

**REGULAR TOWN BOARD MEETING
SEPTEMBER 14, 2009**

Chairman Leair called the meeting to order at 7:05 p.m. Present were Supervisors Ross, Reid, Morris and Schmittinger; also present were Administrator/Planner Herrmann and Clerk Whitmore.

Discussion/action – Minutes to be approved –

Regular Town Board Meeting of 8-10-09 – Morris made motion to approve, Ross seconded, motion carried unanimously. Adjourned Board of Review of 8-17-09 - Reid made motion to approve, Ross seconded, motion carried unanimously. Budget Work Session of 9-3-09 - Ross made motion to approve, Schmittinger seconded, motion carried unanimously.

Monthly report from Wales-Genesee Fire Chief Greg Jezak

The Chief reported they were without one of the engines for a week while it was being repaired. The Quick Lube in Wales held their annual car wash fund raiser over the week-end, raising over \$1,000.00 for the department.

Discussion with the Chief to add a line item in the town's budget for the Emergency Response Coordinator.

Board members were copied with the monthly report from the Chief.

Discussion with Liquor License establishment premises

Tina and Jason Heinonen from the Genesee Depot Café and Dan Polkwinski from InCahoots were present to discuss extending the premise of liquor license holder's to allow serving outside. Heinonen told the Board she met or spoke with several establishments, some thoughts were to allow them to serve food to 9 p.m. and alcohol until 10, possibly doing a trial period. Talking to area residents and if 50% agree allowing them to serve outside. They felt if people driving by see people sitting outside, it makes it more attractive for others to stop, bringing more people/business into the area; discussion of a time limit.

It was agreed there were three big issues 1 – litter control 2- noise 3 – underage drinkers.

Polkwinski told the Board that as of July 10, 2010 there has to be designated area's for smokers outside of all public buildings, discussion.

Heinonen told the Board she has met with or spoken to representatives from InCahoots, Cornerstone, Catherine's Place, the Union House and the Lions.

The business' will meet again and try to come up with a plan covering the three big issues and come back to the Board with some ideas. Discussion that each business will be somewhat different depending on their type of business and requests, that this may also affect their Plan's of Operation.

Discussion- Amendment to Burning Ordinance

Leair explained she had received a call from a resident regarding the size limit on burning permits, that the 3 x4 x 4 is small, discussion. Chief Gray from the North Prairie Fire Department stated that is the law as set by the state under Com 14.

Discussion of Town of Genesee official Map (collector streets)

Herrmann explained as part of the Smart Growth Plan, we should adopt an Official Map for the Town. Review of the proposed map highlighting the current collector streets. After discussion it was agreed to leave the current designated collector streets as is. They would like Herrmann to show possible extensions of current cul-de-sac on the map.

Discussion/action – Temporary Class "B"/"Class B" Retailers License on 9-26-09 – St. Paul's

Whitmore explained after reviewing the premise on the request from last month and calling St. Paul's to question where the festival was going to be held that the premises was incorrect last month, they did not include the outside beer tent, so they have re-submitted their request for September 26th, discussion. Schmittinger made motion to approve the permit for St. Paul's Octoberfest Festival on September 26, 2009 in the Food and Beer Tend outside the Parish Life Center, and authorizing underage person's to be on the premise for which the license is issued, Morris seconded, motion carried unanimously.

Discussion/action – Request for Operator Permits

Discussion of the request for an Operator's permit application of Jamie Riddle at The Cornerstone Restaurant, Schmittinger made motion to deny the request of Jamie Riddle, Ross seconded, motion carried unanimously.

Discussion of application of Lori J. Wollenberg at Saxe's for an Operator's permit. Schmittinger made motion to approve the license for Lori Wollenberg, Ross seconded, motion carried unanimously.

Ross made motion to approve the new application for Rosanne M. Morgan at Genesee Market, Schmittinger seconded, motion carried unanimously.

Ross made motion to approve the new application for Christine H. Surprise at the Cornerstone Restaurant, Schmittinger seconded, motion carried unanimously.

Ross made motion to approve the renewal application of Gerald Honeyager at Wern Valley Sportsman Club, Schmittinger seconded, motion carried unanimously.

Discussion/action – Purchase of snow plow

The Board discussed the sales quote from Proven Power, Inc. for a plow and installation of \$4,830 plus a snow deflector of \$300. The plow would be used for the town hall parking lot, to do small areas on the road such as clean up or drifting snow, also to plow the drive to get the truck out of the garage. Schmittinger made motion to approve the purchase of the snow plow, Ross seconded, motion carried unanimously.

Reports –**Administrator – Jeff Herrmann****Update on intersection at highways 59 & 83**

Herrmann reported that Charlie Miller of Citizens Bank has been working with Ebert's, Donovan, and Keinert on a Development Agreement for access from highway 59 to 83; everyone has been favorable to this, but now Mr. Keinert has questions. Miller will be meeting face to face with Mr. Keinert to discuss the agreement. The Town will not enter into the agreement until the agreement is worked out with those three sharing the costs.

Public Works Supervisor – Tom Earle**Update on road work completed and scheduled for 2009**

Earle reported the shoulders have been cut down on Jarmon Rd., Connemara, Holiday Rd., Ridgefield Rd., and Holiday Oak Drive. There is a little more shouldering to do, he did the work with Jerry and they work well together.

The crack filling was started today; Brandybrook was shouldered earlier this year now with the crack filling being done it should keep the road in good shape for quite awhile.

Work was done on Point Drive on the sink hole near the first culvert, they dug down and found out why is kept occurring and fixed that problem Wolf filled the area with gravel, it will sit for awhile, they will keep an eye on it, the saw cut and pave the area.

Mark Mickelson of Yaggy Colby will be checking the drainage and right of way issues on Holiday Road for some major work next year.

Update on 2010 Snow and Ice Control Contract

Earle reported the contract is similar to the last contract. He had requested and is waiting for copies of the snow route maps, number of hours per route, the number routes and mileage per route. Also information on the swing mans route and time. This is information he can use to justify the billing. Ollie Butterfield was present and agreed to get the information to Tom by the 23rd of September for discussion and action at the next budget meeting on September 29th.

Earle reported that he is finding items being put in the right of way that can cause a problem. Rocks, mail boxes, landscaping, one home on Ridgefield actually put mulch and sprinkler heads on the shoulder of the road and when he was doing the ditch work hit two of the heads. It was agreed this will be discussed at a later meeting.

Update on culvert on McAllister Way

Herrmann reported he met with Tom, a representative from the DNR, the owner, and Mark Mickelson from Yaggy Colby at the culvert site. Mickelson will draw up plans on how to proceed; when they are complete they will be sent to the DNR. The stand pipe was installed without a permit and DNR approval, when the culvert is replaced it will require a chapter 30 permit to put it back in, this is considered a dam structure by the DNR, would be in the town's right of way and would be difficult to get a permit to re-install because the DNR does consider this a dam. When the culvert and stand pipe are removed it will cause the pond to drop around 31 inches. By dropping this pond it will get the water away from the Town road which is a good thing. The owner Mr. Zimmerman is not happy about this, Herrmann will copy the Board with a letter received from Zimmerman and Herrmann's response. Zimmerman felt Herrmann should have mentioned this matter when he called about purchasing the property. Herrmann stated he was only asked about the possibility of splitting the parcel, the pond was never mentioned.

Leair asked if when the work was done and the culvert is replaced will the water in the pond all go out at once. Herrmann said the water will go down slowly, it will not wash out.

Leair told the Board Steve Vidmar has asked if the Board would suspend the rules to allow him to comment on this item, discussion. Ross made motion to suspend the rules to allow Mr. Vidmar to comment, Morris seconded, discussion, it was agreed to allow Mr. Vidmar 5 to 10 minutes for his comments. Motion carried unanimously.

Vidmar said I want the Board to reconsider the town's proposal to drain the pond and change the drainage because that is basically what they are going to do. I have an engineer report commissioned from the town that explains this ponds drainage, and everybody on this board might not understand this, but I understand it. It has the inflow and out flow, the inflow is the water coming in and outflow is the water going out the pipe. In every case in a 2 year, 10 year 100 year and then down below there's a 2 year, 10 year, 25year, 50 year and 100 year, the pond is actually protecting my property and it's holding water and it fills the wetlands behind it. And then I think the town believes the pond is the problem, well the pond ain't the problem. The engineer report pretty much states that, you just have to read it. It goes on to talk about the roadside swale which is the ditches and then it goes on to say that it will be over top in a designed storm event slightly above a 25 year storm, okay, then it says the results show that during a 100 year storm event a peak flow of 2.2 CFS, which is cubic feet per second, may overtop the road. Now this is interesting, this is says in a 100 year storm the pond may over flow the road, but this overtopping of the road is insufficient, however when compared with the overall flow 135 compared to 2.2 within the Genesee Creek at the same location, that's the problem, the problem is the creek.

Mr. Vidmar passed around maps, pictures and documents for the Board to review, some of which he said were self explanatory. There was a copy of a letter from Curt Miller, the former owner of the pond, Vidmar said that Miller caused the problems, he installed the pipe. He also explained several of the pictures and maps he presented.

Mr. Vidmar also had pictures of the culvert on McAllister Way saying the culvert is rotted out and the road is caving in, this is the same place that caved in 1996 when they repaved the road. He feels the reason it's caving in now is the town didn't fix it correctly in 1996, so it is now a bigger problem.

Vidmar explained that the neighbors believe what he is saying is true, showing the Board pictures from when the rail road released the water last year in September.

Vidmar feels that by draining the pond the town will also drain the wetlands and by increasing the size of the culvert, which is a 10 inch standpipe, the town is increasing it to 15 inches horizontal pipe. When this happens again, and it will happen again, the water is going to go through the ditches with such force on to my property, there are going to be some legal matters here. The town, county and state have to be considerate of those downstream. The reason I know this is I just re-did my culverts in my driveway and tried to increase the size and they wouldn't allow me to, they said I had to be considerate of those downstream, so the same goes for the town, county and DNR.

Leair said I recall this flood was actually being caused by a beaver dam, next to the rail road track that and when they broke the dam, the water receded eventually.

Vidmar agreed, eventually, but this is a prime example of what happens. In the engineer report they're talking about 25 year storm and 100 year storm, okay, there's run-off in this area running into the pond. Vidmar handed out pictures and said here is a prime example; it's a sunny day, very dry out if you remember last Memorial week-end how dry it was. Here is all this water in the road from the creek, it overflowed the road. The same thing happened in the June floods the pond has very little water coming out of it and very little run-off in to the pond until the creek over flows and that's basically what caused my problems last year, the June floods, my culverts being damaged, and then the beaver dam release.

Leair questioned how would lowering, there will still be a pond there right, the deepest part is about 8 feet deep. Vidmar said the pond is not like a bowl it's like a saucer, so as soon as you remove 31 inches of water you're going to lose about half of that pond. Leair said she just wondered how that would make your water problems worse. If the pond receded wouldn't that help? Vidmar said no, it has a 10 inch standpipe now as the water collects in the pond it hold it because there's a 15 inch culvert on my side, the picture I showed you with the green culvert, ok, that sucks air and that's sucking air through the pipe and it's trying to get up through the 10 inch pipe which is mounted on top of the town's culvert. Now that only allows so much water to run down that 10 inch pipe, so the pond is holding the water plus the pond can push the water back into the wetlands, and most of that property is wet lands so it holds the water, now you that that away, sure the ponds lower now you just think of being that much lower, the ponds gonna run with that much more force, 31 inches that's gonna be that much more pitch the water has to run and it's gonna run thorough a bigger culvert which has a capacity to fill up completely, where the 10 inch can't fill up 15 inch pipe.

Leair said here's our dilemma as I understand it, the DNR is not requiring, will not allow the stand pipe to stay, we have no choice; we have to take it out. Vidmar said according to, I'm not going to speak for Mr. Zimmerman, but according to what he told me, he said the DNR does not have any problem with transferring the ownership of the pipe to him. Leair answered he will have to put it in his right-of way because we have never transferred any town property to any private citizen, and they told us it had to come out, as I understand it, it couldn't go back in,

Both Herrmann and Earle said it couldn't go back in, Earle said we would have to apply for a permit for a dam which is not in the town's best interest to own a dam in any way shape or form. We would have to go through the process because it's on our property. Ross said as it stands now, we basically own a dam which is a liability. Earle agreed it is a liability which we the town does not want and I understand what Mr. Vidmar is saying, he is incorrect in a couple of his points, I think he's a little confused on few things. As far as that 10 inch pipe goes, gallons per minutes is gallons per minute, the only way that that structure as he's describing it will hold back the water, is describing it as if the water is over the top of that pipe if that 10 inch pipe is not at capacity, if will not hold back the water as he is saying. The way that those work, the way he is describing if that pipe is, let's say, a foot below the surface water then you will get that draw back through that larger pipe and hold that water back which is a problem into itself as far as the town is concerned because the town wants that water away from the right of way. Right now Mr. Zimmerman is using the edge of the road as the bank of his pond and if you look at the pictures Mr. Vidmar brought in you can specifically see that east side of the pond, where the stand pipe is, is right next to the right of way which is excavated out to the right of way. In order for whoever did it to put that standpipe on the existing pipe so if it was not brought out to the edge of the road he would have had to extend that pipe out of the right of way and make that and so when you daylight that pipe, like that 15 inch pipe on one side, yes it will hold back that water and causes a problem for us because 1 – it makes that water rise up that slope bank and get closer to the road, which we don't want that. 2 – It brings the capacity to hold a storm water surge down. When the water is lower it has more capacity to hold a surge, it only needs to rain a certain amount of rain in order to overflow the banks and rush out onto Mr. Vidmar's property. So I think he's a little confused on

Vidmar - I'm not confused, I think you're confused cause you don't understand what the problem is, I've witnessed this many times, the water never gets a foot over the pipe, because if it did it would over the road and the pond has never run over the road except in the June floods and with the release of the water.

Ross – you just contradicted yourself, you said it never overflowed

Vidmar – that's right except

Ross- then it does overflow

Vidmar – that's right, except and the DNR asked me

Ross – I would like to make a motion that we go ahead and do what we are going to do and make sure the DNR is on board and that the standpipe is out of our right of way. We let you go, we said five minutes and you've gone on for 15 minutes and you are contradicting yourself

Vidmar said, no I said except, except is except

Ross – well never is never, is that correct, never is never, it never overflows except, then it overflows.

Vidmar – okay then it overflowed three times

Ross said which a liability to us is

Vidmar stated well so is the creek

Ross said but there is also wetlands and conservancy around the creek

Vidmar replied its all wetlands, it's all environmental corridors, it's all wetlands you're going to drain wetlands by draining the pond.

Ross stated I don't believe we are going to drain wetlands if the pond was illegal to begin with

Vidmar stated the ponds have always been there, here's a picture from

Leair said I think we pretty much know, we don't have this scheduled for action but we are

Vidmar said I think you're going to have to talk to some of the residents that have lived in this area a long time like Dan Maroe, okay, they call him Buzz, he's been here over 30 years and then a couple of the other residents on Long Acre because they are very familiar with the height of the pond, and the ponds always been high.

Leair said I know we have certain things we have to do and we will just wait for the plans to come from our Engineer, but we've given you a chance to make your comments.

Earle told the Board that Mr. Zimmerman has the opportunity to go to the DNR and apply for the permit to put the dam on his property which would only be so many feet from the center line of the road. It's a 60 foot road, so he has the opportunity to petition the DNR and apply at 30 feet from the center of the road, he can make his own dam and raise the elevation of the pond on his own without being on town property, he does have that opportunity

Vidmar said the problem is it's a 60 foot right of way, but the road is not laid in the center of the right of way so its

Leair said that happens a lot of times and thanked Mr. Vidmar for coming in.

Vidmar said I hope you consider the drainage

Leair said we are going to be very careful not to disturb the environment when this project is done

Vidmar stated because I've worked hard to get ditches dug and now you want to take those ditches and drain them right into my property where now they go into a pond

Leair said I think that you'll be satisfied with the work when it's completed.

Vidmar said he hoped so, and maybe we should close down that road because it's getting that bad, the pipe is leaking now on the outside

Schmittinger said Charlie had mentioned we exceeded the time limit, let's move on.

Town Logo – Charlie Ross

Ross told the Board if he didn't hear from the art department soon he would talk to Pat Deklotz.

Treasurer – Carol McCormick

Update on unpaid 2008 personal property taxes

Two more have paid, she will contact the other.

We have collected about \$130,000 in garbage bills; it seems more people are letting them go onto their tax bills.

Discussion/action – Bills to be presented

Discussion of check to Eric Bayer for paying soccer referees during the fall season. The Board requested a receipt for the check be signed by Bayer for the amount received.

Morris made motion to approve the bills as presented and an additional check for \$1,675 to Eric Bayer, Schmittinger seconded, and motion carried unanimously.

Correspondence

Whitmore reported the new census population came in at 7,560.

The blood drive on August 12th collected 25 units of blood; they liked our facility and may ask to use it in the future.

Adjourn

Ross made motion to adjourn, Morris seconded, motion carried unanimously. Meeting adjourned at 9:25 pm.

Respectfully submitted,

Barbara A. Whitmore, WCMC
Town Clerk