

Wawayanda Town Board Meeting 4/05/07

April 5, 2007

A Regular monthly business meeting of the Town Board of the Town of Wawayanda was called to order at 7:32 P.M., on Thursday, April 5, 2007, at the Town Hall, Ridgebury Hill Road, Slate Hill, New York.

Those present were:

John R. Razzano	Supervisor
David S. Cole	Councilman
Edward Krajewski	Councilman
Gail M. Soro	Councilwoman
Richard Penaluna III	Councilman
Richard Guertin	Attorney for the Town
Teresa Pierce	Town Clerk

Also Present: Mary Markiewicz & Barbara Parsons -Planning Board Member; and 3 other individuals.

PLEDGE TO THE FLAG

REGULAR BUSINESS:

Councilwoman Soro had questions regarding the voucher for **Russell Budd, Grant Writer** for the Town, and about **Attorney Guertin's** charges for work associated with two pending litigations with the town.

PRESENTATION OF BILLS AND DEPARTMENT REPORTS:

Reports from the Supervisor, Town Clerk, Planning Board, and the Building & Fire Inspector/Code Enforcement Officer, and the bills from the General Fund, Highway Fund, and Water & Sewer Districts were presented to the Board for review.

APPROVAL OF DEPARTMENT REPORTS:

MOTION by **Councilman Penaluna**, seconded by **Supervisor Razzano**, to accept the various departmental reports, as submitted.

ALL IN FAVOR - CARRIED

PAYMENT OF BILLS:

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to authorize the payment of bills in the amount of \$5,985.01 from the General Disbursement Account, representing bills that were payable upon receipt. Breakdown as follows:

PPG 07-00372	\$ 62.90
PPWS 07-00372	\$5,922.11

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilwoman Soro**, to authorize payment of bills from the General Disbursement Account in the amount of \$135,316.61 Breakdown as follows:

General Fund	G07-501 thru 476 & G07-531-533	\$82,446.87
Highway Fund	H07-501 thru 530	46,141.27
Water/Sewer Districts	WS07-477 thru 500	6,728.47

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WATER/SEWER BREAKDOWN:

Robinn Meadows Sewer District	\$3,360.18
Ridgebury Lake Acres Sewer District	1,543.86
Ridgebury Lake Water District	143.87
Denton Hills Water District	338.60
Arluck Water District	338.88
Water/Sewer Dist. #1	1,003.08
Water/Sewer Total =	\$ 6,728.47

ALL IN FAVOR - CARRIED

PAYMENT TO MCGOEY, HAUSER & ENDSALL CONSULTING ENGINEERS, P.C.:
MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to authorize payment in the amount of \$4,524.22 to McGoey, Hauser and Edsall Consulting Engineers, P.C. for engineering services rendered in reference to Ryerson Court, with payment being made from a Special Trust & Agency Account and charged to the Ryerson Court Escrow Account. (Balance in said account before payment is \$6,825.16).

ALL IN FAVOR - CARRIED

PAYMENT TO MCGOEY, HAUSER & ENDSALL CONSULTING ENGINEERS, P.C.:
MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to authorize payment in the amount of \$583.10 to McGoey, Hauser and Edsall Consulting Engineers, P.C. for engineering services rendered in reference to Lakeridge Subdivision, with payment being made from a Special Trust & Agency Account and charged to the Lakeridge Subdivision Escrow Account. (Balance in said account before payment is \$4,929.94).

ALL IN FAVOR - CARRIED

APPROVAL OF MINUTES:

The Town Clerk requested approval of the minutes of the February 27th and March 8th, 2007, Town Board meetings. She noted that the March 8th minutes had a minor correction on page 1 in regard to the second motion for payment of bills. Councilman Cole was listed as seconding the motion. Actually, it should have read "Councilman Krajewski". The official minute book had already been adjusted to reflect this correction.

Councilwoman Soro stated that at the February 27, 2007 meeting she had made comments that were not put into the minutes, and that this was not the first time this has happened. She said that "Individuals stand in front of the board making accusations, and every word gets put into the minutes". Added that she does not think that these circumstances are appropriate and should not

be put into the town board minutes.

Supervisor Razzano stated that is one of the reasons why, at the last Town Board meeting, we passed the resolution to adopt Rules of Conduct.

MOTION by **Councilman Penaluna**, seconded by **Councilman Krajewski**, to approve the February 27th and March 8th Town Board meetings, as presented by the Town Clerk.

VOTE

Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Nay
Councilman Penaluna	-	Aye

MOTION CARRIED

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STREET SPECIFICATION: **Supervisor Razzano** spoke about the amendments that he has proposed for the Street Specifications Code of the Town of Wawayanda. There is just a few minor changes such as “Sidewalks required unless waived by the Town Board”. He felt that ‘Town Board’ should be changed to ‘Planning Board’. Also, because there was a discrepancy with regard to private roads, a whole section had been added.

Attorney Guertin spoke about a change to section 158-5 ‘Performance Security’. A ‘letter of credit’ and ‘irrevocable letter of credit’ has been added to this section.

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to adopt a resolution to introduce a proposed ‘Local Law to Amend the Street Specifications of the Town of Wawayanda’.

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to adopt a resolution to set a Public Hearing on May 3rd, 2007, on the draft local law which would amend the Street Specifications of the Town of Wawayanda.

ALL IN FAVOR - CARRIED

TRAILER PURCHASE FOR WATER & SEWER DEPARTMENT AND HIGHWAY DEPARTMENT: **Jeff Mills**, Water & Sewer Operator, had obtained three quotes for the purchase of a **6 Ton Equipment Trailer**. The proposal from Pine Bush Equipment seems to be the best offer at \$5,950.00 because their trailer comes with a heavier frame. Since both the Highway department and the Water & Sewer department would be able to utilize this piece of equipment, they have agreed to split the cost.

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to authorize the purchase of a 6 Ton Equipment Trailer from Pine Bush Equipment at a cost of \$5, 950.00 to be split equally between the Water & Sewer Department and the Highway Department.

ALL IN FAVOR - CARRIED

EDWARD WILLIAMS / RETIREMENT FROM THE HIGHWAY DEPARTMENT: After 33 years of dedicated and faithful service to the Town, Mr. Williams is retiring from his position as an MEO (Machine Equipment Operator) in the Highway Department.

Supervisor Razzano read aloud Mr. Williams' retirement letter, and extended a sincere expression of gratitude to Mr. Williams for all his dedicated years of service with the Town. Although Mr. Williams was not present at this meeting, a round of applause was given in his honor.

ASSESSOR RESOLUTION: Dennis R. Ketcham, IAO, has requested that the Board adopt a resolution in opposition to Assembly Bill 1572 which is seeking support in the State Assembly. This bill would serve to eliminate Real Property Assessors at the Town and Village level, and would mandate assessing real property on the county level. A resolution was presented as follows:

Resolution #4 - 2007

RESOLUTION IN OPPOSITION TO A. 1572

Whereas the New York State Assembly has proposed legislation to amend the New York State Constitution to require a format of County-wide assessment, as stated in A.1572, sponsored by Assembly member Galef;

Whereas we have read the aforementioned legislation and cannot support this proposed amendment to the New York State Constitution and in fact strongly oppose this attempt to
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remove the assessment process from local government, where it has been since early colonial times;

Whereas there has been no study published that confirms any dollar savings to the taxpayers or any improvement to the quality of the assessment process if transferred to the county form of government and in fact there is evidence it could become more costly to the taxpayers and produce burdens to the local property owner who may have to travel significant miles to a County Seat;

Whereas the local assessor is an essential part of local government and their duties are no longer restricted to producing the assessment roll, but they are able to share their vast knowledge of the local community with other municipal departments, and they have become the key person for property data, census information, E911 assistance, local planning history, GIS knowledge and many other areas;

Whereas county government has been overwhelmed with the cost of Medicaid, Social Services, and other State mandated costs; this proposal would require the creation of new areas of responsibility and expense to county government and duplicate many of the hard costs that other municipal governments have expended over the years and many counties have been in dire economic condition for a number of years;

Now, therefore, be it

Resolved, that we oppose the concept of county-wide assessing and oppose A. 1572 as proposed.

Upon **MOTION** by **Supervisor Razzano**, and seconded by **Councilman Krajewski**, the

foregoing resolution was duly adopted by a majority of the members of the Town Board by a roll call vote as follows:

VOTE

Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Aye
Councilman Penaluna	-	Aye

MOTION CARRIED

RIDGEBURY REALTY DOCUMENTS:

****Supervisor Razzano** turned the meeting over to **Deputy Supervisor, Dave Cole**, and recused himself from the discussion because he is the owner of the property.

Deputy Supervisor Cole discussed a letter from **Attorney Guertin** regarding his review of the proposed Letter of Credit, Irrevocable Offer of Dedication and Development Agreement concerning Ridgebury Realty, LLC. Mr. Guertin determined that the documents were in order and in an acceptable form. Also, in the information packet that had been provided to each Councilperson, there were letters from Pat Hines (engineer) and our Planning Board Attorney, Bill Bavoso, which confirmed that the paperwork was in order.

The proposed road in this development will be named ‘**Stillwater Drive**’.

MOTION by **Councilman Cole**, seconded by **Councilman Krajewski**, to adopt a resolution to authorize Deputy Supervisor David S. Cole to accept and sign the Development Agreement as

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well as the irrevocable Letter of Credit in the amount of \$339,000.00 (three hundred thirty nine thousand dollars) from Ridgebury Realty LLC.

VOTE

Supervisor Razzano	-	Recused**
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Aye
Councilman Penaluna	-	Aye

MOTION CARRIED

Councilwoman Soro asked if the road would have to be in accordance with the law that is in effect at that time the road is constructed.

Attorney Guertin stated that the project would be subject to the laws that are in effect at the start of the project.

Deputy Supervisor Cole stated that, as a point of reference, Ridgebury Realty has already submitted an irrevocable offer of dedication for the new road (Stillwater Drive). The town will not accept this road until it is completed and passes inspection by the town.

MOTION by **Councilman Cole**, seconded by **Councilman Penaluna**, to accept the

Development Agreement for the road which will be known as ‘Stillwater Drive’.

VOTE

Supervisor Razzano	-	Recused**
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Abstained
Councilman Penaluna	-	Aye

MOTION CARRIED

MICHAEL BRADFORD/263 POST ROAD: Supervisor Razzano said that this matter was not on the agenda, but considering Mr. Bradford was in attendance, it seems appropriate to allow him to address the Board.

Supervisor Razzano explained that recently there has been questions as to whom is responsible for maintenance of the pump stations on three separate properties located on Post Road.

Extensive research of Town records has been done, and to date, we have been unable to locate any information indicating that the town ever accepted the responsibility of those pump stations.

Mr. Bradford presented a map that had a note written on it that said, “Offer of Dedication - the Subdivider has irrevocably offered to deed title to the Town of Wawayanda the land areas noted for streets and rights of ways, as well as all easements”.

Mr. Bradford said that it has been his understanding, that for the last twenty years, the pump station has always been part of the Ridgebury Sewer System.

He then discussed a correspondence from an Engineer regarding a variance and a map that shows the pump station along Post Road. Stated that he was going to FOIL for the paperwork but after a discussion with the Town Clerk, he was told that the paperwork that he would be requesting cannot be located. Added that he does not understand why this is being questioned at this time.

Councilman Cole explained that the word ‘Variance’ could quite possibly have more than one meaning, and that there is no indication there was a variance granted by any of the previous Boards.

Mr. Bradford stated that to date he has not had a problem with the pump station, and that it wasn’t until he received the letter from the Town that he became very much concerned, considering his sewer line runs through two other individuals property, as well as running

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under a brook. He would like to resolve this matter as soon as possible because if this system should ever need repair, it has the potential to be quite costly.

Attorney Guertin said that the Supervisor has supplied him with some of the paperwork, and that there apparently was a deed from or involving a developer, that had the verbiage of ‘Deeding to the Town of Wawayanda these pump facilities’, but there is no record that the town ever accepted it. Explained that under the State Constitution the law prohibits municipalities the use of public funds for the benefit of private properties, and that these pumps only benefit the particular home that they are connected to. Does not believe that the town has a legitimate liability to maintain those pump stations. Then, in reviewing the letter from Eustace & Horowitz (former engineers for the town), he felt it confirmed what we have been discussing, and that is that the town should not be paying for the repairs.

Mr. Bradford asked, “Just exactly, what did the town take over?”.

Supervisor Razzano said that it all boils down to real estate in that the town maintains all the

equipment that is located on town property.

Barbara Parson's suggested that we contact the Engineer listed on the paperwork for additional information.

Councilwoman Soro suggested that Dr. Kaye, the developer, be contacted to see if he could contribute any helpful information.

Further discussion took place, and it was determined that more research would have to be done.

EXECUTIVE SESSION/PENDING LITIGATION:

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to interrupt the meeting so that the Board may convene in Executive Session on a pending litigation matter.

ALL IN FAVOR - CARRIED

EXECUTIVE SESSION: No action taken.

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to close Executive Session and re-open the regular meeting.

ALL IN FAVOR - CARRIED

LAKERIDGE LITIGATION - 2005 / RIDGEBURY FARMS - 2006 LITIGATION:

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to approve the stipulation of settlement for the Lakeridge Lawsuit and the Ridgebury Farms Lawsuit, and to authorize the Supervisor to sign the paperwork

VOTE

Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Nay
Councilman Penaluna	-	Aye

MOTION CARRIED

CORRESPONDENCE & COMMUNICATIONS:

Marcy South Transmission Line: Notification was received from the New York Power Authority in regard to maintenance of the Marcy South Transmission Line in the vicinity of McVeigh Road. Since their work may entail the use of herbicides, pamphlets which named the chemicals and provided all pertinent related information, were provided to the town.

Recreation Committee: **Councilman Penaluna** stated that Spring is upon us and he would like to initiate the formation of a Recreation Committee for the Town of Wawayanda for special events and to get the ball rolling in regard to the Town Park expansion. He noted that there will be an informal meeting at Town Hall on April 26th, 2007, and all are welcome to attend.

Supervisor Razzano spoke about a document that he had in his office that detailed a Recreation Plan, and gave a brief explanation as to the direction that he would like to see this committee take.

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MOTION by **Councilman Krajewski**, seconded by **Councilwoman Soro**, to authorize the formation of a Recreation Committee of the Town of Wawayanda.

ALL IN FAVOR - CARRIED

Library Committee: **Councilman Cole** stated that in an effort to restore library service to Town of Wawayanda residents, a brief survey has been placed on the Town of Wawayanda Web-site.

Its purpose is to get an idea of what residents are looking for.

Attorney Guertin spoke about the legal aspects of this committee. Stated that he is the Attorney for the Thrall Library, and believes that because of the potential conflict of interest, he may not be the right person to ask for input.

PUBLIC COMMENTS & QUESTIONS:

Barbara Parsons asked if the ‘Stipulation of Settlement’ associated with the Ridgebury Farms and Lakeridge litigations was public information.

Supervisor Razzano responded that, at this time, the information is not for public knowledge. It cannot be revealed until the stipulation is formalized.

No other comments or questions.

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to adjourn the meeting.

ALL IN FAVOR - CARRIED

MEETING ADJOURNED: 9:02 P.M.
PREPARED BY KATHRYN SHERLOCK

RESPECTFULLY SUBMITTED,

Teresa E. Pierce, RMC
Town Clerk