

REGULAR MEETING, TOWN OF LIVONIA

March 5, 2015

A regular meeting of the Town Board of the Town of Livonia, County of Livingston and the State of New York was held at Livonia Town Hall, 35 Commercial Street, Livonia on March 5, 2015.

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

ABSENT: Angela Grouse, Councilmember

OTHERS PRESENT: Kevin Dougherty, Livonia Ambulance Commissioner; Joseph Breu, Livonia Ambulance Commissioner; Erin Ebersold, Livonia Ambulance Commissioner; Hal Fellows, Livonia Ambulance Commissioner; Scott Marshall, Livonia Ambulance Commissioner; Ed Sparks, Director, Livonia Ambulance; Several Residents.

The meeting was called to order by Supervisor Gott at 7:00 PM.
Dawn Woodburn led the pledge.

DISCUSSION REGARDING WORKERS COMPENSATION FOR AMBULANCE DISTRICT

Supervisor Gott introduced Livonia Ambulance Commissioner Kevin Dougherty and explained that Mr. Dougherty was at the meeting to discuss Workers Compensation for the Ambulance volunteers. He asked Mr. Dougherty to introduce the others that came with him. Mr. Dougherty introduced Joseph Breu, Erin Ebersold, Scott Marshall and Hal Fellows as Ambulance Commissioners, and Ed Sparks as the Ambulance Administrator.

Mr. Dougherty then explained that roughly a year ago, the Ambulance District received a notice from Livingston County that they would no longer be eligible to participate in the county's Workers Compensation because of stipends given to volunteers. Mr. Dougherty stated that the Ambulance District has spent some time researching this and in the meantime, they have purchased their own Workers Compensation policy to cover the volunteers. The cost is \$16,000 a year.

The Ambulance Commissioners have reached out to the Workers Compensation Board in Albany, who informed them that there is no case law on this. General counsel also told them that. The Ambulance Commissioners did not want to take the risk of waiting until someone got hurt to see how the case would be ruled on, so they made the decision to purchase their own policy.

The Livonia Ambulance Commissioners and representatives from Dansville Fire District met with Senator Young and Assemblyman Nojay to talk about enacting legislation that would possibly clarify the issue. While they were sympathetic, legislation would take a long time, if it would ever get passed.

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Mr. Dougherty stated that he wanted to bring the board up to speed and let them know that this is going to have to be built into the budget. The Ambulance District might have to come to the town to ask for more assistance, even though they would prefer not to do that.

He went on to say that there seems to be disagreement between the attorney for Livingston County (David Morris) and the attorney for the Livonia Ambulance District (John Mayernick). Mr. Mayernick's opinion is that federal law trumps state law, and federal law states that if people are paid 20% or less than the going compensation rate for EMS personnel, then they are volunteers. And if they are volunteers, then they are covered under the County Workers Compensation policy. The county attorney disagrees.

Councilmember English asked if they were all covered prior to stipends being paid. Mr. Dougherty said yes. In fact, they were covered until last year, and there were stipends being paid before that. Supervisor Gott explained that the way it was set up back in 1953, was to have the County pay the premium and then charge it back to the Towns based on assessments. It was never set up to charge the Towns based on the number of employees and/or volunteers.

Supervisor Gott added that people who do not accept the stipends are still covered by the County. The issue is that the people who are accepting stipends are not covered under the County plan. If there was a way to make the stipend people town employees then they would be covered. Mike Lawton was going to check with our auditors to make sure we could do that. Supervisor Gott stated that we need to be careful not to fix one problem only to create another one.

Councilmember Gascon asked how the stipend was calculated. Ms. Ebersold answered that the stipend is awarded per run, not per hour. She stated that the stipend is minimal, and does not even work out to minimum wage.

Attorney Campbell cautioned that before changing the stipend receiving volunteers' to Town employees, we would have to look at what that would do to third party billing.

Supervisor Gott commented that the Livonia Ambulance is not the only District facing this issue in Livingston County. The Caledonia Fire Department pays their chief and cannot obtain coverage for him through the county. The secretary for the Hemlock Fire Department is not covered when performing her duties of secretary because she is paid, but if she is volunteering to fight fires, she is covered. He revealed that the County Board of Supervisors is not inclined to revamp the Workers Compensation contract just to look at Districts. If they were going to change the contract, they would want to look at everything, and that would take quite some time. He was informed that it is not uncommon for counties to not cover Districts.

Attorney Campbell explained that by their very nature, what these districts do, put people at greater risk, so there is greater liability for coverage. He is not surprised that there are a lot of counties that exclude Districts.

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AMBULANCE DISTRICT ANNUAL REPORT

Ed Sparks reviewed the Ambulance District 2014 Annual Report (see attached) with the Board.

- He explained that the Basic Life Support (BLS) run numbers are for the number of crews, not the number of dispatches, because more than one crew might be dispatched, as in the case of a Motor Vehicle Accident (MVA).
- He pointed out that they only missed a total of 5 second ambulance calls for all of 2014.
- Advanced Life Support (ALS) run numbers are for Livonia, Lakeville, Hemlock and Conesus combined.
- We had 80.8% of coverage for our own ALS. (That is when a paramedic goes in addition to EMTs.)
- We currently have sixty-five EMTs and drivers and eight paramedics. Not all of the sixty-five EMTs are on regular call rotation, however.

Councilmember Seelos remarked that the numbers are impressive.

Mr. Sparks explained that since the end of 2013, he has been trying to keep better documentation of times when a second or third ambulance is called out. The last page of the Annual Report shows the number of times that were documented. Actual numbers were higher, because this report is dependent on people remembering to log it.

Supervisor Gott asked if the Board could see the financials. Mr. Dougherty answered that he will get them to the Board.

Supervisor Gott concluded that Livonia has the best of the best fire and ambulance service, and he would not want to live anyplace but Livonia. He shared that Ambulance crew shoveled a driveway for a man on East Lake Road after they gave him assistance. Supervisor Gott thanked them for their service and promised to let the Commissioners know if there is any update on the Workers Compensation issue.

PRIVILEGE OF THE FLOOR

A resident remarked that the roads are heaving quite a bit this year. Is that going to hurt the budget? Supervisor Gott answered that we will have to wait and see.

Councilmember Gascon asked if we are over budget on salt yet. Supervisor Gott said no. We have increased the amount of sand mixed with the salt to make it go farther and add more traction in the cold.

TOWN CLERK'S REPORT – FEBRUARY 2015

Clerk Hay gave the following financial report for February 2015:

<i>Paid To</i>	<i>Amount Remitted</i>
Supervisor (General Fund)	\$860.83
NYS Comptroller's Office (Bingo and Games of Chance)	\$0

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County Treasurer for Dog Licenses	\$168.00
NYS Ag & Mkts for Spay/neuter Program	\$60.00
NYS DECALS	\$0
State Health Department (Marriage Licenses)	\$22.50
Total Disbursements	\$1,111.33

TAX COLLECTION REPORT FOR JANUARY AND FEBRUARY 2015

TAX COLLECTION REPORT - JANUARY 2015

Beginning Balance:	\$58.99	
Taxes Collected thru 1/31/2015	\$6,298,433.32	
Overpayments (8)	\$4,039.64	
Interest on checking acct.	\$23.91	
Paid to Supervisor for Abstract	\$2,988,195.00	
Paid out for overpayments (8)	\$4,039.64	
Paid to Supervisor for Interest	\$23.91	
Paid to County Treasurer	\$2,000,000.00	
TOTALS	\$4,992,258.55	\$6,302,555.86

TAX COLLECTION REPORT - FEBRUARY 2015

Balance Forward:	\$1,310,297.31	
Taxes Collected thru 2/28/2015	\$241,897.83	
Overpayments (4)	\$100.55	
Interest on checking account	\$50.90	
February Penalties (1%)	\$2,137.86	
Paid to Supervisor for Penalties	\$2,137.86	
Paid to Supervisor for Interest	\$50.90	
Paid to County Treasurer	\$1,000,000.00	
Paid out for Overpayments (4)	\$100.55	
TOTALS	\$1,002,289.31	\$1,554,484.45
Balance Forward:		\$552,195.14

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RESOLUTION 27-2015

APPROVE TOWN CLERK'S REPORT

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

ADOPTED Ayes - 4 (Gott, English, Gascon, Seelos)
Nays – 0

Resolved to approve the February 2015 Town Clerk's Report.

RESOLUTION 28-2015

APPROVE TAX COLLECTION REPORTS

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

ADOPTED Ayes - 4 (Gott, English, Gascon, Seelos)
Nays – 0

Resolved to approve the January 2015 and the February 2015 Tax Collection Reports.

Tax Collection Software Proposal

Clerk Hay mentioned that she solicited proposals for Tax Collection software from BAS and Williamson Law Book. She stated her reasons for wanting to switch from the free county software:

- As discussed at the last meeting, she would like to collect taxes in the office next year instead of utilizing lockbox services through Five Star Bank. The county program does not have the level of audit trail functionality that is available through one of these other programs. For example, the county program does not track who made the changes to the database, allows deletion of a payment without an explanation or an audit trail, and does not track overpayments or bounced checks.
- More and more people are requesting to be able to pay/view their tax bill online. Both BAS and Williamson Law Book have an internet tax system.

Clerk Hay explained that the Town of Conesus uses BAS tax software and is very happy with it. Many residents utilize the service to view/pay their taxes. In addition, with the BAS service, someone could use a credit or debit card in the office to pay for their taxes, Building Permit, hunting license or any other fee.

Cost:

- Williamson Law Book did not respond with an estimate as of today.
- BAS software would be \$7,040 the first year and \$1,400 a year after that.

Clerk Hay reminded the board that the Town Clerk software is a BAS product, and that is why the credit card processing for the other fees would also be allowed. Williamson Law Book would only allow payment of *taxes* with a credit or debit card, because we do not have Williamson Law Book for the other fees. One of the reasons we switched from Williamson to BAS for Town Clerk was because Williamson's support was limited to one person and only Monday through Friday, 9

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AM to 5 PM. BAS can provide support 24/7.

The BAS tax collection program can:

- Provide everything that the county needs to reconcile at the end of the tax collection season in terms of reports and electronic files.
- Track overpayments and refunds, split parcels (apportioned bills), and bounced checks.
- Track who made changes to the database.
- Capture all payment information when payments to one tax bill are made by several different parties or different methods of tender. (The County program only allows one tender and one payer per bill.)
- Provide technical support 24/7.

Remote Deposit Capture

Clerk Hay also received estimates for Remote Deposit Capture. This would help save time preparing deposits of checks and avoid having to go to the bank with checks. (She would still need to go to the bank to deposit cash, but more and more people are paying with checks.)

Estimates:

- Five Star Bank:
 - \$75/month. Tawny did not know if we would have to purchase a scanner, or if that was included in the cost of \$75/month. Even if it is included, after one year we would be better off if we purchased the scanner and paid the lower nonthly fee that Community is charging.
- Community Bank:
 - We would have to purchase the scanner, and they run \$300-\$1,500. Because of our volume, a \$300 scanner should be sufficient.
 - Monthly fee would be \$50/month, which can be offset by balances.

I would like to see us move the tax collection and town clerk accounts to Community Bank so that we could set up the Remote Deposit Capture. It would also be closer to take cash deposits to Community Bank than having to drive to Five Star in Lakeville, especially during the busy tax season.

Supervisor Gott stated that he would like the Board to think about these two proposals, and he would like to make a decision at next the meeting. He added that there is money in Fund Balance, if the Board decides to approve the software purchase.

RESOLUTION 29-2015

APPROVE MEETING MINUTES FROM 2/5/15

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

ADOPTED Ayes - 4 (Gott, English, Gascon, Seelos)
 Nays – 0

Resolved to approve the meeting minutes from February 5, 2015.

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RESOLUTION 30-2015

APPROVE PART-TIME, AS NEEDED EMPLOYEE FOR BUILDING & ZONING

Supervisor Gott mentioned that Adam would like to hire Betty Miles at \$13.77/hour, part-time to fill in for when the Building & Zoning Clerk is on leave. He would also like to request approval for Mrs. Miles to come in beforehand for some training.

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

ADOPTED Ayes - 4 (Gott, English, Gascon, Seelos)
Nays – 0

Resolved to approve hiring Betty Miles as part-time, as needed employee for the Building & Zoning Department at a rate of pay of \$13.77/hour.

RESOLUTION 31-2015

APPROVE DISABILITY PAY FOR B/Z CLERK'S LEAVE

Supervisor Gott reminded the Board that historically, they have provided disability pay to employees that were in need of it at a rate of 90%. Bookkeeper Lawton averages their pay over the prior twelve months, and pays 90% of that amount. The Building & Zoning Clerk will be taking leave later this year, and she would like to know an amount ahead of time so that she can plan. Supervisor Gott asked that the board approve the 90% for 6 weeks for maternity leave. If she needs more, we can consider that then.

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

ADOPTED Ayes - 4 (Gott, English, Gascon, Seelos)
Nays – 0

Resolved to approve six weeks of maternity leave for the Building & Zoning Clerk, and to approve disability pay for those six weeks at a rate of 90% of her average weekly pay.

DISCUSS "ANYTHING THAT FLOATS REGATTA"

Supervisor Gott shared that initially, we thought that it would not be the best idea for the Town to sponsor the "Anything That Floats Regatta." He reminded everyone that this was a fundraiser idea brought to the Board by the Friends of the Chip Holt Nature Center (CHNC). He reported that Andrew Chanler has had an opportunity to work with NYMIR to iron out the details so the Town can sponsor the event and be the organizer. He asked Attorney Campbell to elaborate.

Attorney Campbell stated that we had some discussion at a Board meeting when this first came up. The CHNC wanted to conduct a community awareness event and a fundraiser to get people excited about the area. Attorney Campbell had some concern at that time in terms of liability and assuming risk, etc. In his initial discussion, Mr. Chanler thought it would be advisable for the Town to distance itself from the project. He recommended that the CHNC seek to get their own insurance. However, it turns out that there is no way for them to get that insurance.

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Mr. Chanler was able to ask NYMIR to re-think their position and get them excited about supporting it. NYMIR has agreed to provide coverage as long as it is an event sponsored by the Town and certain other requirements are met. The Town can sponsor it in conjunction with the CHNC.

NYMIR's requirements include collecting registration forms, securing participant waivers and releases, and providing written rules which address the minimum age of participants. Mr. Chanler thought NYMIR might prefer the Town to have a committee consisting of representatives from the CHNC to develop the rules and forms and make a recommendation to the Town Board. The committee would also have the responsibility of implementing the distribution and collection of forms; securing volunteers; arranging for the Sheriff boats, fire boats and other personnel; etc. Mr. Campbell explained that for the most part, the event will be like any other similar event that the Town Sponsors, i.e. baseball.

Participants will release the Town from liability if they participate. If the Town was somehow negligent and not diligent in safety, that is when the insurance would come into play. Attorney Campbell stated that if the Board wants to do this, he does not have any misgivings provided it is done right. Supervisor Gott added that Councilmember Grouse would be very active in planning this as would Craig Emmerling.

Supervisor Gott asked the Board if they wished to move forward. Councilmember English answered that as long as NYMIR is on board, he thinks we need to pursue this.

RESOLUTION 32-2015

TOWN OF LIVONIA TO SPONSOR THE ANYTHING THAT FLOATS REGATTA FUNDRAISER

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

ADOPTED Ayes - 4 (Gott, English, Gascon, Seelos)
Nays - 0

Resolved to sponsor the Anything That Floats Regatta, in conjunction with the Friends of the Chip Holt Nature Center, at Vitale Park this coming summer.

A brief discussion followed regarding volunteers for the committee. The Board discussed Councilmember English, Councilmember Grouse, and Craig Emmerling along with participation from Cornell Cooperative Extension and the Friends of the Chip Holt Nature Center. Attorney Campbell thought it would be important to let the CHNC folks know that we are not trying to usurp them, we are just trying to do this in a way that will allow it to happen.

UNEMPLOYMENT ISSUE UPDATE

Supervisor Gott mentioned that one employee was released from duties and subsequently applied for unemployment benefits. Supervisor Gott replied to surveys on the matter. The employee's benefits were suspended, and the suspension was appealed by the person. After two hearings on

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the matter, it was determined that the employee was entitled to the benefits and they were enacted. At this point, the Town did not pursue an appeal. However, the Commissioner of Labor re-opened the case and investigated, and determined that the former employee is not entitled to benefits. He further decided that the Town should be able to recover some of what was paid out. The Commissioner of Labor basically reversed the decision of the judge.

SIGN LAW

Supervisor Gott reported that Building and Zoning Director Adam Backus would like to take a look at the sign law, especially in light of the fact that there will be some contested races at the county level this year. Supervisor Gott, Councilmember Seelos, Attorney Campbell and Mr. Backus will look at it. They hope to report back with recommendations for consideration at the next meeting.

LIBRARY PROJECT UPDATE

Supervisor Gott reported that the Library Project is moving forward slowly. They continue to work on a fundraising committee. They will probably be pushing the project back for one full year. They are trying to get some public and private donations.

PROPOSAL FROM MARY ANN THOMPSON

Supervisor Gott shared with the Board a proposal from Mary Ann Thompson regarding the Jack Evans Community Center (JECC). She proposes to oversee the Center with a vision to create a place for "Socially Responsible Enterprises." Supervisor Gott met with her and let her know that the Town and the County are not in the position to hire a full-time person for this. She asked for the opportunity to have a rent- free period at the JECC for a period of time to get established, then with understanding that rent would be phased in after a set period. He told her that she can come talk at next meeting.

FEASIBILITY STUDY REGARDING VILLAGE-TOWN CONSOLIDATION

Supervisor Gott reminded the board that a group of citizens had asked the Village to conduct a feasibility study regarding consolidating the Village and Town. Mayor Lathan has stated that the Village is not interested in moving forward with the study, or even with pursuing a grant to fund a study. Instead, they will work with the Town and School on efficiencies. Supervisor Gott has agreed to participate in that committee. He added that he questioned the Mayor as to how a committee appointed by the Village Board can be objective regarding this matter. The Mayor thinks they can.

ICE SKATING RINK – BOWEN PARK

Supervisor Gott reported that the PTA ice skating rink has been great this winter and has seen a lot of use. The PTA solicited donations, purchased the correct liner and border and it has been a great success. They are looking to expand it next year. He commended the volunteers.

TOWN HALL PARKING LOT ISSUE

Attorney Campbell reported that he spoke with Building and Zoning Director Adam Backus regarding a problem that is slightly recurring having to do with parking vehicles in the Town

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parking lot for a protracted period of time. Attorney Campbell suggested bringing the issue to the Town Board to see if they are interested in addressing it. The Town could formulate policies, and put up signs if policies are enacted. Supervisor Gott stated that one person has had junk vehicles parked overnight in the Town Hall parking lot. The vehicle was gone this morning, but he is back tonight. Councilmember Gascon knows the person and offered to talk to him. Supervisor Gott reported that the Village and the Highway Superintendent have talked to him about parking over there.

RESOLUTION 33-2015

AUDIT OF CLAIMS 2/19/2015

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

ADOPTED Ayes - 4 (Gott, English, Gascon, Seelos)
Nays – 0

Resolved to pay claims 2019-2062 in the amount of \$45,265.90 from the Abstract dated 2/19/2015.

RESOLUTION 34-2015

AUDIT OF CLAIMS 3/5/15

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

ADOPTED Ayes - 4 (Gott, English, Gascon, Seelos)
Nays – 0

Resolved to pay claims 2063-2089, in the amount of \$40,016.28 from the Abstract dated 3/5/2015.

FUEL PRICES

Supervisor Gott mentioned that he has asked Valley Fuel for prices for diesel fuel and gas. He bought fuel oil from them for 40 cents less per gallon than we are paying right now, so he thought it would be worth getting prices from them for the Town.

With no further business, on a motion of Councilmember Seelos seconded by Councilmember English the meeting was adjourned at 8:28 PM. Carried unanimously.

Respectfully Submitted,

Colleen West Hay, Town Clerk