

REGULAR TOWN BOARD MEETING

January 13, 2010

PLEDGE OF ALLEGIANCE:

I. CALL TO ORDER: (7:00 P.M.)

Board Members Present

Gay H. Lenhard, Supervisor
David F. Feeney, Councilman
Thomas J. Cole, Councilman
Malcolm E. Perry, Councilman
Thomas J. Uschold, Councilman

Others Present

Lynn A. Bianchi, Town Clerk
Daniel Schum, Town Attorney
David Widger, Highway Superintendent
Debbie Gearing
6 Participation in Government students

Purpose of the Meeting

To audit claims, act on monthly reports and remittances, and to transact such other business which may legally come before said meeting.

7:00 p.m.—Public Hearing: Introductory Local Law #1-2010 to establish a 30 m.p.h. speed limit on Pirates Cove, Hickory Hollow Senior Community.

Lynn Bianchi, Town Clerk, read the Legal Notice.

Supervisor Lenhard declared the public hearing open and asked if anyone wished to address the Board.

There being no questions, concerns or comments, **Supervisor Lenhard** declared the public hearing closed.

II. APPROVAL OF THE MINUTES:

Resolution #62-1/10

Introduced by Councilman Uschold
Seconded by Councilman Cole

BE IT RESOLVED, that the minutes of the Organizational and Regular Meetings of January 4, 2010, there being no errors or omissions, stand approved as submitted.

January 13, 2010

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

III. PRIVILEGE OF THE FLOOR:

None

IV. REPORTS AND REMITTANCES FROM TOWN OFFICERS:

Resolution #63-1/10

Introduced by Councilman Uschold

Seconded by Councilman Perry

BE IT RESOLVED, that the Reports and Remittances from Town Officers in detail for the month of December 2009, showing receipts and disbursements as submitted by the Town Clerk, be accepted as read, monies and fees to be acknowledged by the Supervisor and copies of the same filed with the Town Clerk.

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

V. TOWN AUDITS:

Resolution #64-1/10

Introduced by Councilman Cole

Seconded by Councilman Feeney

BE IT RESOLVED, that the General Fund, Part-Town Fund, Highway Fund, Drainage Fund, Lighting District Funds and Sewer District Funds being vouchered and submitted for audit, chargeable to the respective funds be approved:

General Fund	\$ 19,183.17
Part-Town Fund	13,886.28
Highway Fund	12,999.56
Capital	1,976.30
Sewer Funds	721.01
Lighting	<u>7,226.38</u>
TOTAL.....	\$ 55,992.70

January 13, 2010

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

VI. CORRESPONDENCE RECEIVED AND FILED:

1. Letter to Supervisor Lenhard from Chris Mueller, Time Warner Cable, enclosing copies of Time Warner Cable's FCC Forms and rate adjustments.
2. Copy of letter to Martha Magill, Windsor Village Condominium Home Owners Association, from Douglas Nordquist, Chief of Police, thanking her for donation to DARE Program.
3. Copy of letter to Ginny Swarthout, Canal Days Director, from Douglas Nordquist, Chief of Police, thanking her for donation to Special Police Unit.

VII. REPORTS FROM TOWN OFFICERS:

Gay H. Lenhard, Supervisor

1. I went to a DARE graduation at Canal View. Jim is doing a good job as the new DARE officer.
2. I have been at the Senior Center two days this week with the marketing people from Ogden Gardens. That is the affordable housing going up on Rt. 31. It is going to be a very nice facility and the Seniors are excited about it. It is an opportunity for some of the Seniors in our community to be able to live in their own community at a reasonable price. They can each have their own garden and there are a lot of other amenities. It was well received, and in March the marketing people are going to take anybody who wants to go to the Gananda facility, which is close to what Ogden Gardens will look like.

Thomas J. Cole, Councilman

No report.

David F. Feeney, Councilman

1. The Open Space Committee is going to start meeting again. The Town may receive a grant to help pay for John Steinmetz and get the implementation going.
2. I am the liaison between the Town and the Village on a Comprehensive Plan study for the Village. They have hired a firm from the City. There are seven people on this Board, including Joyce Lobene, who runs a good meeting.

Malcolm E. Perry, Councilman

No report.

Thomas J. Uschold, Councilman

January 13, 2010

1. As my role of liaison to the Building Department, I attended the Zoning Board of Appeals meeting on Thursday. There was a large crowd, but the meeting went well. The Zoning Board Chairman did a good job running the meeting and kept people focused on the material at hand. I appreciate his efforts.
2. We are continuing to look at some other issues that need to be addressed.

David H. Widger, Highway Superintendent

1. A resolution on the agenda tonight - the intermunicipal agreement with the County of Monroe - is actually with every town and village in the County, plus some school districts, and the City of Rochester. People are always saying that we need to consolidate and work together. . . we have been doing this for many years - sharing of equipment from town to town to county and borrowing back and forth. Monroe County is the leader in the state on this.

Lynn A. Bianchi, Town Clerk

1. The Board of Elections notified me that the State Board of Elections certified the new voting machines in December. We will be using the optical scan ballot devices from now on. The Board of Elections asked the towns to consider consolidating voting sites, and they will be conducting an audit of all polling sites in Monroe County.

Daniel G. Schum, Town Attorney

1. There is a resolution on the agenda tonight to establish a public hearing to consider doing away with condominium development in the town, taking out those references in the code.
2. I also worked on a matter where a developer failed to cooperate with Dave in terms of releasing an escrow. There is a resolution tonight to authorize release of the escrow.
3. I also attended the Zoning Board meeting last Thursday. I concur that the Chairman did a wonderful job of controlling a large crowd. The Zoning Board has a tough task in front of them to weed out all of that information.
4. The Deed of Dedication for the additional land we received from Fay Gilmore is now recorded, the certification of title given to the Town Clerk, and maps have been sent to the Town. We are in the process of doing some tax work with Fay. The Town has a small portion of the taxes that they have to pay, and the seller has the more substantial part.

Supervisor Lenhard: I would like to publicly thank you, Dan, for your presentation at the Zoning Board meeting last week. You did a phenomenal job, and you nailed it as to exactly what that Board is supposed to be looking at and laying out their responsibilities. I think we have the best attorney out of the three. Thank you.

VIII. UNFINISHED BUSINESS:

None

January 13, 2010

IX. NEW BUSINESS:

Resolution #65-1/10

Introduced by Councilman Cole
Seconded by Councilman Feeney

RESOLUTION OF THE TOWN OF OGDEN ENDORSING AND SUPPORTING PASSAGE OF THE COMMUNITY CHOICE ACT

WHEREAS, according to the most recent United States decennial census, there were fifty four million disabled Americans, over two million two hundred thousand of whom reside in nursing homes or other institutions; and

WHEREAS, in New York there are one hundred twenty three thousand one hundred and eighty two persons with disabilities, over eleven thousand one hundred and eighty four of whom reside in nursing homes or other institutions, primarily due to the lack of community home-based attendant services; and

WHEREAS, the United States Supreme Court ruled in its 1999 decision in the Olmstead case that people with disabilities have the civil right under Title II of the Americans with Disabilities Act to receive any state funded long term care services in the most integrated setting appropriate to their needs; and

WHEREAS, the vast majority of America's people with disabilities, including Seniors with disabilities, want to live independently and with dignity, free from the restrictions of institutional settings; and

WHEREAS, disabilities are a natural part of human experience that do not diminish an individual's right to live independently and to enjoy self determination and full inclusion in American society; and

WHEREAS, the average yearly cost of residing in a nursing home is higher than the average yearly cost of providing community home-based attendant services and in-home and community-based services have consistently proven to be less costly than institutional care; and

WHEREAS, the Community Choice Act (CCA) would expand the range of services available to persons with disabilities of all ages and give them a greater ability to choose services; and

WHEREAS, the New York Legislature was one of the first state legislatures to enact laws to establish community home-based attendant services, and many states still do not have viable alternatives to nursing or institutional care for Seniors and persons with disabilities; and

WHEREAS, adoption of CCA would help to ensure that community home-based attendant services programs are truly responsive to the needs of

January 13, 2010

Seniors and persons with disabilities, especially those residing in rural areas where choice of services is currently more limited; and

WHEREAS, under CCA, an individual who is currently eligible for nursing facility services or intermediate care facility services for people with developmental disabilities may apply the funding received through these programs to purchase qualified community home-based attendant services and thereby receive care in the most integrated and least restrictive setting possible; and

WHEREAS, the CCA would enable people with disabilities and the elderly real options to live in the community and create the infrastructure needed to develop the high-quality, community-based, long-term care of the future.

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Ogden, County of Monroe, New York, that the Town of Ogden urges Congress to pass the Community Choice Act.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Speaker of the House of Representatives, the House Minority Leader, the Senate Majority Leader, the Senate Minority Leader, and to each member of the New York Congressional Delegation.

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

Resolution #66-1/10

Introduced by Councilman Feeney

Seconded by Councilman Cole

RESOLVED, that the Supervisor, Gay H. Lenhard, be and hereby is authorized to sign an Intermunicipal Amendatory Agreement for Fleet Services, Machinery, Tools, Equipment and Services Sharing Access and Sale of Alternate Fuels – 2010 between the County of Monroe and the Town of Ogden.

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

Resolution #67-1/10

Introduced by Councilman Uschold

Seconded by Councilman Perry

WHEREAS, Arnold Carmichael, P.E. and Associates, has heretofore caused to be approved within the Town of Ogden, Canal Path Section 2 Subdivision; and

January 13, 2010

WHEREAS, in conjunction with the approval of such subdivision, it is necessary for storm water drainage purposes that an easement be secured over and across lands owned by the County of Monroe; and

WHEREAS, the County of Monroe is willing to grab such easement to the Town of Ogden; and

WHEREAS, the developer is willing to pay to the County of Monroe through the Town of Ogden the agreed upon value of such easement; and

WHEREAS, the County Legislature has approved the granting of such easement.

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Ogden as follows:

SECTION I: That the Town Board of the Town of Ogden, by the adoption of this resolution, does hereby authorize the purchase from the County of Monroe of a certain permanent easement for the servicing of the Canal Path Section 2 subdivision, all in accordance with the terms and provisions of the offer of purchase and sale.

SECTION II: That the Town Attorney has authorized and directed to proceed with securing of such easement in accordance with the provisions of this resolution.

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

Resolution #68-1/10

Introduced by Councilman Feeney

Seconded by Councilman Perry

**LOCAL LAW #1-2010
Establish 30 MPH Speed Limit**

WHEREAS, the Town Board of the Town of Ogden, pursuant to Municipal Home Rule Law and Vehicle Traffic Laws of the State of New York, did heretofore hold and conduct a public hearing to consider an amendment to the Code of the Town of Ogden to provide a speed limit of 30 miles per hour on Pirates Cove in the Hickory Hollow Senior Community; and

WHEREAS, due legal notice of such public hearing was given as required by law; and

WHEREAS, the public hearing so scheduled was duly held and conducted by the Town Board of the Town of Ogden on the 13th day of January 2010 at 7:00 p.m. in the Ogden Community Center, 269 Ogden Center Road,

January 13, 2010

Spencerport, NY, at which time all interested persons were heard and due deliberation having been had.

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Ogden, Monroe County, New York, as follows:

SECTION I: That Chapter 197 of the Code of the Town of Ogden is hereby amended as follows:

§ 197-30. Schedule II: Speed Limits.

	<u>Name of Street</u>	<u>Speed Limit (MPH)</u>	<u>Location</u>
Add:	Pirates Cove	30 MPH	Entire length

SECTION II: That the Town Clerk shall give due legal notice of the enactment of this local law as required by law.

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

Resolution #69-1/10

Introduced by Councilman Feeney

Seconded by Councilman Cole

WHEREAS, Signature Homes of N.Y., Inc. did on September 14, 2006 deposit the sum of \$2,000.00 with the Town of Ogden for gutter repair relating to the issuance of a highway permit for the construction then occurring at 109 Eagle Feather Circle; and

WHEREAS, as a result of such construction, gutters were damaged; and

WHEREAS, the Highway Superintendent has secured an estimate for the repair of such gutters, the obligation of Signature Homes of N.Y., Inc. being in the amount of \$1,825.00; and

WHEREAS, despite numerous correspondence with Signature Homes of N.Y., Inc., they have failed to respond to the request to expend these sums from the escrow for such repair.

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Ogden, New York, as follows:

SECTION I: That by the adoption of this resolution, the Town Board authorizes the withdrawal from the escrow account of Signature Homes of N.Y., Inc. of the

January 13, 2010

sum of \$1,825.00 to be used by the Highway Department for the purposes of repair of the gutters at the above-referenced premises.

SECTION II: That the balance of the escrow funds shall be returned to Signature Homes of N.Y., Inc .

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

Supervisor Lenhard: Dave, would you explain this a little?

Superintendent Widger: When a builder gets a driveway permit, and it is a dedicated road, we take a \$2,000 escrow for any damage done to the Town's infrastructure. A lot of times they will damage the gutters from running the backhoe or bulldozer over the gutters. If they damage them, they should pay to replace them, rather than the taxpayers. He damaged two gutters, and I have been trying to contact him for almost 2 years, to no avail. I talked to Dan Schum about it, and we had to have some sort of resolution passed to use his \$2,000, but it was actually put there to cover any damages. We need to repair the gutters.

Dan Schum, Town Attorney: The developer was given notice and directed to come here tonight if he had any objection to the release of those monies.

Councilman Feeney: Does the private individual who contracts to have a new driveway put in, have that same situation? **Dave:** Not a driveway; it is usually a new construction of a house, when they use bulldozers, backhoes and trucks.

Resolution #70-1/10

Introduced by Councilman Uschold

Seconded by Councilman Cole

WHEREAS, the Town of Ogden Assessor has recommended to the Town Board that it consider removing residential condominiums as a form of ownership or new development within the Town of Ogden so as to maintain and protect the tax base of the Town of Ogden; and

WHEREAS, in order to accomplish such purpose, it is necessary to remove from the Town of Ogden Zoning Code all references to condominiums as a form of ownership and/or use of property within the Town of Ogden; and

WHEREAS, in order to cause such amendments to be made, it is necessary that the Town Board hold and conduct a public hearing to consider the enactment of Introductory Local Law No. 2-2010.

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Ogden, Monroe County, New York, as follows:

SECTION I: That the Town Board of the Town of Ogden shall hold and conduct a public hearing to consider the enactment of Introductory Local Law No. 2-2010,

January 13, 2010

which public hearing will be held and conducted at the Ogden Community Center, 269 Ogden Center Road, Spencerport, NY on the 27th day of January 2010 at 7:00 p.m., at which hearing all interested persons shall be heard concerning the subject matter thereof.

SECTION II: That the proposed local law proposes to delete the definition of condominium from Chapter 210-6 of the Code of the Town of Ogden and further to amend Chapter 210-35.1(B)(1)(a) to read and provide as follows: Senior Apartments, Assisted Living or Independent Care Facilities and high density single-family homes for senior citizen dwellings by persons 55 years or older.

SECTION III: That the Town Clerk give due legal notice of this public hearing as required by law.

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

X. ADJOURNMENT:

Resolution #71-1/10

Introduced by Councilman Uschold

Seconded by Councilman Feeney

RESOLVED, that the Regular Meeting of the Town Board of the Town of Ogden be and hereby is adjourned to Work Session at 7:20 p.m., at which time the public was invited to attend, and hereby is adjourned at 7:50 p.m.

Vote of the Board:

Ayes: Cole, Feeney, Lenhard, Perry, Uschold

Nays: None

Respectfully submitted,

LAB/dmk

Lynn A. Bianchi, Town Clerk