

REGULAR TOWN BOARD MEETING

March 10, 2010

PLEDGE OF ALLEGIANCE:

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

Board Members Present

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

Board Members Absent

David F. Feeney, Councilman

Others Present

Lynn A. Bianchi, Town Clerk
Daniel Schum, Town Attorney
Marcia Davis, Personnel Director
Peter O'Brien, Director, Parks & Recreation
Frank & Karen Rakoski, ABNER
Cindy & Don Casper, ABNER
17 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.

DEPARTMENT HEAD REPORTS:

Marcia Davis, Personnel Director: I really appreciate the opportunity to speak here every year. As you all know, a lot of my job is very confidential, and you know a lot of the details because most of it has to go through you for approval. Tonight, I obviously cannot get into a lot of the details because of the open forum. I feel very fortunate to work for the Town of Ogden. Gay is an exceptional Town Supervisor, and you are an exceptional Board, which makes this very easy to do. Recruitment-wise last year was nice because we did not have a lot of turn over. Last year there was just one retirement (Jim Horek).

I worked with the Director of Parks & Recreation and the Town Supervisor to fill 1 full-time position. That took some time, but we had a great turnout of applications. We came to a very good decision, and couldn't be happier with the person we hired. The remaining hires only required employee orientations on my part.

I worked with Peter O'Brien and his department on processing re-hires and new hires for the Recreation Department. Since Peter has been here, the process gets better every year.

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I worked with Gay, the department heads and Civil Service to implement the budgetary decision for a reduction in force.

My assistance to department heads and employees is my favorite part of the job, especially counseling. It is very time consuming, but very rewarding. It is ongoing and you can't plan for it. At your busiest time is when it's going to be needed, but that's the way it goes. You put things aside. I get good feedback from department heads. I think that is working well. I am always there for them, and they don't need an appointment.

I do claims handling for Workers' Compensation, Disability and unemployment.

Councilman Perry: In going through your report, you say you monitored 9 unemployment claims. That seems really high. **Marcia:** This year was extremely high. When it comes to unemployment, seasonal people that we hire, even though they know it is a seasonal position, have the right to file for unemployment. Because of the reduction in work force, there were two individuals able to collect unemployment. As you notice underneath it, I successfully appealed 3 claims. Three were claims for people who became unemployed somewhere else, but still worked for us.

2009 was our first year under our new insurance plan. It was time consuming at the very beginning, but is running smoothly. I answered employees' and retirees' questions in completing forms. The feedback I receive from employees is that they feel comfortable with what we are doing.

The Highway Department unionized last year with the Teamsters. Gay and I worked hard researching labor attorneys, conducting interviews and finalizing the selection process. It culminated with a one year contract. This was very labor intensive and time consuming because of all the research involved, especially with the first contract. We wanted it to be right for everyone involved.

I attended meetings of the same groups I've been involved with all along. They are well worth my time and only meet every other month. I always learn something, and we save a lot of time and energy by exchanging information.

- Police Labor Relations group
- Municipal HR Group. I am the coordinator for this HR Group
- Workers' Compensation Group Board meetings

I attended a few seminars. I feel fortunate that I have money in my budget to do this. I try to keep them local and affordable. There are a lot of seminars in the Rochester area that pertain to my job that are very useful.

- MVP Wellness Seminar
- Relph Benefit Advisor's seminar on "Changing the Healthcare Equation"
- BS&K seminar on changes to ADA and FMLA
- Genesee Valley SHRM 2009 Legal Update Seminar

I reorganized another section of my office and destroyed old records, as appropriate.

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That is an overview of what I've accomplished last year. Are there any questions?

My goals for 2010: A lot of it just follows the same pattern. I am going to be here for the department heads and doing the normal part of my job.

We are going to be getting back into negotiations with the Teamsters because the contract expires at the end of the year.

We are always looking at new medical insurance programs and new developments. We have to really get into wellness because we are experience rated now.

I will continue claims handling and attend Workers' Comp Plan Board meetings and possibly one of the offered NY State conferences. I will work with POMCO to efficiently handle Workers' Comp claims. We have very few Workers' Comp. claims because we have good safety training and safety conscious employees. With a Highway Department and a Police Department having high exposure, I give them a lot of credit for doing a great job.

I will continue to look for seminars because the laws are always changing. I am just trying to stay compliant with what happened, and as I am writing and revising I get something new. A lot of this is because of new administration at the Federal and State levels. I tried to go to as many seminars as I can to keep on top of it. They do a good job of giving an overview so that you are not out there alone trying to stay on top of everything. My meetings with the HR people help with that, too.

I will continue to organize office space and records.

I will continue to ensure that procedures and policies are up to date and in compliance with ever-changing laws and regulations.

I want to continue reviewing the Personnel Manual for possible revisions, updates, and additions.

Councilman Perry: Do you get notification directly if something has changed regarding compliance? **Marcia:** I belong to an association that helps with that, and I am in touch with other HR Directors. I have signed up for some e-mails through places. But if I didn't research this or do this, I would be an island. The Government doesn't contact me. It is up to me to stay on top of it. The retirement system keeps me on top of what they're expecting of us.

Supervisor Lenhard: Marcia is here at work at 8:00 a.m. every day, and gives us 150%. I think the thing she does the best is counseling the department heads. Marcia has grown tremendously from when she first came here and has learned how to do it. It is an art to be able to communicate to department heads what might be a better way to handle a situation. She does it very well. She is my "go to person," and I rely on her regarding personnel issues. Certainly all the department heads do. I have never heard a negative thing said about Marcia. She is well liked and very well respected. I feel the same way. I thank you so much for being part of the team.

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Dan Schum: As the Town Attorney for the past 11 years that Marcia has been here, my workload in any of these areas has gone to zero. There is nothing that she won't undertake, and I have the greatest of confidence in whatever she does. I rarely have a question from Marcia, but she looks for other thoughts. It is very nice to have somebody with Marcia's confidence, ability and people skills. It takes a great burden off me as Town Attorney.

Supervisor Lenhard: She takes a great burden off me, too. Thank you.

Peter O'Brien, Director, Parks & Recreation: As a fellow department head, it is great to have Marcia there in her role. I started out talking to Marcia only when I had personnel issues. Within the last year, we have worked together and she has helped me to understand employment paperwork. In addition, her advice has really helped me out as a department head. She is very valuable, and I appreciate her support and work.

I am here to represent the Parks & Recreation Department, but also in a different facet. Jim Horek retired in November 2009, and we thought it best to merge Building and Grounds Department within the Parks & Recreation Department. Jim and I worked together on a lot of projects in this building and the parks. It only seemed like a natural route to go and to have his replacement fall under the auspices of our department. From a building and grounds standpoint, I can't speak about a lot of big projects that we did in the building because I am just getting over what Jim showed me he did on a daily basis. Next year I will have a lot of things to report.

We have made great strides in 2009 in trying to achieve our vision, which is to create community through people, parks and programs. I hope that as you look through my financial reports you can see that we made our best effort to be good stewards of the public's money.

I like to categorize my accomplishments as experiences. In August 2009 I graduated from the Directors School, a two year school in West Virginia. There were approximately 100 Parks & Recreation Directors from all around the country. You were expected to be there from 8 a.m. to 5:00 p.m. We learned about best practices and what everybody else was doing in our profession. It was a great experience and I thank you for allowing me to go. I hope that I can implement some of the practices that I found at that school.

We also secured a \$50,000 Community Development Block Grant to resurface the playground at Pineway Ponds Park, which will be finished this year. It will then be fully accessible to anyone with a disability. In addition, it is just as safe as the wood chips we use now.

I attended the National Recreation & Parks Association Conference last October. That is our national governing body of the parks and recreation profession. It was a great opportunity and a chance to meet with other professionals. I have already tried to implement some of the sessions I went to. It was very worthwhile, and again I appreciate being able to go to that.

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I also attended two Genesee Valley Recreation & Parks Society meetings, our local organization. I thought it important to get to know other professionals in our area and see what they are doing. We are not in competition, but we all try to do what's best for the residents we serve.

Because of a retirement, we hired a new position. It was a very long process that Gay, Marcia and I worked on for several months. I am happy to report that we so far have all the skills and abilities we were looking for. I give credit to Gay and Marcia for guiding me through that process, which was new to me. That was definitely an accomplishment on everybody's part.

None of the experiences I've had could have been done without your support. Again, I appreciate that.

We are making great strides in creating community through people, parks and programs. We try to do this through nine objectives. They are best practice throughout the country.

Strengthen community image and sense of place – We have always had a great relationship with local Eagle Scouts, kids who need to do a project to achieve their Eagle Scout rank. In 2009 we had 4 significant projects take place. In April Eric Rottner, now an Eagle Scout, built a bocce ball court for Pineway Ponds Park. It was a great collaboration between Eric, Eagle Scouts, and our staff. It is a great new amenity that gets a lot of use.

Two weeks later Matthew Kostichek, a local Eagle Scout, extended a trail in Rose Turner Park, off of Big Ridge Road. He went through and cleared the brush and built a picnic table as well. It is a great new addition to that property which we have been slowly trying to promote.

In June, Eagle Scout, Tyler Rinus, built us three picnic table shelters. It was done with a donation we received from the Canal Days Committee. I thought it was a great collaboration between our Department, Canal Days Committee and Tyler.

The splash pad is also very popular, especially in the hot summer months.

The last project of the year in October, Eagle Scout candidate, Joe Jackson, upgraded the landscape of our maintenance entrance at the Park. It was very overgrown with dumped Christmas trees and brush piled up. He tore out everything, built some nice berms and planted some arborvitaes. It is now very aesthetically pleasing. We continue to work with the Eagle Scouts.

Parks and Recreation supports economic development within the Town. The best example is Pineway Ponds Park. It costs a lot to maintain, but it has a great effect on businesses in the Village and the Town. Pineway Ponds Park is home to a lot of youth sports. By people visiting our park from outside the area, they patronize our restaurants, stores, gas stations, etc. and parks raise people's property values.

Strengthening safety and security – We are very fortunate to have a great relationship with our Police Department. Pineway Ponds Park is open 24 hours a day with no gates, and the Police recognize this. They patrol the park all hours of

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the day and night. The Police Chief always keeps me up to date on happenings and police reports. If it is very important, he will call me directly.

Fostering human development – We are very fortunate to have a great relationship with WEMOCO. They do a lot of projects for us. We also have a relationship with a local high school class that comes out once a week to do landscaping, rake leaves, and pick up trash, etc. Not only great projects are getting done for us, but it teaches kids responsibility.

Promoting health and wellness -- Our aerobics programs have increased significantly throughout 2009. We have many classes getting people healthy and well to live a stable and enjoyable life. We also saw a great increase again in our Fitness Center memberships. This is another way we promote the health and wellness of our community.

Protecting environmental resources – One of the practices of the Parks & Recreation Department is to always keep in mind to protect environmental resources. Within Pineway Ponds Park we set mulch around every tree. It looks nice and sustains the life of a tree.

Cost savings and revenue enhancement – We try to save where we can in our department without taking away the quality of our services. I think we do a great job of that, and again we are very lucky to have Tony Mattia and Adam Jolly. They have HVAC, electrical and plumbing skills which saves the Town a lot of money that you normally would have to contract out. They do a tremendous job, and it is really nice to have them.

Parks & Recreation is responsible for the maintenance of all the retired cemeteries. In 2009 we took a chance and contracted those out. Before that, we were using our own staff to do it. I found that it could be done more efficiently and with a cost savings. The cemeteries are all scattered out in the outer points of the town. I researched contracting it and am happy to report that we did save some money. Wolfie's' Westside ended up being very good service and will be coming back this year. We are also able to utilize that staff person in other areas in which we are behind in.

Our revenue enhancement is based on the quality of our programs. It is our staff providing quality programs to the residents to increase that revenue. We also facilitate in community problem solving, utilizing our Parks Maintenance guys to help. An ongoing issue in the parks is vandalism. Our Parks Maintenance guys go every day to check on the skate parks and playground and remove graffiti.

Providing recreational experiences – Equal to the great parks we provide, the way we save money through our staff, is our recreational experience. This is the one I think is most overlooked. There is a lot more to our profession. We are very fortunate to have our Recreation Supervisor, Andrea Blau. She is in charge of the daily operations of the Recreation division of the Department. She has many ideas and provides many recreation opportunities. Our brochure, which is 98% filled with recreation programs is 36 pages, and this can be credited to Andrea and the recreational opportunities she provides. These experiences not only provide the residents with something fun to do, but increases their health and wellness. It

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encompasses all those other objectives into one recreational experience. It is not easy. I think it speaks highly of Andrea and her motivation and enthusiasm that is passed on to her staff.

We could not be more pleased with Tony Mattia, our Maintenance Mechanic, and the work he has done. He is organized, responsible and loves what he does.

Our staff is amazing and they like what they do. Their daily hard work and efforts cannot go unacknowledged, and they make our department able to create community through people, parks and programs.

I hope I have provided you with a good overall picture of our department in what we do. If I haven't, three times a year look at your Activities Guide. Those are the things we are doing on a daily basis.

I thank Gay for her support. I go to her with a lot of ideas, and she always wants me to tell her about them. She has been great and has helped me expand my horizons and to look throughout the county to see what other people are doing. I also appreciate the support of Mal Perry, our liaison. We have a great relationship and talk to each other when we need to. He understands that we are both busy, but when important things come up, he is always there to counsel me. It is nice. He is a great resource.

I thank the entire Town Board also for their support. Dan Schum and I have been working together on a few things lately. He is a great help and gives me great insight and how things could affect our town. Although I only see the Town Board once a year, it is evident to me through Gay, Mal, Dan and the other department heads that the Town Board support is there.

Not only with Marcia and the Police Department, I think we work well with all the other departments. It is through Gay's leadership that she has promoted such a team atmosphere. We may not talk to each other on a daily basis, but we know what each other is doing and we know that there is support there.

I appreciate your time and would be happy to answer any questions.

Councilman Perry: This is a varied department. I am amazed at the things that happen inside this department. As a community, we are really proud of Pineway Ponds Park as I compare other towns of this size. That doesn't happen without due care, constant maintenance and long and short range goals. Peter does a terrific job with his staff. I am impressed with Peter's quantitative buying in non-specified areas. Peter is working hard on improving things. He is always bubbling up with new ideas and bouncing them off me. The ideas are coming and that is what's important. I am amazed at the seasonal program flyers. Together Peter and I do a good job.

Supervisor Lenhard: We are so happy that Peter is here, and we are happy with our new person, Tony Mattia. I think he has the same goals and focus that you have. That is one of the reasons why this Board selected you to be our leader in the Parks & Recreation Department. I agree with everything that Mal said. I understand that you cannot do it all alone, but it takes leadership. You have

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certainly shown that leadership, and that is extremely important. I think that your staff understands what your focus is and that is very important. You have developed a program that is unlike anything we have ever had prior to you coming. It has blown me away. Peter's charge from this Board has been, we must break even, which means, we have always asked our Recreation Directors to pay for itself. It appears that you're doing that. That is phenomenal. We have asked all of our staff in the Town of Ogden to do more with less in these economic times. Peter is a prime example of doing that. He works hard and is also here at 8:00 a.m., sometimes 7:00 a.m. So, consequently, he puts in a lot of extra hours, time, energy, and creativity, and we couldn't ask for more. Thank you so much, Peter.

II. APPROVAL OF THE MINUTES:

Resolution #96-3/10

Introduced by Councilman Uschold
Seconded by Councilman Perry

BE IT RESOLVED, that the minutes of the Regular Meetings of February 10 and February 24, 2010, there being no errors or omissions, stand approved as submitted.

Vote of the Board:

Ayes: Cole, Lenhard, Perry, Uschold
Nays: None
Absent: Feeney

III. PRIVILEGE OF THE FLOOR:

Dan Schum, Town Attorney: I was forwarded a copy of an e-mail to the Supervisor from a representative of ABNER. The e-mail goes on to question the contents of the minutes of the meeting of February 24, 2010, that were just approved. The comments from Mr. Rakoski were that he understood that the options of ABNER were to present an edited version of the minutes for the record or to read the additions into the record at privilege of the floor, or to do nothing. I respond that there is nothing more to do. I advised Mr. Rakoski at the conclusion of the public hearing that all written materials, maps, diagrams and anything they had in order to be part of the public hearing record must have been submitted that evening. I suggested that he do it the following day. I advised him further that he could not add material, not presented at the public hearing, nor could he supplement what was presented with additional material. It is the duty of the Town Clerk to prepare the minutes to the best of her ability from the information that was gathered on tape. It is the obligation of the Town Board to review and approve them, which they just did. The minutes do not need to be verbatim, and that is why I suggested to Mr. Rakoski that all of their information be gathered together and delivered to the Town as quickly as possible to become part of the public meeting. Mr. Rakoski advised me that he had reduced copies of the easel information that he might take pictures of, copies of the written presentations, and much more. I reminded him that the Board had concluded the public hearing, and that he could

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not submit anything that was not a part of the public record that evening. Many boards will not allow any submissions after the hearing is closed, but I suggested that since Frank had such a volume of material that he might want to get it to the Town Clerk as soon as possible. Anybody can interpret what is said on a tape, but it is the Town Clerk's duty to prepare the minutes from the tape, and the Board's obligation to review it, and then approve the minutes. Consequently, under Privilege of the Floor this evening, anything that ABNER wishes to try to impose in terms of submitting post hearing information cannot be made part of the public record. If there is any fault, as is alleged in the e-mail, of incomplete record, I believe it lies with the ABNER personnel in failing to submit the written documentation which they had available the night of the public hearing.

I wanted to respond publicly to the e-mail so that there was no misunderstanding about what my response was or the response of the Board was in what the obligations are of the Town Clerk and the Board with respect to public minutes.

Frank Rakoski, 501 Washington Street: I am representing the Adams Basin Neighborhood Group, called ABNER. I have a prepared statement that does address the minutes. I will give a copy to Lynn so she can have it to read along, and provide a copy to you after so you will have the summary. But, I'd rather you not be looking at it while I am reading it. Just listen. Thank you.

To address Mr. Schum's comments, briefly, we plan to be submitting corrections to the minutes of the public hearing of February 24, 2010 and suggest that the Board not approve them until they are complete and accurate. I understand what you said. We requested copies of the tapes and received them today. The incomplete minutes and missing pieces of ABNER's presentation in those minutes are important enough to need mentioning now. We will submit our additions and corrections before the next meeting and hope they can be included in the final approved minutes. **Dan Schum:** The minutes have been approved. **Frank Rakoski:** I understand, and I wrote this before the meeting. I was thinking that privilege of the floor might be before, and if perhaps someone would have responded to my e-mail differently. But, thank you. We won't talk about the minutes. There are different things. Thank you.

There are five key points I would like to make about the public hearing for Blackwater Crossing. Reading from the public notice, dated February 1, 2010, a brief portion at the bottom says, "a full and complete copy of the application, map, legal description and SEQR Assessment Form are presently on file in the Town Clerk's Office where they may be examined by all interested persons during regular business hours." So, there are four items that we were able to and supposed to look at – the application, the map, legal description and the SEQR Assessment Form.

When members of the public requested the map referenced in this legal notice of public hearing, they expected to view the same map that will be presented and discussed at the hearing. **Dan:** How did you expect that? **Frank:** Because this is the map that is going to be used at the public hearing. It references a map. So, we went to the Town Clerk's office and asked to see those documents. As you know, we F.O.I.L.ed several times on many of them. When we went to the Town Clerk's Office, the Town Clerk told members of the public that the map in the file was the

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only map she had for this hearing. It was the 18.44 acre tax map. Karen will hand out a copy to you.

Supervisor Lenhard: This was in Lynn's file? **Frank:** Yes, this was in Lynn's file. **Supervisor Lenhard:** Why would you anticipate that anything else should be in there but this map? **Frank:** I did not. This map was also attached to Dan Schum's letter in the description of the property. At the hearing the developer posted a different map – a large site map. **Dan:** Is there anything that obliged the developer to use this map in making his presentation? **Frank:** I would expect that the . . . **Dan:** I just asked, was there anything that indicated that he was obliged to use this map in making a public presentation? **Frank:** I would say that the public did not get access to the map he was going to show. **Dan:** We didn't have access to any of the maps you showed either. **Frank:** We are not the ones applying for rezoning. We are trying to . . . **Dan:** This was the map that was presented. It was in the file. **Frank:** Presented by the developer at the hearing on that easel? **Dan:** No. **Frank:** A different map? **Dan:** Absolutely. It is the same parcel, but a different map. **Supervisor Lenhard:** That is the only map that they have to give us for a rezoning. They don't have to give us that detailed map that they happened to show during the public hearing. I think they did that as a courtesy. I don't know why they showed that particular map.

Frank: Lynn, I will say now that this is not part of my prepared speech. I will delve into what the Board should expect from an application . . . **Dan:** If you want to make a public comment, that's fine. You are going to educate the Board about what the Board should expect? The Board got a map, a plan, a legal description, it was in the file, and we published a legal notice. This is the map, the legal description you said was attached to this, as well, the plan is on file in the Town Clerk's Office and has been there for 3 years. So make your point. **Frank:** My point is . . . **Dan:** The developer used a different map at the public hearing than was in the file. The developer is entitled to use whatever map he wants to present his case, just as you have presented maps in opposition to it. **Frank:** OK. To answer Gay's question, you say that the developer does not have to submit anything other than that? Is that what you said? **Supervisor Lenhard:** I don't believe so. **Dan:** He has to submit a map, a legal description and an environmental assessment form and an application, all of which were in the file. **Frank:** Thank you. Reading from the instructions to applicants for rezoning, a rezoning packet that anyone can obtain, for a property larger than 10 acres, in item #4, it says "10 copies of a map prepared by a NYS licensed engineer, surveyor or architect." It must show proposed rezoned property and adjoining properties, drawn to scale. Reading from the next paragraph, "all proposed buildings, parking lots or subdivisions of land must be shown on a plan prepared by engineers, surveyor or architect who is licensed by the State of New York. Additionally, all setbacks and buffers must be clearly shown in their entirety as per Town Code for the conditions that are required by a proposed zoning. It may be shown on the same map that is described above, provided that in the opinion of the Town Clerk, all information can be read clearly on one map. Otherwise, all proposed development must be shown on a second map." So, if I am interpreting this correctly, yes, we did expect to see a site map with buildings and things on it which the developer did put up, and it is known to us as the second site map for this 18.44 acre rezoning, but that map was not available in the Town Clerk's file. Do you all understand what I am saying – the confusion between the tax map and

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the site map that was put up by the developer? The site map that was put up by the developer was very familiar to us. It came about in the summer of 2008, nearing the Planning Board process for reviewing this project. When we saw it in Gay's office, it was not a new map to us. We were familiar with it, but since it was not in the Clerk's office, we wondered what map we were talking about other than the tax map? So, as I believe I said at the hearing, we prepared for a general rezoning . . . **Dan:** And that was all that we were considering. We don't rezone on the basis of a proposed site plan because that could change. **Frank:** So he posted a different map, a site map. There is a letter from the developer to Gay Lenhard, dated 1/13/10. [Karen Rakoski handed out copies.] **Dan:** This is part of the minutes already. It is part of the developer's application, part of the record. **Frank:** It was not in the Clerk's file until after the public hearing. That is when we first saw it and F.O.I.L.ed it. I have a complete inventory of the folder in the Clerk's Office as of a certain date. This letter tries to clear up the confusion about the acreage and the two parcels. It would have helped the public and ABNER to understand what was happening concerning this modified application process, the two parcels, and the acreage and all that. **Dan:** The public notice advising that they were rezoning 18 acres didn't give you any indication that the application had changed? **Frank:** Yes it did, sir. As you look at the folder, there are many documents in there, and all of them can and are admissible to the public, and I do appreciate the Clerks keeping everything in there, and making it available for us to examine and F.O.I.L if we would like.

Frank: Gay stated during the meeting that she had a copy of this site map (the large map) in her office and that she gives her copy to the Clerk for the file once the project is done. **Dan:** I think that's part of the minutes, Frank. **Frank:** I'm reading that, yes. **Dan:** We don't need to rehash the minutes. **Frank:** I just want to be clear that we're all on the same page. Gay's office is not always open during business hours, so even if a member of the public could figure out that the map referenced in the newspaper article (which you disagree with), was one of the ten site maps submitted in 2008 to the Planning Board, there was not a copy available at the Clerk's Office. Thus, the confusion. **Supervisor Lenhard:** I'd like to repeat one more time, Frank. You did view the map in my office. We brought that map to a Work Session, which you attended, and you saw everything that I had in my folder. **Frank:** Yes. **Supervisor Lenhard:** I closed the folder and put it on my desk. It is my fault. I never thought to give it to Lynn ahead of time. My procedure is, I gather stuff and when the project's done, I give Lynn everything. You can put the blame on me, but you did see it. I think going on and on about this issue is becoming a little tedious. I think we've responded to you many times about this. I don't know how much more we can do to make you happy. **Frank:** I appreciate you saying that, Gay, that you did have the map, and we saw it. **Supervisor Lenhard:** You saw it twice, in fact, I think your wife took pictures of it with her phone camera. **Dan:** You knew it was in existence, so you could have F.O.I.L.ed it through Lynn. **Supervisor Lenhard:** And Lynn would have gotten it from me. **Frank:** After the hearing we talked about that, and Lynn said she would get it for us. My point about this . . . **Supervisor Lenhard:** It was not in her file. Again, I apologize. It was not in her file. I don't know what more we can do to change that situation. I will certainly be sure, from now on, that she gets everything I have or at least copies of what I have. I'll try to keep things up in front of me so I don't forget to do stuff. **Frank:** Thank you. My point is that my wife and I knew about the map. The few people that atten

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ded the Work Session knew about the map. Other members of the public, for example, Don Casper, sitting back here, went into the Clerk's Office, not being a part of this process before, asked to see the folder, the map, the SEQR Form, the application. The map being referred to that Gay said "could have, should have, would have" . . .

Gay: The appropriate map was in there. **Dan:** There is no obligation on the part of the Town Clerk to contemplate or guess about what maps the developer might use at a public hearing. **Frank:** She does not know, I agree. **Dan:** The obligation of the Clerk is to put in her file what was presented to her. And she did.

Councilman Perry: What is driving the point that a map was somewhere that maybe it shouldn't have been, but you knew about it? What do you hope to accomplish with that? **Frank:** This is critical because the D.E.C. Handbook concerning SEQR refers to different kinds of rezoning, at least two kinds. There is one kind of rezoning known as general or direct rezoning, which would have a tax map. This type does not have a site map because there is no developer proposal for it. The other kind of rezoning is a site specific plan (a site map, the large map), although in this case, the site map will not actually be used by the eventual builder, the developer has said he is not going to build on this site. He proposes to divide and sell, as quoted "We want to get people who want to own parcels and I cannot make a determination of what a proposed purchaser would put there." I don't want to get into the Handbook definitions. They are items #14, #15, #16, #17, #18 in the handbook around SEQR. We have cited them before in previous Work Sessions and meetings, but it basically says, if there is a general direct rezoning, no plans, a certain set of rules apply. There is segmentation, which gets involved with looking at all the environmental factors up front. If you only have a general plan, which is what we prepared our presentation for, you look at the worst case and you always should. But if you have a specific plan, you could and the public should look at those buildings, as well. Even though he may not build them, the site specific plan was really the topic of discussion. He said 12 buildings, two ponds. He had very specifics. **Dan:** He also said he has no control over who might want to build on it or what they might want to build. **Frank:** Your application packet, if he had revealed the one he had, or got a new one, it would have been clear to him that these maps would be here and . . . did I say this? . . . here.

Lynn Bianchi, Town Clerk: Who did I say made up that packet? **Frank:** Dan Schum? **Lynn:** No, I did. Remember I said I did it without any involvement with the Board? **Frank:** The application packet? OK Thank you. Right. When we had a discussion about the packet you get, these instructions, I asked Lynn who did this? It seems to be very accurate and complete. It has a Long EAF Form in it, which is what they submitted last time. **Lynn:** I also said that I didn't know if they needed all that information. All that information may be Planning Board information also. **Frank:** This is all for rezoning. This is a rezoning packet.

Lynn: As to what I put down there, I said I didn't know if it was accurate.

Frank: In recalling what you said, I believe you said, when you first took office you put this together because you had several rezonings, and you wanted to be sure that the applicants got the right information. **Lynn:** That the applicants got information. **Frank:** And something to start with, instead of saying, go read the SEQR Laws and figure out what to do. I think this is a good packet. Every developer that comes in receives it if they ask, just like we have to ask for the right things if we F.O.I.L. We can't ask for things we don't know about. I believe the developer got this two years ago because they did submit all the forms. There is

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one thing, #5 says a brief description typed up of the development proposed for the property that is to be rezoned. Include an explanation of why this is an appropriate use for the property and would benefit the community of rezoning. Mr. Iacavangelo certainly addressed that, but I have never seen this Item #5 in the file. It is a good request. It helps everyone understand the proposed rezoning and makes a lot of good information available to the public.

Number two, second point: There is the application and the property description that are referenced in the public hearing. Here are copies of them. These are the ones we had available to us from the Town Clerk's Office, F.O.I.L.ed multiple times, pictures taken and studied intently by the members of ABNER. I believe you'll notice that Item 4 is highlighted. This is, I believe, the application that was used for this rezoning. Is that correct? It is what we saw. (No comment on that.) Note that the property description appears to be correct. It is in Item 3 the tax map number for the 18.44 acres. No confusion there. The rezoning application does contain an error, as I mentioned, highlighted #4. It still reads that the total number of acres is 25±. That added a bit to our confusion. It's an opinion, I suppose. We can all have one. You will notice the copy of a copy is kind of faded. We tried to darken it for you. **Supervisor Lenhard:** That application was made in 2007. **Frank:** Exactly. Thanks for noting that. This is the only rezoning application in the file. **Supervisor Lenhard:** In January 13, 2010 the letter you just gave us, is the one . . . **Frank:** Ok, that was not in the file though. **Dan:** Frank, don't go there again. That letter was addressed to the Town Supervisor and was in her file. She acknowledged that. **Frank:** I agree, but we didn't see it. **Dan:** But there was a legal notice advertising 18 acres. **Frank:** Yes, OK. **Dan:** I think before the public hearing actually commenced I advised everybody that the application was amended by the letter. **Frank:** You're right, Dan. I making a [inaudible] point that the copy of copy of application they corrected the tax number, not the 25 acres. We were wondering, we hear 18, we know it was 25. **Supervisor Lenhard:** But you knew that from the public notice. **Frank:** OK. I'm just pointing it out. **Supervisor Lenhard:** It is certainly legitimate what we've done. **Frank:** Additionally, note that this rezoning application document is a copy of a notarized original document. The original is in the file which still has both tax numbers and the 25 acres. The original was copied and the tax i.d. number for the 7-acre parcel was removed, which is correct. They didn't change item 4. I will leave it to others to determine the consequences of modifying a copy of a notarized document for an application. I don't know if that's a big thing or not. I am just mentioning it.

Number 3, probably the most involved issue. I will try to go slowly and take questions. The SEQR process. Karen is handing out documents that I made copies of, hopefully in an attempt to assist everyone, including myself, in understanding the SEQR process. **Supervisor Lenhard:** You realize we have not done the SEQR process yet. **Frank:** I understand that. You started it, and taken the first two steps. I'll explain it. Here's a copy of something called the SEQR Cookbook. **Supervisor Lenhard:** We have those. **Frank:** I made one. I think I have one from my time on the Zoning Board of Appeals. One of the pages you have there is page 2 or 3 that has the flow chart. There's a similar page in your packet that has a similar flow chart from a different place than the D.E.C. There are also a few pages in there from the guiding the process document that talks about Lead Agency and stuff.

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We want to point out two things. The first step in the SEQR process is to classify the action. The agency that receives that application does that step. That is sort of in the pages from the Guiding the SEQR Process. That is my understanding of where things start. The second point is that the proper classification to the project results in the applicant submitting the correct Environmental Assessment Form. As we know there are two of them, a short and a long form. Any questions? I'm trying to go through this logically.

Dan Schum: The tutorial you are giving the Board is probably inappropriate to do at a public meeting. **Frank:** I am trying not to be demeaning or disrespectful. I understand it is coming across that way because I want to be Professor Frank, I guess. I'm not very good at it. I am trying to make a point though on each of these. **Dan:** I think it would be good to make the point if you will. The Board is aware that they're Lead Agency. They've designated themselves Lead Agency. They have to make a determination of the classification of property, and they have to follow SEQR after that. **Frank:** Right. The SEQR process has started. They handed in an application. By accepting this short form in Resolution #94-2/10, which was passed after the public hearing, which declares the Town Board as Lead Agency. In that resolution you mentioned that the applicant submitted a short form. You are defacto categorizing this project as an Unlisted Action. **Dan:** That is not true, Frank. If you want to give the Board an education about the law, then you should bring someone here who can give them education about the law. **Frank:** We will be doing that as needed. **Dan:** If the Board determines, as you know from reading your cookbook, that if the Board determines that the classification of the application as such, that it would require a long form, they can then require the applicant to submit a long form. If they don't, then the short form is sufficient. It is not a defacto determination about anything. **Frank:** That's my interpretation, but I may be wrong. I am not a lawyer and I'm not a SEQR expert. **Dan:** I would suggest you not try to give the Board legal advice. **Frank:** Thank you. I am giving my interpretation of what happened. **Dan:** It is not a defacto designation of anything. **Frank:** Thank you. That is correct. **Dan:** Step 1 is to declare Lead Agency. That's what they did. They had an application, they declared Lead Agency. They did not declare that that application was complete. **Frank:** Correct, correct. As I said, am I right? The first step is to classify the action. It is not clear how you do that. I think it requires a meeting of the minds. **Dan:** You have to have the authority to act as Lead Agency before you make a declaration. **Frank:** Correct. We talked about that last time – the confusion about which step. All I'm suggesting is, because in the resolution, it doesn't say you are accepting it; it just mentions they submitted a short form, perhaps, it is leading toward an Unlisted Action. I would appreciate it, if this goes further, that the Board does make the correct determination. I'm sure you will. Whether it's Type 1.

Frank: My reasoning for why we think it's Type 1 . . . **Dan:** You cannot submit additional information about the public hearing. It's closed. The reasoning for determining what you believe to be a Type 1 or not is part of the public hearing. You had an opportunity to present it. The public presentation is closed. **Frank:** We did. It's not in the minutes. I handed in the document. **Dan:** If it wasn't in the written information that you submitted . . . **Frank:** It is. There is a document in there that I read from, called why this is a Type 1 application. I put it

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in the following day after the meeting. **Dan:** The entire thing that you read is not in the minutes? **Frank:** Right. But the fact that I read it, and the pertinent parts I quoted are not in the minutes. **Dan:** You could submit the entire document if you chose. **Frank:** I did. I put the whole page in. **Dan:** Then it's in the minutes. **Frank:** It's not in the minutes. It's in her folder. **Dan:** It's part of the public record. **Supervisor Lenhard:** It doesn't have to be directly in the minutes, as long as we have it. **Frank:** OK, and that folder, just to comment on that, I want to thank Dan, and he's done this before for us, pointing out and reminding us to put things in the record. I want to thank Lynn for allowing us to come into the office and assemble that. There were quite a few documents. I would hope that, based on listening to the tapes, we can correct that and make that folder as perfect as possible, without anything in it that we didn't say. Just make sure that it is complete and accurate. **Dan:** Whatever you submitted in writing is part of the record. The minutes are only part of the record. **Frank:** Thank you, Dan. I understand. Our concern about the minutes . . . **Dan:** We cannot adjust the minutes. They have been approved. **Frank:** The reason I thought it was a big deal, and I appreciate that you're saying now that the stuff we put in the record is also to be considered. That's good. It was just our impression that the first impression when you get to the hearing, is reading the minutes. They don't necessarily go to the folders. It's available. The Board members and Lynn said you can listen to the tapes, and we have a copy, and that's good. So, if somebody wants to know all about it, they can. But the minutes are sort of the first thing that anybody looks at and is aware of. Thank you. We have that in there. I will make it more complete and listen to the tape and realize that all the ad-libbing that went on and strike out things we didn't say that might be in there, because they are in the documents and make sure . . . **Dan:** The minutes are not going to be amended. **Frank:** Not the minutes, the folder! **Dan:** Whatever is in the folder, you've submitted. If it's part of what you had that evening, it'll be part of the record. If it was not, it will not be. **Frank:** OK, thank you.

Supervisor Lenhard: With the minutes, and I can't tell you off the top of my head how many times you have been here and spoken to the Board, which are also in the minutes, don't you feel that you have covered every issue that you want covered? Don't you feel that we must have a gist now of where you're headed? Do you feel that you need to tutor us on how to operate? Are you concerned that we aren't trying to do the right thing? **Frank:** I think that the opening statement I made at the hearing was, "are we being heard?" **Supervisor Lenhard:** Don't you think you're being heard? You have been here (I can't count the number of times), we have read the minutes, we have listened to you very politely, we have taken notes, we have revised a couple of methods of our process because we heard you, we had a Work Session where you were allowed to say anything you wanted and ask questions. We have been as open as we know how to, but you lead me to believe that you think we are doing something underhanded or wrong? It offends me, frankly. I think we work very hard, and listen to the residents and do our very best to accomplish what we think we need to do for the whole community. That's another charge that we have.

Councilman Perry: My life is as busy as yours and maybe more so than others. I would not have seconded the motion to accept the minutes if I had not, before the meeting tonight, sat for an hour and a half going through them, taking notes and refreshing myself. I think we are trying to pay attention to you.

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Councilman Uschold: I went out of my way to come over on the weekend to pick them up once I knew they were available.

Frank: Thank you. I talked to Tom on the phone and he had them. **Dan:** I made sure that I told you that you should submit everything in writing promptly so it was part of the public record. I didn't have to do that. When we closed the public hearing, your paperwork would not have been part of the public record. **Frank:** I acknowledge that and I thank you. **Dan:** Make your points, if you will.

Supervisor Lenhard: We would like to hear new points. Most of the things you've talked about tonight, we have heard them before. I don't know how much more we can absorb. **Frank:** Right. I guess it has become kind of adversarial which is not our intent. We want to have the Town do the right thing. We are trying to make our points, and feel that we are being heard. As you know, we don't think that this application should ever have been accepted by the Town Board, but it has. **Supervisor Lenhard:** I think we got the message. **Frank:** I'll skip over my reasons for Type I Action. It is in the write-up. I said them at the meeting and they are in the folder. They just weren't in the minutes, and I'm concerned.

The last part of this, in our opinion, if this is a Type I and a full EAF is required, means the Lead Agency will conduct a review. The D.O.T., D.E.C., Monroe County Planning & Health and perhaps even the E.P.A. and other agencies will be required to comment as part of the SEQR review for this rezoning.

Our fourth point is, why would the E.P.A. be involved? I don't know if that came across at the hearing. There was a lot of stuff. We'll make sure you all have a copy of the E.P.A. document that is in our folder that we researched. This was buried in the presentation, perhaps not brought out. The E.P.A. calls a septic system a Class 5 well and talks about things and are highlighted. **Dan:** Is this part of what you submitted in writing? **Frank:** That document is in writing. **Dan:** Then, it is part of the record. **Frank:** It is if someone chooses to read it. I am trying to help you understand it a little. **Dan:** The Board is obliged to consider everything that's in the record. **Frank:** OK. You can read it if you want. I was going to read it. I won't belabor it. We have learned that other states add their own additional restrictions to these E.P.A. regulations. At this point, it looks like New York State does not have any additional regulations. Many other states do. They talk about these septic systems . . . We assume therefore that the E.P.A. oversight will apply in these types of cases since New York State doesn't say anything about it. It is just important for any project that comes to you, Monroe County or New York State for approval of commercial projects that are not on sewers. We sent a letter to Monroe County Planning, Monroe County Public Health, and Monroe County Department of Environmental Services and included this brochure so they can be aware of it. It is on file and a resource for them and if it has any meaning or application to this project, I hope that the proper regulations are followed to protect ground water for the public.

Lastly, where are we at? The minutes were very well done for the developer's presentation. They were verbatim and paragraphed very nicely. He said we came to an agreement to see what we could do in reference to the storm water ponds. A reasonable person might read this as meaning the developer was promised perhaps

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Restricted Business rezoning for the help in creating the storm water ponds. As we know, the ponds have always been a big part of this project, and I've always said, why? Ponds are ponds, storm water management is storm water management and rezoning is rezoning. They are bundled together, apparently. The need for these ponds, as stated by Mr. Sciortino, the developer's lawyer, is based upon a 1974 report by the Town Engineer about the storm water management. It is a 36 year-old report. I have not seen it. I don't know if it needs to be updated. I don't know if it is still valid. Those are just questions, OK? Route 531 was built through that area, and I don't know if they've changed the storm water conditions. **Dan:** Didn't it flood down in Adams Basins a couple years ago? **Frank:** Yes, in 2001. Would you like me to address that? **Dan:** No. **Frank:** You would expect that storm water ponds would prevent the flooding that occurred at the bottom of Washington Street. **Supervisor Lenhard:** It would help. That was the object. You heard the applicant. He said several times that that was one of the things he was trying to do - to help the neighbors in Adams Basin.

Frank: I believe I said at the Work Session and Mr. Uschold agreed with me or chuckled about it . . . **Supervisor Lenhard:** We have heard all that. What more do you have to . . . **Frank:** If you build those ponds, it will perform its function of holding back storm water and detain it from flooding immediately. At the bottom of the hill there is a culvert under the railroad tracks that, if that gets plugged, which is what happened in 2001, it doesn't matter if you have the Hoover Dam back there, holding back storm water ponds. As the water comes down to the culvert and backs up, as water does go up hill in that case, not down hill, those few houses at the bottom will be flooded again. **Dan:** The people who built those houses in 1860 probably shouldn't have built them there. The people who own them now probably deserve as much attention as we can probably give them to try and help alleviate the problem. **Frank:** Thank you. I want to thank Dave Widger and the Highway Department for going above and beyond the call in going onto railroad's property and clearing those out and keeping them clean. They are very clean. There should be no problem. [Inaudible] The culvert pipe has to be kept open to avoid the flooding. **Dan:** This is all information we have.

Frank: The Town may have envisioned a way to solve one problem, the storm water management, and in the process created another. Perhaps an agreement is referenced by the developer to build ponds in exchange for rezoning. **Dan:** That is not what the developer said. **Frank:** He referred to an agreement about the ponds. It is not clear what it is. I don't know if there's a written agreement, an understanding that if ponds were built something else will happen. **Dan:** The Planning Board told the developer that any development of the property would require storm water management. **Frank:** Yes, and he said that in his presentation, and in his original map, which I don't think I saw years ago, he was doing all the storm water management on his property. **Dan:** It doesn't matter where. He is obliged to furnish it. It has been clear from day 1. **Frank:** I agree. **Dan:** It is not an agreement. That is an obligation. **Frank:** It's in the code. We think that there's no way this property should be rezoned for businesses unless or until there are sewers. It is hard to back up and do the right thing. However, in this case, doing the right thing is impossible unless we all back up. We believe questionable decisions were made throughout this modified application process. I have told you about them, Dan disagrees. Fine, we agree to disagree. We feel that

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it is full of flaws, as we listed them. Approving this rezoning application will create extremely difficult issues for the Planning Board . . .

Supervisor Lenhard: You are adding more information that should have been at the public hearing. We have heard this before. **Dan:** You are making comments that you would like the Board to consider as part of the rezoning application, and you can't do that anymore. The public hearing is closed. **Frank:** I can write letters? **Dan:** You can do what you want, but it's not going to be part of the record. **Frank:** I am not putting it in that record, I'm just . . . **Dan:** Anything you are saying right now is not going to be part of the public record on the rezoning because the public hearing is closed.

Frank: The future buyers will face the restrictions ABNER is pointing out and the developer will be long gone. ABNER and the Town want to do the right thing for the long term. Here's a copy of what I read. **Dan:** Lynn is going to keep hers in the record. **Frank:** Thank you, Dan. I enjoy sparring with you at times. **Dan:** We are not sparring. **Frank:** That is all I have to say representing ABNER. I apologize, and I know I shouldn't, but I'm trying to be a nice guy. For belaboring it, I hope you don't think I was trying to amend the public record. I was trying to clarify our after-the-fact analysis of why we thought the hearing had issues about the agreement between the map, the form, the application, the description and trying to say something about the E.P.A. thing a little more clearly. Thank you for your time. I appreciate that Gay today and at all times has kept us informed of when you are going to act anything. I also appreciate Lynn's difficult job of doing these minutes. That is why I wrote this up. In the future we will try to do that if there is another hearing or whatever here at the Planning Board. The presentation we made two weeks ago was our dry run. The members of ABNER put that together in a week. We dug all this information out at the last minute because we started finding it, and we decided to do that. It was kind of ragged. I understand why it's not great in the minutes, but all our documents are in there. If we have to, we'll do better next time. Thank you.

IV. REPORTS AND REMITTANCES FROM TOWN OFFICERS:

Resolution #97-3/10

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 February 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, Lenhard, Perry, Uschold
Nays: None
Absent: Feeney

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V. TOWN AUDITS:

Resolution #98-3/10

Introduced by Councilman Cole
Seconded by Councilman Perry

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	\$ 85,151.28
Part-Town Fund	35,178.11
Highway Fund	208,666.12
Capital	1,239.39
Sewer Funds	236.78
Lighting	<u>99.41</u>

TOTAL \$330,571.09

Vote of the Board:

Ayes: Cole, Lenhard, Perry, Uschold
Nays: None
Absent: Feeney

VI. CORRESPONDENCE RECEIVED AND FILED:

None

VII. REPORTS FROM TOWN OFFICERS:

Gay H. Lenhard, Supervisor

1. I went to the DWI luncheon for Officer Marcucci and the Ogden Police Department who both got awards for keeping our community safe with DWI efforts.
2. I went to the Capital Improvement Plan meeting for the County. They had a very interesting meeting here. We have some residents that are very interested in having a road into the Greece Canal Park. It is also a County park. There are those of us in our community that feel a road should go from Ogden-Parma TL Road into that park so that we have easy access to it. That's not being addressed. They have a lot of updates to do with roads and sewers, and that is taking precedence over the Town of Ogden's wishes.
3. I also attended the Zoning Board meeting on March 4 having to do with the transfer station and the Code Enforcement Officer's interpretation. I thought the Zoning Board did a great job and did their due diligence. Each one of them did their own research on verbiage and how the code is written. They came out

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sincere in their answers, and there certainly were some differences of opinion. It did pass 4 to 2 in favor of the applicant. The Building Inspector, Jack Crooks, and I both agree that there's no matter where you stood on the issue, the Zoning Board did their job as best as they knew how.

4. Attorney Dan Schum and I met with the owner of the park property which we will discuss more in Work Session.
5. I went to Henrietta with Lynn Bianchi, Peter O'Brien and Kathleen Saville to look at a computer program for archiving.
6. We had an ambulance meeting here on Monday.
7. Today I was notified by Assemblyman Reilich that the \$100,000 we applied for we are going to receive for the Library. That reduces the cost of the renovations substantially.

Thomas J. Cole, Councilman

1. I attended the ambulance meeting. I thought that the gentleman who made the presentation did an excellent job.

David F. Feeney, Councilman

Absent

Malcolm E. Perry, Councilman

1. At the last Senior Center Board meeting we talked about Bernie Voorhees memorial funds. What an outstanding gentleman he was. Quite a few funds have come in for the memorial, and we are proactively trying to do something that we think Bernie would like with the Center. We are very pleased working on that.

Thomas J. Uschold, Councilman

1. I attended the ambulance information meeting on Monday. They are struggling with a very difficult situation for solutions and approaches. In addition to the Ogden Town Board, there was also the Village Board of Trustees and 3 members of the Parma Town Board, because they would be affected as well.

David H. Widger, Highway Superintendent

In Albany.

Lynn A. Bianchi, Town Clerk

1. I went to the Town of Henrietta with Gay, Peter and Kathleen to see a demonstration of their document scanning software. I thought the imaging software was user friendly and affordable. This system would really help eliminate many of our paper files.

Daniel G. Schum, Town Attorney

1. I went to the Zoning Board of Appeals meeting.

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2. I went to the ambulance meeting.
3. I had a meeting with the Supervisor on the property at the park.
4. There is a resolution on Somerset Estates.

VIII. UNFINISHED BUSINESS:

None

IX. NEW BUSINESS:

Resolution #99-3/10

Introduced by Councilman Cole
Seconded by Councilman Perry

WHEREAS, the Town Board of the Town of Ogden did heretofore and pursuant to legal notice duly given, advertise for bids for the furnishing of one (1) used tracked hydraulic excavator, in accordance with bid specifications prepared by the Town of Ogden for such purpose; and

WHEREAS, due legal notice of such advertisement for bids was duly published as required by law; and

WHEREAS, all bids so received in response to the Notice to Bidders have been reviewed by the Highway Superintendent; and

WHEREAS, upon such review, it was recommended that the bid of Vantage Equipment in the amount of \$102,201 (net bid price: \$98,394, plus Option #3: \$3807) be accepted as the lowest responsible bid substantially in accordance with the lowest responsible bid found to be equivalent in character, materials, warranties and value to the specifications originally furnished by the Town.

NOW, THEREFORE BE IT RESOLVED:

SECTION I: That the Town Board of the Town of Ogden does hereby accept the bid of Vantage Equipment in the amount of \$102,201 for the furnishing of one (1) used tracked hydraulic excavator, in accordance with the bid specifications and Notice to Bidders.

SECTION II: That the successful bidder be notified of this award.

Vote of the Board:

Ayes: Cole, Lenhard, Perry, Uschold
Nays: None
Absent: Feeney

Resolution #100-3/10

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Introduced by Councilman Cole
Seconded by Councilman Uschold

WHEREAS, the Town Board of the Town of Ogden did heretofore and pursuant to legal notice duly given, advertise for bids for the furnishing of 2010 dump body and spreader to be mounted on a 2003 International 7300 provided by the Town, in accordance with bid specifications prepared by the Town of Ogden for such purpose; and

WHEREAS, due legal notice of such advertisement for bids was duly published as required by law; and

WHEREAS, all bids so received in response to the Notice to Bidders have been reviewed by the Highway Superintendent; and

WHEREAS, upon such review, it was recommended that the bid of CYNCON Equipment Inc. in the amount of \$36,335 (Beau-Roc model DCS 10'x30"x42" dump body: \$26,366 + Harder ES-112 stainless steel spreader: \$9,969) be accepted as the lowest responsible bid substantially in accordance with the lowest responsible bid found to be equivalent in character, materials, warranties and value to the specifications originally furnished by the Town.

NOW, THEREFORE BE IT RESOLVED:

SECTION I: That the Town Board of the Town of Ogden does hereby accept the bid of CYNCON Equipment, Inc. in the amount of \$36,335 for the furnishing of a 2010 dump body and spreader in accordance with the bid specifications and Notice to Bidders.

SECTION II: That the successful bidder be notified of this award.

Vote of the Board:

Ayes: Cole, Lenhard, Perry, Uschold
Nays: None
Absent Feeney

Resolution #101-3/10

Introduced by Councilman Cole
Seconded by Councilman Uschold

RESOLVED, that the Supervisor, Gay H. Lenhard, be and hereby is authorized to sign the 2010 STOP-DWI Enforcement Contract between Monroe County and the Town of Ogden for the period of January 1, 2010 through December 31, 2010, in an amount not to exceed \$15,165.67.

Vote of the Board:

Ayes: Cole, Lenhard, Perry, Uschold
Nays: None

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Absent: Feeney

Resolution #102-3/10

Introduced by Councilman Uschold
Seconded by Councilman Perry

WHEREAS, the Town Board of the Town of Ogden did heretofore delete from the Ogden Town Code all references to the development of condominiums within the Town of Ogden; and

WHEREAS, during the course of the amendment to the Town Code, Battisti Brothers Development, Inc. had secured the approval of a subdivision entitled, "Somerset Estates Condominium Project" within the Town of Ogden; and

WHEREAS, the developer has expended substantial time, money and effort in furtherance of this project all in advance of the adoption of the recent legislation by the Town Board; and

WHEREAS, it would be unjust and unfair for this change in the Town Code to effect the development of the Somerset Estates Condominium Project within the Town of Ogden.

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

SECTION I: That by the adoption of this resolution the Town Board does acknowledge that the Somerset Estates Subdivision, as developed by Battisti Brothers Development, Inc. may be developed and completed, including the development of condominiums therein and that the project is entitled to grandfather rights with respect to the recent changes in the Town of Ogden Code.

Vote of the Board:

Ayes: Cole, Lenhard, Perry, Uschold
Nays: None
Absent: Feeney

Supervisor Lenhard: I want to thank Dan Schum for doing this. I am happy to see it put in the form of a resolution.

Resolution #103-3/10

Introduced by Councilman Perry
Seconded by Councilman Cole

RESOLVED, that the Supervisor, Gay H. Lenhard, be and hereby is authorized to sign agreements with Relph Benefit Advisers and Flexible Benefits System, Inc., which includes Health Reimbursement Agreement, Section 105H and Flexible Spending Account, Section 125.

March 10, 2010

Vote of the Board:

Ayes: Cole, Lenhard, Perry, Uschold

Nays: None

Absent: Feeney

X. ADJOURNMENT:

Resolution #104-3/10

Introduced by Councilman Cole

Seconded by Councilman Uschold

RESOLVED, that the Regular Meeting of the Town Board of the Town of Ogden be and hereby is adjourned to Work Session at 8:45 p.m., at which time the public was invited to attend, and hereby is adjourned at 9:49 p.m.

Vote of the Board:

Ayes: Cole, Lenhard, Perry, Uschold

Nays: None

Absent: Feeney

Resolution #105-3/10

Introduced by Councilman Perry

Seconded by Councilman Cole

RESOLVED, that the Regular Meeting of the Town Board of the Town of Ogden reconvened at 9:49 p.m. and moved to Executive Session, to discuss personnel / negotiations and hereby is adjourned at 10:20 p.m.

Vote of the Board:

Ayes: Cole, Lenhard, Perry, Uschold

Nays: None

Absent: Feeney

Respectfully submitted,

LAB/dmk

Lynn A. Bianchi, Town Clerk