

Minutes of the Town Board Meeting held by the LaFayette Town Board on January 24, 2005 at 6:30 p.m. in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette

Present: Gregory Scammell, Supervisor
Sandra Smith, Councilwoman
David Knapp, Councilman
Thomas Bailey, Councilman

William McConnell, Councilman

Recording Secretary: Mary Jo Kelly, Town Clerk

Others Present: Kevin Gilligan, Town Attorney
Tom Chartrand, Bookkeeper
Leon Cook, Highway Superintendent
Sue Snavlin, DCO
Marshall Taylor, Assessor/Clerk
John Beardslee, 6021 Commane Rd.
Connie Foot, Library Board President
John Harper, LFD
Robert Shute, Route 11 N.
Ranier Brocke, Environmental Board
Elton Fairbanks
Regina Reinschmidt, Rec. Coord.
Travis Field, Colton Rd.

1. Supervisor Scammell called the meeting to order at 6:35 p.m.
2. The Town Clerk took the roll. All present.
3. Pledge to our U. S. Flag led by Town Councilor Tom Bailey.

Councilmen McConnell moved and Knapp seconded the motion to accept prior Meeting Minutes of January 10, 2005, as submitted by the Town Clerk. Motion passed unanimously.

4. **COMMUNICATIONS:**

A. Residents. (Please sign in and give your name before you speak).

• FOCUS 2010 Steering Group Introduction

Councilman McConnell took a minute to recognize the Steering Committee for the Strategic Plan they will be working on. He advised he will chair the committee. Travis Field will be Vice Chairman. He was Chairman in 1991 for the original Strategic Plan. John Beardslee is a community member. Ranier Brocke is on the Environmental and Conservation Advisory Board and a member of the committee for the 1991 Strategic

Plan. Brad Bush is a Planning Board Member. Jerry Doolittle is a Zoning Board of Appeals Member. Elton Fairbanks is a community member. Connie Foote is a Library Board Member. Lewis Kibling is a community member. Margaret Klots is a community member with a lot of experience with senior citizens. John MacDaniel was a member of the 1991 Strategic Plan Committee. Jamie McElhannon is a community member. Debbie Miller is on the LCS Board of Education. Jim Moltion was a member of the 1991 Strategic Plan Committee. April Palmer represents Community Council. Pete Pauls is Deputy Supervisor. Regina Reinschmidt is the Recreation Coordinator. Al Weaver is a community member. There will be about 18 members involved. He thanked them for volunteering to do this. They will try to make it as easy as they can on everyone. He and Travis Field met in December. They are gathering some great ideas and thoughts which they will present to the Town Board later on. He asked if there were any comments or questions.

Ranier Brocke asked if he had met with S.U. yet.

Councilman McConnell said yes and they will be meeting again soon. The Town Board has been invited to participate with their concerns. S.U. will use all the input to shape the survey.

The Town Board thanked everyone for participating.

B. NYS Emergency Management Office: Severe Storms and Flooding reimbursement.

“The State Emergency Management Office has processed a payment in the amount of \$17,892.85 for the Severe Storms and Flooding of August/September 2004. The Federal Share is \$143,828.33 and the State Share is \$2,471.39 plus the Administrative Share of \$593.13 for the total amount of \$17,892.85...”

Supervisor Scammell said we can thank Leon Cook for this.

Councilman Knapp knows Leon did a mountain of paperwork to get this.

C. Penflex: Service Awards distributions.

“As you know, distributions of Service Awards made during 2004 of \$600 or more must be reported by the Sponsor to the Internal Revenue Service on Form 1099-MISC Copy A...In order for us to file electronically on your behalf we need written authorization from the Sponsor...”

Tom Chartrand believes Supervisor Scammell has to sign this.

Kevin Gilligan said the town is the sponsor.

Councilmen Knapp moved and McConnell seconded the motion to authorize the supervisor to sign the authorization form allowing Penflex Inc. to electronically file the 2004 Copy A of Form 1099-MISC to the Internal Revenue Service. Motion passed unanimously.

D. Selective Insurance: Estate of Janay Le-Ann Davis, et al: Notice of Claim.

“...We acknowledge receipt of a Notice of Claim filed with our insured the Town of LaFayette, against our client’s interests in the above captioned occurrence...Our investigation has determined that Bull Hill Road is not owned, maintained, was designed or installed by, or in any way controlled by our insured the Town of LaFayette. Accordingly the Town of LaFayette, having no legal interest in or control over this

roadway or the areas immediately adjacent to the roadway including their shoulders and ditches on either side, bears no legal responsibility for this incident or the allegations contained in your Notice of Claim filed against our insured. Further, the Town of LaFayette has no control over, or provides any direction to the operation of the LaFayette Central Schools, which is also a named defendant in the notice of Claim filed. Accordingly the Town of LaFayette has no legal liability for or involvement in the claims made involving your client relative to the above captioned matter..."

Councilman Knapp asked what happens from here.

Kevin Gilligan said he would assume the insurance company would try to get them to withdraw the Notice of Claim against the town and they will be reserving the right for a 50H hearing. The 50H hearing would be a deposition.

Councilman Knapp said possibly of her parents.

Kevin Gilligan said yes.

Councilman Bailey asked if the town is expected to share the legal costs of this.

Kevin Gilligan said he doesn't know what the towns deductible is. It would depend on what it is.

E. POMCO: New voice-over IP telephone system – Extension prefixes.

"In a continued effort to better serve you, POMCO will be implementing a new Voice-Over IP telephone system. This technology upgrade will allow us to improve the service we provide to you by connecting all of our service centers nationwide through a single telephone system. In addition to increasing our efficiency, this Voice-Over IP system will allow us to provide our clients with a more dynamic level of call center and customer service than ever before...."

F. NYS DOT – Commande Road 45 mph.

Supervisor Scammell said the DOT is indicating the speed limit on Commande Road will be 45 mph between LaFayette Road and Sentinel Heights Road a distance of approximately 1.2 miles.

G. Other.

Marshall Taylor said the revamp has been approved. He submitted a quote from DELL for \$2885.99 for a server which is an excellent price. It's extremely large and fast. It's a 10 user server so we would have ample space for any employee who wants to get on. The installation time is approximately one day at \$110/hour. This would add a cost of \$880 to the service price for a total of \$3,765.99. He would ask for this to come from the 2004 budget. If the Board wants to do this, it would have to make a motion to transfer these funds.

Supervisor Scammell asked the cost for the pictometry.

Marshall Taylor said approximately \$7,000.

Councilman Knapp said it would be \$7,140.

Marshall Taylor said this would be the entire town with a low flyover.

Councilman Knapp said this would be with the better resolution.

Marshall Taylor would suggest having a new flyover every 10 years at low level with upgrades every 5 years where the growth has occurred.

Councilman McConnell said Marshall Taylor advised he would invite this gentleman to come talk to the Board.

Marshall Taylor said Don Jordan said he would come.

Councilman McConnell asked Marshall to invite him. If we did a small area every 5 years, what would the cost be?

Marshall Taylor said the standard rate is \$170/square mile.

Councilman McConnell said there's \$11,000 in the 2004 budget.

Tom Chartrand said \$5,000 is for the reval. The \$6,000 would go towards reducing taxes in the 2006 budget. If you weren't to reappropriate the money for the server, it would roll-over and go back to offset the 2006 budget.

Councilman McConnell asked what date he would need to know this by.

Tom Chartrand said at this time it would go back towards offsetting the 2006 budget. It would have to be decided by the time the budget is done in November.

Councilman Knapp said there is no deadline for this right now then.

Councilman McConnell would like the gentleman to come in and talk about the pictometry before he votes on this.

Marshall Taylor said he will see Don Jordan in the next week and he will see what his plans are and if he can come to the next meeting.

Councilman McConnell asked if the Board can address the server tonight.

Supervisor Scammell said if we are not going to do the pictometry there's no need for the server.

Marshall Taylor said he has the pictometry now. It is not updated or at low flyover. The software is on his computer now and only on his because we don't have a server. The server would also become available to Justice. There is functionality for the server right now.

Supervisor Scammell asked if there was any interest in moving on this tonight.

Marshall Taylor said the server bid is good for 30 days. If you want to act on this price, you must do so in 30 days.

The Board wanted to wait until the next meeting before making a decision on this.

Supervisor Scammell said hopefully Don Jordan can attend the February meeting.

Councilman McConnell asked if Marshall would put something together describing how the server will be used. He knows Marshall has talked about this over the past year and mentioned several things.

Marshall Taylor will put something together. One thing is he won't have to load each machine with the software.

Councilman McConnell believes the website will be housed here too. What is the agreement for when the server is down?

Marshall Taylor said 3 years on site, same day parts and repair. After that it would cost \$110/hour. He would recommend upgrading it every 5 years. He will have the information ready at the next meeting.

Councilman Bailey asked Marshall if he knew of any municipalities in the past that might have gotten this through grants.

Marshall Taylor said he tried getting a grant from Niagara Mohawk a year ago. It's extremely difficult.

Supervisor Scammell noted Marshall put a lot of work into trying to get that grant.

5. **SPECIAL REPORT.** None

6. **REPORTS:**

A. **Departmental (4th Monday).**

1) **Building & Zoning Code Enforcement: Ralph Lamson & Jack Sutton.**

a) **Year-end Report for 2004.**

Supervisor Scammell noted there were 84 building permits issued for about \$11,000. This is about average

b) **Junk vehicle status – prioritized (multiple vehicles & long standing (apparent) violations) spreadsheet listing (in process).**

He noted Ralph submitted information on the junk vehicle status.

• **4137 Route 91. Multiple autos.**

This has been cleaned up. No existing violations.

• **2171 LaFayette Road, 1/2mile North of Route 20. Abandoned red auto on east side. Notice sent.**

No such address – could be 2774 LaFayette Rd. Letter sent 1/13/05.

• **2300 – 2330 Route 11 South, across from cemetery, multiple autos.**

This is under investigation.

There is no code violation at 2843 Route 11A.

Supervisor Scammell said he spoke to Ag. & Markets about this. Apparently the owner doesn't have to keep the cows fenced.

Sue Snavlin said there is a big bull too. She doesn't think a bull can be allowed to run loose. The same resident also had some geese fly into a truck on Route 11A.

c) **Parent/In-law apartments/additions.**

• **Attached vs. unattached structures.**

Supervisor Scammell said the Board has been emailing each other on this.

Councilman Knapp believes they are getting close to a conclusion.

2) **Dog Control: Jon Rogers, Sue Snavlin & Madeline Despres.**

Sue Snavlin said the bill for the vet needs to be approved tonight.

Supervisor Scammell said there is a large amount of checks which need to be recorded and deposited. He asked her for some help on this.

Sue Snavlin said they can do it. The dog has to go back to the vet Thursday to get its stables out.

Supervisor Scammell noted the total bill was about \$4,000.

Sue Snavlin said they brought in about \$7,000 in donations.

Supervisor Scammell said any excess will go to Hearts of Stray.

Sue Snavlin said the vet gave a check for \$800. They were very nice. She received a new handbook from Ag. & Markets and it addresses the injured dog. If they pick up an unidentified dog that requires surgery or any general care, the town has to pay for the vet care. If the owner comes forward, the town goes after the owner for money. If it's an orthopedic issue that can be delayed, it can be but it still falls on the town to pay for it. Cats and dogs are now defined as domestic animals. This would be no impact on the town.

Supervisor Scammell would appreciate a copy of the 2004 handbook.

Sue Snavlin believes there's a newer handbook coming out. They had their evaluation and she was asked a lot of questions.

Councilman Knapp said if cats are considered domestic now, does that mean we have to go back to being Animal Control and not Dog Control?

Sue Snavlin said no, it just means you can now have a court case involving cats and dogs and they can be declared dangerous.

3) Highway Superintendent: Leon Cook.

- a) SPDES/MS4 Stormwater Phase II (see J. Dunkle list). Time & expense log.**

Leon Cook said he would be back in about 1 hour.

4) Justice: Malcolm Knapp & Maureen Perrin.

- Copier.**

Councilman Knapp said the copier would be kind of like the one in the town offices now. Actually as far as capabilities, it's a little less than what they have now. They need 2-sided copying, legal paper and a large capacity feeder.

Councilmen Knapp moved and Bailey seconded the motion authorizing the supervisor to sign the agreement for the copier for the Justice Dept. at \$73.81/month for 60 months which includes the maintenance and supplies contingent upon getting a copy of the state bid for this machine. Motion passed unanimously.

Councilman Knapp noted this bid was cheaper than the state contract.

Tom Chartrand said we just need a copy of the state bid showing it was more expensive than this one for auditing purposes.

- December Report.**

Supervisor Scammell noted they heard 271 cases and turned \$30,190 over to the town.

5) Library Director: Scott Kushner.

- Library Board Minutes 12/13/2004.**

“...The Republican legislators are putting together money in the form of grants that will be made available to their libraries...”

Councilman Knapp said there was something in the past budget cycle that was approved in the republican legislator districts but not in the democratic legislator districts. It sounds like they will put it all together and divide it out.

Supervisor Scammell noted the Dinosaur Barbeque Fund Raiser will be March 6th. They would like reservations.

- **Director Report 12/13/2004.**

6) Recreation Director: Regina Reinschmidt.

Regina Reinschmidt said the youth basketball is going well. 6 teams at 5th and 6th grade level are playing in the local league. The 3rd and 4th grade boys started last week. Youth wrestling started in January. They have over 40 kids. Their first meet is this Friday. The ski program is going very well. They are skiing at Song on Friday nights. There's 111 skiers which is an all time high. She thinks this is because whole families are signing up. Aerobics started and will continue through May. She thanked Marshall Taylor for getting her new computer up and running. She'll be loosing all her old files as she hasn't upgraded her software. She vows she will be upgrading routinely now. Marshall Taylor has come up with some ways to help her fix her old programs.

Marshall Taylor said just about everything she has they can convert to excel. It will be pretty simple. He should be able to do this pretty quickly. Regina was still on Windows 98. We are using Windows XP Professional which is just about the latest thing there is. He keeps track of this for the town and will start keeping track of it for Regina too. Regina has a need for a color printer. There is one on Mary Doster's desk. He would recommend giving this to Regina. He will transfer his old printer to Mary's desk. When the Board makes a decision on pictometry, he will make a decision on what printer he will need.

7) Town Clerk: Mary Jo Kelly.

8) Town Supervisor: Greg Scammell.

- **Intermunicipal Cooperation & Consolidation.**

B. Committee (2nd Monday).

1) Communications & Technology (MF/PK/MJ/MT/GS).

- **Town Website & email - Digital Towpath evaluation.**

2) Emergency Response (TB/BM).

- a) **AEDs (Defibrillators) (TB).**
- b) **LFD exhaust vents – grants available?**
- c) **OCSD services. *(email)**

3) Employee Policies & Benefits (MJ/SS/MD).

- **Employee manual. Local holidays (Lincoln's Birthday, Good Friday, Election Day) - floating holidays Change Washington's birthday to President's Day or President's Day/Washington's Birthday.**

4) Environmental & Conservation Advisory Board.

- **Forest Tent Caterpillar & Gypsy Moth – Informational meeting, Feb. 5, 2005.**

Supervisor Scammell said on February 5th at 9:00 a.m. in the Meeting Room there will be an informational meeting on forest tent caterpillars.

Councilman Knapp reminded everyone Winterfest is that day from 9:00 a.m. to 10:00 p.m.

Mary Jo said the Spaghetti Dinner/Silent Auction is also that day from 4:00 p.m. to 8:00 p.m.

5) Highway (PP/LC/DK/SP/CP).

6) Physical Plant (HS/DK/BM).

a) LaFayette Commons/Library: Resheet rock.

Councilman Knapp said some more caulking has been done.

b) LaFayette Community Center: Insulate or heat tape over the kitchen area to prevent ice buildup.

c) Light for illumination for Town Offices U.S. flag (estimate sought for off of the South wall).

Supervisor Scammell said he originally spoke to Fred Taylor about putting a light in for the flag. Fred is unable to be out in the cold. He has spoken to Fred Groth about this. He is going to give an estimate for it.

Councilman Knapp asked if he is going to talk to him about the heat tape too.

Supervisor Scammell said he will.

7) Recreation & Youth (DK/SS/RR).

a) Bailey Park.

- Charcoal grills. Order & install (Spring, '05).
- Pavilion (YCIP, local estimates).

b) LaFayette Beach.

- Survey/transfer LaFayette Beach from LCC to town.
- Options for limiting vandalism (lighting, etc.).
- Options for noise control from lacrosse box – reinforced panels.

c) Stafford Park.

- Lacrosse facility – estimates, (re)location possibilities.

8) Safety (TR/SS/LC/RR).

9) Senior Transportation & Housing (GS/BO).

- Grant from Assemblyman Jeff Brown. Application submitted.

10) Service Awards (DK/BM/JS/GH).

- Amendment to Fire Service Award Program – Fall, 2005 ballot?

John Harper was present. He submitted the roster that will be posted for 30 days. He will be posting this tonight.

Supervisor Scammell noted 24 members didn't make the points.

Councilman Knapp asked if there isn't something that if someone is away on military duty, they still get it.

John Harper said no. When they get back and do one good year, they get credit for 5 years. They had a question with Karl Field. He came forward and said the records didn't include one year. They researched the records and found he was right. The Chief and President are doing a letter up on this now.

Councilmen Knapp moved and McConnell seconded the motion to approve the Service Award List to be posted as submitted by the LaFayette Fire Dept. Motion passed unanimously.

11) SOTS & OCRRA Liaison (DK/BM).

12) Water (GS/SS).

- a) **U.S. Army Corps of Engineers/Jamesville Reservoir – Preliminary Restoration Plan complete, seeking nonfederal (NYSDEC) sponsor for \$6M.**

b) Village of East Syracuse Water District.

Discussion took place regarding the pressure testing of the pipes.

Supervisor Scammell said OCWA is not interested in taking these lines over if they are not up to OCWA specs.

- c) **Hamlet drainage study – request submitted to NYS DOT.**

13) Zoning Review (GS).

- a) **Simple/small subdivision Guidelines – Under Review.**
 - Cul de sacs.
 - PB/ZBA/CEO/CCF input.
 - TB review (JL).
 - Fee schedule.
 - NYS Comptroller's opinion (what constitutes a subdivision?).
- b) **Ad hoc committee for Review of Planning and Development processes (form letter complete).**
- c) **Corridor Plan.**
- d) **Digitized zoning map.**

7. LITIGATION & OTHER LEGAL MATTERS.

A. People v. Claire Watson.

- **NYS Ag & Markets letter – response.**
- **DeWitt Court, 03.10.05.**

B. Estate of Janay Le-Ann Davis.

C. IWO bankruptcy.

D. TWC contract review.

10. UNFINISHED BUSINESS & ACTIVE PROJECTS.**A. Time-Warner Cable TV franchise renewal (GS) – CCF review.**

Councilman Knapp asked what latitude we have with this.

Kevin Gilligan said it's mostly in terms of language and definition. This Board is still not interested in charging a franchise fee. Karen Godsoe is reviewing this in the context of some of the improved language they have been able to obtain elsewhere.

Councilman Knapp said if we don't charge one, they can't collect it from the customers.

Kevin Gilligan said that is right.

Councilman Knapp said at one time, they were collecting franchise fees from some folks and we weren't charging them for it.

Supervisor Scammell said they did charge it to the VFW and they did refund the money when it was brought to their attention.

It was recommended something be put in the next Newsletter advising resident's to check their bills to be sure there is no franchise fee on them.

B. Speed limit reduction requests.

- Commane Road (awaiting NYSDOT findings).

C. Cram Communications, WVOA-AM towers.

- Professional consultant sought from Clough Harbor for: impact (detuning) on Groth Road Communications Tower, site being evaluated for archeological sensitivity. 1.5.05 letter to Clough Harbour/Mona Carbonel.

E. ZBA request for mobile home inventory, including status.**F. FOCUS 2010 - Strategic Plan survey update: .****G. Assessors: 2006 Town-wide property revaluation.**

- NYS ORPS – Understanding the Equalization Rate: Guide for Property Owners.

H. Assessors: Pictometry (by 4.01.05, HD vs LD).**I. Other.**

**TOWN BOARD RESOLUTION
TOWN OF LAFAYETTE**

Local Law 1-2005

Councilman McConnell introduced proposed Local Law No. 1-2005 a local law repealing Local Law 4-2004 which imposed a surcharge pursuant to Vehicle

and Traffic Law Section 1809-D and made the following Resolution, which was seconded by Councilman Knapp.

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of Local Laws in the Town of LaFayette, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act (SEQR) with respect to the proposed enactment of said Local Law, with the result that the Town Board shall act as lead agency in the matter.

NOW, THEREFORE, it is

RESOLVED AND DETERMINED, that there are no other involved agencies, the Town Board shall act as lead agency, and that the enactment of this proposed local law is a Type II action under SEQRA, thus concluding the environmental review process; and it is further

RESOLVED, that the Town Board shall conduct a public hearing as to the enactment of proposed Local Law 1-2005 at the LaFayette Town Hall, 2577 Route 11, LaFayette, New York on February 14, 2005, at 6:30 p.m. or as soon thereafter as the matter can be heard at which time all persons interested on the subject shall be heard.

The question of the foregoing Resolution was duly put to a vote and, upon roll call, the vote was as follows:

Gregory Scammell	Supervisor	Aye
Sandra Smith	Councilwoman	Aye
David Knapp	Councilman	Aye
Thomas Bailey	Councilman	Aye
William McConnell	Councilman	Aye

Motion passed unanimously.

**TOWN OF LAFAYETTE
PROPOSED LOCAL LAW NO. 1-2005**

**A Local Law Repealing Local Law 4-2004 Which Imposed a Surcharge
Pursuant to Vehicle and Traffic Law Section 1809-D**

Be it enacted by the town Board of the Town of LaFayette, as follows:

Section 1. Local Law 4 of 2004 which imposed a surcharge on certain Vehicle and Traffic matters in the Town, is hereby repealed in its entirety.

Section 2. **Effective Date.**

This local law shall take effect upon its filing with the New York Secretary of State.

10. NEW BUSINESS.

A. Surplus equipment list for discard on Earth Day, 2005.

- Town Historian computer.

Supervisor Scammell noted there is a drop-off for computers the week before Earth Day.

Councilman Knapp asked if we bought the historian a new computer.

Tom Chartrand said we bought her computer for about \$45.

B. SPDES, Phase II.

Supervisor Scammell said he met with John Dunkle and Kevin Gilligan this week. He will be getting everyone a copy of the manuals. John will be coming to one of the meetings to answer any questions.

Councilman Knapp asked who will regulate this.

Supervisor Scammell said probably the Planning Board.

Kevin Gilligan said it depends on the application being made. Most of this will come up in the context of a subdivision.

C. HAVA impact.

- **Board of Elections query/response.**

Supervisor Scammell said he received emails from Board of Elections on the new mandated machines. The federal government has proposed to pay for about 97% of these machines. He will keep the Board posted with anything else he learns about this.

Councilman Knapp said he is sure there will be some kind of service agreement and a cost to transport them.

Marshall Taylor asked if the new machines are software driven. He would think the software would cost something. Every time there is a new election, you would have someone updating it.

Supervisor Scammell said he will send a follow-up email about this.

Councilman Knapp said another thing he would be curious about is if we get the same machine every time. If we take good care of the machines we get every election and then maybe get a machine that someone else used the last election and didn't take good care of, we could get stuck with a service fee on it.

Tom Chartrand asked how we would dispose of all our old machines.

Kevin Gilligan said he wouldn't get rid of the old ones for awhile.

D. Local Law Enforcement contract – Deputy logs.

Councilman Bailey submitted the logs he received from Salina and VanBuren.

The Board thanked him for going over this information.

Councilman Bailey said they have a local law in the Town of Salina under the Vehicle and Traffic Law that they get all the revenues and nothing goes to the state. This just about pays for the service.

Supervisor Scammell said right now we are waiting to see if there's a particular matter we would like to use this for.

Councilman Knapp said they need 30 days notice.

Supervisor Scammell asked if we need to get the ordinance written up and geared towards this.

Councilman Knapp said we don't even know if we have any money for this. We could set it up and if we don't need to use it, we won't.

Supervisor Scammell asked if the Board wanted to go forward with the ordinance and enter into it in case we want to use it.

Tom Chartrand said it's a contract. You don't need an ordinance for this.

Councilman McConnell said when Capt. Bronstad was here he said it was smart to put a contract in place and then you are ready to go if you need to. He would recommend setting this up as a proactive idea.

The Board was in agreement to move ahead and prepare the contract.

E. Other.

Councilman Knapp brought up the land that Mueller's are looking into purchasing and requesting it be rezoned.

Supervisor Scammell said Mrs. Mueller needs to get written authorization from the owner that she can proceed with her request. She doesn't want to purchase the property unless she can get it rezoned. He asked if the Board wanted him to invite her to the next meeting.

The Board was in agreement that they would like her to come in to answer some questions.

Kevin Gilligan would recommend she submit her application before coming in. The application should be a written letter stating what she is proposing, the tax map number, the SEQR, the property description and current zoning of the property.

Leon Cook arrived. They have been plowing and sanding since the last meeting. From the start of the snow until today, not including tonight, they made 40 trips around. As a pretty good estimate, they used 216 ton of sand. They had a problem up on Fawn Road. Water was coming out of the ground and running down in two different areas onto the road. He put a lot of sand on it and got it thawed up and cleared. It seems to be O.K. up there now. As soon as the snow lets up, they will have to ditch this area so it doesn't happen again. From last year at this time until now, diesel fuel is 40 cents a gallon more. The bigger problem is the shoes and cutting edges for the plows. They are double from last year because the steel price has gone up so high. The air compressor is going bad on the loader. He has one ordered and they called today and said it's in. They lost one front wheel on one of the big trucks. It cracked and broke. They had a spare to put on. He has ordered one so they will still have a spare. He got in a tight situation today. It was after they got done plowing this morning. Mrs. Taylor lives on Apulia Rd. There was an ice jam in the creek. He has told her there isn't anything he can do about it. He told her he can't go on private property. She said she spoke to two Board Members who told her if she had a problem to call Leon. He had an awful time explaining to her why he couldn't do anything to help her. The ice jam made the water come out and run right around her house. He got in touch with the County D.O.T. Bruce Trexler said they can't go on private property to fix it either.

Councilman Knapp asked who would fix it.

Leon Cook said it would have to go through FEMA or the DEC.

Councilman Bailey asked if there is a history of this happening on her property.

Leon Cook said yes. Just about every year she gets flooded out. This is twice so far this year. There was work done through Emergency Management behind her house. She wants the creek put back where it used to be years ago because she said then she never had a problem. Emergency Management won't change it and neither will FEMA.

Supervisor Scammell said she told him she didn't believe all the work Emergency Management had done was worth anything.

Councilman Knapp asked if FEMA or the DEC has done anything.

Leon Cook said no. They haven't been notified of this ice jam. When they were here awhile ago, he had them take a look at it. They said there's nothing they can do now.

Councilman Knapp asked whose job it is to report this.

Leon Cook said hers.

Councilman Bailey would recommend she contact her state elected representatives. Maybe they can place a phone call on her behalf.

Leon Cook said he just wanted to make the Board aware of what's going on.

Supervisor Scammell recalls this area flooding since he was young.

Councilman Bailey asked what's going on with Scammell Road.

Leon Cook said they have 9 pipes in. They have 25 pipes to put in all together. They are about 1/3 of the way done.

Councilman Bailey asked if they got the crane issue settled.

Leon Cook said yes.

Supervisor Scammell said one of the resident's indicated to him that she called the project engineer and he advised her it would be mid February before it was completed.

Marshall Taylor said he called the state himself and he was advised they are basically hourly contracts. The people get paid when they decide to work. He noted they didn't work at all Friday and only part of the day the rest of the time.

Leon Cook said he has to find out if they are driving back to Rochester every night. Since they are done working at 2:00 p.m., that is what they might be doing.

Marshall Taylor would recommend someone move the sign back so they can push the snow out of the way.

Councilman Knapp thanked Leon Cook for the nice job in getting the funding from FEMA.

Supervisor Scammell and the Board thanked him.

Leon Cook said he doesn't think the creek is on there. That will have to be added on. He said they are out plowing Saturday night. He thanked Councilman McConnell for offering to help them if they needed him to. They were going to go around another trip and the guys had ordered a pizza. He called the county to see how long they were going to be out plowing. He was advised they would all be on until 8:00 p.m. and then they were getting done and the second shift would take over. Leon Cook asked how many trucks were on the second shift. He was advised one.

Councilman Knapp said he noticed the plows stopped for several hours.

Leon Cook said they started up again at 4:00 a.m. just like his guys did.

Robert Shute asked to address the Board. He is a life-long resident. He believes Leon Cook is the best Highway Superintendent we have ever had. He has a matter before the C.E.O. He has had some breakdown in communication before and he believes he hasn't been treated fairly in the past. He believes the Town Board has authority over the C.E.O. Mr. Sutton has always been cordial. From the first time he has had communication with Mr. Lamson, he hasn't given Mr. Shute anything but stonewalling and the run-around. He thinks he should bring this before the Town Board. He is only asking for fair treatment from the process. He did have an unsuccessful attempt at a yard sale where things were left in the driveway. He has worked very diligently and even on Christmas Day to take care of things in the driveway. He has a small home and doesn't have the luxury of a 3-car garage to store things. When he has come to Mr. Lamson, including last week, it took awhile for him to speak to Mr. Shute. He wouldn't address Mr. Shute's questions. When he asked specifically what Mr. Lamson wanted him to do, Mr. Lamson wouldn't tell him. His first notice was a xeroxed ticket or notation. There was not personal contact. He knows there are many violations of the zoning law that have been going on for 4-5 years that Mr. Lamson has ignored. He can point out 40-50 violations that Mr. Lamson has ignored over the years. They did have some reasonable conversation but nothing about the matter. Mr. Shute has done everything he can to cooperate. Whatever Mr. Lamson asked him to do, he was willing to do. Mr. Lamson won't spell out specifically what he wants Mr. Shute to do. He makes things so vague that it leaves him wiggle room. He is bringing this to the Town Board as they have supervisory power over the C.E.O. He believes you should have personal contact with the individual at least once before bringing them to court. We have a matter here that was totally unnecessary to ever become a court matter. He doesn't wish to have a battle with Mr. Lamson but he believes his constitutional, civil and property rights are being hurt by the process. What is a taxpayer's recourse if a situation like this occurs of a zoning nature. He knows the Board does have discretion in these matters.

Supervisor Scammell asked when Mr. Lamson originally cited Mr. Shute, what was it for?

Mr. Shute said it was for things left from the yard sale. It's possible for a supervisory committee like the Town Board to have the matter negotiated and resolved within the C.E.O. department. If Mr. Lamson had spoken to him, he would have done whatever Mr. Lamson asked him to do. He feels like he is being ram-rodded into court.

Mary Jo Kelly said a letter of non-conformity is sent first and the individual is advised to contact Mr. Lamson within a certain time-frame. She picked up a returned certified letter from Mr. Lamson that Mr. Shute refused to pick up. Mr. Lamson sends appearance tickets by certified letter and a copy in the regular mail.

Councilman Knapp asked about the last two court dates that Mr. Shute missed.

Mr. Shute said he had a witness with him last Wednesday. He had the flu for the first appearance and got here about 5 minutes after court ended last Wednesday. Mr. Sutton was very cordial but Mr. Lamson didn't allow him to explain everything. Why would you punish a citizen that is fully cooperating?

Councilman McConnell said Mr. Shute has two issues. One is the citation and the other is with the demeanor of the C.E.O. This Board doesn't have any authority over the citation. He believes they can pursue Mr. Shute's allegation of Mr. Lamson's demeanor.

Mr. Shute said the Town Board can rescind any action of the C.E.O.

Kevin Gilligan said no. The appeal of a Codes Enforcement Officer's decision when it's an application goes to the Zoning Board of Appeals. When it's an enforcement matter, it goes to the court. It doesn't come to the Town Board. The Board cannot interfere with the citation.

Mr. Shute believes the law states the Town Board has sole discretion over the C.E.O.

Kevin Gilligan said Mr. Shute can show this law to him but Kevin advised he has 20 plus years of experience and is not aware of anything like this.

Mr. Shute believes this is the case. If Mr. Sutton handled this, it wouldn't have gotten this far. Mr. Lamson has not been a person he can talk to. He would ask the Town Board to pursue this matter further.

Kevin Gilligan said if Mr. Shute gives him the law stating the Town Board's authority, he can look into it. He has never heard of this before. He has never heard of the Town Board overruling the C.E.O.

Mr. Shute asked why spend taxpayers money to go to court for this?

Councilman Knapp would think the C.E.O. has stated he will be on Mr. Shute's property this Tuesday or Wednesday. If Mr. Shute is in compliance, he believes Mr. Lamson will say it's O.K. and it will be dismissed.

Mr. Shute said people have been fined \$500 for two cardboard boxes out behind their houses. He believes this is up to Mr. Lamson's interpretation. If Mr. Lamson issued a ticket, he can rescind it, correct?

Kevin Gilligan said correct.

Mr. Shute said there you go. He would like to get this over with.

Councilman Knap said maybe this will happen.

Mr. Shute said you never know when Mr. Lamson will show up.

Councilman Knapp said the letter says tomorrow or Wednesday.

Mr. Shute asked if he can have Mr. Lamson make an appointment. He basically has everything cleaned up.

Kevin Gilligan said based upon what he has heard, Mr. Lamson will do an inspection and if everything is cleaned up, it will be dismissed.

Mr. Shute said because of Mr. Lamson's attitude, he thinks Mr., Lamson will go out of his way to find something to gripe about whereas Mr. Sutton wouldn't. Even though he satisfies what a reasonable person sees as reasonable, it doesn't satisfy Mr. Lamson.

Councilman Bailey asked if there is any prior history of non-conformity at his property.

Mr. Shute said he has been cited before.

Councilman Bailey said Mr. Shute basically had a yard sale and didn't get rid of the stuff.

Mr. Shute said he would have felt more comfortable before Judge Knapp than Judge Perrin.

Supervisor Scammell asked what determines what justice you get.

Kevin Gilligan said he doesn't know. The individual doesn't pick the prosecutor or the judge.

Councilman Knapp said he knows they both do zoning stuff.

Mr. Shute said it appears he didn't show up for two nights. He called Judge Knapp and advised he had the flu. He asked for an adjournment to another time.

Councilman McConnell asked what Judge Knapp said to him.

Mr. Shute said he left a message on Judge Knapp's machine.

Councilman Knapp said he really should talk to the Court Clerks about this.

Mr. Shute said the issue is that the second time he was scheduled to appear, he was here but the judge had left 5 minutes before he got here. That is when he talked to Mr. Sutton and Mr. Lamson. He asked Mr. Lamson to explain the citizen's options in a situation like this. It's going to court for no good reason. Mr. Lamson knows that Mr. Shute is cooperating. For 5-6 years Mr. Lamson hasn't done anything about adjoining neighbors in the area and their code violations. He feels he is being singled out for selected enforcement. Mr. Lamson leaves things in very vague terms so no matter how hard you cooperate, you end up getting nailed. He thinks Mr. Sutton would have had the matter completely resolved.

Councilwoman Smith asked if on the appearance ticket there isn't a time you are supposed to appear in court.

Mr. Shute said yes but in December he was so sick.

Councilwoman Smith said the time is on the appearance ticket.

Mr. Shute said the second time he got here just after court was over.

Councilman Bailey said the case is still on the court calendar two days from now. The letter from Mr. Lamson was sent to Mr. Shute as sort of a heads up that Mr. Lamson will be inspecting the property. This is how he reads the letter. If the property is cleaned up, it will be recommended the case be dismissed. The original violation was clutter on the property, if it's cleaned up, it will be over with. Just take care of it by Wednesday.

Mr. Shute said he has no trespassing signs on his property. He is not obliged to give up his property rights. What constitutes an inspection?

Councilman Bailey said if the violation is in plain view, Mr. Lamson can take a picture from the road.

Mr. Shute said he has had burglary's.

Councilman Bailey asked what this has to do with the Code Enforcement Officer.

Mr. Shute said he doesn't know the Code Enforcement Officer and isn't alleging he would do anything.

Councilman Bailey said perhaps he should get a deputy or trooper to stand by while our Code Enforcement Officer does the inspection.

Mr. Shute thinks Mr. Lamson can come and take his pictures and do whatever he needs to do. He has pictures of his own that he will be presenting. If there's one little thing like an empty cardboard box or something under the tarp and it's not in view of people in traffic, he doesn't think it's a problem.

Kevin Gilligan said that will be up to the judge.

Mr. Shute said that is a big issue. Because we are dealing with a judge who may not have total objectivity in a case brought before her. His experiences with Judge Perrin as a private attorney have not been very pleasant. He is not the only person who has had unpleasant dealings with Judge Perrin in her private practice. You are guilty before you even walk through the door. He is very glad to see we have a town attorney like Kevin Gilligan who seems to be more fair and respectful than others he has had to deal with in different circumstances.

Councilman McConnell said Mr. Shute has to show he has done what is expected. He thinks it's up to Mr. Shute to comply with the citation and handle his violations.

Mr. Shute said instead of making a mountain out of a molehill, this should never have gone to court to begin with. He is asking Mr. Lamson to reconsider and withdraw the ticket.

Supervisor Scammell said Mr. Shute can bring his own documentation to court for Judge Perrin to review.

Mr. Shute said not necessarily. He believes the pictures will tell the story. Why go to court?

Councilman Bailey said because it's on the docket. The judge can dismiss the case.

Mr. Shute said and what if her decision is a fine or jail time?

Councilman Bailey said this will not happen if he is in compliance. He doesn't think it is necessary to take shots at the court. He thinks they do a very good job.

Mr. Shute said that is his opinion. Who is his representative on the Town Board?

The Board said they all are.

Councilman Knapp is sure Mr. Sutton would take a phone call from Mr. Shute. He can ask Mr. Sutton if he is not sure of an item that needs to be removed.

Mr. Shute asked and what if he doesn't agree about something being removed?

Councilman Knapp noted Mr. Shute just said he felt Mr. Sutton was a reasonable guy.

Councilman McConnell said Mr. Shute mentioned what if he can't move everything. A few minutes ago he said he had taken care of everything.

Mr. Shute said there is a washer, drier, etc. under a tarp. They are way out of sight and not viewable from the road. He is concerned there will be nitpicking beyond reason.

Supervisor Scammell is assuming if Mr. Shute doesn't like the disposition, he can appeal it before someone.

Mr. Shute said it would cost thousands of dollars to appeal and he might as well throw out the new drier instead. He is not just bringing this up for himself. This is not routine that you go to court.

Supervisor Scammell said right. Most of the time the violations get resolved along the road somewhere.

Councilman Knapp said but several do end up in court.

Kevin Gilligan believes Mr. Shute might wish to get an attorney.

Mr. Shute said he is not going to pay \$500 for a cardboard box or a new drier under a tarp. If he does get an attorney, he will have to defend his rights.

Supervisor Scammell asked when he was in court before, was it for the same issue or a different one.

Mr. Shute said the same issue.

Supervisor Scammell asked how that worked out.

Mr. Shute said he did everything he was supposed to do.

Councilman Knapp said so it got dismissed.

Mr. Shute said they fined him \$500 or jail time. Judge Perrin brought a flashlight down and found a couple of empty cardboard boxes way in the back. Chimney blocks

were setting properly off to the side and were being used eventually as an outdoor barbecue. She included them and the two cardboard boxes for a \$500 fine.

Supervisor Scammell asked then what happened.

Mr. Shute said that was it because he had complied with everything.

Supervisor Scammell said Judge Perrin believed he hadn't complied.

Mr. Shute said he was found guilty before he ever walked in the door. He wasn't allowed to show his pictures. His witness was there and wasn't allowed to speak to the judge and he wanted to present his testimony and she said she didn't need to hear from him. His witness was Mr. Davies. A very honorable and decent fellow.

Supervisor Scammell asked if at the end of that particular case, he got rid of the blocks and couple of cardboard boxes.

Mr. Shute said yes. He immediately burned the boxes up.

Supervisor Scammell said this is a separate citation then.

Mr. Shute said yes. This stuff is left over from a yard sale that he had. A lot of the stuff that was left over was given away. He has given up on yard sales. He thinks we are lucky we have Mr. Gilligan and the Town Board. Just apply reason. This has not occurred in the past with Mr. Lamson or Judge Perrin. This should never have gone to court in the first place. If Mr. Lamson would come and do the inspection and find everything has been taken care of, he can withdraw the ticket. He feels things can get out of hand like they did before. There is no reason Judge Perrin made him come up with the \$500 immediately or spend time in Jamesville Penitentiary. When Mr. Lamson was cross-examined, Mr. Shute wanted his attorney present and he was told they were going to have the case right then. He got Mr. Lamson in outright contradictions that Judge Perrin didn't want to hear about. It was a done deal before he walked in the door. There was no need for a trial because he was found guilty before he walked in the door. He was denied due process. There were witnesses that saw this.

Supervisor Scammell asked what due process is.

Kevin Gilligan said he is claiming his rights were violated because he wasn't given a right to be heard. This involved the judge. It's not against the town.

Mr. Shute said it's not against the town. There are just too many personality differences between he and Judge Perrin. This is just like when he objected to her over certain issues in private practice. He has legitimate concerns in matters he has dealt with her on even when he has been to her office.

Supervisor Scammell said he would call Mr. Lamson and ask if he can do his inspection when Mr. Shute will be there.

Mr. Shute isn't so sure that Mr. Lamson's animosities don't stem from the last time they were in court. After Mr. Lamson and Mr. Sutton did speak with him last Wednesday, they left on good terms. Mr. Lamson still wouldn't address the specifics. If he has to hire an attorney, he will. He just wants to get this over with.

Supervisor Scammell said hopefully it will be in a couple of days.

It was confirmed Mr. Shute is due in court at 6:00 p.m. on January 26th.

Mr. Shute said he doesn't want to make a big deal about a little thing like this but his back is against the wall. What else can you do? He thanked the Board for listening to him.

11. Suggestions for improvement & positive contributions.

Recognition for Leon Cook's hard work took place earlier in the meeting.

- 12. Councilman Knapp moved and Councilwoman Smith seconded the motion to audit and pay the following bills:**

GENERAL FUND	# 2674 – 2698
HIGHWAY FUND	# 2666 – 2673
TRUST & AGENCY FUND	# 2699-2705

Motion passed unanimously.

- 13. Executive session (as needed).**

- 14. Councilwoman Smith moved and Councilman Bailey seconded the motion to adjourn. Motion passed unanimously.**

The Town Board Meeting adjourned at 9:16 p.m.

Respectfully submitted,

Mary Jo Kelly
Town Clerk