

August 11, 2008

Alexander Town Board Regular Meeting and Public Hearing

Alexander Town Hall 7:00 p.m.

Present: Supervisor Ruth Hulshoff
Town Board: William Franz, Emma Jean Grant, William Hirsch, William Schmieder
H'way Supt: Thomas Lowe
Town Clerk: Laura Schmieder
Guests: Chris Mueller, Time Warner; David DiMatteo, Town Attorney (7:40 pm)

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.

Proof of Notice was read and the Public Hearing was called to order by Supervisor Hulshoff at 7:05 pm for the purpose of reviewing the application from Time Warner Cable for the renewal of their cable television Franchise Agreement.

On motion by Councilperson Franz, seconded by Councilperson Grant, and carried, to approve the minutes of the July 14, 2008 regular meeting, with a correction under Highway Supt. Report-made in italics, as presented. 5 – Yes Hulshoff, Grant, Schmieder, Franz, Hirsch 0 – No Motion carried

On motion by Councilperson Franz, seconded by Councilperson Schmieder, and carried, to approve the minutes of the July 29, 2008 budget workshop as presented. 5 – Yes Hulshoff, Grant, Schmieder, Franz, Hirsch 0 – No Motion carried

On motion by Councilperson Franz, seconded by Councilperson Hirsch, and carried, to approve the minutes of the August 4, 2008 Special Board meeting as presented. 5 – Yes Hulshoff, Grant, Schmieder, Franz, Hirsch 0 – No Motion carried

COMMUNICATIONS: Office for the Aging monthly newsletter;

REPORTS:

CEO/ZEO: The unsightly property violations that were issued have been cleaned up/mowed. There will be 2 more issued the end of this week.

Building Committee: Councilperson Franz contacted Doug Dayton to review bid for roof work and will have an update for the Board by the budget workshop at the end of this month.

Highway Supt: a) Oil and stone work around Town-Browns Mill Road, Hunn, Peaviner, Sprague, Seward, shoulders on Day; b) Capwell property-the rocks and posts are cleaned up, drainage not done yet; c) second pass of mowing roadsides almost done, third pass in September; d) culvert work on Drybridge and Browns Mill Road; e) paving is winding down, finishing Molasses Hill @ Drybridge and Seward @ Dodgeson; f) With the heavy rains recently, problems on Maplewood and Bowen Roads along with regular areas. This has caused a backup in regular work being done; g) County may be doing some drainage work on Sandpit Road.

Councilperson Franz expressed appreciation for Tom Lowe's written response to the Board regarding a resident with questions on work being done by the Highway Department on Stannard Road.

Town Clerk: The Alzheimer's Association has set September 30th and November 25th for informational meetings for Alexander residents at the Town Hall.

Financial: The Supervisor received the Sales Tax check for the second quarter and it was down as we had been informed.

Youth: The program has finished for the Summer. We will have numbers at a future meeting. There was a contribution made to the program from Bethany resident Cherie Scudder. A thank you will be sent.

Senior Citizen: The Canal trip is next week.

Dog Control: Carolyn Mruczek has finished with the scheduled half of the Town. She has identified 387 dogs.

The monthly financial reports from the Town Justice, Town Clerk and Supervisor were read and filed.

Public Hearing closed at 7:35 p.m.

RES. NO. 34: CABLE FRANCHISE RENEWAL WITH TIME WARNER

On resolution by Councilperson Franz, seconded by Councilperson Grant, and carried, the following resolution was adopted:

WHEREAS, pursuant to the Communications Act of 1934, as amended (the "Communications Act"), the Board has the authority to grant cable television franchises for and in the Town of Alexander, and **WHEREAS**, the Board has considered the technical ability, financial condition, and character of Time Warner before a public hearing on this date; said public hearing and negotiations included considerations of the Company's plans for reconstructing and operating, maintaining and repairing the herein described and referred to cable system; and

WHEREAS, notice of said public hearing was provided to all parties so entitled to notice, being posted on the official sign board of the Town of Alexander, and published in the Batavia Daily News on July 25 and August 1, 2008;

WHEREAS, the Board has determined that the proposed cable franchise renewal with Time Warner fulfills the needs of the Town of Alexander with respect to cable television service and complies with the standards and requirements of the New York State Public Service Commission.

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NOW, THEREFORE, BE IT:

RESOLVED, that the Board hereby grants Time Warner a 15 year cable franchise renewal in the Town of Alexander, and it is

FURTHER RESOLVED, that the Board approves the Franchise Agreement between the Town of Alexander and Time Warner substantially in the form presented to the Town on June 26, 2008, subject to modifications approved by the Supervisor or required by the New York State Public Service Commission; and it is

FURTHER RESOLVED, that the Supervisor is authorized to modify the Franchise Agreement, as may be required in his reasonable judgment, and to execute the renewed Franchise Agreement on behalf of the Town of Alexander, his execution thereof constituting proof of the effectiveness of such Franchise Agreement.

On call of the roll: 5 – Yes Hulshoff, Grant, Schmieder, Franz, Hirsch 0 – No Motion carried

UNFINISHED BUSINESS

Salt Barn Update: Town Attorney DiMatteo will make a phone call to Bernard Schmieder to clarify his expectations on the right of way on the property being deeded to the Town. He will also check with Paul Chatfield regarding the Highway Work Permit to get it completed and sent in.

RES. NO. 35: AUTHORIZATION FOR THE SUPERVISOR OF THE TOWN OF ALEXANDER TO EXECUTE SUPPORTING DOCUMENTS FOR THE TRANSFER OF 2.99 ACRES FROM JANE A.C. SCHMIEDER AND BERNARD C. SCHMIEDER FOR SITING A SALT STORAGE FACILITY FOR THE TOWN OF ALEXANDER

At the Town Board meeting regularly scheduled for August 11, 2008, and all Board members being present, the following resolution was adopted:

WHEREAS, all 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 Town Board of the Town of Alexander has been diligently looking for a parcel of property within the Town of Alexander to site a salt storage facility; and

WHEREAS, the Town Board of the Town of Alexander is proposing to acquire 2.99 acres from a portion of property owned by Jane A. C. Schmieder and Bernard C. Schmieder; and

WHEREAS, said parcel is depicted in a Land Separation Map 2008-99-S and dated June 5, 2008 as prepared by John F. Gillen, Land Surveyor No. 49649, a copy of which is attached hereto and made part hereof; and

WHEREAS, Monroe Title has completed a Copy Search of said parcel identified as Abstract of Title No. 61,581; and

WHEREAS, the Town Board of the Town of Alexander, after due deliberation and review of said map and Abstract of Title, finds it in the best interest of the Town of Alexander to authorize and designate the Supervisor of said Town to execute any documents required to complete the transfer of 2.99 acres from Jane A. C. Schmieder and Bernard C. Schmieder to the Town of Alexander as depicted in a Land Separation Map 2008-99-S and dated June 5, 2008 as prepared by John F. Gillen, Land Surveyor No. 49649 and Abstract of Title No. 61,581 as prepared by Monroe Title.

NOW ON MOTION OF Councilperson Grant which has been duly seconded by Councilperson Franz, be it

RESOLVED, that the above resolution shall take effect immediately.

5 – Yes Hulshoff, Grant, Schmieder, Franz, Hirsch 0 – No Motion carried

RES. NO. 36: MUNICIPAL COOPERATIVE AGREEMENT

Following a lengthy discussion, the following resolution was made by Councilperson Franz, seconded by Councilperson Hirsch, and carried by majority vote, and adopted:

This Municipal Cooperative Agreement is made by and between the Town of Alexander (hereinafter-the Town) with offices at 3350 Church Street, Alexander, NY 14005, and the Alexander Central School District (hereinafter-the District), with offices at 3314 Buffalo Street, Alexander, NY 14005.

WHEREAS, the State Comptroller has opined that a Town and School District may enter into a municipal cooperative agreement through which they could jointly purchase gasoline or the School District could purchase gasoline to be delivered and stored by the Town (State Comptroller Opinion No. 81-10); and

WHEREAS, the Town and the District believe there are financial savings which will be realized by both the Town and the District if they jointly purchase unleaded gasoline and store such prior to usage at the Town's storage facility;

WHEREAS, the Town and the District desire to enter into a Municipal Cooperative Agreement in accordance with New York State General Municipal Law 119-0 to effectuate such purchases and arrangements;

NOW THEREFORE, the parties hereto do agree and contract as follows:

1. The Town agrees to competitively bid the purchase of unleaded gasoline on behalf of both the Town and the District in accordance with General Municipal Law 103.
2. The Town agrees to accept delivery and store the unleaded gasoline prior to usage at the Town's storage facility.
3. The Town agrees to permit the District with access to the Town's storage facility for fueling District vehicles.
4. The Town and District agree to develop accurate methods for determining and documenting how much unleaded gasoline is utilized by the District.

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- 5. The Town will invoice the District on a monthly basis for the cost of unleaded gasoline used by the District in accordance with the competitively bid rate.
 - 6. The District will pay the Town the invoiced amount within 30 calendar days of receipt of the invoice.
 - 7. The District and the Town agree to defend, hold harmless and defend the other from any and all actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the omissions, negligence or actions of the other with respect to this Agreement.
 - 8. Any disputes arising under this Agreement shall be resolved through the procedures of the American Arbitration Association, provided that a claim with respect to the dispute is made by written notice to the other party within thirty (30) calendar days of the date on which the party knew, or if earlier, could have reasonably known, of the act or omission giving rise to the dispute.
 - 9. Either party may terminate this Agreement upon thirty (30) days' written notice to the other party.
 - 10. This Municipal Cooperative Agreement has been authorized by votes of the Alexander Town Board and the Alexander Central School District's Board of Education, as evidenced by the signatures of their respective presiding officers affixed below.
 - 11. This Agreement shall expire on June 30, 2009 unless terminated in accordance with numbered paragraph 9 of this Agreement or extended by written amendment to this Agreement.
- 4 – Yes Hulshoff, Grant, Franz, Hirsch 1 – No Schmieder Motion carried

NEW BUSINESS

RES. NO. 37: TOWN JUSTICE OFFICE

On motion by Councilperson Hirsch, seconded by Councilperson Franz, and carried, to approve the quote from Charles Brown to erect a new wall between the Town Justice and Town Assessors offices to expand the Justices Office. 5 – Yes Hulshoff, Grant, Schmieder, Franz, Hirsch 0 – No Motion carried

RES. NO. 38: ACCEPTANCE OF ENGINEERING SERVICES PROPOSAL

On motion by Councilperson Franz, seconded by Councilperson Grant, and carried, to accept the proposal for Engineering Services submitted by Paul Chatfield of Chatfield Engineers in an amount of \$15,800. dated August 11, 2008. This proposal will provide Engineering/Architectural Services for the Town of Alexander Highway Department Salt Storage Building, to be constructed on recently *donated* property on Broadway Road (NYS Route 20). 5 – Yes Hulshoff, Grant, Schmieder, Franz, Hirsch 0 – No Motion carried

The Board set the next budget workshop date for August 26th at 6:00 p.m. at the Town Hall. Supervisor Hulshoff distributed financial information to the Board in preparation of the next budget workshop. Mr. DiMatteo discussed financing possibilities for the construction of the salt barn: could be done with a statutory installment note or a Bond Anticipation Note. These options will be discussed at length.

Fire Chief Steve Ognibene presented the Board with financial information from the Alexander Fire Department, including grant monies and expenses. They would like to see an increase in the Town contribution.

The Town Board is saddened to learn of the passing of Donald Woodruff. He served as a member of the Town Board for many years, retiring in 2003.

On motion by Councilperson Franz, seconded by Councilperson Grant, and carried, to pay the bills on abstract #8 as follows:

General Fund A	Vouchers	155 – 176	\$ 6,474.65
General Fund B	Vouchers	40 - 51	3,116.26
Highway Fund A	Voucher	9	2,199.81
Highway Fund B	Vouchers	158 – 173	24,798.03

On motion by Councilperson Hirsch, seconded by Councilperson Schmieder, and carried, the meeting adjourned at 10:05 p.m.

Respectfully submitted,

Laura Schmieder
Town Clerk

Planning Board: August 25, 2008
Budget Workshop: August 26, 2008
Town Board: September 8, 2008