

Stillwater Town Board
Agenda Meeting
October 4, 2007 7:00 PM
Stillwater Town Hall

Present: Councilman Ken Petronis
Councilwoman Joan Ronda
Councilwoman JoAnn Winchell
Supervisor J. Gregory Connors

Absent: Councilman Artie Baker (Excused)

Also Present: Mark Minick, Supt of Highways
Sue Cunningham, Town Clerk
Robert Beebe, Attorney for the Town
Joe Lanaro, Engineer for the Town

Supervisor Connors called the meeting to order led everyone into the Pledge to the Flag.

Sue Cunningham, Town Clerk took the roll call.

Approval of Minutes: **Motion** by Councilman Petronis and seconded by Councilwoman Ronda to approve the minutes of the September 6, 2007 agenda meeting of the Stillwater Town Board.
Motion carried.

Communications: None

Reports & Resolutions *(Town Board & Dept Heads)*

Supervisor Connors

2008 Tentative Town Budget: Refer to Town Website for full, detailed message (www.StillwaterNY.org)

The Stillwater Fire District (AHPD) will hold a Public Hearing to receive public comment and input on their 2008 Fire District Budget on Tuesday, October 16th at 7:00 PM. The Public Hearing will be held at the Arvin Hart Main Station on Campbell Road.

2006 Town Audit: The 2006 Independent Audit of the Town's financial condition has been completed and filed with the appropriate regulatory authorities and within the time frame prescribed and required by law. I am pleased to report that the financial condition of the Town of Stillwater is sound and that auditors reported no material weaknesses or matters involving internal controls out of compliance. Testing was performed by the auditors to confirm and determine compliance with certain provisions of laws, rules, regulations, contracts and existing grant agreements. The results of those tests disclosed no instances of noncompliance or other matters that are required to be reported under government Auditing Standards. Once the Town's response to the audit findings are complete, both the audit and the findings response will be available in the Office of the Town Clerk and distributed to the Members of the Town Board, Town Attorney and Town Insurance Carrier.

HUD Small Cities Grant: We have been advised by the Governor's Office for Small Cities and the Department of HUD that Stillwater was not successful in our Housing Rehabilitation Grant Application submitted in the Spring. I have scheduled a meeting with our grant consultant to meet with state representatives to review our application, see what areas we were deficient in and then consider making a second application for the next round of funding for F.Y. 2008.

Veterans Assistance Night: The Saratoga County Board of Supervisors in cooperation with the Saratoga County Veterans Service Agency will be sponsoring a Veterans Assistance Night and Job Fair Expo on Tuesday, October 9th at the Saratoga Springs City Center. Over 50 organizations and agencies will be available to provide assistance, employment opportunities and general services to Veterans. The Expo is Free, open to the general public and is from 6:00 PM to 9:00 PM. A special USO show will begin at 8:00 PM.

Turning Point Park: With the installation of the flag pole, scheduled within the next few days, Turning Point Park on Cambridge Court will be complete. I would like to thank Councilman Ken Petronis, Chairman of Parks & Recreation, Mark Minick, Highway Supt., the Dept. of Building, Planning & Development, DeGraff-Bloom Builders and several Stillwater business owners who helped make this park and recreation opportunity in Turning Point a reality. The park is open to any resident of the Town of Stillwater from dawn to dusk.

Building Inspector/Code Enforcement Officer: I am very pleased to report that action taken by the Town Board at a Special Meeting held on Thursday, September 27th, has appointed Ray Abbey to the position of Building Inspector and Code Enforcement Officer. Mr. Abbey's appointment was effective immediately.

County Office for the Aging: The Saratoga County Office for the Aging will hold a Public Hearing to obtain input, suggestions and comments relative to programs for the aging for the year 2008. The Hearing will be held in the Saratoga Springs Senior Center at 5 Williams Street, Saratoga Springs, on Wednesday, October 31, 2007 from 1:00 to 2:00 PM.

Do-Not-Call-Registry: As a reminder to all Stillwater residents who registered on the Do-Not-Call State Registry in 2003, please remember that you have to renew your intention to have your name and telephone number removed from telephone solicitations. The registry is only good for 5 years and unless renewed, your name will be removed from the do-not-call list in 2008. Consumers may renew on line or dial an 800 number in NYS.

Financial Reports: The Members of the Town Board and Department Heads have received their monthly budget reports for the period ending September 30, 2007. If they have any questions or concerns, please feel free to contact my office or the Office of Fiscal Management.

RESOLUTIONS FOR BUSINESS MEETING:

*Authorize the Supervisor to sign an agreement between Camelot Associates and the Town of Stillwater regarding the construction of a sewer line in Sewer District #3 at no expense to town taxpayers;

*Authorize the dedication of infrastructure in Turning Point Phase #4 to the Town of Stillwater consistent with the Town Roadway Dedication Policy;

*Authorize the conveyance of Phase #1 of the Stillwater Sanitary Sewer District to the Saratoga County Sewer District;

*Authorize the Office of Fiscal Management to make all necessary budget amendments to complete the 2007 Appropriation process as of December 31, 2007 and to report to the Town Board, all amendments and transfers at the February 2008 Agenda Meeting;

*Authorize the Canine Control Officer to attend training offered by the Empire State Animal Protection Forum on Friday and Saturday, November 2nd & 3rd in Poughkeepsie, New York.

*Introduce a Local Law that will provide the recently enacted Cold War Veterans Exemption to be provided to eligible Military Veterans in Stillwater;

Councilman Petronis noted that there is also a Do Not Call number for cell phones.

Councilwoman Ronda

Blockhouse: Councilwoman Ronda reported that the upcoming weekend the Blockhouse would close for the season with over 3,700 people visiting the Blockhouse. She stated that she would like to follow up on the lot for sale on the south side of the Blockhouse.

A discussion was held on doing an analysis of the property and contacting the selling agent for the property.

Travel Policy: Councilwoman Ronda stated that Councilwoman Winchell has submitted a Travel Policy in past and would like this to be considered at the next meeting.

Elder Care Van: Councilwoman Ronda reported that the Elder Care Van had a broken windshield due to a stone hitting the windshield and that has been reported to the insurance company.

Water: Councilwoman Ronda reported that on September 12th the water committee met, discussed the rules & regulations and are considering making changes. They will present this in November.

She reported that the water committee met with the Village Water Committee to discuss options and shared services.

Supervisor Connors reported that the surplus CCEC Van sold at the auction for \$1,300 tonight.

Councilman Petronis

Councilman Petronis had nothing at this time.

Councilwoman Winchell

Landfill: We have scheduled our final Town-Wide Clean-Up for Saturday, Nov. 3 at the Stillwater Highway Garage from 7AM until 2PM. The fees for local residents will remain the same. The committee would like to request the Town Clerk to place an ad for the service in the local newspaper, The Express, as well as hang a poster in a visible location.

Freedom of Information Law: We have had a number of residents return to Town Board meetings on a very regular basis requesting the status of their FOIL requests. With the help of our Town Clerk, I compiled a listing of the requests for 2007. There have been 47 requests.

After reviewing the requests, it is my opinion that the majority of the requests would have been fulfilled within the timeframe specified by the Law if the records mandated by Municipal Law were kept with the Town Clerk. Whether they are financial records, contracts, deeds, monthly reports....the list goes on and on. These reports need to be made available to the Town Clerk for access....it's the LAW. Failure to recognize Municipal Law as it is written is wrong and definitively not exercising Open Government!

Luther Forest Technology Campus: I was contacted by two residents in the Marshall Heights area of County Road 75, both concerned with the "New Proposed" Transition Line Route. They have been given mapping that clearly indicates the new route along the boundary of the Gailor property. Is SEDC obligated to amend the project because of this change?

Community Center: I attended the first Listening Forum at the Community Center on Thursday, Sept 27th. I was pleased with the turn-out and the level of interaction of the residents, of all generations. I wish to extend thanks to Karen Lorf, and members of the Community Center for organizing this event. I would also like to thank DA Jim Murphy, Prevention Council's Judy Eckman, Youth Bureau's Wes Carr, Sadd's President Kaitlyn Bouleris, and Chief of Police Denny Latham for attending.

Building, Planning & Development: Due to the recent changing of administration, there needs to be a Building Department Audit (financial and Open Records Audit (open building permits). I suggest calling the State's Office of Audit and Control. They are familiar with the regulations.

PDD's: I believe the process for initiating sunset clauses for all PDDs or any leftover PUDs would be a Local Law. I respectfully request the attorney's office begin the legislation for the Local Law and have it ready as soon as possible.

2007 Budget: Budget workshops? When, Where?

Town Attorney (*Robert Beebe*)

Codification: Attorney Beebe reported that they are still proceeding and should expect something within the month.

Litigation: Attorney Beebe stated that the petitioner, in the Carriero Case, has requested the Court of Appeals to review the decision.

Town Engineer (*Joe Lanaro*)

Engineer Lanaro submitted a report to the Board Members and briefly went over the report. (A copy is filed in the Town Clerks office for anyone wishing to review).

Councilwoman Winchell inquired about escrows and the process.

Engineer Lanaro stated that they would review the application, develop an estimate of what the escrow fees would be, furnish the information to the Town and then the Town requests that the applicant to fund the escrow.

Supervisor Connors stated that they get a written proposal from Chazen and the Attorney, then the does a resolution , the resolution is adopted, the Building Planning & Development sends out an invoice, and when the check comes in it is assigned a file number and goes to the Office of Fiscal Management.

Further discussion was held on escrows.

Councilwoman Winchell inquired about the Multi-Use Trail culvert and if the people along Halfway House Road and Railroad Ave been contacted about the buffer screening.

Engineer Lanaro stated that his office will be trying to do the reach out.

Councilwoman Winchell commented that when it comes time to advance from Railroad Ave.

South to Humphrey's the people who live in the area would like to express their ideas/opinions if possible before a plan is completed.

A discussion was held on how to involve the residents of the area.

Councilwoman Winchell inquired about a resident on Route 9P who is dealing with black water. She asked if there was any relief for this resident.

Supervisor Connors stated that there have been several conversations with the resident and apparently the black water comes from a private water well source. He stated that they referred her to the Department of Environmental Conservation and DEC informed him that they have provided her with names & numbers of hydrologists who she would have to retain on her own to determine the cause. If the cause if something the Town has enforcement over than obviously they will take very strict enforcement.

Further discussion was held on the condition of the water, other residents in the area having a similar problem and compliance issue to dig new well.

Supervisor Connors stated that once they are provided with the cause than they can take action.

Councilman Petronis commented on Iovinello putting in a water line and main in regard to the status.

Supt Minick stated that the water main is into the development, it is suppose to come out to Route 423 and then toward Route 9P.

Discussion was held on the status, the route of the water line and the developer's agreement to the availability of water to the residents of Route 9P.

Supt of Highways (Mark Minick)

Supt Minick reported that mowing has been completed along the roads, they have replaced culverts, repaired catch basins, will be starting tree & shrub removal, winter sand will be piled within the next couple of weeks, the water bills have been sent out and requested a meeting with the Village & Town Water Committee to discuss future water developments.

Town Clerk (Sue Cunningham)

Town Clerk, Sue Cunningham stated that she already submitted her monthly report to the Town Board Members prior to the meeting.

Public Input

Resident I stated that the Town Board is doing a terrific job for the residents of Stillwater but feels that people who do not live in the Town of Stillwater should not be allowed to waste the time of the Board Members. She recommended that the Town Board members only allow Town residents to speak during the public input portion of the meeting.

Supervisor Connors stated that he would take her concern into consideration.

Resident II commented on his veteran's exemption status and inquired if the new building inspector was also the Director of the Building, Planning Development Department or if that position was eliminated.

Supervisor Connors stated that the Director position is part of a Local Law, the position has not been eliminated yet but they are talking about amending that legislation.

Resident II asked why they would eliminate the position now when they created it in 2004 for his son, now that his son is no longer here you want to eliminate the position. He commented that he feels a resident is being discriminated against when she is the only one who passed the test but the position won't be given to her because she is a female and the Supervisor doesn't like her. Supervisor Connors stated that any change in the Local Law would be subject to the majority approval of the Town Board.

Resident III inquired on how many appointed salary position there are outside of the Town Highway Department. He asked if the following position were salary, court clerks, 911 coordinator, code enforcement officer, and canine control. He questioned how the hourly employee's hours were documented.

Supervisor Connors stated that they punch a clock.

A discussion was held on which employees was paid salary and who was paid hourly.

Resident III inquired about Tammy Russell's three positions and how her time was documented for the three positions.

Supervisor Connors stated that she works 40 plus hours a week and its appropriated by the Office of Fiscal Management.

Resident III asked currently what David Connors position was in his administration.

Supervisor Connors stated that he has no position.

Resident III asked what business David Connors was conducting in the Supervisor's Office behind closed doors, with paper over the door window the last several nights.

Supervisor Connors stated that he was not aware that he was here.

Councilwoman Winchell stated that she was down at Town Hall on Monday night and he was here with Tammy Russell in her office with paper covering the door window.

Resident IV commented that she disagreed with a comment made regarding nonresidents not being able to speak. She stated that it is important that the public always be able to speak as long as it's on a topic that concerns the Town residents. She stated that a Town Local Law, section 13 concerning record keeping, record maintenance, all such records shall be public records open for public inspection during normal business hours. She continued to read a portion of the Local Law that dealt with retention period of the records. She requested a clarification as to the meaning of this section.

Attorney Beebe stated that the records held by the building department are public records defined by State Law and retained by for a certain period of time.

Resident IV inquired if public inspection means that she could go down and request to inspect a record and it would be made available to her.

Attorney Beebe stated that it would be done pursuant to the Freedom of Information Law.

A discussion was held on reviewing records.

Resident IV stated that she came down on the 24th to look at some records, the Engineer was quite helpful, she was reviewing them when the secretary came in and was initially helpful until she asked her who she was. At this time she wanted to know why I was reviewing the records and started to be rude to her. Then she went up stairs and when she came back down Tammy Russell was with her and told her she had no right to be here when she wasn't here and that she needed to file a FOIL request because she couldn't expect people to drop their work to provide her with records. She commented that they did have a hard time locating the records even though they are current files. Resident IV commented that she was offended at being yelled at and felt that it was less than appropriate behavior when she was there during normal business hours following the Town's Local Law.

Resident IV proceeded to comment on a letter received from the Supervisor regarding her two appeals on FOILs. She proceeded to the letter received from the Supervisor. She follow up on the letter with the Records Access Officer and was informed that the Records officer had not received the records from the Supervisor as of yet. Resident IV inquired why he would write the letter granting access to the records and than not provide them to the Records Access Officer. Supervisor Connors stated that in this particular case he has not been able to put his hands on all the records that were subject to her request. He wanted to respond with all the records available and asked other employees in Town Government to see if they have them as well.

Attorney Beebe stated that he believes that she has a misunderstanding of the Freedom of Information of law. He commented that she makes it sound like people are trying to deter you from getting information. The fact is this is a law that doesn't say someone can simply walk in the door and everyone has to stop to hand this person a record. He proceeded to say that you have to go through a process pursuant to law that says you make a written request for a record, the next question is whether the record exists and someone has to determine this, if this record exists someone has to determine whether it is a public record because some or all records could be exempted for various reasons. Once it is determined that the record exists and available then it has to be made available, if she wants to inspect the record someone has to be available to provide it to her.

Resident IV stated that she received a much different interpretation of the Law from the Department of State than she has from him. She commented that her previous complaints concerning FOILs she has always followed that procedure in which the Town Clerk could attest to. She makes her requests in writing; the Records Access Officer receives the FOIL than tries to procure the record. What she doesn't understand why as the Records Officer she does not have access to the records?

Town Clerk, Sue Cunningham stated that her responsibility as Records Access Officer is she is suppose to acknowledge receipt of the FOIL, when I acknowledges the FOIL I am suppose to do so within five days, within that five days I am to have that record for them or I have to give them a specific date as to when that record will available. She stated that she has spoken with Bob Freeman numerous times. When I received a copy of the letter from the Supervisor that I would take care of the requests in question by October 1st I requested the records from him by October 3rd, because it has already been over two weeks and she still hasn't received the records from him. She commented that she is the one being put in the middle and made to look like she isn't doing her job. She said to just give her the records, she doesn't have a problem with them sitting in her office, and they can sit there all day long and view the documents. I will make copies of what they want, it may not necessarily be that day but they don't expect the records the same day. I will inform them that the copies will be available within the next couple of days and that is fine with the people. All that I ask for is a date of when the documents will be available for inspection because by law you have to give a specific reasonable date and that is law.

Resident IV commented that the Town Clerk has been great and she has never had a problem with the Office of Fiscal Management. The only two offices she cannot get information is the Building, Planning & Development and the Supervisor. According to law the Supervisor shouldn't be keeping records that are not available to the Town Clerk who is the Keeper of Records. Resident IV stated that the beginning of the Freedom of Information Law states "A free society is maintained when government is responsive and responsible to the public, and when the public is aware of governmental actions. The more open a government is with its citizenry, the greater the understanding and participation of the public in government.

As state and local government services increase and public problems become more sophisticated and complex and therefore harder to solve, and with the resultant increase in revenues and expenditures, it is incumbent upon the state and its localities to extend public accountability wherever and whenever feasible.

The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society". She stated that unfortunately she is not getting that from this government. She also wanted to know if copies of her appeals and response were forwarded to the Committee of Open Government.

Supervisor Connors stated that she has not been provided with the records as of yet.

Attorney Beebe stated that he believes that they may have been forwarded.

Resident V inquired about the surface being put down on the Multi-Use Trail.

Supervisor Connors stated that it was going to be blacktop.

Resident V inquired about District #3 voting place.

Councilwoman Ronda stated that it was being moved back to the Arvin Hart Firehouse on Campbell Rd.

Discussion on the polling places was held.

Resident V inquired about the HUD program grant.

Supervisor Connors stated that it wasn't funded by the Governor's Office of Small Cities. He is hoping to make another application in the fiscal year 2008.

Resident V questioned Resolution #170 in regard to the Village Justice Court and the monies collected.

Supervisor Connors stated that the administration of the Justice Court is part of the General Fund which means the residents of the Village through their tax dollars offset the cost of the Justice Court.

Resident V inquired about the review of the Local Laws.

Supervisor Connors stated that the codification will assemble all the laws, rules and regulation in one place.

Resident V inquired about the Brownsfields and whether that report was completed.

Supervisor Connors stated that it was part of the Brownfield Opportunity Area Grant Program.

He stated that it was in the process and that the Engineer gave a report on that tonight.

Resident V questioned the employment problems at the Community Center.

Supervisor Connors stated that they have no employment responsibility over the personnel that work at the Community Center.

Resident IV provided a follow up to the NYS Freedom of Information Law. She stated "any person denied access to a record may within thirty days appeal in writing such denial to the head, chief executive or governing body of the entity, or the person therefore designated by such head, chief executive, or governing body, who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought. In addition, each agency shall immediately forward to the committee on open government a copy of such appeal when received by the agency and the ensuing determination thereon. Failure by an agency to conform to the provisions of subdivision three of this section shall constitute a denial". This means that if she has been denied again she will have to article 78. She stated that she never wanted to do this because she finds it rather offensive to sue your own Town because when she wins the Town also has to pay her legal fees. A discussion was held on her denial and the fact that she still has not received any records pursuant to the letter she received from the Supervisor granting her request to review the records.

Resident VI spoke on a letter he received from the Supervisor in regard to his FOIL appeal. He seems to be running into the same problem that the records are not being made available and that the Town Clerk does not have access to records in question. He believes that they have come to an impasse which he believes is filibustering. According to Municipal Law she is the Keeper of Records so she should have the records in her office.

Supervisor Connors stated that he wasn't so sure that she hasn't.

Resident VI asked the Town Clerk if she had the records in questioned filed in her office.

Town Clerk Sue Cunningham stated that she did not have the records he requested in his FOIL in her office.

Supervisor Connors stated that they are attempting to find them.

Resident VI stated that according to the letter he received from the Supervisor it said to go to the Town Clerk and they would be made available.

Supervisor Connors stated that as soon as they have records they will provide them to the Records Access Officer.

Resident VI stated the intent of the law is to specify when the records would be available not to circumvent the law and hide the material from the people who request the records. He said that when records are requested, there is a procedure to be followed and if it's not it's filibustering.

Agenda Items (Resolution #177)

Resolution #177: Authorizing the Building Inspector/Code Enforcement Officer to attend the 15th Annual Capital District Building Officials Education Conference in Colonie, NY.

A roll call vote was taken as follows on Resolution #177:

Councilman Baker	Absent
Councilman Petronis	Yes
Councilwoman Ronda	Yes
Councilwoman Winchell	Yes
Supervisor Connors	Yes

Motion carried. Resolution #177 was adopted unanimously. (Copy attached and made part of the minutes).

Motion by Councilman Petronis and seconded by Councilwoman Ronda to pay the audited claims.

General	#443-#464	\$16,217.78
Highway	#423-#450	\$25,746.32
Town Outside	#95-#106	\$7,702.42
Water & Sewer	#64-#67	\$449.45
Capital Projects	#67-#69	\$15,442.04

Motion carried.

Motion by Councilman Petronis and seconded by Councilwoman Ronda to adjourn the Agenda Meeting of the Stillwater Town Board at 8:30 PM. **Motion carried.**

Respectfully submitted by

Sue Cunningham
Stillwater Town Clerk