

DRAFT

# TOWN OF POMPEY BOARD MINUTES

The Regular Monthly Meeting of the Town Board of the Town of Pompey was held on July 1, 2013, 2013. In attendance: Supervisor Carole Marsh, Councilors Carl Dennis, Greg Herlihy, Victor Lafrenz and Craig Smithgall; Town Clerk Ann Christmas and Attorney Jeff Brown. There were 95 residents in attendance.

Supervisor Marsh called the meeting to order at 7 p.m. followed by the Pledge of Allegiance and a moment of silence for our service men and women and also for 19 Elite Firemen who were killed in Arizona as well as all fire fighters. She also remembered that it was the 150<sup>th</sup> Anniversary of the Bloodiest Battle, the Battle at Gettysburg, were 51,000 men were killed.

## Public Comment

Several residents spoke about their dissatisfaction with the variance being granted for the wind turbine on Frank Long Road and questioned if the Zoning Board was upholding the law.

Attorney Brown stated that all variances go thru the Zoning Board of Appeals, an independent Board. There is nothing that the Town Board can do. To appeal a Zoning Board decision the residents would have to go to court. He also stated that David Tessier, Chairman of the Zoning Board of Appeals, is the President of the Planning Federation and is most respected as a land use professional.

Many of the residents in attendance expressed concerns about the idea of senior citizen housing on Pompey Center Road. They feel the Town Board should have a public hearing and let the residents know what is going on. They have questions about overlay districts. They want the property to be properly developed and for the established laws to be followed. There are density issues. There were concerns that if this project was approved that it may end up being like SnowBird Landing in Baldwinsville. They also had concerns that they won't be notified and be able to express their feelings.

Councilor Herlihy stated we don't even know if we are getting an application and if one is received it will be vetted thru the proper channels. Attorney Brown stated many times that there has been no application filed and without an application there is nothing proposed. The Town Board needs to know what is being proposed before they can make any comments. He also stressed that if and when an application is filed there will be ample opportunities for the public to be heard.

The monthly report of the Supervisor was submitted and reviewed.

R-135-13 Made by Marsh, seconded by Dennis to approve the following transfer:

## GENERAL FUND

From:	A9040.8	Employee Benefits	Workers Compensation	\$2,800.00
To:	A9060.8	Employee Benefits	Hospital	\$2,800.00

All in favor. Motion carried.

Bookkeeper Chartrand reported that he along with Supervisor Marsh and Town Clerk Christmas had spent a considerable amount of time on completing the Schoolhouse Grant.

Bookkeeper Chartrand reviewed with the Town Board the report submitted by Rosemarie Bush, Director of the Swim Program. The Lifeguard & WSI courses now costs \$335. We have been only been reimbursing the individuals who take the course \$200.00. He also stated Fabius and DeRuyter couldn't get lifeguards or WSI so they had to suspend their swim programs.

R-136-13 Made by Smithgall, seconded by Dennis to reimburse the individuals who take the Lifeguard and WSI courses the sum of \$335.00. All in favor. Motion carried.

Code Enforcement Penhall gave his monthly report. There are many junk cars that need to be disposed of but there is nothing in our Code to take care of this problem. Prior to 1989 there was an ordinance to take care of this problem but when the laws were codified this law was taken out.

R-137-13 Made by Marsh, seconded by Dennis to hold a Public Hearing on August 5, 2013, at 7 p.m. to consider the adoption of Local Law No. 3 of 2013 on junk cars. All in favor. Motion carried.

Code Enforcement Officer Penhall also spoke about the Chen property (formerly known as the Starratt property) on Oran Delphi Road. There was a fire at this property over a year ago and nothing has been done since. He has spoken several times to the owners attorney but he has not heard anything recently. The building needs to be bulldozed. There are nine (9) motor vehicles in bad shape. There is a barn on the property with junk vehicles in it and needs to be boarded up and secured. He feels that we should take the necessary steps to demolish the property and put the costs on the tax bills.

Supervisor Marsh read a letter from Rochelle Hamel complimenting Mr. Penhall for all of his help with her subdivision. She also received a phone call stating that Mr. Penhall was of great help from Philip Miller.

Supervisor Marsh stated that she had reached out to Ted Bosford from the Sheriff's Department. Councilor Dennis had also talked to him concerning the disposition of the ballistic vests to private individuals. It is not illegal to sell it to a private individual who does law enforcement training. He recommended that an agreement be executed stating that the vest will remain in the purchaser's possession at all times and only be used for training purposes. The vest is sold "as is" and the purchaser will assume total liability.

R-138-13 Made by Marsh, seconded by Dennis to authorize the sale to Phil Benedict of the ballistic vest, uniform and equipment for the sum of \$250.00 and he will sign an agreement stating that the vest will remain in his possession at all times and only be used for training purposes and that it is sold "as is" and that he assumes total liability. All in favor. Motion carried.

R-139-13 Made by Marsh, seconded by Smithgall to add to the rules of procedure that while the Town Board is in session that no one is allowed behind the dais. All in favor. Motion carried.

Attorney Brown discussed with the Town Board a letter he had received from Jill Fox of Ransom Road complaining of her neighbor who has vehicles blocking the road and animals running around. Code Enforcement Penhall sent a letter to the property owner. He stated that the property owner is not an active farmer any longer and that there are animals wandering around and furniture stored outside. They used to park agricultural vehicles by the side of the road but they are now gone. The property owner counterclaimed that there are speeders on the road and that the Sheriff is aware of this. Mr. Penhall will talk to Mrs. Fox again.

Councilor Smithgall thanked Supervisor Marsh for remembering the Battle of Gettysburg where some of his ancestors fought. He appreciates the sacrifices the north and south made. He stated that Councilor Herlihy, Chairman of the Zoning Review Committee, which came about as an outgrowth of the Master Plan Committee, will meet next week. He has spoken with John Shaheen about alternative energy. There will many questions to be addressed. He is sensitive to the town's budget but it should pay for it itself. The initial plan would be reviewed by the Town Board. He also spoke about the recommendations made in the audit. The Town has enacted a number of measures to get us up to par. Town Clerk Christmas has done her part. Bookkeeper Chartrand has gone thru the report and keeps us inline. He shows great dedication to the Town.

He also stated that he initially was co-chair of the Master Plan and he feels it essentially has done its job. He feels that it is appropriate for the Supervisor to send letters of appreciation to the members and thank them for their service. The Master Plan is for long range planning and in five years the same group could come back and look at it.

Councilor Lafrenz stated that he feels this is a standing committee and it is an outgoing job. He

has a meeting on Tuesday, July 9<sup>th</sup>, at the Pompey Hill Fire House to discuss a hamlet development plan. He feels it is premature to dismiss the Master Plan. He thanked all of the members who worked on the Master Plan Committee. Councilor Smithgall stated that he disagrees with Councilor LaFrenz that the Master Plan should not be a perpetual standing committee as they are not elected.

R-140-13 Made by Smithgall to adjourn at 9 p.m. There was not second to this motion.

Councilor Herlihy stated that during the executive session at the last meeting to discuss the procedural review that employees were invited in because it had to do with the promotion or demotion of duties. In that regard he would like to engage Testone, Marshall & Discenza to do a final exit interview. He informed those in attendance that the Zoning Review committee will meet at the Town Hall on July 8<sup>th</sup> at 7 p.m. to begin the review of the zoning laws.

R-141-13 Made by Marsh, seconded by Dennis to update The Code with Local Laws No. 1 and 2 of 2013 General Code at a cost not to exceed \$1,700.00. All in favor. Motion carried.

Councilor Dennis asked Attorney Brown about notification of neighbors and how we can better notify them. He also asked Tom Chartrand to check with the other towns he deals with and see how they notify neighbors.

Councilor Dennis read a letter for NYS Real Property that the Assessor's appointment ends on September 30, 2013.

R-142-13 Made by Dennis, seconded by Herlihy to appoint Lawrence Fitts to a six year term as Assessor (October 1, 2013 – September 30, 2019). All in favor. Motion carried.

R-143-13 Made by Dennis, seconded by Herlihy to approve the payment of General Fund Abstract Nos. 221-244, totaling \$11,523.28; Highway Fund Abstract Nos. 104-111, totaling \$17,967.04; Special District Abstract Nos. 26-27, totaling \$793.49. All in favor. Motion carried.

R-144-13 Made by Dennis, seconded by Herlihy to accept the Supervisor's and Town Clerk's reports and bank reconciliations. All in favor. Motion carried.

R-145-13 Made by Marsh, seconded by Herlihy to adopt the following Resolution:

WHEREAS General Municipal Law, §53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim; and

WHEREAS, General Municipal Law, §53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary as the town's agent; and

WHEREAS, pursuant to General Municipal Law, §50-e(1)(a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate; **Now therefore Be It**

**RESOLVED, that the Town Board of the Town of Pompey, County of Onondaga, designates Ann Christmas in her capacity as Town Clerk to receive notices of claims served upon the Secretary of State by mail at 8354 U.S. Route 20, Manlius, New York 13104 and email at pompeyny@windstream.net.**

**BE IT FURTHER RESOLVED, that the Town Board hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before July 14, 2013.**

All in favor. Motion carried.

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF POMPEY TO APPROVE BECOMING AN AMICUS CURIAE IN ACTIONS INVOLVING MUNICIPAL HOME RULE IN THE COURT OF APPEALS OF THE STATE OF NEW YORK**

**Date: July 1, 2013**

**WHEREAS**, the Towns of Middlefield and Dryden have recently revised their zoning laws to prohibit heavy industrial uses (including natural gas drilling) in their communities and such laws were challenged in court by opponents' claims that the Towns did not have the power to regulate natural gas drilling as a land use through zoning; and

**WHEREAS**, the Town of Ulysses filed an amicus curiae or "friend of the court" brief in both lawsuits in support of its sister Towns in order to reassert the right of each municipality throughout New York State to determine what land uses are appropriate in its community through municipal home rule law powers granted by the NYS Constitution and the NYS Municipal Home Rule Law; and

**WHEREAS**, the over 50 other municipalities from across the State joined the Town of Ulysses to file these amicus curiae briefs in the Appellate Division, Third Department in 2012; and

**WHEREAS**, the Appellate Division, Third Department, ruled in favor of the Towns of Dryden and Middlefield in the matters of Norse Energy Corporation USA v. Town of Dryden et al., and Cooperstown Holstein Association v. Town of Middlefield; and

**WHEREAS**, the Norse Energy Corporation and the Cooperstown Holstein Association ("Appellants") recently filed motions for leave to appeal each decision to the Court of Appeals – the State's highest court; and

**WHEREAS**, if the Appellants are granted leave to appeal to the Court of Appeals, the Town of Ulysses will seek leave to file amicus curiae brief(s) with the Court and will file such brief(s) if leave is granted; and

**WHEREAS**, the Town of Ulysses has requested that other municipalities in the State consider joining the municipal coalition supporting the Ulysses' amicus brief(s) to send a powerful statement to the Court of Appeals, the NYS Department of Environmental Conservation and the NYS Legislature about the importance of protecting municipal home rule in New York State and a municipality's right to decide, for itself, whether natural gas drilling - or any other land use - is appropriate for its citizens.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. The Town of Pompey hereby determines that it is in the public interest of the citizens of the Town to support municipal home rule by joining in the amicus brief(s) being filed in the Court of Appeals by the Town of Ulysses and a coalition of municipalities from across the State.
2. The Town of Pompey hereby authorizes and directs the Supervisor to complete or cause to be completed any and all such further documents and papers in the name and on behalf of the Town as the Supervisor deems necessary or appropriate to carry into effect the foregoing resolution.
3. The Town Clerk will promptly send a certified copy of this adopted resolution to the Town of Ulysses, 10 Elm Street, Trumansburg, NY 14886 or via email to liz.graeper.thomas@gmail.com.

DATE ADOPTED: July 1, 2013

Roll Call Vote Taken:	Supervisor Marsh	Yes
	Councilor Dennis	Abstain
	Councilor Herlihy	Yes
	Councilor LaFrenz	Yes
	Councilor Smithgall	Abstain

Motion carried.

R-147-13      Made by Dennis, seconded by Herlihy to authorize Judge Ali and Judge Cognetti to attend the NYS Magistrates Annual Conference in Lake Placid on September 8 – 11, 2013. (New York State will pay for one day of the conference.) All in favor. Motion carried.

Councilor Smithgall stated that he felt the Master Plan as an entity is done and any subsequent action will be picked up by other committees. He also stated that he appreciates what they have done but if they want to run the government that they should sit up at the dais. He feels the comments made by Councilor LaFrenz are part of the Victor LaFrenz political action campaign. Councilor LaFrenz stated that Phase 2 of the Master Plan was to go into the hamlets and bring information back to the Planning Board. He doesn't want the Master Plan Committee to be trashed. Councilor Smithgall stated that according to Roberts Rules of Order he had the floor and that there has been a nasty history during the public comment period of individuals jumping up and down demanding things and there is a "mob mentality". Councilor Smithgall that he has always ran on his principles. Councilor Herlihy stated that he felt that letters of appreciation should be sent out to the members of the Master Plan Committee.

R-148-13      Made by Herlihy, seconded by Dennis to adjourn at 9:30 p.m. All in favor. Motion carried.

Respectfully submitted,

Ann Christmas  
Pompey Town Clerk