

MINUTES OF THE TOWN OF FORT EDWARD TOWN BOARD REGULAR MEETING HELD ON MONDAY, JULY 8, 2019 AT TOWN HALL COMMENCING AT 7:00 P.M.

Supervisor Middleton called the meeting to order at 7:00pm

PRESENT: Supervisor Middleton
Councilman Orsini
Councilwoman Mullen
Councilman Fisher
Councilman Mercier

OTHERS PRESENT: Kathy Kegan, Paul Carpenter, Lester Losaw, Barb MacDuff, Earl MacDuff, Theresa Rose, Dan Cantiello, Brian Brockway, Katie DeGroot, Gwendolyn Craig (The Post Star), Elizabeth O’Leary and Town Attorney Donald Boyajian, Jr.

APPROVAL OF MINUTES: MOTION by Councilman Orsini, Seconded by Councilman Mercier to approve the minutes of the public hearing & regular meeting of June 10, 2019 **ALL AYES**

APPROVAL OF REPORTS: MOTION by Councilman Fisher, Seconded by Councilwoman Mullen to approve the following reports: Town Clerk Monthly, Town Justice, Building Inspector/Code Enforcement Officer, Zoning Officer, Highway, Dog Control & Supervisor’s Report **ALL AYES**

APPROVAL OF BILLS: MOTION by Councilman Orsini, Seconded by Councilman Mercier to approve Abstract #7 in the amount of \$21,001.95 **ALL AYES**

ABSTRACT #7

GENERAL A: 8384-8387, 8396-8416	\$7,589.19
GENERAL B: 8417-8426	\$2,354.28
HIGHWAY: 8427-8434	\$7,142.68
MUNICIPAL: 8435-8438	\$1,183.90
SPECIAL LIGHTING: 8388-8392	\$2,245.20
SPECIAL WATER: 8393-8395, 8439-8441	\$ 451.70
SPECIAL WATER 2: 8442	\$ 35.00

TOTAL: \$21,001.95

BUSINESS:

Supervisor Middleton: We received a quote for nearly \$800.00 from Mahoney Alarms for the alarm at the pool that is no longer working. The alarm only does the door and not the office area; do we want an alarm for just the office area?

Councilman Orsini: We use Forsight at the Train Station and The Visitor's Center and it is more reasonable than Mahoney Alarms. I will get the contact information.

Supervisor Middleton: We are having an issue with non-Town and Village residents at the pool. We need to look into a policy for handling this.

Councilman Orsini: We could possibly charge a fee for out of town residents: \$2 for students and \$5 for adults.

Donald Boyajian, Jr.: It is not abnormal to have a fee for non-residents; I will come up with a few options for review.

Supervisor Middleton: We received a Lead Agency Letter from NYS Canal Corp. (NYSCC) regarding the Earthen Embankment Integrity Program. They have identified the Town as a potential SEQRA involved or interested Agency.

MOTION by Councilman Orsini, Seconded by Councilman Mercier to do a resolution for the August Town Board meeting naming the Town of Fort Edward as an interested Agency in the SEQRA process for the NYSCC Earthen Embankment Integrity Program **ALL EYES**

PUBLIC COMMENT:

Theresa Rose: Has anything been done regarding the property next to me? The grass is over a foot tall and it is hard to see to pull out of Smith St. Isn't there a law where if your lawn is over a foot tall the Town can maintain it and add it to your taxes?

Supervisor Middleton: We are going through the process and they will be going before a judge. I believe they have an appearance date. The Code Enforcement Officer gave them a notice and the process is moving forward.

Theresa Rose: Can the Town possibly mow some of it so that I can see to pull out of my street at least?

Supervisor Middleton: I am hesitant to go onto private property.

Brian Brockway: We will go up tomorrow and take a look at it and push it back from the road.

Theresa Rose: When you pull out of Market 32 onto Orsola Ave. there is a big hole, are you planning on fixing that?

Brian Brockway: It is on our list to patch yes.

Theresa Rose: The tree where the car accident was on Burgoyne Ave. is full of stuff. I feel badly that someone lost their life but it's not a memorial site and I want to know how much longer it will be there.

Councilman Fisher: That is a County Rd.

Supervisor Middleton: I will look into it.

Barb MacDuff: I live on Lower Allen St. and the property next door has a race track in the front yard. We cannot go outside and enjoy our property due to all of the dust it creates and I have pictures and a video for you. They shoot guns; they have fires and burn mattresses, tires and anything else they can find. They also play their music until 2 and 3 a.m. We can't open our windows and the Sheriff says there is nothing they can do even though they are hindering traffic.

Supervisor Middleton: I will speak with the Sheriff.

Barb MacDuff: It goes on all day long until 9 p.m. and if we say anything to them they throw eggs on our cars and our driveway.

Supervisor Middleton: Wouldn't that be a small claim case?

Donald Boyajian, Jr.: I am leaning toward more of a nuisance or trespass issue and possibly a violation of the Town's noise ordinance. I will look into it further.

Supervisor Middleton: Brian and I will go up tomorrow and take a look at it and I will talk to the Sheriff as well.

Katie DeGroot: Regarding the article in The Post Star regarding the agreement; is there anything you can tell the public? The editorial in The Post Star was pretty damning and I am just curious because I haven't had a chance to hear from you what was up because there really hasn't been any news. The Freedom of Information Act; it's kind of serious to not pay attention to that.

Donald Boyajian, Jr.: The Freedom of Information Act does not require the disclosure of non-final drafts of agreements and currently there is no agreement. We were in negotiations for a length of time and were not able to reach an agreement. The only applicable or relevant agreement is an interim agreement that we had entered into to require the coverage of the insurance costs and taxes and nothing further. To receive a F.O.I.L. request for something that doesn't exist doesn't make sense because there is no agreement to disclose.

Katie DeGroot: I still am wondering what's going on?

Councilman Orsini: What's going on is that we are in the process of showing the property attempting to get interest for manufacturing and job creation. I am over there all the time bringing people through as Terry knows because he is there with me and that is all we are doing. My committee hasn't met, I am taking the lead and taking the hit rather than my committee because there is nothing going on, I am doing nothing but showing this place to a lot of people. This isn't this big obscure group; this is me and a bunch of Town residents that are trying to do good by our Town.

Katie DeGroot: That is why I am asking, I am only asking. So, in other words there is nothing

to report because you are showing it to people, the point being that even though there is no actual agreement at some point there will be a formal agreement when you find a tenant?

Donald Boyajian, Jr.: Right now there is no agreement; we do not know if there will be an agreement. We were in the process of trying to reach an agreement but there was no meeting of the minds.

Katie DeGroot: Ok so that is why nothing has gone public about what is going on, that is very informative because I was misunderstanding that there had been an agreement met.

Supervisor Middleton: I was there at the past meeting as it was open to the public, there was discussion with the group on things that they wanted in the agreement but it was never finalized.

Gwendolyn Craig: May I ask then what was passed?

Donald Boyajian, Jr.: A resolution was passed authorizing entry into an agreement if we were able to reach a meeting of the minds, the same way that we authorize an agreement to enter into a contract under general terms subject to the approval of the Town Attorney.

Gwendolyn Craig: So why was I promised a copy of that after the meeting?

Donald Boyajian, Jr.: Because if we had reached an agreement then you would have received one but we never reached an agreement.

Gwendolyn Craig: Then that is a violation of Open Meetings Law.

Donald Boyajian, Jr.: No, it wasn't because it was a draft agreement and we were talking about the general terms of the negotiation and what the Town was willing to authorize entering into, we weren't able to achieve that.

Gwendolyn Craig: Then why did nobody say that to me and just stopped answering questions? None of this was communicated.

Supervisor Middleton: I told you there wasn't an agreement.

Councilman Orsini: So did I

Gwendolyn Craig: You said you had seen it.

Supervisor Middleton: I told you I had seen the draft and it was never signed.

Donald Boyajian, Jr.: Let me explain this in general terms; if you were trying to buy a house and you have a contract to buy a house and you say, I will pay \$8,000.00 for it and the homeowner says I want \$100,000.00 for it and you have a draft agreement that's it, it doesn't mean there is an agreement, there is no contract there you are just in the middle of negotiating it doesn't mean you bought the house and what F.O.I.L. requires is disclosure of contracts, an

agreed upon contract. The reason it affords that is because when you are negotiating things are constantly changing and everything up and to the point of a final contract is potentially sensitive to that negotiation.

Gwendolyn Craig: But you discussed this 50% sharing.

Donald Boyajian, Jr.: Then we gave you a bullet point of material terms that were currently being worked on that is what we authorized willing to be entered into, into a final agreement; you have that handout just like other people at that meeting and we weren't able to reach that agreement so there is no agreement to disclose.

Gwendolyn Craig: Okay

Katie DeGroot: That is why I came to the meeting so thank you. I think it's complicated and I am assuming that you guys are trying to wrap it all up with a nice bow and then open it up to the public.

Councilman Orsini: That is exactly what we are trying to do.

Supervisor Middleton: We have shown the property several times.

Katie DeGroot: And I am sure that after many come and say they are interested and none of them actually sign on a piece of paper that they are going to do it, who wants to talk about it until it actually happens?

Councilman Orsini: I am going to give you an example. A month or so ago this guy had contacted me after the first article in the paper and said I would like to tour the property so I got together with him; he was a nice guy from New York City, he has a startup recycling electric automobile batteries because the only place that recycles them is China. He wants to keep the cobalt and the lithium in North America. It is going to be an international operation, he is going to ship by rail the lithium components of the batteries to a recycling center in Montreal and he is going to ship the cobalt to a recycling center in Buffalo and nothing would be disassembled on that site. Right now we ship them over to China and then we purchase the automobile batteries from China and we rebuy the cobalt and the lithium. It's a great idea but its 2 years away. He is assembling finances right now. It would be perfect if he could do it tomorrow but its 2 years away and we can't wait 2 years.

Supervisor Middleton: We had another large retailer come in that was looked for a 1 million sf warehouse but bottom line was we were too far away from 87.

Councilman Orsini: The one thing this guy told me was, I did my homework on this place, and I read these articles on you guys and this place would be perfect for my operation.

Katie DeGroot: I hope you are not going to be giving huge tax incentives.

Supervisor Middleton: Quite honestly that is out of our hands.

Katie DeGroot: Ok, so that is why I came I wanted to understand what was going on and I appreciate you answering my questions. I cannot believe there is no one else here, it's amazing to me.

Supervisor Middleton: Quite honestly, I've had discussion and we have nothing to hide. I give all of them a lot of credit, they are taking a lot of heat and all they are trying to do is better the community for the residents.

Councilman Orsini: If you want to take a tour let me know it's a very impressive site.

Supervisor Middleton: We have had several people from the State and the Federal Government that have also toured the site because we are looking for money for the infrastructure.

Councilman Orsini: We need sewer and natural gas.

Katie DeGroot: I think that having this kind of information out there about what is going on is important to help people understand what is happening clearly.

Supervisor Middleton: We have tried but unfortunately we don't print it.

Councilman Orsini: Come to The Anvil, that's what everybody else does.

Katie DeGroot: I love The Post Star and I am happy that they are here reporting and that's their job; I'm sorry that there are misunderstandings but I would rather have The Post Star writing articles than not paying attention so I see both sides.

Theresa Rose: What about the old GE building, what are they going to do with that?

Supervisor Middleton: This quarter sometime between now and August, it will start coming down.

Katie DeGroot: Is it considered a Brownfield site?

Supervisor Middleton: Yes it is going to be a Brownfield forever, unfortunately I think we are going to end up and no one has told me this, if you look at the plant up in Hudson Falls I think we are going to have a site that has fence all the way around it and a big empty lot. I have asked our Assemblywoman and Senator; I think it's a problem in the Northeast because you have these manufacturers and quite honestly its prime real estate and they will do nothing with it but sit on it. Once the building goes down their assessment is going to be lowered, I suggested to them that they change the law and they should pay assessment on what could be there.

Katie DeGroot: I think that is a great idea. Maybe even more assessment because it's unusable.

Theresa Rose: You couldn't even put another plant on there?

Supervisor Middleton: First you have to sell it; once again I don't believe they will.

Paul Carpenter: How did you make out with Hudson Headwaters property out behind my house?

Donald Boyajian, Jr.: I reached out to them and they said they would take care of it. Have they not taken care of it?

Paul Carpenter: They mowed by their walk which they are supposed to do anyway but not the area I was talking about.

Donald Boyajian, Jr.: I provided some pictures that you gave me; I will follow up with them tonight.

Brian Brockway: We have completed the black topping and are now going around and patching holes. We have to get small loads now to do a couple driveways. I have a lengthy list of potholes throughout the whole Town.

Supervisor Middleton: I met with an Engineer and Architect last week on the barn and we are hoping to get the structure out to bid sometime before August. I have talked with 4 different contractors and the lead time on a building now is 16-18 weeks. We won't be in there for Christmas. We have had no issues with the Insurance Company. We had All-Pro there and they filled 4 40' containers and will probably need one more to finish up the side where the fire was. For those that didn't know we are at the landfill, we have a couple trailers up there; power came on Friday so the phone should be back up. It has definitely been a struggle and let's hope that we don't have a bad winter coming up because the trucks and everything will be outdoors. In the bidding process we are looking at adding a line item to add 1 bay and radiant heat in the floor. The Insurance Company will pay to put back the heat that we had for example, if its \$10,000.00 to put back what we had and radiant heat is \$80,000.00 they would give us \$10,000.00 toward the radiant heat which I think is much more efficient and better for a garage. Any Code that has changed for example right now you couldn't build that building and have only a 200 amp service so the Insurance Company will pay for any upgrades like that. It was a total loss, the building has to come down, the foundation has to be jackhammered out and start all over.

Brian Brockway: Is there any way that we can pay Peckham when the blacktop bill comes so we can make the September deadline for CHIPS money.

Supervisor Middleton: What is our bill approximately?

Brian Brockway: The CHIPS money was around \$111,000.00 and we are right around there. If we miss the deadline you will not see your money until after the 1st of the year.

Supervisor Middleton: I will check into that tomorrow.

ADJOURNMENT:

MOTION by Councilman Orsini, Seconded by Councilman Mercier to adjourn the meeting at

7:50pm **ALL AYES**

Dated: July 12, 2019

Aimee Mahoney, Town Clerk