

REGULAR MEETING, TOWN OF LIVONIA

October 17, 2013

A regular meeting of the Town Board of the Town of Livonia, County of Livingston and the State of New York was held at the Town Hall, 35 Commercial Street, Livonia, NY on October 17, 2013.

PRESENT: Eric Gott, Supervisor
Andy English, Councilmember
Matt Gascon, Councilmember
Angela Grouse, Councilmember
Frank Seelos, Councilmember
Colleen Hay, Clerk
Jim Campbell, Attorney, Town of Livonia

OTHERS PRESENT: Several Residents.

The meeting was called to order by Supervisor Gott at 7:00 PM.

Dawn Woodburn led the pledge.

PRIVILEGE OF THE FLOOR

Joe Eberwein asked if there was anything to report regarding the storm water drainage problem on Pebble Beach Road. Supervisor Gott answered that he has spoken with Highway Superintendent Dave Coty and Building & Zoning Director Kevin Masterson about the problem. They think the problem might be that the ditches overflow and then the water has to get to the lake somehow, but he has no conclusive findings.

Supervisor Gott reported that Fran Kosakowski has offered in the past to allow the residents in the area to place a swale on his property. Mr. Eberwein stated that they had an easement on Acker Smith's land, but the new owner moved the pipe. He said that there is probably a foot of mud in the water where that pipe discharges. He then asked if a swale was put on Fran Kosakowski's property, who would pay for it? Supervisor Gott responded that the owners (of the property uphill from Pebble Beach Road) have done everything that the Planning Board has required, and if the residents want a swale, they would have to shoulder the expense.

Mr. Eberwein shared that he contacted the DEC and they have no interest in the problem because the threshold for them to get involved is one acre. He did not understand this, because the parcel that was subdivided is more than one acre in size. Attorney Campbell explained that the DEC does not look at the overall size of the parcel; they look at how much dirt is being disturbed. Mr. Eberwein stated that the owners cut the grass on more than one acre. Attorney Campbell replied that the removal of vegetation is not included. Re-grading, digging, removing or moving earth is what triggers DEC involvement.

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Mr. Eberwein asked, shouldn't the town pay for it? Attorney Campbell explained that the town cannot use taxpayer dollars to improve private property. They could form a drainage district, but the burden of paying for it would be shared by the people affected. The cost can be distributed as a unit charge, where there would be an equal fee per parcel, or by an ad valorem charge, where each taxpayer in the district would pay an amount based on the assessed value of their property.

Attorney Campbell cautioned that an easement is a mechanism for relief, but anyone seeking an easement would have to have the legal authority to do so. The town does not have that legal authority.

Mr. Eberwein brought up the drainage pipes on the Avon pump station property. Councilmember Gascon explained that Avon replaced two existing pipes that went across the road, and they were able to do so because it was town property already.

Attorney Campbell advised that the way to look at this is: should we establish a drainage district? Supervisor Gott reminded Mr. Eberwein that the cost would be an add-on to the homeowners' taxes. Councilmember Grouse asked who would establish a district and how would it be done? Attorney Campbell answered that the board can take up the issue or it can be done by petition of the homeowners. Attorney Campbell added that drainage districts are often formed when someone starts a development, and before it is divided into lots. It can be done in other instances, but can be problematic because people in the district may not agree to shoulder the expense.

Councilmember Grouse asked if the source of the water would be included in the drainage district. Attorney Campbell replied that an engineer would attempt to determine where the water is coming from and why. He reiterated that the town cannot use general taxpayer dollars to take care of these things. Mr. Eberwein asked if the county is involved in this and Supervisor Gott replied no.

MOVE TO SCHEDULED PUBLIC HEARINGS

Supervisor Gott declared the Public Hearings on the 2014 Budget and the Hemlock Sewer and Cadyville Road Water unit charges open at 7:18 PM.

Notice of both Public Hearings were duly published in the Livingston County News on October 10, with same being posted on the same date at the Town Hall, at the Livonia Post Office and on the Town's web site. In addition, notices regarding the Public Hearing for the Hemlock Sewer and Cadyville Road Water unit charges were mailed to owners of property in said districts. Clerk Hay read the Notices for the record.

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Comments:

Supervisor Gott stated that the Town Board has lowered the 2014 town tax rate by 7 cents. This budget fully funds the Town’s obligations, including retirement and healthcare obligations. It will also fund the purchase of a six-wheel dump truck with plow, a pickup truck and loader upgrade.

Supervisor Gott shared that the Town expended lots of money on an unforeseen lawsuit. Nixon Peabody represented us, and while the Town was successful, the case is now going through the appeals process. So far, the cost to the taxpayers is nearly \$100,000.

Supervisor Gott thanked Mike Lawton, the town employees and the department heads. He indicated that without their help, we would not have been able to lower the tax rate. This board has a “pay as we go” philosophy and that has been very helpful.

A resident asked about the recreation expense line. He wanted to know if the money is recouped, or is it a direct expense to the taxpayers? Supervisor Gott answered that some of the expense is offset by revenue such as concert sponsorships and fees. Councilmember English has spoken with the recreation director about increasing some of the fees, as they have stayed the same for several years.

No one else wished to comment about the budget at this time. Supervisor Gott asked if anyone wished to speak regarding the water and sewer unit charges. No one wished to speak on that topic. Supervisor Gott announced that the Public Hearings would remain open until the end of the meeting in case there are more comments.

RESOLUTION 130-2013
APPROVE MEETING MINUTES FROM 10/3/2013

On motion of Councilmember English seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to approve the meeting minutes from 10/3/2013.

RESOLUTION 131-2013
AUTHORIZE CLERK HAY TO SIGN THE LICENSE ISSUING AGENT AGREEMENT WITH THE NYS DEC

Clerk Hay reported that the NYS Department of Environmental Conservation is changing software vendors for the hunting and fishing license sales. They are requiring licensing

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agents to sign a new agreement and attend a training session in order to continue our license sale privileges. Attorney Campbell reported that he has looked over the contract. He suggested that Clerk Hay sign the document as Town Clerk, so that it is clear that she is performing these duties as part of the office of Town Clerk.

On motion of Councilmember Grouse seconded by Councilmember Seelos the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to authorize Clerk Hay to sign the NYS DEC License Issuing Agent Agreement.

RESOLUTION 132-2013

APPROVE SUPPORTING THE “SHOP IN LIVINGSTON” PROGRAM AT THE \$500 LEVEL

Supervisor Gott shared that he attended an IDA meeting last Friday, and a representative from the Livingston County Chamber of Commerce was there. The county contracts with the Chamber for the “Shop IN LivINGston” campaign. The Chamber is offering the towns and villages a chance to participate in the television commercials. The cost is \$500 and if we participate, it would work out to 100 spots at \$5 each. The ads will be town specific. If we were to purchase these ads on our own, it would normally be \$5,000. Because the Chamber is receiving co-op dollars, they are able to offer this opportunity. Supervisor Gott thinks that some town merchants will benefit from this and he thinks other Towns will buy in as well. The board was in agreement that this would be a good opportunity.

On motion of Councilmember Gascon seconded by Councilmember Grouse the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to approve supporting the “Shop IN LivINGston” program at the \$500 level.

BREAKWALL AT VITALE PARK

Supervisor Gott announced that the breakwall at Vitale Park needs to be fixed. He asked the board for permission to speak to Rick Henry from Clark Patterson about it. He would like them to look at it and devise a long term fix. He feels that we need to do something quickly; it is an emergency situation. The board agreed.

HIGHWAY DEPARTMENT PICK-UP TRUCK

Supervisor Gott has a call in to Genesee Valley Ford regarding a pickup truck. He will let

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the board know when he hears back from them.

RESOLUTION 133-2013

CLOSE PUBLIC HEARING ON 2014 BUDGET & WATER AND SEWER UNIT CHARGES

Supervisor Gott then asked if there were any further comments regarding either one of the public hearings. There were none.

On motion of Councilmember Seelos seconded by Councilmember Gascon the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

With everyone wishing to be heard having been heard, resolved to close the public hearings on the water and sewer unit charges and the 2014 budget at 7:31 PM.

RESOLUTION 134-2013

ADOPT 2014 BUDGET

On motion of Councilmember English seconded by Councilmember Grouse the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to adopt the 2014 Budget as presented. (See ADOPTED BUDGET at the end of the minutes.)

RESOLUTION 135-2013

APPROVE UNIT CHARGES

On motion of Councilmember Grouse seconded by Councilmember English the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

Resolved to approve the water and sewer unit charges.

RESOLUTION 136-2013

AUDIT OF CLAIMS DATED 10/17/2013

On motion of Councilmember Grouse seconded by Councilmember Seelos the following resolution was

ADOPTED Ayes - 5 (Gott, English, Gascon, Grouse, Seelos)
Nays – 0

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Resolved to pay claims 654-706 in the amount of \$141,807.22 from the Abstract dated October 17, 2013.

With no further business, on a motion of Councilmember Gascon seconded by Councilmember English the meeting was adjourned at 7:33 PM. Carried unanimously.

Respectfully Submitted,

Colleen West Hay, Town Clerk