the speeding. Emerald Road -- Emerald Point Road was also discussed with speeding, and there has been discussion about the median, the entrance to the Wegmans on Paul Road, and that needs to be painted to designate the entrance and exit. Those are the new issues that came up.

There will also be temporary signs put up on Mercedes Drive and thermal strips for new crosswalk markings at the railroad tracks on Old Scottsville Road to better identify that.

I'm done.

COUNCILWOMAN IGNATOWSKI: When you say "the median" there, I take it the people coming -- let's see, heading west on Paul Road, they can -- making left-hand turn into Wegmans are perhaps going on the wrong side?

COUNCILWOMAN SPERR: Can't see the median.

COUNCILWOMAN IGNATOWSKI: I have seen that happen.

COUNCILWOMAN SPERR: Yes. It might be one of those instances.

COUNCILMAN SCHULMERICH: Are we still having the temporary signs stolen, or are they --

COUNCILWOMAN SPERR: Not have had any reports. David (Lindsay)?

DAVID LINDSAY: No.

COUNCILWOMAN SPERR: They haven't said we lost any, but they're still very popular, so -- we still continue to get requests for them.

SUPERVISOR DUNNING: Thank you.

Parks and Recreation Committee Report by David Dunning:

SUPERVISOR DUNNING: Parks and Recreation wasn't a very long meeting, fairly short. They talked, just basically reviewed Family Fun Day, the fall programs, some of the Davis and Baker Park and Union Park projects that were going on.

And one note I would like to make about the Farmers' Market. Bob Springer, who was the -- basically the champion of the -- the gentleman who put a lot of effort and a lot of work and a lot of energy in the Farmers' Market has been recently diagnosed with cancer. The last three weeks of the Farmers' Market are being managed by Mike Curley from the Recreation Department in Bob (Springer)'s absence.

But I just ask everyone if you would please keep Mr. Springer in your thoughts and prayers for a speedy recovery. I understand he is doing pretty well, but I wished to share that with everyone. He has done just an absolutely wonderful job. Anybody who has been to the Farmers' Market knows it is a huge, huge success.

Plumbing Board Report by David Dunning:

SUPERVISOR DUNNING: Plumbing Board sort of did not meet. We have -- we need to talk about, and we're -- well, they are scheduled to meet, but as we know, the Chairman has passed away and left basically -- down with two members, and I believe the last meeting yesterday or the day before, um, was also unattended. So we do need to talk about how we're going to address this Board and fill this Board to take care of the need there.

I don't believe -- I think they have one more meeting in November scheduled, and that is it for the rest of the year. So at some point we're going to need to discuss how we'll move forward with the Plumbing Board.

Town Center Development Ad Hoc Committee Report by David Dunning:

SUPERVISOR DUNNING: Town Center Development Ad Hoc Committee. I will defer to the minutes. There is a lot of activity still going on there. They're very close to rolling this out. There is also a resolution on tonight's meeting to deal with some of the aspects of the Town Center, but I will defer to the minutes of that one.

MATTERS OF THE SUPERVISOR:

New Matters:

1. Vacancies on the Drainage Committee

SUPERVISOR DUNNING: New matters. Technically, we still have one vacancy on the Drainage Committee. Hopefully tonight we will fill that, and that will be taken care of.

Is there anything else that anyone would like to bring up, talk about or address?

COUNCILMAN SLATTERY: Actually, I do have one question in regards to the Baker Park. Looking where we are, phases wise, schedule wise, can you give an update where we are with that?

SUPERVISOR DUNNING: David (Lindsay), can you help me with that? I know we have been out, seen the facility going up. I don't know if you have taken a look. The pavilion is in a state, but David (Lindsay) is probably --

DAVID LINDSAY: We're about halfway through the construction of the pavilion itself. They have the block up and they will be preparing to -- to put the blocks up, the foundation, and they're preparing for the slab, soon.

So I would say about 50 percent of the way through.

COUNCILMAN SLATTERY: The septic system.

DAVID LINDSAY: The septic is not in yet. They have done some of the preliminary work with that. That will be happening shortly. He is still anticipating completion by

December 1st, so.

COUNCILMAN SLATTERY: So we're not behind schedule then at all?

DAVID LINDSAY: No. There will be some work that the Town, our forces will be taking care of, either shortly after he is done or come spring time, depending when he is able to finish up, so to do some restoration of the site and finish up the parking lot area.

COUNCILMAN SLATTERY: Okay. Thank you.

The 9/17/08 Town Board meeting minutes were approved as modified.

REPORTS SUBMITTED:

Community Center Revenue Report – September 08
Recreation Center Revenue Report – September 08
Senior Center Revenue Report – September 08
Chil-E Fest Report – 2008
Drainage Committee Minutes – 9/2/08
Monthly Financial Report – September 2008
Planning Board Minutes – 8/12/08
Town Center Dev. Ad Hoc Minutes – 9/25/08
Traffic & Safety Minutes - 9/4/08

TOWN BOARD DISCUSSION RELATED TO THE FOLLOWING RESOLUTION:

SUPERVISOR DUNNING: I move we rescind this resolution.

COUNCILWOMAN IGNATOWSKI: I will second that.

SUPERVISOR DUNNING: I will explain. You will see the first resolution on tonight's agenda under New Business will take care of this particular resolution in better detail. It is seconded. Any questions or comments on that?

BE IT RESOLVED, to remove from the table Resolution #133 tabled on March 19, 2008

OFFERED BY: Supervisor Dunning SECONDED BY: Councilwoman Ignatowski

On the motion to remove the resolution from the table: **UNANIMOUSLY APPROVED**

RESOLUTION #133 RE: Set Public Hearing to consider adoption of Local Law #2 of 2008 for the Adoption of updated Code of the Town of Chili

OFFERED BY: Supervisor Dunning SECONDED BY: Councilman Slattery

BE IT RESOLVED that a Public Hearing be set for April 2, 2008 at 7:00 PM to consider the adoption of Local Law #2 of 2008 to adopt the updated Code of the Town of Chili and;

BE IT FURTHER RESOLVED, that the Town Board hereby declares itself lead agency for the SEQR review process and directs the Town Clerk to send notification of such designation to all affected agencies.

UNANIMOUSLY APPROVED

New business:

TOWN BOARD DISCUSSION RELATED TO THE FOLLOWING RESOLUTION:

COUNCILWOMAN IGNATOWSKI: Finally.

SUPERVISOR DUNNING: Thank you, Chris (Karelus). Thank you, Rich (Stowe).

RICHARD STOWE: I have one comment, only by way of clarification, because there was apparently some confusion earlier.

This resolution does not adopt the Local Law. This resolution schedules the Public Hearing for November 19th at 7 o'clock, and starts the SEQR process and orders the Clerk to publish notice of the Public Hearing so that all of those issues and the recodification can be publicly heard and then later adopted. It's not adopted.

RESOLUTION #296 RE: To Consider the Adoption of a Local Law of 2008 for the Adoption of the updated Code to the Town of Chili

OFFERED BY: Councilwoman Sperr SECONDED BY: Councilman Schulmerich

WHEREAS, the New York State government by the adoption of the New York State Constitution, requires municipal governments to adopt and keep current local ordinances and Codes,

AND, WHEREAS, The Town of Chili has prepared this Local Law to update the Code to the Town of Chili;

AND, WHEREAS, the adoption of the above referenced Local Law is an Unlisted Action for the purposes of the State Environmental Quality Review Act and the regulations promulgated thereunder ("SEQRA")

NOW, THEREFORE, BE IT RESOLVED, that the Chili Town Board is hereby designated "Lead Agency" for the environmental review of this proposed action; and

BE IT FURTHER RESOLVED, that Local Law of 2008 is hereby introduced, and that a meeting of the Town Board of the said Town of Chili shall be held at the Chili Town Hall, 3333 Chili Avenue, Town of Chili, New York on the day of November 19, 2008, at 7:00 p.m. to consider the said Local Law and to hear all persons interested in the subject thereof and for such other action on the vote of said Town Board in relation to the said Local Law as may be proper or required by law; and it is further

ORDERED, that the Town Clerk of the Town of Chili is hereby authorized and directed to publish a notice of said Public Hearing in the Local Newspaper and post a copy of the same on the bulletin board in the Office of the Town Clerk, not less than ten (10) days, but not more than twenty (20) days, prior to the date set for said public hearing.

Upon a call of all the Members of the Town Board of the Town of Chili:

UNANIMOUSLY APPROVED

TOWN BOARD DISCUSSION RELATED TO THE FOLLOWING RESOLUTION:

SUPERVISOR DUNNING: This is not a new position per se. It's a reclassification of a position. Okay?

COUNCILWOMAN SPERR: Yep.

RESOLUTION #297 RE: Create Position of Assistant Clerk to Town Justice

OFFERED BY: Councilman Slattery SECONDED BY: Councilman Schulmerich

BE IT RESOLVED to create the position of Assistant Clerk to Town Justice, approved at the Civil Service Commission on their October 2, 2008 meeting.

UNANIMOUSLY APPROVED

RESOLUTION #298 RE: Assistant Clerk to Town Justice - Court

OFFERED BY: Councilwoman Ignatowski SECONDED BY: Councilman Slattery

BE IT RESOLVED that Laurie Kiley (Beebe) shall be appointed provisionally as Assistant Clerk to Town Justice for the Court, and shall be paid at an annual salary of \$24,794.00, effective October 15, 2008, expenses to be paid by voucher as incurred, position approved at the Civil Service Commission on their October 2, 2008 meeting.

UNANIMOUSLY APPROVED

TOWN BOARD DISCUSSION RELATED TO THE FOLLOWING RESOLUTION:

COUNCILMAN SLATTERY: I know this has been going on for quite a period of time. We have some very good applicants come in, and I know it was a difficult decision amongst the Board on who to put on this Committee, and unfortunately, you hate to have to be in that position. We are -- we made the decision, or we will be making the decision here. But I just would not -- I would encourage the community, the public to continue to send in their resumes or apply to be on boards and committees. You know, it's -- they can do some great things, and unfortunately, we're limited on the amount of openings that we have. So there were some good people, though.

COUNCILWOMAN IGNATOWSKI: If I could add to that, many times we still hang on to the applications and we'll fill in with -- when there are vacancies that are open, other people we have already interviewed. So even if we don't have an opening now to go through that process, we still then have that additional people waiting in line to get on to committees.

RESOLUTION #299 RE: Drainage Committee

OFFERED BY: Councilwoman Ignatowski SECONDED BY: Councilman Schulmerich
BE IT RESOLVED that Scott Alexander shall be appointed to the Drainage Committee to complete the term of Cary Lawson term to expire on December 31, 2009 and be paid the sum of \$20.00 per meeting; expenses to be paid by voucher as incurred.

UNANIMOUSLY APPROVED

After vote:

SUPERVISOR DUNNING: At this time I would like to introduce Scott Alexander, the newest member of our Drainage Committee.

RESOLUTION #300 RE: Amend Resolution #153

OFFERED BY: Councilman Slattery SECONDED BY: Councilwoman Sperr

BE IT RESOLVED to amend Resolution #153 from 3/19/08, the date the Town Center Development Ad Hoc Committee report of October 15, 2008;

BE IT FURTHER RESOLVED, that the Town Board hereby amends the date of the report to the Town Board its findings to no later than April 15, 2009.

UNANIMOUSLY APPROVED

RESOLUTION #301 RE: Training Court Attendants

OFFERED BY: Councilman Slattery SECONDED BY: Councilwoman Ignatowski

BE IT RESOLVED that Jim Batz and Scott Batz, Court Attendants attend yearly re-certification training on October 25, 2008, Training to be split at the Monroe County Department of Public Safety Building and the Greece Police Department Gun Range at a cost not to exceed \$125.00 each plus mileage to be paid from account A1110.4 (Court Contractual).

UNANIMOUSLY APPROVED

**RESOLUTION #302 RE: Letter of Credit Release Park Place, Sections 9 & 10
Release No. 4**

OFFERED BY: Councilman Slattery SECONDED BY: Councilwoman Ignatowski

BE IT RESOLVED that per recommendation of the Town Engineer, \$115,344.40 be released from the Letter of Credit with Canandaigua National Bank (#1103104720) for Park Place Sections 9 & 10, leaving a balance of \$29,059.33; subject to engineering fees and street light bills to the Town.

UNANIMOUSLY APPROVED

**RESOLUTION #303 RE: Letter of Credit Release Pridemark Town Homes of Chili
Release No. 1 (Final)**

OFFERED BY: Councilman Schulmerich SECONDED BY: Councilwoman Ignatowski

BE IT RESOLVED that per recommendation of the Town Engineer, \$92,981.04 be released from the letter of credit with Northwest Savings Bank (#8345020161-01) for Pridemark Town Homes of Chili, leaving a balance of \$0.00; subject to engineering fees to the Town.

UNANIMOUSLY APPROVED

TOWN BOARD DISCUSSION RELATED TO THE FOLLOWING RESOLUTION:

COUNCILMAN SLATTERY: I know there is a number of choices that you can make to attend for different classes. Do we know which one he will be attending?

SUPERVISOR DUNNING: Chris (Karelus), can you answer that for me, Mr. Karelus?

CHRIS KARELUS: Advanced SEQR course.

COUNCILMAN SLATTERY: Advanced SEQR. Thank you.

**RESOLUTION #304 RE: Fall 2008 Monroe County Land Use Decision Making
Training Program**

OFFERED BY: Councilman Schulmerich SECONDED BY: Councilwoman Sperr

WHEREAS, the County of Monroe offers continuing education training programs for municipal officials involved in the building and development field;

BE IT RESOLVED that Ed Shero be allowed to attend the Monroe County Fall 2008 Land Use Decision Making Training Program on October 29, 2008 at Monroe Community College, at a cost not to exceed \$25.00.

UNANIMOUSLY APPROVED

RESOLUTION #305 RE: Personnel Policy Section 9 – Health, Accident and Dental Insurance - (Non-Union Employees)

OFFERED BY: Councilwoman Ignatowski SECONDED BY: Councilman Schulmerich

BE IT RESOLVED in accordance with Section 9 of the Personnel Policy adopted March 7, 2007, effective January 1, 2009, for the calendar year 2009, the Town will pay the following maximum contribution towards the health insurance premium: Single - \$385; two person - \$700; parent and children - \$775; or family coverage - \$805, and the full-time non-union employee will pay, by payroll deduction, the balance of the premium cost, if any; or if they wish to pay the Town directly, the premium must be paid in advance by the 20th of each month preceding the period coverage.

UNANIMOUSLY APPROVED

TOWN BOARD DISCUSSION RELATED TO THE FOLLOWING RESOLUTION:

COUNCILMAN SLATTERY: Hopefully we won't see a lot of these, but we're getting to that time again.

SUPERVISOR DUNNING: We're trying. Thank you.

RESOLUTION #306 RE: Modifications to 2009 Tentative Budget

OFFERED BY: Councilman Slattery SECONDED BY: Councilman Schulmerich

BE IT RESOLVED that the following modifications be made to the 2009 Tentative Budget:

1. Townwide Taxable Assessment Value be amended to \$1,430,396,868 from the 2009 Tentative amount of \$1,430,401,468; and
2. Chili Fire Protection District Taxable Assessment Value be amended to \$1,165,611,007 from the 2009 Tentative amount of \$1,165,615,607; and
3. Chili Ambulance District Taxable Assessment Value be amended to \$1,163,591,115 from the 2009 Tentative amount of \$1,163,595,715; and
4. Chili Consolidated Drainage District Taxable Assessment Value be amended to \$1,196,891,468 from the 2009 Tentative amount of \$1,196,896,068; and
5. Chili Sewer Improvement Areas #1 Taxable Assessment Value be amended to \$6,173,824 from the 2009 Tentative amount of \$322,500; and
6. Library 2009 Appropriations be amended to \$1,068,761 per request from the Library Board of Trustees from the 2009 Tentative amount of \$989,761; and
7. Library 2009 Appropriated Fund Balance be amended to \$79,000 per request from the Library Board of Trustees from the 2009 Tentative amount of \$0; and
8. A1440.1 (Engineer-Personnel) be amended to \$0 from the 2009 Tentative amount of \$8,000; and
9. A1440.2 (Engineer-Equipment) be amended to \$8,000 from the 2009 Tentative amount of \$0; and
10. A5010.2 (Highway Administration-Equipment) be amended to \$600 from the 2009 Tentative amount of \$0; and
11. A8020.441 (Architectural Advisory AdHoc Committee-Contractual) be amended to

\$2,280 from the 2009 Tentative amount of \$0; and

12. A9950.4 (Transfer to Capital Projects) be amended to \$1,492,000 from the 2009 Tentative amount of \$1,378,000; and
13. A2610 (Fines, Forfeitures) be amended to \$130,000 from the 2009 Tentative amount of \$13,000.

UNANIMOUSLY APPROVED

TOWN BOARD DISCUSSION RELATED TO THE FOLLOWING RESOLUTION:

SUPERVISOR DUNNING: I would like to say, the Town Board knows, but for those in the audience who may not know this, and there is a public notice out for this, that the Town Board will be having a workshop on October the 27th, a Monday evening, at 6:00 p.m. in this room for a workshop meeting to discuss with the department heads in the Town, the people that put their budget together to discuss their budgets and the rest of the budget process.

This meeting is not open to public comments. The reason that is for this particular meeting is only because there will be a Public Hearing later that week or I'm sure the following week on the 5th where the public will have ample time to gather their thoughts from what they have been able to see about the budget, as well as from this workshop and be able to present them to the Town Board during the Public Hearing.

So with that, is there any other questions or comments?

COUNCILMAN SCHULMERICH: You did receive my communication I will be out of town on business for Kodak, and I will get my questions that I have to you and copies to the rest of the Board members before that meeting?

SUPERVISOR DUNNING: Right. Thank you.

COUNCILMAN SLATTERY: Just to repeat, the public will not be able to speak at that meeting, but they will be able to attend.

SUPERVISOR DUNNING: Oh, yes, absolutely.

COUNCILMAN SLATTERY: I just want to stress that. They will be able to attend.

SUPERVISOR DUNNING: Thank you.

COUNCILMAN SLATTERY: We don't want to have it --

SUPERVISOR DUNNING: No. It is an open public meeting.

COUNCILMAN SLATTERY: Don't want to lock anybody out.

SUPERVISOR DUNNING: Open public meeting.

RESOLUTION #307 RE: Adoption of the 2009 Preliminary Budget

OFFERED BY: Councilwoman Ignatowski SECONDED BY: Councilwoman Sperr

WHEREAS, the Town Board has reviewed the 2009 Tentative Budget and made modifications as necessary;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approved and adopts the 2009 Preliminary Budget and orders that a Public Hearing be held on November 5, 2008 as specified in September 17, 2008 Resolution #274.

UNANIMOUSLY APPROVED

TOWN BOARD DISCUSSION RELATED TO THE FOLLOWING RESOLUTION:

COUNCILMAN SLATTERY: Yes, I do. Page 18. If this has been on on the past, I apologize but under adult recreation, we're paying for the Port-A-Potties for the Farmers' Market out of the Adult Recreation budget. Is there a reason why we're taking it out of Adult Recreation?

SUPERVISOR DUNNING: Farmers' Market in itself doesn't have its own budget.

Dianne (O'Meara), can you help with that answer, why it is coming from that?

DIANNE O'MEARA: That's basically it. We used the -- I believe Mike (Curley) had a line item for miscellaneous programming.

COUNCILMAN SLATTERY: Anything else? I know there are some comments here.

COUNCILWOMAN SPERR: Don't you dare.

COUNCILMAN SCHULMERICH: None of them pertinent.

COUNCILMAN SLATTERY: Okay. Are we -- do we -- are these handicapped accessibility Port-A-Potties, do we know?

SUPERVISOR DUNNING: They're out in the -- in the flat area of the parking area. The reason that we needed them is that, um, we did receive some concerns from the other business owners in the plaza about people going over and using their facilities, so it was a need.

Quite frankly, I don't think anybody anticipated up front or predicted up front and found there was a need for something there.

COUNCILMAN SLATTERY: That's it, Mary (Sperr). You don't have to say 30 seconds for me. (Laughter.)

RESOLUTION # 308 RE: October 15, 2008 Abstract

OFFERED BY: Councilwoman Ignatowski SECONDED BY: Councilman Schulmerich

BE IT RESOLVED to pay vouchers 5349-5568 totaling \$181,211.05 to be paid from the Distribution Account as presented to the Town Board by Richard Brongo, Town Clerk:

General Fund	\$ 102,860.79
Highway Fund	\$ 41,094.19
H32 Union Station Park	\$ 637.74
H45 Baker Park Project	\$ 33,249.52
H46 2008-9 Annual Update Project	\$ 1,750.00
Consolidated Drainage	\$ 286.00
Special Light Districts	\$ 1,332.81
TOTAL	\$ 181,211.05

UNANIMOUSLY APPROVED

RESOLUTION #309 RE: October 15, 2008 Abstract

OFFERED BY: Councilman Slattery SECONDED BY: Councilman Schulmerich

BE IT RESOLVED to pay vouchers 5568-5570 totaling \$2,403.33 to be paid from the General Fund as presented to the Town Board by Richard Brongo, Town Clerk.

4 YES WITH 1 ABSTENTION (Councilwoman Sperr abstained.)

The next meeting of the Chili Town Board is scheduled for Wednesday, November 5, 2008 at 7:00 p.m. at the Chili Town Hall meeting room.

SUPERVISOR DUNNING: I move we go into Executive Session to talk about a legal issue. At the time we return, should -- actually, I want to wait for a second on that. I'm moving we go into Executive Session.

COUNCILWOMAN SPERR: Second.

The Board voted unanimously in favor of the motion to go into Executive Session.

SUPERVISOR DUNNING: At the time when we return, there will be no further business taking place, so we'll -- we'll return just to adjourn the meeting.

The Town Board went into Executive Session at 8:04 p.m.

The Town Board returned from Executive Session at 8:20 p.m.

The Town Board meeting was adjourned at 8:20 p.m.

PUBLIC HEARING

A Public Hearing was held by the Chili Town Board on October 15, 2008 at the Chili Town Hall, 3333 Chili Avenue, Rochester, New York 14624 at 7:03 p.m. to discuss Local Law of 2008 "Reimbursement of consultant, engineering and attorney fees."

Attendance as previously noted in the 10/15/08 Chili Town Board meeting minutes.

COMMENTS OR QUESTIONS FROM THE AUDIENCE:

IRENE BRIXNER, 14 Hartom Road

MS. BRIXNER: First of all, I have a copy of the introductory -- introductory Local Law Number 4 of the year 2008. I don't think the people in the audience have a copy of this.

Would they have -- I mean, this wasn't printed and put out, was it?

SUPERVISOR DUNNING: It was -- no, it was not put out on the table.

MS. BRIXNER: Would you have to go to the Town Hall in order to get a copy of the --

SUPERVISOR DUNNING: It has been available to review in the Town Clerk's Office.

MS. BRIXNER: Thank you.

I wanted to know that. Of course, it was in the legal notice in the newspaper, was it?

SUPERVISOR DUNNING: The Public Hearing was noticed in the paper, yes, it was.

MS. BRIXNER: Okay. Thank you.

I'm a bit confused about this -- about this Local Law. I wonder what you mean by if -- if maybe our lawyer -- oh, Mr. Stowe isn't here tonight?

COUNCILWOMAN SPERR: He is on his way.

MS. BRIXNER: Well, this is a bad time for me then because I can't interpret laws, so you will have to bear with me and try to help me out. I understand that what we're trying to do is you're trying to protect this Town and protect it well by making sure that we have more lawyers and more consultants and more engineers to do the job properly, to do the -- to do the job of new developers coming into Town and doing what they're supposed to do to protect the Town.

You people, um, obviously want to hire lawyers or consultants or whatever you have to hire to help the Town Board, to help the Zoning Board of Appeals, and to help the Planning Board better understand what they're proposing. And I think it's a great idea, because you're trying to protect the Town so well. But I'm wondering, why, what is it that made you want to have this reimbursement of consultant, engineering and attorney fees? What -- what aggravated this or promoted or encouraged this on your part, to pass a law, this law? Could you explain that? Did something happen to make this --

SUPERVISOR DUNNING: Nothing specifically triggered this. It was -- there was -- it was noticed that there was a lapse, if you will, in the Town law, and that lapse was identified. We looked at that. We said this is probably in our best interest to -- to move forward with this type of a law, again, as you have already spoken about, to protect the Town better.

But if I may -- you had mentioned that we want to hire more attorneys and consultants. That is actually not the intent of this law. The intent of this law is that developers -- should an application come into the Town of Chili and the Town of Chili is less than completely comfortable or knowledgeable about a particular project or the elements of a particular project, and the developer or person bringing the project to Town is then required to pay for a consultant or consulting services that the Town of Chili will hire, but the money comes from the developer or the person bringing the project to Town, not the Town of Chili.

You will see this from time to time. There has been a couple over the past couple of years I recall. I don't remember the exact circumstances, but the developer will pay these fees, not the Town of Chili.

This law will be developed to help protect the Town of Chili to make sure that we can get paid for services when we contract out with consultants, attorneys, or whatever it else may be that we need for a project.

Does that help you out at all?

MS. BRIXNER: Yes, it does. But haven't we always reimbursed everybody who has done services for the Town? I can remember a lot of times to hire people. You hire Mr. Brand, you hire these people and you pay them, right?

SUPERVISOR DUNNING: That is a different thing all together.

MS. BRIXNER: It is different.

SUPERVISOR DUNNING: That is different than the consultants that are hired -- I don't know -- I will try my best to explain this. Please jump in. These are consultants that the Town requires of a developer to provide the Town with their services. So I don't have a specific example in mind I can use for you, but let's say somebody -- somebody comes in and wants to build a nuclear power plant. This is hypothetical, please. Completely hypothetical.

COUNCILMAN SLATTERY: I refer to Counsel on this one.

SUPERVISOR DUNNING: It is so outrageous, I'm hoping --

RICHARD STOWE: How about a cellular tower, and -- and --

MS. BRIXNER: Thank you for bringing it down.

RICHARD STOWE: -- and a specific requirement that the applicant is required to meet is to show that a tower is necessary in a given area to allow service to this point and that point. Our Building Department doesn't have the technical capability of confirming or denying the data that the applicant may be bringing forth to say we need to put it here because. And there have been instances in the past where the Town has required the developer, at the developer's expense, to provide the Town its own independent review at their expense to be able to know that the data that is being submitted is correct. We have that policy in place now. We have already done that.

This allows a more defined procedure at the developer's expense, to obtain that data, to confirm that that is what has occurred or not occurred, and then also -- also authorizes some enforcement activity that doesn't exist anywhere now in our policies to be able to put the Town in a stronger position to know that that is the correct way to go, and that everything that is supposed to be in the application and before the Planning Board has been reviewed by someone that the Planning Board is comfortable with, at the developer's expense. It is not just to go hire people that we normally hire for the Town's business.

MS. BRIXNER: Okay. Because I kept thinking, you know, we have Richard Stowe who is a Town --

RICHARD STOWE: No. This is not intended to do that at all.

MS. BRIXNER: And we have Mr. O'Toole, and we have, you know, all those other, um -- um, LLCs, Harris & Beach, lawyers --

RICHARD STOWE: No.

MS. BRIXNER: Assessments, we have.

RICHARD STOWE: Understand.

MS. BRIXNER: Gallo & Iacovangelo.

RICHARD STOWE: These people are being paid by the Town to represent the Town.

This, Irene (Brixner), is for reimbursement of consultants that the Town requires the developers or applicants with applications in front of them to provide to the Town in order to get to the data that they need to make a reasoned determination on the application for. Separate from what you're speaking of.

MS. BRIXNER: So they're the ones that have to hire their people --

RICHARD STOWE: They have to hire someone if the Town requires it, as a condition of the application.

MS. BRIXNER: Oh, okay.

RICHARD STOWE: They have to pay. This sets up the procedure for them to put that money into an escrow account and that is money paid by the developer to the consultant, and then get the reports that the various boards need.

MS. BRIXNER: Okay. I get it now. Okay. Well, thank you very much on that part.

RICHARD STOWE: I apologize if I could have answered that before I got here. I was detained.

MS. BRIXNER: I was hoping you would come.

COUNCILWOMAN SPERR: So were we.

SUPERVISOR DUNNING: So was I.

COUNCILMAN SLATTERY: Supervisor, if I could, Counsel, how long has our current policy procedure been in place?

RICHARD STOWE: Admitting this is a best guess, I'm going to say three to five years.

COUNCILMAN SLATTERY: Okay. Thank you.

SUPERVISOR DUNNING: For those who just came in late, I will remind you we are at a Public Hearing at this point for Local Law 2008.

Anyone else who would like to be heard for this Public Hearing?

CHARLES RETTIG, Coldwater Road.

MR. RETTIG: Just ask a couple points for clarification.

SUPERVISOR DUNNING: Could you please identify yourself?

MR. RETTIG: Sure. Charles Rettig, Coldwater Road.

Just a couple of points of clarification. I think Mrs. Brixner mentioned Local Law Number 4. We are referring to Local Law Number 3 of 2008; is that correct?

SUPERVISOR DUNNING: We are not.

RICHARD STOWE: We're referring to this Local Law.

SUPERVISOR DUNNING: This is Local Law Number 4.

MR. RETTIG: Okay. And the reason why I ask that question, I see, and -- just for clarification, again, I see in the draft it says, "Local Law Number 3 2008, Reimbursement of Consultant Engineering and Attorney Fees," so if that has been corrected in the final?

RICHARD STOWE: The numbers of the Local Laws go by the orders that they are adopted, so that the numbers on these local laws that we're having the hearing -- the numbers don't mean anything at this point in time. It is the text.

MR. RETTIG: But we're talking about Local Law Number 4.

RICHARD STOWE: We're talking about this one (indicating). I don't care which number you call it.

MR. RETTIG: Which is --

COUNCILWOMAN SPERR: "Reimbursement of consulting, engineering and attorneys' fees." That is what you have to worry about.

MR. RETTIG: Very good. We're clear on that. Thank you for the clarification. You can see where the confusion comes up.

RICHARD STOWE: Yes.

MR. RETTIG: My question here, and clarification of your comments, Mr. Stowe's comments, um, the Town, and I direct this to the Chair, um, the Town hires consultants in some cases to represent the Town, and independent work for the Town, and your evaluation of certain projects; is that correct?

SUPERVISOR DUNNING: I --

RICHARD STOWE: Have -- have we from time to time hired appraisers for Town business and other consultants for the Town? Yes.

MR. RETTIG: But I'm talking in regard to consultants. In applicant's projects.

RICHARD STOWE: Have we before, yes.

MR. RETTIG: But are we talking -- it sounded to me like we're talking here of two aspects of this potentially. Number 1, a case where the Town would hire a consultant to represent the Town for further study in regard to an applicant's proposal, whatever.

And the second would be a possible requirement that the Town has that the developer hire a consultant for which the Town gets reimbursed or no?

SUPERVISOR DUNNING: This -- and I think -- again, I can jump -- this is not -- this is for consultants that the Town would, in essence, hire based on the recommendation of a -- of an -- through a Planning or Zoning application that required a consultant, and I think we just went through this whole thing just a second ago.

RICHARD STOWE: I think the thing that does this the best, without being too offensive

is in Section 3 of the Local Law, it talks about its applicability. It says specifically in connection with any application for conditional use permit, site plan, subdivision approval, zoning amendment, code interpretation and/or use variance of other appeal, the reviewing Board may employ consultants, legal counsel, engineers, planners, et cetera to provide assistance and advice in review of the application, okay?

MR. RETTIG: The reason why I ask the question, and I appreciate what you just read from the law, I heard, I believe from the Chair, that there are times that the developer hires a consultant, and reports to the Town, and is that not the case?

RICHARD STOWE: Many applicants hire their own experts to provide the applicant with the information. In the event that the reviewing Board decides it needs --

MR. RETTIG: Additional.

RICHARD STOWE: -- its own review, and we have done that.

MR. RETTIG: Independent consultant.

RICHARD STOWE: We have hired FES Associates to do environmental reviews of the environmental proposed review that the applicant has put forth. We have hired our own traffic study people. We have hired cell phone experts, tower experts, those sorts of things, but they report to the Town, not to the applicant.

MR. RETTIG: That is independent consultant for our -- or are hired by the Town.

RICHARD STOWE: But paid for by the developer.

MR. RETTIG: Paid for by the developer where the developer reimburses the Town.

RICHARD STOWE: Correct.

MR. RETTIG: For their expenses. Okay. I appreciate the clarification, because there was some confusion as I heard it prior to this, and I appreciate that. We're all set.

Thank you very much.

RICHARD STOWE: You bet.

SUPERVISOR DUNNING: Thank you. Anyone else?

MS. BRIXNER: I have one more question -- unless somebody else wants to speak. What I don't understand here is that, um, if this is identified as a Public Hearing on reimbursement of consultant engineering and attorney fees, but when you go to the -- when you go to consider the adoption of a Local Law 2008 for the adoption of updated code to the Town of Chili, it says nothing about --

SUPERVISOR DUNNING: It's a different resolution. This is -- this is not the Town Code. The resolution you're reading --

MS. BRIXNER: This is a different one.

SUPERVISOR DUNNING: That's correct. The one you're reading is a different resolution.

MS. BRIXNER: Thank you.

COUNCILWOMAN SPERR: That was for the code book.

MS. BRIXNER: Okay. I hear you.

The Public Hearing portion of this application was closed at this time.

The Public Hearing ended at 7:18

The next meeting of the Chili Town Board is scheduled for Wednesday, November 5, 2008 at 7:00 p.m. at the Chili Town Hall meeting room.

The meeting was adjourned at 8:20 p.m.