

August 13, 2007

Alexander Town Board Regular Meeting

Alexander Town Hall 7:00 p.m.

Present: Supervisor Ruth Hulshoff
Town Board: Joseph Higley, William Franz, Emma Jean Grant, William Hirsch
H'way Supt: Tom Lowe
Town Clerk: Laura Schmieder
Guests: Karl Bender, CEO/ZEO; Richard Scharlau, Alexander Village Mayor; David DiMatteo,
Town Attorney (8:15 P.M.)

The meeting was called to order at 7:00 p.m. by Supervisor Hulshoff. The Pledge of Allegiance was recited and a moment of silence for our servicemen and women.

On motion by Councilman Franz, seconded by Councilwoman Grant, and carried, to approve the minutes of the regular meeting on July 9, 2007 as presented. 5 – Yes 0 – No Motion carried

On motion by Councilman Higley, seconded by Councilman Hirsch, and carried, to approve the minutes of the Public Hearing on July 18, 2007 as presented. 5 – Yes 0 – No Motion carried

COMMUNICATIONS: GAM 6/21/07 and 7/26/07 minutes; NYS DOT letter of denial for speed reduction on Broadway; LUCA; Assn. of Towns letter regarding Article X

REPORTS:

CEO/ZEO: Karl reports fewer building permits have been issued so far this year

Insurance Committee: Tompkins Insurance Co. contacted Supervisor Hulshoff for any future needs

Highway Supt.:

- a) Pike Road bridge - repaired and opened
- b) Seward Road – shoulders done
- c) Route 98 has been milled down, starting to put top coat on. Town hauled some millings to Frey's for processing for Town use. Also, hauled to a couple of community organizations for their driveways.
- d) Day Road will have a course on top starting soon.
- e) Wood chipper has been delivered.

Town Clerk:

- a) Toshiba representative talked with us regarding new copier. Our current lease expires soon.
- b) We have had a community service working at the Town Hall and Garage, about 10 hours.
- c) BAS update meeting will be held in Clarence on 8/29/07.

RES. NO. 51: TOWN CLERK TRAINING

On motion by Councilman Hirsch, seconded by Councilwoman Grant, and carried, the Town Clerk has authorization to attend the BAS update training to be held in Clarence on August 29, 2007, and to close the office to attend. 5 – Yes 0 – No Motion carried

RES. NO. 52: OVERRIDE GOVERNOR'S VETO (Trooper Bill)

On motion by Councilman Franz, seconded by Councilman Hirsch, and carried, the following Town Board resolution was passed:

WHEREAS, the Town maintains a local Town Court system at considerable expense in furtherance of the pursuit of justice within the Town; and

WHEREAS, the New York State Police Superintendent, to save in officer compensation, has initiated a new policy prohibiting State Police Troopers, as County Law Section 700 Prosecutors as designated by the Genesee County District Attorney, from participating in the well and long time established prosecutorial negotiations necessary for the timely and proficient pursuit of justice within this Town (the prosecutorial arm of our Town Court system of justice has been substantially handicapped, very potentially leading to more trials or case dismissals); and

WHEREAS, in the same form of State Legislative bills, Assembly Bill 10710-A and Senate Bill S7354 the State's Legislature recently adopted bills essentially reversing the Superintendent's policy in recognition of its adverse impact upon local Courts, Governments & Taxpayers; and

WHEREAS, the New York State Governor, the Honorable Eliot Spitzer, just recently and unfortunately vetoed that legislation and returned it to the Legislative Branch of State Government.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Alexander solicits the State's Legislative Branch of Government to timely **OVERRIDE THE GOVERNOR'S VETO** thereby permitting the State Police Troopers to fully act as duly authorized County Law Section 700 prosecutors as permitted by law without interference by an order of the Superintendent of State Police, a member of the Executive and not Judicial Branch of State Government. 5 – Yes 0 – No Motion carried

RES. NO. 53: TOWN HALL FRONT DOOR

On motion by Councilman Hirsch, seconded by Councilman Higley, and carried, to authorize the Supervisor to continue working with resident Charlie Brown to receive a firm price to replace the front door on the Town Hall. 5 – Yes 0 – No Motion carried

Youth: The Summer Rec program is over. We will be meeting on next year's program budget soon.

Dog Control: Carolyn Mruczek has been working on the enumeration and will have the north side of Alexander done very soon.

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Monthly reports from Town Justices, Town Clerk, Supervisor Financial and Senior Citizens were read and filed.

Alexander Village Mayor Richard Scharlau was present to discuss the current Ambulance Contract with the Town Board. Supervisor Hulshoff gave a report on the meetings held on 7/26/07 and 8/09/07 with City of Batavia officials. Mayor Scharlau would like to schedule talks with representatives from Rural Metro and Monroe Ambulance. We could also invite the Town and Village Boards from our neighboring municipalities. Perhaps GAM organization as a whole would have more pull. Supervisor Hulshoff was asked to contact the ambulance services and set up dates for meetings prior to the next GAM meeting in September.

NEW BUSINESS:

RES. NO. 54: LOCAL LAW TO AMEND ZONING LAW (WIND ENERGY CONVERSION SYSTEMS)

The following resolution was made by Councilman Hirsch, seconded by Councilwoman Grant, and carried: **WHEREAS**, all Town Board members, having due notice of said meeting, and that pursuant to Section 94 of the Public Officers Law (Public Meetings Law), said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

WHEREAS, the Planning Board of the Town of Alexander determined that a comprehensive local law regulating the development of wind power installations is necessary to protect the interests of the Town and its residents and has drafted various amendments to the Town of Alexander Zoning Law that establishes a permissive and discretionary framework for the establishment of wind energy conversion facilities; and **WHEREAS**, the Planning Board has compiled and by resolution dated 26th day of June 2007 referred to the Town Board all proposed changes to the Town of Alexander Zoning Law as a proposed local law entitled, “2007 Amendments to the Town of Alexander Zoning Law;” and

WHEREAS, pursuant to, and in accordance with, the provision of Section 617.6 (Initial Review of Actions and Establishing Lead Agency) of the New York State Environmental Quality Review Regulations (6 NYCRR Part 617) the Town Board of the Town of Alexander declares its intention to seek lead agency status for purposes of SEQRA review; and the Town Board will review the proposed law and all materials submitted by the Planning Board and the Town Board will take a “hard look” at all potential adverse environmental impacts pursuant to SEQRA by completing Part I and Part II of a Full EAF, along with Part III, if required and shall advise all other involved and/or interested agencies as follows:

1. Mary Pat Hancock, Genesee County Legislature
2. A.D. Berwanger, Wyoming County Board of Supervisors
3. James Duval, Director, Genesee County Planning Department
4. Donn Branton, Genesee County Agricultural & Farmland Protection Board
5. Patrick Hooker, Commissioner, NYS Department of Agriculture & Markets
6. Michael Saviola, NYS Department of Agriculture & Markets
7. Commissioner, Department of Environmental Conservation, Albany
8. Commissioner, Department of Environmental Conservation, Buffalo
9. Ruth Hulshoff, Supervisor, Town of Alexander
10. David Kelsey, Chairman, Town of Alexander Planning Board
11. Richard Scharlau, Mayor, Village of Alexander
12. Jerome Scharlau, Chairman, Village of Alexander Planning Board

WHEREAS, pursuant to Sections 239-l and 239-m of the General Municipal Law, said law and all supporting documents are required to be submitted to the County Planning Agency for their review and recommendations; and

WHEREAS, in accordance with Town Law, Section 264, written notice will be provided to the following:

1. Debbie Douglas, Clerk, Town of Bethany
2. Teresa Morasco, Clerk, Town of Batavia
3. Andrea Davis, Clerk, Town of Pembroke
4. Teresa Burkhardt, Clerk, Town of Darien
5. Kathleen Koch, Clerk, Town of Attica
6. Cheryl Strathearn, Clerk, Town of Middlebury
7. Judith Brown, Clerk, Town of Bennington
8. Vera Antonucci, Clerk, Village of Alexander
9. Carolyn Pratt, Clerk, Genesee County Legislature
10. Cheryl Ketchum, Clerk Wyoming County Board of Supervisors; and

WHEREAS, the Town Board of the Town of Alexander finds it in the best interest of the Town of Alexander to hold a public hearing to consider said proposed amendments to the Zoning Law of the Town of Alexander, at which time and place the environmental significance of said law will be determined and all interested parties and citizens for or against the proposed law will be heard.

NOW ON MOTION of Councilman Hirsch which has been duly seconded by Councilwoman Grant, be it **RESOLVED**, by the Town Board of the Town of Alexander that the Town Board will seek lead agency in said action under the State Environmental Quality review Act, also known as SEQRA, and shall advise all other involved and/or interest agencies as follows:

1. Mary Pat Hancock, Genesee County Legislature
2. A.D. Berwanger, Wyoming County Board of Supervisors
3. James Duval, Director, Genesee County Planning Department

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4. Donn Branton, Genesee County Agricultural & Farmland Protection Board
5. Patrick Hooker, Commissioner, NYS Department of Agriculture & Markets
6. Michael Saviola, NYS Department of Agriculture & Markets
7. Commissioner, Department of Environmental Conservation, Albany
8. Commissioner, Department of Environmental Conservation, Buffalo
9. Ruth Hulshoff, Supervisor, Town of Alexander
10. David Kelsey, Chairman, Town of Alexander Planning Board
11. Richard Scharlau, Mayor, Village of Alexander
12. Jerome Scharlau, Chairman, Village of Alexander Planning Board; and be it further

RESOLVED, the Town Board of the Town of Alexander will refer said matter, in accordance with 239(l) of the General Municipal Law, to the County Planning Board; and be it further

RESOLVED, in accordance with Town Law, Section 264, written notice will be provided to the following:

1. Debbie Douglas, Clerk, Town of Bethany
2. Teresa Morasco, Clerk, Town of Batavia
3. Andrea Davis, Clerk, Town of Pembroke
4. Teresa Burkhardt, Clerk, Town of Darien
5. Kathleen Koch, Clerk, Town of Attica
6. Cheryl Strathearn, Clerk, Town of Middlebury
7. Judith Brown, Clerk, Town of Bennington
8. Vera Antonucci, Clerk, Village of Alexander
9. Carolyn Pratt, Clerk, Genesee County Legislature
10. Cheryl Ketchum, Clerk Wyoming County Board of Supervisors; and be it further

RESOLVED, by the Town Board of the Town of Alexander will hold a public hearing on the proposed adoption of said local law on the 9th day of October 2007 at 7:00 p.m., at which time and place the environmental significance of said law will be determined and all interested parties and citizens for or against the proposed law will be heard.

5 – Yes 0 – No Resolution carried

RES. NO. 55: OPPOSE AMENDMENTS TO ARTICLE X

On resolution by Councilman Higley, seconded by Councilman Franz, and carried, the following resolution was passed:

WHEREAS, Article X of the Public Service Law provides a streamlined siting permit procedure for certain power generation facilities and the law expired December 31, 2002; and

WHEREAS, since January 1, 2003 power generation facilities have been sited via local zoning and state DEC review; and

WHEREAS, there is currently a proposal by Governor Spitzer before the Legislature to renew and revise Article X of the Public Service Law that would also include the siting of windmills; and

WHEREAS, this inclusion essentially eliminates local zoning control over windmills and has an impact on community host payments; and

WHEREAS, the Town of Alexander, along with numerous municipalities throughout New York State, has undergone considerable time and expense to develop and implement windmill siting policies that best fits our community;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Alexander is opposed to any inclusion of the siting of windmills in Article X of the Public Service Law as it removes local control of our landscape and violates the principles of Home Rule that has been the guiding force of our state, and **IT IS FURTHER RESOLVED** that the Town Board of the Town of Alexander encourages any revision of Article X to address health and environmental issues for those who live and work near power generation facilities; and

BE IT FURTHER RESOLVED that the Town Clerk forward copies of this resolution to Governor Eliot Spitzer and elected officials.

5 – Yes 0 – No Resolution carried

Budget Workshop Dates – The Town Board will be meeting on September 12 and September 27 for budget workshops. Both meetings will begin at 6:00 p.m.

OLD BUSINESS

Salt Barn Update: We received a land purchase proposal from an area resident and will pursue it.

EXECUTIVE SESSION:

On motion by Councilman Franz, seconded by Councilman Higley, and carried, the Board entered into executive session to discuss a legal/financial matter of a particular person. 5–Yes 0–No Motion carried

The executive session began at 9:10 p.m. and ended at 9:15 p.m.

Attorney DiMatteo will prepare a land purchase agreement and forward it to the Town Clerk.

Union Update:

RES. NO. 56: PARTICIPATION IN A 125-C TAX PLAN

On motion by Councilman Higley, seconded by Councilwoman Grant; and carried, the following was approved:

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RESOLVED, that the Town of Alexander Flexible Benefit Plan (the “Plan”) is hereby adopted effective August 1, 2007 as an employee welfare benefit plan to be maintained by the Corporation pursuant to Section 125 of the Internal Revenue Code, and that a copy of the plan document be attached to this resolution; and be it further

RESOLVED, in accordance with Section 6.1 of the Plan, that the Corporation hereby appoints the Committee to act as administrator for the Plan, and that the proper officers of the corporation may, in their sole discretion and without the need for subsequent approval from the Board, appoint new Committee members as they deem necessary of desirable; and be it further

RESOLVED, that the proper officers of the Corporation are authorized to execute the Plan, to receive employee contributions and pay benefits as provided therein, and to do every other act or thing necessary or proper to meet and comply with the obligations of the Corporation as therein provided and to carry these resolutions into full force and effect, and to direct counsel to take such action as may be necessary or desirable to satisfy any applicable requirements of law and to amend the Plan from time to time.

5 – Yes 0 – No Motion carried

RES. NO 57: 125-C TAX PLAN FEE

On motion by Councilman Higley, seconded by Councilman Franz, and carried, the Board authorized the Supervisor to move forward with implementing the 125-C Plan and to pay the \$500 set up fee. 5 – Yes 0 – No Motion carried

On motion by Councilwoman Grant, seconded by Councilman Hirsch, and carried, to pay the bills on Abstract #8 as follows:

General Fund A	Vouchers 153 – 186	\$13,961.47
General Fund B	Vouchers 42 - 53	4,813.00
Highway Fund A	Voucher 2	21,794.00
Highway Fund B	Vouchers 147 – 172	83,391.43

On motion by Councilman Higley, seconded by Councilman Hirsch, and carried, the meeting was adjourned at 10:35 p.m.

Respectfully submitted,

Laura Schmieder, Town Clerk

Planning Board meeting: August 29, 2007
Town Board meeting: September 10, 2007