

A Town Board Meeting was held
August 27 , 2012 @ 7:0PM
at the Town Hall

Presiding: Supervisor Bellows
Attending: Councilman Dittus, Councilman Gill, Councilwoman Brigg, Councilwoman Zell and 7 members of the public.

Resolution # 2012-99
Offered by Councilwoman Zell
BE IT RESOLVED TO accept the July minutes.

Motion to accept the minutes
Seconded By Councilwoman Briggs

All Voted Aye

Resolution # 2012-100
Offered by Councilwoman Zell

Claims and Vouchers
Seconded by Councilman Dittus

BE IT RESOLVED that the Town Board accept the audited voucher listed on Warrant # 2012-08
Dated 08 /22/2012 in the total amount of \$374,715.04
Charged as follows:

General Fund \$51,515.70
Special Districts & Lighting \$687.03
Trust & Agency- \$3253.68

Highway Fund: \$235,139.19
Capital Acct. \$84,119.44

ALL VOTED AYE

Resolution # 2012-101
Offered by Supervisor Bellows

Town Clerks Report
Seconded by Councilwoman Zell

BE IT RESOLVED to accept the Town Clerks Report.

ALL VOTED AYE

Resolution # 2012-102
Offered By Councilwoman Briggs

Supervisor Report
Seconded by Councilwoman Zell

All Board Members have received their financials

BE IT RESOLVED to accept the Supervisors report for July.

All Voted Aye

Town Board Business

1. The CAC will be holding a Bio Blitz on Sept. 8 with registration at 10:00 am at the Town Hall. After the collection they will be doing a recap back at the Town Hall. The CAC is also looking for members for their committee.
2. We received some letters about the overlay district. The board will continue to take a look at this and start to get some ideas about a solution for that plan.
3. 350th Celebration is set for Sept. 15 from 10-4. A kid’s parade will start the day at 9:30. Music food, crafts, games and demonstrations will fill the day.
4. FEMA reimbursement for hurricane Irene was \$44,238. 98
5. We received a reimbursement check for Schoolhouse Lane for \$39,082.09.
6. The Town is still looking into the liability for anyone using the AED machine. We are waiting to here back from our insurance company.
7. We received a letter from Charlie Schaller about Schoolhouse Lane. They completed the UC traffic study. Although some traffic was going over the 15 MPH, no one was going over the 35MPH. It was suggested that the State Police might stake out that area.
8. Currently Ulster County is the only county making towns pay for the Safety Net program. The Town Supervisors Association is going to discuss it at their meeting this week.

9. The new Highway medical insurance will save the town money and is better coverage for the highway employees.
10. We received the grant money for the Lower Esopus for \$8,000.
11. The sales tax we received for period 6/12 to 8/31/12 was \$38789.17
12. The Town Board would like to review the costs of the Summer Rec program and decide whether to continue with the program. The attendance has been dropping each year.
13. The drainage project has been completed on Cedar Street.
14. Supervisor Russell contacted Charlie Schaller about setting up surveillance in Rolling Meadows to monitor the speed. We will wait to hear back from him.
15. A resolution was passed at the Agenda meeting to cover the salt shed with metal siding. We have an over cost rider to cover the additional cost.
16. Four computer need to be replaced at the town hall. Quotes are being received and the costs will be covered out each department needing a computer. We are hoping to get a better price for purchasing several at one time.
17. After three lawsuits the City came back with an offer to the Town. After conferring with our lawyers and the WH School attorney they feel these trails are costly and even after winning two times they come back and sue the town again. Their offer of 155 million with a 10 year agreement that they will not sue us was the offer that was presented to the town.

Resolution # 2012-103

Offered by Supervisor Bellows

NYC DEP Settlement

Seconded by Councilwoman Zell

WHEREAS, the City of New York (hereinafter "City") a municipal corporation, initiated New York State Supreme Court proceedings against the Town of Hurley (hereinafter "Town") and its Assessor and Board of Assessment Review seeking judicial review and reduction of certain assessments upon its improved reservoir real property situate with the Town for the years 2007, 2008, 2009, 2010 and 2011, inclusive; and

WHEREAS, the Town has worked closely with the Onteora Central School District in defending the referenced Article 7 Tax Assessment Review petitions filed and served on behalf of the City for all assessment years under review; and

WHEREAS, the Town retained Hacker Murphy, LLP, David R. Murphy, Esq., Patrick L. Seely, Jr., Esq., of Counsel, to act as special trial counsel to John Darwak, Hurley Town Attorney in preparation for defense of the Article 7 assessment review proceedings and their ultimate trials for all relevant years; and

WHEREAS, the Town retained the services of expert engineering and valuation consultants, namely Kleinschmidt & Associates and Empire State Appraisal Consultants, respectively, to conduct formal appraisals of the improved reservoir real property of the City situate within the Town; and

WHEREAS, Hacker Murphy, LLP, Town Attorney John Darwak, and counsel for the Onteora Central School District have appeared at numerous court proceedings convened with respect to the subject matter of the City's assessment abatement proceedings and have engaged in extensive negotiations concerning a potential settlement of said proceedings and a resolution of all pending valuation issues between the City and Town; and

WHEREAS, the 2007 through 2011 proceedings were called for a non jury trial at Ulster County Supreme Court per the Honorable Henry Zwack, Acting Supreme Court Justice assigned, commencing on February 22, 2012; and

WHEREAS, Hacker Murphy, LLP and John Darwak, Town Attorney, have kept the Town Supervisor, Gary Bellows, apprised of all significant developments and the progress of earnest settlement discussions with respect to the issues pending in these matters; and

WHEREAS, Empire State Appraisal Consultants, by Barry M. Herbold, A.S.A., and Jeffrey E. Robinson, M.A.I., in conjunction with Kleinschmidt & Associates per Paul Williams P.E. have advised and counseled the Town's special counsel concerning the merits and fairness of certain proposals for settlement; and

WHEREAS, both outside counsel, Hacker, Murphy, LLP and Town Attorney John Darwak, in condition with the experts herein named are recommending a

pending settlement as being in the best interest of the Town and as being fair and reasonable resolution of all issues pending between the parties; and

WHEREAS, settlement of the five pending proceedings will obviate the need for further substantial expense in the nature of consultants' fees, attorney's fees and court costs, and will protect the Town from the risk of an unknown outcome after trial; and

WHEREAS, a full and final settlement of these valuation issues with the City will eliminate uncertainty of outcome and relieve the Town from exposure for substantial refunds of taxes alleged by the City to have been unfairly charged to the City for the years 2007 through 2011, inclusive; and

WHEREAS, the proposed settlement terms annexed in summary form to this resolution shall benefit all residents of the Town, Ontario Central School District, and future assessors and Town Boards by providing a mutually agreed level of assessment for the City's improved reservoir property contained within the boundaries of the Town for several future years and shall also provide greater stability and a certainty as to the property tax burden which the City's reservoir facilities will bear in the years addressed in settlement; and

WHEREAS, the proposed final resolution of these five pending proceedings for 2007 through 2011, inclusive, will relieve the Town and its Assessor from the heavy financial burden of defending further anticipated judicial proceedings which would otherwise be initiated by the City against assessments to be fixed and found in the future years covered in the comprehensive settlement terms annexed; and

WHEREAS, David R. Murphy, Esq. of Hacker Murphy, LLP and John Darwak, Town Attorney of the Town of Hurley recommend adoption of this resolution for the reasons set forth above

NOW BE IT THEREFORE RESOLVED, that Supervisor Gary S. Bellows and Assessor William Marks and Hacker Murphy, LLP, David R. Murphy, Esq., Patrick L. Seely, Jr., Esq., of Counsel be and they hereby are, authorized to execute the Stipulation of Settlement annexed hereto, labeled Exhibit "A" and made part hereof on behalf of the Town of Hurley, and be it

FURTHER RESOLVED, that, as part of the implementation of settlement tentatively reached between the City and the Town, both the present and any successor assessors of the Town are directed by the Board to conform to the settlement and compromise with respect to future tentative and final assessments on the City's reservoir property within the Town and by adoption of this resolution, the Town Board does express its commitment to abide by the terms and conditions set forth as to future assessments of the City's property; and be it

FURTHER RESOLVED, that the formal Stipulation of Settlement of these matters annexed as Exhibit A is adopted and ratified by the Town Board as the complete and final statement of all settlements terms and covenants; and it is

FURTHER RESOLVED, that the assessor of the Town shall, as soon as practicable after the filing of a Court Order ratifying and effectuating the settlement reached between the City and the Town maintain a copy of this resolution and all other settlement documents provided to him by special counsel in the Department of Assessment's files in the Town Hall of the Town of Hurley, New York for future reference by this or any successor Board or members of the general public; and be it

FURTHER AND FINALLY RESOLVED AND ACKNOWLEDGED, that, by adoption of this resolution, the Town Board intends to bind itself to the proposed settlement, as well as successor Boards elected during the contemplated future implementation period, details of which are affixed to this resolution in exhibit form.

ALL VOTED AYE

From the Departments

1. Superintendent Russell reported that two roads were going to paved this week.

- 2. Code enforcement officer Hoffstatter received notification from the UC Water and Soil Conservation District in coordination with the UC Environmental and the DEC will offer a 4 hour certified contactors training course. This is for excavators and contactors working on disturbance sites or any site that has a storm water prevention plan. The cost is \$40.00 per person or \$20.00 for municipalities’ employees.
- 3. Jim Craven said that the repairs on gas monitor system were finished. They also repaired the electronic scale. The bottle redemption program is going well.

From the Floor

- 1. Ernie Myer complemented the town about the NYC lawsuit settlement.
- 2. A town resident has concerns about the cracks on Overlook Drive. Superintendent will take a look at the road.

Motion to Adjourn was made by Councilman Gill, seconded by Councilwoman Zell and all voted aye.

Judy Mayhon, Town Clerk

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