

The Seneca Falls Town Board held a regular monthly Meeting on Tuesday, October 6, 2009 in the Town Hall Meeting Room, 81 W. Bayard Street.

Present were Supervisor Peter Same; Councilpersons Timothy Snyder, Stephen Dougherty, Lucille Cook and Stephen Dougherty. Also present were Patrick Morrell, Attorney for the Town; James Spina, Commissioner of Parks and Recreation; Steven Turkett, Zoning Officer; Donald Wood, Highway Superintendent; Cynthia Loncosky, Assessor; Jeffrey Rowe, Town Engineer and a Member of the local media.

Supervisor Same called the Meeting to order at 7:00 P.M. A roll call was taken of the Board Members and all were present; the Pledge of Allegiance followed.

Open Bids – Computers: There were no bids.

Petitioners:

Kelly Cosentino – It's a Wonderful Life: Kelly Cosentino, Vice-President of It's a Wonderful Life Committee, stated Karolyn Grimes will once again be present for the Festival which will take place December 11, 12 and 13. She noted one addition is the Hotel Clarence, and they will be taking some of the events there. Ms. Cosentino proceeded to talk about the events that will take place, such as the Christmas Angels Parade, the George Bailey Award, pictorial postage cancellation, Karolyn Grimes signing autographs, horse-drawn wagon rides, Santa Claus train, Dance by the Light of the Moon, and a Brunch/Fashion Show at the Hotel Clarence. She mentioned all the events are free with the exception of the train ride and the Brunch/Fashion Show.

Ms. Cosentino stated the Committee thanks the Board for their generous support in the past which has helped them to keep this going and growing every year, and helps to keep a lot of the events free and open to the public. She said they are once again requesting the generous support of the Board. Ms. Cosentino invited the Board to participate in the Parade and any and all of the events. Mr. Same stated he believes this Event benefits the entire Community, and is a great Event for the people in our area.

A motion was made authorizing the Town Supervisor to sign the Agreement and to contribute \$5,000.00 to It's a Wonderful Life as it benefits the entire Community by Duane Moore and seconded by Stephen Dougherty. No questions. Motion carried 5 ayes, 0 nays.

Susan Porter – Seneca Falls Library: Susan Porter stated she submitted a letter on behalf of the Seneca Falls Library, and is requesting the second half of the budgeted money. She noted Larry Driscoll resigned as President after he was appointed to the Village Board, and she is serving on an interim capacity until next year. She said they received a \$50,000.00 State Grant which will be used to purchase ten laptop computers, contract for e-books, DVDs and books they have a hard time keeping current. Mrs. Porter mentioned some of the services and programs the Library provides.

A motion was made authorizing the Town Supervisor to sign the Agreement and to contribute \$25,000.00 to the Seneca Falls Library, the second half of the budgeted amount for 2009, as it is a great benefit to our Community by Tim Snyder and seconded by Lucille Cook. No questions. Motion carried 5 ayes, 0 nays.

Stanley Praszkowicz: Stanley Praszkowicz informed the Board of two safety hazards that exist in Ken-Mor. He mentioned a blind spot at the intersection of Bradley Avenue and Doolittle Drive. He said a minimum of a sign on Doolittle warning of this blind spot would be most appropriate. The second hazard is a huge shrub and pine tree at the entrance to Ken-Mor which obscures the vision of a vehicle entering Ken-Mor. He doesn't know if the shrub can be trimmed because it's on private property, but it would help the situation immensely if the yellow lane markers were taken around the intersection straight down Eisenhower Drive. Mr. Praszkowicz urged the Board to take at least minimum action to alleviate these traffic hazards.

Mr. Praszkowicz stated the issues surrounding dissolution are complex. He gave the Board information relative to the dissolution process which is taking place in Cherry Creek and Lake George, and proceeded to review the same. Mr. Praszkowicz referred to the dissolution process taking place in the Town and Village, and stated from what he has seen so far, it seems that equity is a huge problem. He said there may be a middle of the road solution that would mitigate the equity issue (Village paying more taxes than the Town). This middle of the road solution may be what the Village Attorneys offered at last night's Village Meeting whereby the Town may subsidize Village services thereby reducing taxes for Village Residents and avoiding tax hikes for people in the Town, while at the same time, leaving things governmentally just as they are now. Mr. Praszkowicz said this is one solution; he is sure there are others. He wished the Board luck with their work in dealing with this most important issue for the Citizens of the Town and Village of Seneca Falls.

Mr. Same mentioned the issues with safety in Ken-Mor. He asked Mr. Wood, on behalf of the Town Board, to visit Mr. Praszkowicz's concerns. Discussion followed relative to the safety issues. Mr. Wood will give the Board feedback as to what he does to correct the hazards.

Al Corrado: Al Corrado, Gravel Road, stated he knows the Village has control and the Town Board has nothing to do with dissolution – Town Residents cannot vote. He said the Lawyers for the Village notified the Village as to what they should do and can do with the Town. He is requesting that the Town not sign any agreements or contracts with the Village, and the dissolution will go away.

Approval of Minutes:

A motion was made to approve the Minutes of the regular monthly Meeting of September 1, 2009, the Special Meeting of September 16, 2009 and the Special Meeting and Budget Workshop of October 1, 2009 by Lucille Cook and seconded by Duane Moore. Being there were no additions or corrections, the minutes were accepted as presented 5 ayes, 0 nays.

Reports:

Dog Control Officer: Mr. Same stated the Dog Control Officer's report for August and September states that eight dogs were impounded – six redeemed and two dogs still being held; five Appearance tickets were issued. A total of \$60.00 in fees was collected and turned over to the Town Clerk.

A motion was made to accept the Dog Control Officer's report by Tim Snyder and seconded by Stephen Dougherty. No questions. Motion carried 5 ayes, 0 nays.

Zoning Officer: Mr. Turkett stated the Board has a copy of his report which states that five Building Permits have been issued during the month of September 2009. Building Permit #2214 was issued to Clifton Land Co. LLC (Auto Wash), 2488 Route 414, alterations; Permit #2215 issued to Clifton Land Co. LLC (Auto Wash), 2488 Route 414, sign; Permit #2216 issued to Scott and Deena Swenson, 2227 Lake Road, addition (By Order of ZBA); Permit #2217 issued to Nicholas Sciotti, 1860 North Road, sign (By Order ZBA) and Permit #2218 issued to Charles Luffman, 2790 Thorpe Road, scale house.

A total of \$170.00 was collected from the issuance of these Permits, and 75 Building Permit have been issued to date for the year 2009.

Mr. Turkett noted Rite Aid is moving along. A Public Hearing was held on September 24th relative to their Preliminary Site Plan and Subdivision. He said the Zoning Board of Appeals met on the same Evening and granted an Area Variance for a project.

Mr. Snyder asked if the Hampton Inn and Lakeview was going to break ground in November. Mr. Turkett replied there has been some activity regarding the Lakeview Project, but he didn't know when they would be breaking ground.

Mrs. Cook asked if there was any activity on Noble Road; Mr. Turkett replied he hasn't seen anything since mid Summer. Mr. Dougherty asked if the opening date for Wal-Mart has been made public; Mr. Turkett replied the opening date is October 14th. He did have a conversation with them in respect to the signage – Wal-Mart Seneca Falls, as well as Balsley Road is spelled wrong. He added they have a tenant for the old place which they will be making an announcement in a few weeks.

Mr. Same asked about the Seneca Falls Savings Bank Project; Mr. Turkett replied it's ongoing. He said the Planning Board has nominated itself as lead agency, and they are waiting for responses from the letters they sent out to interested or involved agencies.

Mr. Same stated in reference to the Noble Road Project, how long has it been since there has been any activity. Mr. Morrell replied right now, they received the permit from the Town for site work which had been progressing, and apparently it came to an end a couple of months ago. He added Mr. Turkett has been in contact with the principles of that Group awaiting for the request for their permits, and apparently it's not coming. There are time limits in our Code which they have met so far with the work they have been doing. Mr. Turkett stated the Board requested that he send a letter asking for their plans which he did, and he never received a reply. Mr. Same requested that Mr. Turkett send another letter.

A motion was made to accept Mr. Turkett's report by Stephen Dougherty and seconded by Lucille Cook. No questions. Motion carried 5 ayes, 0 nays.

Commissioner of Parks & Recreation: Mr. Spina noted the Board has a copy of his report. He said Fall Soccer will be finishing in a couple of weeks, and basketball season will be starting the last week of October. There is a local girl doing Zumba, a dance exercise program; it's something new and a very nice thing. The gym roof is moving along - they got started but the weather was bad. Hopefully, it will be done in a couple of weeks. The gym floor has to be refinished, but they will wait until the roof is done.

Mr. Spina said they sent the pool pump out for repairs, and it can be fixed for about \$400.00; this will give them a backup in place.

Mr. Spina stated Mrs. Cook has a request to review the Veterans' Atrium. They had 41 names when they started, and they now have 53 names. Mrs. Cook suggested that when they do their mailers, they put a write-up in them; it's also on the website. Mr. Spina said the comments they have received about that room is incredible.

A motion was made to accept Mr. Spina's report by Tim Snyder and seconded by Lucille Cook. No questions. Motion carried 5 ayes, 0 nays.

Highway Superintendent: Mr. Wood stated the roads are done; they have oiled and stoned King Road, George Road and Demont and did Peterman Road shoulders. They did repairs on Martin Road, Farron Road, Noble Road, Garden Street Extension and the Park hill. They also paved all of Ken-Mor – they got quite a bit of road work done this year.

Mr. Wood referred to the Budget Meeting, and said he checked on some bills; only one truck is paid for, and they still have to pay for one truck and two bodies. He said out of the \$230,000.00 in the Highway Reserve Fund, \$165,000.00 has to come out of it for the truck and two bodies.

Mr. Wood stated they cancelled the testing of the waterline because of the rain; hopefully, tomorrow or Thursday, it will be tested. Mr. Same said there are only two properties that will be hooked up. Mr. Wood said they have contractors ready to go, but they can't hook up until the line is pressure tested and chlorinated and passes the Health Department test.

Mr. Same stated he has asked Mrs. Warfel to review from Day One the residential properties that are receiving services so that we can determine the properties that have not hooked up. He intends to send a letter to those property owners informing them that they were suppose to hook up within 90 days according to Village Code. Brief discussion followed.

A motion was made to accept Mr. Wood's report by Duane Moore and seconded by Tim Snyder. No questions. Motion carried 5 ayes, 0 nays.

Assessor: Mrs. Loncosky stated they are just taking exemptions. She asked if the PILOT for Lakeview was approved. Mr. Same replied yes – the Town Clerk has a copy.

Mrs. Loncosky stated she spoke with Mr. Morrell regarding the Landfill, and she requested proposals for an appraisal – she hasn't received any response yet. Mr. Morrell stated given the nature of all the pieces of property involved, he thinks the Town needs some type of appraisal to see where it stands. Mrs. Loncosky said the Town does have an appraisal from 2007, but it is advisory. Mr. Morrell indicated that it is limited to the properties that are formally part of the Court action. His advice to the Town is take a look at the larger picture with all the properties involved; that would be helpful with negotiations with Seneca Meadows going forward.

Mr. Same stated there have been several comments and discussions about assessments and the difference in assessments for the Town and Village. Mrs. Loncosky proceeded to explain the difference. Lengthy discussion followed.

A motion was made to accept Mrs. Loncosky's report by Tim Snyder and seconded by Stephen Dougherty. No questions. Motion carried 5 ayes, 0 nays.

Attorney for the Town: Mr. Morrell referred to the two Memorandums he handed out, one being a proposed Local Law to provide for the appointment of Alternate Members to the Planning Board. He explained that currently, the Town Code that provides for the establishment of the Zoning Board of Appeals provides for Alternate Members to act in case of a conflict of interest of other Board Members or absence. The Planning Board Code incorporates what is written in the State's Town Law which only allows an Alternate Member to sit in case of an actual conflict of interest. Mr. Morrell is proposing to have the Planning Board use the same language from the Zoning Code and use the same procedures that apply to the Zoning Board of Appeals.

A motion was made by Stephen Dougherty and seconded by Duane Moore to adopt the following Resolution:
WHEREAS, the Town Board of the Town of Seneca Falls believes that it would be advantageous to the Town Planning Board to have alternate Members available to act when the regularly appointed Members are not available due to absence or conflict of interest; and
WHEREAS, the Code of the Town of Seneca Falls contains Chapter 25 that provides for the establishment of the Town Planning Board pursuant to Article 16 of the Town Law; and
WHEREAS, Article 16 of the Town Law only provides for alternate members of the Planning Board to act in the case of conflicts of interest; and
WHEREAS, Section 10 of the Municipal Home Rule Law authorizes the Town Board to adopt a local law

which may amend or supersede any provision of the Town Law in relation to the property, affairs or government of the Town or in relation to any of the enumerated subject matters in such Section 10, unless there is a State Legislature restriction on such amendment or supersession.

NOW, THEREFORE, BE IT RESOLVED that proposed Local Law No. 3 of the year 2009 entitled "A Local Law to amend Chapter 25 of the Code of the Town of Seneca Falls, New York to provide for appointment of alternate Members of the Town of Seneca Falls Planning Board" be and the same is hereby introduced before the Town Board of the Town of Seneca Falls, New York; and be it

FURTHER RESOLVED that copies of the aforesaid proposed Local Law be laid upon the desks of each Member of the Town Board; and be it

FURTHER RESOLVED that the Town Board will hold a Public Hearing on said proposed Local Law in the Town Hall Meeting Room, 81 W. Bayard Street, Seneca Falls, New York at 7:00 P.M. on November 4, 2009; and be it

FURTHER RESOLVED that the Town Clerk publish or cause to be published a notice of said Public Hearing in the official newspaper of the Town at least five (5) days prior thereto.

No questions. Motion carried 5 ayes, 0 nays.

Mr. Morrell stated his second Memorandum involves the Town's ongoing litigation over the Vince's Park renovations. He prepared a Resolution to formalize the settlement negotiations that were discussed previously in Executive Session, and which he discussed with the Attorney for the Contractor; they are in agreement with the most recent proposal that was discussed. Mr. Morrell said in order to move forward with that and to formally resolve the litigation with the Seneca County Supreme Court, it is required to have a formal Resolution. Discussion followed.

A motion was made by Lucille Cook and seconded by Duane Moore to adopt the following Resolution:

WHEREAS, Patterson-Stevens, Inc. of Tonawanda, NY and the Town of Seneca Falls entered into a contract whereby Patterson-Stevens, Inc. did agree to perform work, labor and services and provide construction materials in conjunction with the Town's public improvement Project to rehabilitate the Vince's Park pool facility.

WHEREAS, Patterson-Stevens, Inc. filed a Summons and Verified Complaint with the Supreme Court of Seneca County seeking payment under the contract in the amount of \$50,900.00. Prior to the Town being made aware of the lawsuit, the Town made additional payments under the contract in the amount of \$40,043.74. The amount remaining in dispute is \$10,856.00.

WHEREAS, the specific contract items in dispute are as follows:

Liquidated Damages (26 days late)	\$7,800.00
Hydro-seeding	2,800.00
Water Refill bill	256.26

WHEREAS, a settlement of this suit has been proposed wherein the parties would agree to divide evenly the amount claimed for hydro-seeding and the liquidated damages would be calculated at \$100.00 per day rather than \$300.00 per day as set forth in the contract. The Town would retain the amount claimed for reimbursement of the amount spent for water to refill the pool. This results in a payment of \$6,600.00 from the Town to Patterson-Stevens, Inc. to settle this suit.

WHEREAS, the Town Board of the Town of Seneca Falls has considered the difficulties with establishing the affirmative defenses set out in its Answer; the uncertainties involved in setting a reasonable amount of liquidated damages on a municipal project where the Town provides access to the pool free of charge to its Residents and there is no way of ascertaining an amount of damages incurred by the Town and its Residents; the uncertainty, expense and time of litigation, and finds that a settlement of this action as set forth in the preceding paragraph is just, reasonable and in the best interest of the Town of Seneca Falls.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Seneca Falls to settle this pending litigation with Patterson-Stevens, Inc. by paying \$6,600.00 to Patterson-Stevens, Inc.; and be it

FURTHER RESOLVED that, pursuant to Town Law Section 68(4) the foregoing terms of settlement are just, reasonable and in the interest of the Town; and be it

FURTHER RESOLVED, that the Town Supervisor and the Attorney for the Town are authorized to execute any documents necessary to effectuate this settlement as set forth above and to bring this litigation to a conclusion consistent with this motion.

No questions. Motion carried 5 ayes, 0 nays.

A motion was made to accept Mr. Morrell's report by Stephen Dougherty and seconded by Tim Snyder. No questions. Motion carried 5 ayes, 0 nays.

Town Justice: Mr. Same indicated the Board has a copy of the Judge's report.

A motion was made to accept Judge Mahoney's report by Lucille Cook and seconded by Duane Moore. No questions. Motion carried 5 ayes, 0 nays.

Committee Reports: There were no Committee Reports.

Communications:

A motion was made to receive and file Communications numbered 1 to 29 by Tim Snyder and seconded by Lucille Cook. No questions. Motion carried 5 ayes, 0 nays. Communications numbered 1 to 29 are as follows:

1. Tonnage received by the Landfill from the Town during the month of August 2009 from Seneca Meadows, Inc.
2. Pledges of Collateral, August 27, 28 and September 21, 2009, from M & T Investment Group.
3. New York State Register, September 2, 9, 16, 23 and 30, 2009, from Department of State, Division of Administrative Rules.
4. Summary Report of Grant Activity as of August 31, 2009 from J. O'Connell & Associates.
5. Report of all monies received and disbursed during the months of July and August 2009 from Town Supervisor.
6. Letter from Time Warner Cable stating some agreements with programmers will expire, and carriage of one or more of these services may be discontinued.
7. Check in the amount of \$559.97 from Home Depot Credit Services representing reimbursement for a bill that was paid twice.
8. Reports and Resolutions of the Seneca County Planning Board relative to a Site Plan Review and Area Variances.
9. Minutes of the Seneca County Planning Board Meeting of August 13, 2009.
10. Check in the amount of \$123.16 from NYS & Local Retirement Systems representing an Employee's arrears overpayment.
11. Statement of Accounts, August 1-31, 2009, from M & T Investment Group.
12. Check in the amount of \$36,993.40 from Town Justice representing fines, fees and forfeitures collected by the Court during the month of August 2009.
13. Minutes of the Town Planning Board Meeting of August 27, 2009.
14. Section 504 Compliance Handbook, September 2009, from Thompson Publishing Group.
15. Check in the amount of \$90,000.00 from Department of Taxation and Finance, Division of the Treasury, representing reimbursement from the Community Center shoreline Grant.
16. Notice of intent to renew Alcoholic Beverage License from Sodexo Management, Inc.
17. Check in the amount of \$3,717.59 from BonaDent representing September payment of CDBG loan.
18. Check in the amount of \$569.98 from Robert Tansley representing Retiree's portion of health insurance premium.
19. Check in the amount of \$684.87 from Shirley Andrews representing Mrs. Andrews' portion of health insurance premium.
20. Reports and Resolutions relative to an Area Variance, Minor Subdivision and Site Plan Review from Seneca County Planning Board.
21. Monthly Report for the month of August 2009, as per Town Operating License and Host Community Agreement, from Seneca Meadows, Inc.
22. Minutes of the Zoning Board of Appeals Meeting of August 27, 2009.
23. Letter from American Red Cross thanking Board for their support of their recent fundraiser.
24. Notes thanking Board for their contribution from Officer Sue Hawker and Habitat for Humanity of Seneca County.
25. Check in the amount of \$897.57 from John Sinicropi representing Retiree's portion of health insurance premium.
26. Check in the amount of \$47.46 from Matthew Feola representing Retiree's portion of dental insurance premium.
27. Check in the amount of \$343.88 from Steven Turkett representing Employee's portion of health insurance premium.
28. Check in the amount of \$100,216.00 from State of New York, Department of Taxation and Finance – State Aid.
29. Copy of letter to Dissolution Committee from Seneca Falls Central School District stating their comments relative to the dissolution of the Village.

Old Business:

Townwide Water Improvements: Discussed earlier in the Meeting.

Sale of Property – 10 Fall Street: Mr. Same stated the feasibility study is being done by Mr. O'Rourke.

Purchase of 87-89 Fall Street: Mr. Morrell stated he has documents for Mr. Same's signature – he has already been authorized to sign for the Town. He added once the documents have been signed, they will be filed with the County Clerk's Office, and the Building will belong to the Town.

Mr. Same mentioned that the Contractor has been on site. Mr. Rowe stated the bond and insurance has been reviewed by Mr. Morrell and he received copies from the Town Clerk; a date for contract signing can now be established. Brief discussion followed.

New Business:

November Meeting Date: Mr. Same stated the November Meeting date has been set for November 4, 2009.

Public Hearing – 2010 Preliminary Budget: A motion was made to hold a Public Hearing relative to the 2010 Preliminary Budget at 7:00 P.M. on November 4, 2009 by Stephen Dougherty and seconded by Tim Snyder. No questions. Motion carried 5 ayes, 0 nays.

Fall Local Government Workshop: A motion was made authorizing the Planning Board Members, Zoning Board Members and Town Board Members to attend the Fall Local Government Workshop in Batavia on November 20, 2009 at a cost of \$40.00 per person plus mileage by Lucille Cook and seconded by Stephen Dougherty. No questions. Motion carried 5 ayes, 0 nays.

BSD Pumping Stations – Maintenance Contract: Mr. Same stated there is a Penn Power Systems Agreement that he has been asked to sign which is a maintenance agreement for the emergency power generation systems in the BSD Pumping Stations; the cost for this maintenance is \$1,700.00.

A motion was made authorizing the Town Supervisor to sign the Agreement with Penn Power Systems for the maintenance and inspections of the emergency power generation systems in the Bridgeport Sewer District Pumping Stations at a cost of \$1,700.00 by Lucille Cook and seconded by Duane Moore. No questions. Motion carried 5 ayes, 0 nays.

Budget Entries: Mr. Same stated the Town had some revenues that were received; \$50,000.00 from State Aid and \$90,000.00 from the Parks & Recreation Grant for the Community Center shoreline. He said there is an unexpected expense which is the Community Center roof; \$100,000.00 will be placed in the roof repair for the Community Center, and \$40,000.00 will be placed in the Contingent Account for the 2009 Budget.

A motion was made by Lucille Cook and seconded by Tim Snyder to approve the Budget entries as follows:

Increase Revenues – State Aid (A3001) \$50,000.00
- Parks & Recreation Community Center Grant (A3089A) \$90,000.00
Increase Expenses - Roof for Community Center (A7180.4) \$100,000.00
- Contingent Account (A1990.4) \$40,000.00

No questions. Motion carried 5 ayes, 0 nays.

Payment of Bills:

A motion was made by Tim Snyder and seconded by Stephen Dougherty to approve and order paid the following bills:

General Fund - \$469,955.61 (Abstract #10; vouchers numbered 407-454)
Miscellaneous Fund - \$14,908.79 (Abstract #10)
Highway Fund - \$84,337.29 (Abstract #10; vouchers numbered 109-128)
Recreation Fund - \$28,705.76 (Abstract #10; vouchers numbered 313-349)
Vince's Park Fund - \$4,736.42 (Abstract #10; vouchers numbered 113-123)

No questions. Motion carried 5 ayes, 0 nays.

Being there was no further business, a motion was made to adjourn the Meeting by Lucille Cook and seconded by Stephen Dougherty. No questions. Motion carried 5 ayes, 0 nays.

Meeting adjourned at 8:25 P.M.

Respectfully submitted,

NICALETTA J. GREER
Town Clerk

