



**Town Board Minutes
February 3, 2009**

The regular meeting of the Town Board of the Town of Ballston was held Tuesday evening, February 3, 2009 at the Town Hall on Charlton Road. Members present were Supervisor Patricia Southworth, Councilman James Briaddy, Councilwoman Mary Beth Hynes, Councilman Timothy Szczepaniak and Councilwoman Kimberly Ireland. Also present were Town Attorney Murry Brower and Deputy Town Clerk Carol Shemo. Town Clerk Muriel Swatling was absent.

Supervisor Southworth called the meeting to order at 7:30 p.m. and the Pledge of Allegiance was recited.

Councilman Timothy Szczepaniak made a motion to approve the minutes of the December Agenda Meeting and the January Regular Town Board Meeting. Councilman James Briaddy seconded this motion.

Roll Call: Ayes – all; Noes – none. Carried.

The Deputy Town Clerk read the correspondence into the record. The first correspondence was a letter of resignation from Michael F. Willwerth of the Jenkins Park Advisory Board. The second letter was from Mark J. Kennedy, Regional Traffic Engineer with the New York State Department of Transportation, concerning the passing zone and speed limit on Route 50 near Beacon Hill. Although the NYSDOT will not eliminate the passing zone on Route 50 at the intersections of Everson Way and Sherman Way, there will be a modification of the passing zone. Passing through these intersections will be eliminating so that there will be no passing available for northbound motorists. The pavement markings for this modification will be completed as soon as the weather and their workload allows.

The following reports were presented by Town Officials.

Library Director Karen DeAngelo gave the Library Report for the month of January 2009. The Library received notification of an additional \$5,000 Special Legislative Project Grant. The library needs to replace the rugs in the vestibule and the community room with mildew and stain resistant materials; the remaining funds will be used to supplement the material budget for this year. Upcoming programs at the Library, Jack Rightmyer discusses his book, "A Funny Thing About Teaching" at 7:00 p.m. on February 12th. Ray Misiewicz will discuss the Jennifer Project, a Soviet submarine that sank in 1968 and the U.S. nuclear submarine that found her. The Jennifer Project discussion will be held on February 19th at 7:00 p.m. Supervisor Southworth asked the Library Director about the current reading of the Lead Law. Ms. DeAngelo stated that any material, book, puzzle, game, and toy, used by a child under the age of twelve, will have to be tested for lead. She is not sure what this will mean for the Library in terms of cost and time to complete this process.

Building Inspector Thomas Johnson, Highway/Water Superintendent Joseph Whalen, Animal Control Officer Thomas Shambo, Historian Richard Reynolds, and Supervisor Patricia Southworth submitted reports for the month of January, and they are on file in the Town Clerk's Office.

Councilwoman Hynes made a motion to accept the Supervisor's report for the month of January 2009. Councilwoman Ireland seconded this motion.

Roll Call: Ayes – all; Noes – none. Carried.



Supervisor Southworth reported that the Saratoga County Sales Tax for 2008 was 2.55% lower than 2007 and the sales tax is 17.31% lower in January 2009 than from December 2008. This downward trend in sales tax revenue will need to be watched carefully in the coming months. The Town has received a request from the local Tour de Cure organization to use the Town's parking area on Outlet Road as a rest stop for June 7, 2009 bicycle ride. The American Diabetes holds this bicycle ride to raise funds in supporting its mission to prevent and cure diabetes, while improving the lives of all people affected by diabetes. The Town Board approved the use of the parking area on Outlet Road as a rest stop for the Tour de Cure. This approval is contingent upon receiving a copy of the liability insurance policy and assurance that proper signage will be used the day of the Tour de Cure for the safety of the race participants, area motorists and local residents. The Farmers' Market is interested in having an indoor market. They are looking for a location for the indoor market within the County boundaries. Community Human Services has offered their building as a potential location, but this building is in Schenectady County. The Town has received 4 responses to the Farmland Protection Grant. The Town Board needs to meet to review these applications. The Saratoga County Legislative and Research Committee is requesting a portion of the federal stimulus funding, being distributed through the Governor's office, for infrastructure projects. This committee has sent the Governor a list of shovel-ready projects that can be started and completed within the prescribed 90 day/180 day and 2 year completion timeline. The County is looking for funds for the Batchlorville Bridge replacement, since it is a shovel-ready project. Councilwoman Ireland said the Town should put itself in position for funding with shovel-ready projects. Councilwoman Hynes replied that the bridge over the Mourningkill, which includes the trail project, is near shovel-ready status. Councilwoman Hynes will follow up with Kathryn Serra on the final cost of the bridge.

The following residents spoke during Privilege of the Floor:

Mr. Rocky Palma Sr. of Charlton Road stated his property on Scotchbush Road should not be included in the Watershed Protection Overlay District. Building Inspector, Thomas Johnson and biologist Jennifer McCarry of CT Male did an on site investigation of this property and concluded that this property should not be included in the Watershed Protection Overlay District. Mr. Palma Sr. wants his property removed from this district.

Councilwoman Hynes agreed with Mr. Palma that his property should not be in the Watershed Protection Overlay District. Unfortunately, the timing of removing this property is at the same time as the vote on the resolution for this district.. The inspection of this property came so late that the Town Board already has had two public hearings. Do we want to delay passage of the Watershed Protection Overlay District after two years worth of work just for one property?

Mr. Rocky Palma, Jr. asked the Board how we accomplish removing our property from this district. Councilman Briaddy answered the GIS technology put your property in the Watershed Protection Overlay District, but we didn't have permission to walk this property until the last public hearing. Your property doesn't drain toward the Lake but towards the Alplaus. The Board agrees that your property should not be in the Watershed Protection Overlay District but we should not postpone the vote on this district. Councilwoman Ireland asked if the Town Board should consider the removal of the Palma property's during consideration of Resolution : 09-13. The Town Board agreed.



Mr. Arnold Palmer asked the Board what other agencies were involved in the BLOD. Mr. Palmer stated that DEC, Army Corps of Engineers and Soil Conservation did not weight in on this district. A lot of people are not happy with the BLOD including people who live on the lake. The BLOD should be put to a vote this November.

Mr. Frank Shipp, Vice President of the Ballston Lake Improvement Association, stated that he agrees the Palma property should be taken out of the Watershed District. He has not heard from anyone on the lake who is against the legislation.

The following items were presented for discussion and action.

Highway Superintendent Joseph Whalen submitted his Agreement for the Expenditure of Highway Moneys, Section 284 of Highway Law.

For the fiscal year of 2009 it is expected that the Town will receive approximately \$70,526.45 in State aid through the Consolidated Highway Improvement Program (CHIPS) and any other State aid program. The sum of \$212,520 will be set aside to be expended for the basic work and general maintenance and repairs upon 4.23 miles of Town highways. The sum of \$438,129 will be set aside to be expended for the permanent improvement of Town Highways. The Town Highways that are intended to be improved are: Randall Road that was scheduled for paving last year will be paved in 2009. (1.1 miles) Westside Drive (1.42 miles) Seelye Drive (.14 miles) Townley Drive (.35miles) Lawmar Lane (.42 miles) Mott Drive (.12 miles) Ramble Lane (.22 miles) Hollister Way (.26 miles) Kohlner Drive (.07 miles) Brynal Road (.06 miles) Ridge Terrace (.07miles).

09-07: A motion was made by Councilman Briaddy and seconded by Councilwoman Hynes to approve the Agreement to Spend Highway Funds for 2009.

Roll Call: Ayes – all; Noes – none. Carried.

Councilwoman Ireland reported that the Request for Qualifications for the GEIS is ready for approval. Supervisor Southworth stated that these proposals will need to be reviewed by the Town Board and the candidates should come in to discuss their qualifications.

09-08: A motion was made by Councilman Briaddy and seconded by Councilman Szczepaniak to approve the Request for Qualifications for GEIS.

Roll Call: Ayes – all; Noes – none. Carried.

The Town Board held a public hearing on proposed Local Law #1of 2009, proposed Local Law #2 of 2009 and proposed Local Law #3 of 2009 on January 21, 2009. It is necessary to declare the Town Board Lead Agency for SEQRA for Local Law # 1 of 2009 amending Local Law #2 of 2008 – Chapter 91 of the Town Code , Stormwater Management; Local Law #2 of 2009 Amending Local Law #3 of 2008 – Chapter 92 of the Town Code, Prohibits Illicit Discharge; Local Law #3 of 2009 amending Local Law #4 of 2008 – Watershed Protection Overlay District Map (Formerly Known as the Ballston Lake Overlay District Map) and amend Chapter 138 of the Zoning Law of the Town of Ballston , adding Article XA Watershed Overlay Protection District.



09-09: A motion was made by Councilwoman Hynes and seconded by Councilman Briaddy to declare the Town Board as Lead Agency for SEQRA for the following proposed local laws: Local Law # 1 of 2009 amending Local Law #2 of 2008 – Chapter 91 of the Town Code , Stormwater Management; Local Law #2 of 2009 Amending Local Law #3 of 2008 – Chapter 92 of the Town Code, Prohibits Illicit Discharge; Local Law #3 of 2009 amending Local Law #4 of 2008 – Watershed Protection Overlay District Map (Formerly Known as the Ballston Lake Overlay District Map) and amend Chapter 138 of the Zoning Law of the Town of Ballston , adding Article XA Watershed Overlay Protection District.

Roll Call: Ayes – all; Noes – none. Carried

The above local laws need to be reviewed for SEQRA Determination. Councilwoman Ireland asked if work was done on endangered species. Councilwoman Hynes replied no work was done on endangered species.

09-10: A motion was made by Councilman Briaddy and seconded by Councilman Szczepaniak to declare a Type 1 Negative Declaration for SEQRA.

Roll Call: Ayes – all; Noes – none. Carried

Proposed Local Law #1 of 2009 to amend Local Law #2 of 2008 – Chapter 91 of the Town Code, Stormwater Management is being considered for action. (See attached)

Councilman Szczepaniak read the following statement concerning the Watershed Protection Overlay District, formerly known as the Ballston Lake Overlay District.

Councilman Szczepaniak became educated on all aspects of this overlay district thanks to the Ballston Lake Improvement Association and the Town Engineer. He listened closely to all residents at the workshop and public hearings; there were no secret meetings. The BLOD project showed the best form of open government. For Example, the boundary of the map of the Watershed Protection Overlay District was corrected after it was contested at one of the hearings. He heard many residents expressing their view pertaining to preserving and protecting this area’s finest natural resource. He also heard and agreed with residents opinions regarding the need for Clifton Park to address issues on the west side of the lake; this must be done even though it accounts for 15% of the district. He received many letters in favor of the overlay district. One resident on the lake has enjoyed their “hidden gem” for 64 years This resident uses the lake as drinking water and has seen a decline in the quality of the drinking water due to nutrient and pollutant runoff increasing in the lake. Another resident is concerned that all future development be done with environmental protection and urges the Town Council to pass this legislation. Other residents want the lake protected for the enjoyment of future generations. One resident stated that “waiting until disaster strikes” would not be prudent since it would cost millions to repair. Councilman Szczepaniak concluded that his commitment is to all the residents of this beautiful town, to vote on what is right. His vote represents for the people and by the people.

09-11: A motion was made by Councilwoman Hynes and seconded by Councilman Briaddy to approve Local Law #1 of 2009 to amend Local Law #2 of 2008 – Chapter 91 of the Town Code, Stormwater Management.

Roll Call: Ayes – all; Noes – none. Carried



Proposed Local Law #2 of 2009 to amend Local Law #3 of 2008-Chapter 92 of the Town Code, Prohibits Illicit Discharge is being considered for action. (See Attached)

09-12: A motion was made by Councilman Briaddy and seconded by Councilwoman Hynes to approve Local Law #2 of 2009 to amend Local Law #3 of 2008 – Chapter 92 of the Town Code, Prohibits Illicit Discharges.

Roll Call: Ayes – all; Noes – none. Carried.

09-13: A motion was made by Councilman Szczepaniak and seconded by Councilman Briaddy to approve Local Law #3 of 2009 to amend Local Law #4 of 2008 Watershed Protection Overlay District Map and an amendment to Chapter 138 of the Town Code adding Article XA Watershed Protection Overlay District.

Roll Call: Councilman Briaddy	yes	
Councilwoman Hynes	yes	
Councilwoman Ireland	no	
Councilman Szczepaniak	yes	
Supervisor Southworth	yes	Carried.

Councilman Briaddy proposed a resolution to take the Palma property out of the Watershed Protection Overlay District. Supervisor Southworth stated that this property's inclusion in the district was an error and it should be edited out of the District. The Town Supervisor said that during the most recent zoning update, the Town edited the Ecobelli property out of Hamlet Residential Area to the Mixed Use Area. Town Attorney Brower stated that if the Town Board removes the Palma property, the resolution should be tabled and a new public hearing should be held. Councilwoman Hynes agreed that the Palma property should not be in the Watershed Protection Overlay District.; she did not want to see the vote on this District held up for one property. Councilwoman Hynes stated the Town Board should vote on this resolution and utilize the process that is in place to deal with removing properties from this District. Councilwoman Ireland is in favor of the Watershed Protection Overlay District, but will vote opposed to the resolution due to procedural issue with the removal of the Palma property; she would rather have the map approved correctly the first time. Councilwoman Ireland added that Mr. Palma will have to go before the Planning Board and then the Planning Board will make a recommendation concerning the Palma property to the Town Board which could draw out the removal. Councilman Briaddy said we will accommodate Mr. Palma and waive all incurring costs. Highway Superintendent Joseph Whalen asked if any other properties go through the appeals process with the Planning Board, whether they will incur any costs. Councilman Briaddy said the costs will be waived for this property only because they came forward during the public hearing process.

09-14: Councilman Briaddy made a motion to remove the Palma property on Scotchbush Road from the Watershed Protection Overlay District and Mr. Palma will not incur any cost, pending Planning Board recommendation to the Town Board. This motion will be reviewed at the March meeting. Councilman Szczepaniak seconded this motion.



Roll Call: Councilman Briaddy yes
 Councilwoman Hynes yes
 Councilwoman Ireland yes
 Councilman Szczepaniak yes
 Supervisor Southworth yes Carried.

09-15: A motion was made by Councilman Briaddy and seconded by Councilman Szczepaniak to authorize the Water Superintendent to repair pump #2 at the pump house at a cost not to exceed \$6,000.

Roll Call: Ayes – all; Noes – none. Carried.

The Town Supervisor received a letter of resignation from Michael Willwerth of the Jenkins Park Advisory Board. The Town Board thanked Mr. Willwerth for his many years of service and accepts his resignation from the Jenkins Park Advisory Board with regret.

09-16: A motion was made by Councilman Szczepaniak and seconded by Councilwoman Ireland to accept with regret the letter of resignation from Michael Willwerth of the Jenkins Park Advisory Board.

Roll Call: Ayes – all; Noes – none. Carried.

The next item for consideration is the payment of \$50 toward the prescription drug deductible, per person covered annually and \$500 deductible for hospital stay per person covered annually. Councilman Briaddy recommends authorizing these medical deductibles for one year carryover. The Town Board should address the medical deductible at the budget workshops for the 2010 Budget.

09-17: A motion was made by Councilman Briaddy and seconded by Councilwoman Hynes to authorize the payment of \$50 toward the prescription drug deductible, per person covered annually, and \$500 deductible for hospital stay per person covered annually.

Roll Call: Ayes – all; Noes – none. Carried.

An amendment to Chapter 62 of the Town Code, Fire Prevention and Building Construction was proposed for new nonresidential farm buildings. These buildings would need a building permit in order to insure setbacks as required in the Zoning Law, Chapter 138 of the Town Code, but no fee will be required.

09-18: A motion was made by Councilwoman Ireland and seconded by Councilman Szczepaniak to set a public hearing on proposed Local Law #4 of 2009 amending Chapter 62 of the Town Code – Fire Prevention and Building Construction for February 24, 2009 at 7:00 p.m.

Roll Call: Ayes – all; Noes – none. Carried.



Amendments are proposed to Chapter 127-4 of the Town Code, Vendors.

09-19: A motion was made by Councilman Szczepaniak and seconded by Councilwoman Ireland to set a public hearing on Local Law #5 of 2009 to amend Chapter 127 of the Town Code, Vendors for February 24, 2009 at 7:10 p.m.

Roll Call: Ayes – all; Noes – none. Carried.

An amendment to Chapter 104 of the Town Code was proposed as Local Law #6 of 2009. Councilwoman Ireland reported that the issue of flag lots was a serious issue at the Zoning Review Committee meetings. The amendment states that flag lots should be permitted in major subdivisions at the discretion of the Planning Board. Supervisor Southworth, Councilman Szczepaniak, Councilwoman Hynes need more time to review this amendment.

09-20: A motion was made by Councilwoman Ireland and seconded by Councilman Szczepaniak to table this resolution. Roll Call: Ayes – all; Noes – none. Carried.

Amendments to Chapter 138 of the Town Code, Zoning, were proposed.

09-21: A motion was made by Councilwoman Ireland and seconded by Councilman Szczepaniak to set a public hearing on Local Law #6 of 2009 to amend Chapter 138 of the Town Code, Zoning, for February 24, 2009 at 7:20 p.m.

Roll Call: Ayes – all; Noes – none. Carried.

The Town Board reviewed the updated contract proposals from Integrys. The Town Board agreed to table this resolution. More time is needed to review the contract terms and the Town Board needs compelling reasons to change from the current service.

09-22: A motion was made by Councilman Szczepaniak and seconded by Councilwoman Hynes to table resolution 09-22 contract proposal from Integrys.

Roll Call: Ayes – all; Noes – none. Carried.

Councilman Szczepaniak received a letter from Building Inspector Thomas Johnson concerning the problem of elevator cars not able to handle ambulance stretchers. The Town needs to change the zoning to go beyond the State Building Code. All buildings with one elevator need to accommodate ambulance stretchers and if there are multiple elevators in a building, one elevator needs to be able to accommodate a stretcher.

Councilwoman Ireland reminded the residents that the Jenkins Park Advisory Board Annual Meeting will be Wednesday, February 5, 2009 at 7:00 p.m.

Supervisor Southworth reported that the Time Warner contract for 2011 is under review. There will be a public hearing process for this contract.

A motion was made by Councilwoman Hynes and seconded by Councilman Szczepaniak to adjourn the meeting.

Roll Call: Ayes – all; Noes – none. Carried.



Respectfully submitted,

Carol R. Shemo

Deputy Town Clerk