

REGULAR TOWN BOARD MEETING  
OCTOBER 09, 2007

Minutes of the Regular Town Board meeting held on the above date beginning at 7:30 p.m. in the Meeting Room of the North Elba Town Hall, 2693 Main Street, Lake Placid, New York.

Members Present: Supervisor Shirley W. Seney; Councilmen Jack Favro, Derek Doty, Chuck Damp, Jay Rand and Barbara Whitney, Town Clerk.

Others Present: Norm Harlow, William Kissel, Bob Miller, Kelly Locke, Andy Abdallah, Sue Millington, a contingency from Theianguen Way Homeowners Association and a contingency from the McKenzie Pond Homeowners Association, Brenda LaPierre a friend and Jacob Resneck, Mark Ryan and Ron Streeter.

Supervisor Seney called the Regular Town Board meeting to order at 7:30 p.m. by asking everyone to stand for the Pledge of Allegiance.

Supervisor Seney asked for a motion on the minutes of the Regular Town Board meeting of 9/11/2007 and the Bid Opening of 9/28/2007.

Councilman Doty moved and Councilman Rand seconded the motion to approve of the minutes as written and presented. There being no discussion, the motion was unanimously carried.

Supervisor Seney then asked for a motion on the proposed Agenda.

Councilman Chuck Damp moved and Councilman Doty seconded the motion that the agenda be written as presented.

Supervisor Seney recognized the McKenzie Pond Homeowner's Association.

Sue Millington, Attorney for the McKenzie Pond Homeowner's Association stated she was contacted in regards to the possible dedication of their roads to the Town of North Elba. She stated that there are 37 lots in the development. She stated that the roads were examined by Andrew Abdallah and found not to meet Town standards. She stated that there are grades that are not acceptable, etc. She explained that Andy realized that the roads were not located in the exact location that they were supposed to be by way of the subdivision map. She stated that the road and the road easements are located, in some instances, on people's pieces of property. She stated that Andy did a great road report.

Ms. Millington stated that since then, we have gone to the Homeowner's Association, they are required, by way of their by-laws, to have a 75% vote of their membership as far as dedicating a road. She stated that they had a vote recently, within the last 3 weeks, where over 75% of the homeowners voted in favor of dedicating this road to the Town and making arrangements for the payment of it. She stated that she was also able to obtain the "yes" votes of all the parties that were affected by way of the roads being located on their property. She stated that they were flagged out, they were able to see where the road should be, where the road is and they have all agreed to deed whatever property they need to the Homeowner's Association after a Surveyor surveys the property. She stated that then the Homeowner's Association will deed the property necessary to the Town for the road.

Councilman Favro asked for a timeframe as to when they will be ready.

Ms. Millington stated that they are fairly ready. She stated that we need a Surveyor to create the deed descriptions and we will be ready.

Norm Harlow stated that he has the plans of where the encroachments are into the adjoining properties, we have gone over the Land Use Code and the parts that didn't meet the grade, we've come up with budget numbers for the whole project and the Homeowners have agreed to the budget numbers.

Mr. Kissel stated that he has chatted with the Association's Attorney in July and asked if the Association is proceeding under Section 200?

Ms. Millington stated that they are. She stated that she talked with the Supervisor and asked if they proceed under Section 200 by way of petition or go by way of a Board resolution? She stated that she got the impression that the Board would be agreeable to a Board resolution. She stated that she has 37 homeowners and she has the proof that 75% of the parties along the road are agreeable, she has the ballots and she has them signed but she would rather not have to go back and re-create the wheel as far as a petition unless that is what the Board requires.

Mr. Kissel stated that that is the course that we have always been on in regards to

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this project. He stated, at this point we have no documentation on all the approvals that you say that you have. He stated that the Board may consider a resolution, but that would have to be discussed. He explained that, in the past, we have had Associations that have not had all the paperwork together. He stated that he would want to look at all the documentation that is available and satisfy himself relative to the Corporate documents, that you had done what you needed to in house.

Mr. Kissel explained that one problem we've had in the past, we've been told that everyone is on board but then we've found that were not. He stated that the petition was is the safer way and he stated that he is going to advise the Town Board that it is a safer way for the Board to go.

A person from the audience stated that there were 30 "yes" votes, 4 who didn't vote and 3 "no" votes.

Mr. Kissel asked that Ms. Millington put a composite package together for him, Norm and the Town Board no matter whether we go petition or resolution. He stated that we need to be satisfied that you've done what you need to.

Mr. Kissel asked if the Town Board has seen Andy's report?

Mr. Abdallah stated that he transmitted his report to the Homeowner's Association and Norm has a copy.

Mr. Kissel asked that the report be included in the package, as well.

Mr. Harlow stated that Bob Marvin has generated the maps and he is working on a deed to the Homeowner's Association.

Mr. Kissel asked Ms. Millington to put 8 packages, 5 Board members, the Town Clerk and himself. He stated that the Town Board will review the materials and get back to you if we have any questions. He stated that he and Ms. Millington need to get together and talk.

Mr. Kissel stated, under Section 200 we have to have our own Engineer look at this, that needs to be done.

Mr. Abdallah stated that the estimated cost at the time of the report was \$285,000.00 to bring it up to standards and he added a 10% contingency on to bring it up to \$313,000.00. He stated that under Section 200 process, this will take a couple of months and the work will probably be done in the spring.

Supervisor Seney asked, if the Town accepts this dedication and the Association and we can't get to paving it until next spring, will the Town be responsible for plowing it this winter?

Mr. Harlow answered, yes, we could do that.

Mr. Kissel stated that this could be done as long as all the steps of Section 200 are completed. He stated that this could be done quickly enough to potentially plow even though the work will be done later.

Supervisor Seney thanked everyone for coming.

Supervisor Seney recognized Bob Miller from the Theianoguen Way Homeowner's Association.

Mr. Kissel stated, we have received the petitions and at the meeting last month you asked Norm to work with Cathy to get the numbers together as far as the estimated cost. He stated that the next step is for the Town Board to adopt an Order stating that you have received the petition, describe the improvements that have to be made, the cost and then the area to be benefitted. He stated that Kathy Suozzo, in her August 23rd report did a short summary for the Town of what improvements would be needed. He stated that in the petition we had them put in a brief statement of the area to be benefitted. He stated that once you adopt the order, you set the date for a Public Hearing. He stated that after the Public Hearing, you can then adopt a resolution finding that it is in the public interest to proceed. He stated that then, the Highway Superintendent has to work with a Surveyor and our Engineer to definitively fix what is being done, and then he goes ahead and does that work.

Supervisor Seney asked, if this something that we can also get done before the end of the year?

Mr. Harlow stated that this should be able to be done by November.

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Mr. Kissel stated that a Public Hearing can be held, but the notice has to be not less than 10 days and no more than 20 days from the date of publication. He stated that it also has to be posted 5 places along the road and on the Bulletin Board outside the Town Clerk's office.

Mr. Harlow stated that depending on when the Public Hearing is held and the final work is done, it may put off the paving until spring. He explained that the plans and specifications come from the Land Use Code and the road has been layed out and we do have a map of the road. He stated that the costs have also been determined. He stated that Cathy has checked into the bonding for this project and the 10 year bond is less expensive than the 5 year bond. He stated that the road can be maintained and plowed for the winter, whether it gets blacktopped or not.

Mr. Kissel stated that all the land that we need is owned by the Association. He stated that if the Association hasn't retained a Lawyer, you should do that now, because you are going to need a deed prepared and other documents to deed the land to the Town of North Elba. He stated that all the pieces are together and that is the good news.

Mr. Harlow stated that the cost of the project \$40,610.00 increased to \$42,000.00 in the event that the cost of blacktop changes between now and spring. He stated that the bond interest is 4.7%, and calculated it at 5% and came up with \$778.00 per year, per property owner on the Towns' yearly tax bill. He stated that we have a commitment from NET Bank for this bond.

Councilman Doty moved and Councilman Favro seconded the motion to approve of the Resolution Order as previously stated with a Public Hearing to be held on Thursday, October 25th at 4:00 p.m. There being no discussion, the motion was unanimously carried.

Mr. Kissel stated that it would be wise to schedule a Special Meeting after the Public Hearing and approve of the dedication and the Board can take a couple of important steps, immediately after the Public Hearing, if you have a meeting scheduled.

Supervisor Seney thanked everyone for coming.

Supervisor Seney recognized Beth Davis from Davis Data Conversion in Jay, NY who has a business of her own that she would like to tell us about.

Mrs. Davis stated showed the Town Board a 500GB external hard drive and what N.Y.S. is requiring is a Disaster Back-up if you do want to go paperless. She explained that what she does is take all the paper files, scan them and it would go onto the external hard drive and then she would make a duplicate, you would keep on in the Town Hall and another one, off premises. She stated that if there was ever a disaster like they had in Jay, you would have the preserved information. She stated that you can start small, historical documents. She stated that there are grants, the information is in the packet. She stated that she is listed with New York State.

Councilman Doty asked her how she would begin to get the information together.

Mrs. Davis stated, that how you give her the information, she puts it into a file exactly how she gets it and then it goes on to the external hard drive. She stated that she would give the file a heading, date it. She stated that she has a scanner and she can do 15 documents at a time, she watches the information and before she shreds anything, she would bring the hard drive and the duplicate and make sure that they were happy with it. She stated that the historical information would never be destroyed, that would be kept, this is just in case of an emergency. She stated that the grants are through the New York State Archives Agency. She stated that Westport has done some of this but they weren't happy and she stated that she didn't do the work. She stated that she is available.

Supervisor Seney stated that we have a member of the Time Warner Cable Network here to talk with us, Mark Ryan, who is out of Massena. She stated that he is here to talk to us about the cable and our concerns about the contract.

Mr. Ryan stated that he is the Regional Manager for Time Warner and he works out of Massena. He stated that he brought Ron Streeter who is the Regional Tech Manager.

Councilman Damp stated that there has been a lot of dissatisfaction with the lack of the coverage on Channel 2 as far as the local sports, meetings, etc. He stated that some of the local people who have been vocal have been told that they could get equipment to use if they did the grunt work. He stated that that has not come to

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fruition. He stated that there has been a lot of talk on "Talk of the Town". He stated that the shut-ins have been used to watching the local football game, etc. that appears to be gone.

Mr. Ryan stated that there is a camera available and someone wants to do a 1 hour luncheon, etc. they record it and they hand it into us, or if someone local brings in a tape and they want it played, we play it.

Mr. Ryan stated that he is talking to the Saranac Lake High School and some other local individuals that may want to get into the business of putting video tapes together. He stated that the Saranac Lake High School are willing to do more coverage in the Saranac Lake area. He stated that here in Lake Placid there are different groups here who are going to provide different tapes. He stated that there are also live remotes in the area where we do live video taping. He stated that they will still do that, they would have to coordinate with the people at Time Warner.

Supervisor Seney stated that the caliber of programing has fallen off from what it was, the repetition of the programs is annoying. She stated that the fee that is being charged, the selection isn't as good as it used to be.

Mr. Ryan explained that Time Warner doesn't have any control over the programming, it comes from the providers. He explained that the only programming that Time Warner controls is 2 and 22 as they are the local public channels, they control Channel 10, the News and Time Warner 26, sports. They are the only channels that Time Warner controls. He stated that he is in hopes that Saranac Lake High School will partner up with Time Warner, so the local sports can be put on Channel 26. He stated that they are trying to get local programming taken care of.

Supervisor Seney stated that the other question we had was the 10 year contract. She explained that some of the Board members didn't want to sign the contract for 10 years.

Councilman Damp asked, is a 10 year contract set in stone or could we go 5 years? He asked how anyone would go about getting the camera to film an event.

Mr. Ryan stated that they need to contact the Time Warner office in Saranac Lake.

Councilman Damp asked about the live remotes, is that Rick Knapton, also?

Mr. Ryan answered, yes, He explained that a live remote is a little trickier. He stated that if someone wanted to do a live remote, Time Warner would have to be confident that that person is competent to control a live feed. He stated that it would have to be a reputable firm in this Town that they can trust to do a live remote and it would have to be in an area that is already wired.

Mr. Ryan stated that Time Warner was really firm about sticking with a 10 contract. He stated that there is a process, which takes a long time. He stated that they want to remain consistent with everyone with the 10 year contract. He stated that Tom Doheny may be a little more forgiving on the 10 year term but that is something that you would have to negotiate with him.

Mr. Ryan stated that if you wanted a different franchise fee, then you would have to negotiate a new franchise agreement. He stated that Time Warner isn't going anywhere, if the agreement isn't signed, we'll either operate under a brand new Franchise Agreement or a temporary operating authority, eventually the PFC will get involved and say, it has been years and you need to get it resolved. He stated that the Franchise agreement is actually a formality.

Supervisor Seney thanked Mr. Ryan for coming and talking to the Board.

Supervisor Seney asked for authorization to sign the 10 year Time Warner Cable Franchise Agreement?

Councilman Rand moved and Councilman Doty seconded the motion to authorize the Supervisor to sign the 10 year Franchise Agreement with Time Warner Cable. There being no discussion, the motion was unanimously carried.

Supervisor Seney asked for an update on the Bike Path. She stated that she received a letter from the State, it is a formality, the Use and Occupancy Permit for the Pedestrian and Bicyclist Shared Use Path of the New York State Railroad ROW now used for the Adirondack Scenic Railroad between Old Military Road in Lake Placid and Scarface Mountain Hiking Trail in Raybrook. She stated that it asks that she sign 5 copies of the permits, insert the Federal ID number and return the copies to the

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N.Y.S. DOT. She read that they need a General Liability Policy in the amount of \$2,000,000.00 per occurrence naming the State of New York as additional insured. She stated that she will give this to ANCA.

Councilman Damp stated that it would be our Insurance contract. He stated that we would need to supply the Certificate of Insurance to go with the Permit.

Councilman Damp moved and there was a unanimous second to authorize the Supervisor to sign the Permit.

Supervisor Seney asked for a report on the T/V/S Fuel pumps. She stated that the Village had some hesitation and Norm and Brad went out and checked the pumps, what did you discover and where are we going with this?

Norm Harlow stated that he and Brad found that the tanks have been breached. He stated that there is contamination in the outer container, the tanks have to be replaced. He stated that the bid opening is on Friday for the new fuel tank system. He stated that they had a pre-bid meeting on Monday. He stated, that if the bids come in within budget, he would recommend that we have a Special Board Meeting to approve the bids, rather than wait until November. He stated that the Town is the Lead Agency for this project, but we will inform the Village and the School of what is going on, if everyone concurs we will need a meeting and approve the bid so we can get going on this.

Supervisor Seney stated that we need a Town/Village contract for the Code Enforcement Office.

Mr. Kissel stated that Janet had sent him a draft in late August, he thought it had gone to Jim Morganson, but he was informed that Jim hadn't seen it and he really needs to look at it. He stated that it is pretty bare bones and he didn't realize that the Village is holding up payment until they have a signed contract.

Supervisor Seney stated that until the Village has a contract they aren't going to transfer the funds they collected for building permits.

Mr. Kissel stated that he doesn't have a problem with what she has drafted and then subject to Jim's review, then it can be approved by the Town Board, if this accurately reflects what was negotiated. He stated that the only objection that he has, legally, is that Janet wants the Town to indemnify the Village, which he doesn't feel is appropriate in an Intermunicipal Agreement.

Mr. Kissel stated that you could hold up approval but you could also approve it subject to Janet and he agreeing to the terms that he doesn't like, at the moment and Jim's input. He stated that if Jim had a major problem he would have to come back to the Board with it even under that resolution.

Councilman Doty moved and Councilman Damp seconded the motion to approve of the Intermunicipal Shared Services agreement subject to Janet and Bill agreeing on a couple of items and subject to Jim Morganson's input. There being no discussion, the motion was unanimously carried.

Supervisor Seney stated that the next item on the agenda is the review of the LPPD request for a shooting range. She stated that at our last meeting the Board stated that we really need to get an Architect's design as to what the range is going to look like. She stated that she spoke to the Chief and then she spoke to the Sergeant, telling them that this is what we requested before we go any further on it. She stated that she has not heard back from either one of them. She stated that she will remind them, again, that this is what we're waiting for.

Mr. Kissel stated that he did do some limited research, because the Board had asked him to and had a couple of thoughts. He stated that he had discussed this with Jim Morganson, also. He stated that it seems to him that if you are going forward on this kind of proposal, it's on Municipal land so we would have to determine whether it needs to be leased or whether there can be a free lease to another municipality. He stated that he doesn't see how any proposal like this could avoid going through the Land Use Code review process. He stated that the EPA has quite a bit of appropriate guidelines, if not criteria, that have to be followed. He stated that there are a number of issues that need to be addressed.

Councilman Damp asked if it were possible to conceptually approve of this proposal?

Mr. Kissel stated that he felt that it would be premature to do that, if it has to go through some sort of review and approval by the Joint Review Board and it should go to a Public Hearing to notify the neighbors of what is going on, you may not want

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to approve of it, now, but the Board has that prerogative.

Mr. Kissel stated that the lead abatement is clearly the biggest issue.

Councilman Rand asked, could there be an Airport issue?

Mr. Harlow stated that unless it is covered as ORDA's is, yes.

Supervisor Seney stated that we'll have to wait until they get back to us.

Supervisor Seney stated that the U.S. Census update we'll hold for Executive Session.

Supervisor Seney asked Councilman Rand for an update on the Town Hall roof repairs.

Councilman Rand stated that, in front of the Bell Tower there is an area where they put down caulking to seal it, but they discovered that on both sides of the front of the Bell Tower it is rotted and needs to be repaired. He stated that the Engineer has received a change order today and he should drop it off tomorrow. He stated that he would recommend that the work be done. He stated that they have come down from \$1,500.00 to \$1,200.00 to do the work under the same contractor. He stated that they didn't notice the problem, originally.

Councilman Rand moved and Councilman Damp seconded the motion to approve of the change order in the amount of \$1,200.00. There being no discussion, the motion was unanimously carried.

Councilman Rand stated that the heat tape that was there, the contractor has been instructed to put it back in place.

Supervisor Seney stated that the next item is Local Law #4, the Noise Ordinance. She stated that it was discussed last month of either changing it or doing something with it.

Councilman Rand stated that it seems that we would be better off not having it.

Councilman Damp stated that on the news, Crown Point is drafting a Noise Ordinance that will be enforceable.

Councilman Rand stated that Gerry Blair said that the City of Plattsburgh has one. He stated that we should get a copy of it.

Mr. Kissel stated that maybe the new Code has something in it, maybe you should check that.

Councilman Doty stated that he would agree to abolish the Local Law that is on the books. He stated that if there is no Local Law then the State Police would have to enforce the Law.

Mr. Kissel suggested that we check the new Code, Dean Dietrich and get a copy of the Plattsburgh ordinance and then the key issue is to abolish it or update it.

Councilman Doty suggested asking Andy Abdallah to get a copy of the ordinance.

Supervisor Seney stated that we need to make a motion on the 2 bids for the soccer fields.

Mr. Harlow stated that the Town can screen the topsoil. He stated that he needs to rent a screen. He stated that he would price 3 vendors. He stated that the questions is, do we screen the whole pile or do we just screen enough to do the fields? He stated that if we screen the whole pile, perhaps we can recoup some of our costs, by being able to surplus the topsoil. He stated that we could come up with a per ton price on topsoil and bill it out through the Transfer Station. He stated that we need about 11 - 12,000 cubic yards of topsoil for the soccer fields that would leave us a surplus of about 18,000 ton, which we should be able to sell. He stated that we could generate \$100,000+ selling this topsoil. He stated that there is also topsoil from the Airport projects, so we won't be without topsoil.

Mr. Harlow stated that Luck Bros. qualified their bid and he understands that once the bid is bid, the bid is bid. He stated that Reale's bid is \$247,000.00. He stated that, because Luck has qualified their bid, it is unacceptable. He stated that they are not happy that they can't qualify their bid. He stated that the Reale Construction Co., is ready and will start tomorrow if you want them to. He stated that they can get mobilized and get their signed documents up to us if you

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authorize the Supervisor to sign their contract.

Councilman Doty moved and Councilman Damp seconded the motion to award the bid of A. P. Reale in the amount of \$247,000.00, as Luck Bros. did not comply with specs. There being no further discussion, the motion was unanimously carried.

Supervisor Seney asked for a motion to approve of the Budget transfer as recommended by Cathy Gregory, our Budget Officer.

Councilman Doty moved and Councilman Rand seconded the motion to approve of the Budget transfers as presented. There being no discussion, the motion was unanimously carried.

Supervisor Seney stated that Butch has made a recommendation on his Electric GEM cars. She stated that we currently have 6 electric GEM cars, we had received a recall on the batteries.

Councilman Doty stated that he would just as soon get an estimate to fix the cars and then after we fix them, we can decide what they can sell for, not a pre-determined amount to fix them, in return for 2 of them.

Councilman Damp stated that he understands that he is fixing 2, he is leaving us two to surplus and he is taking 2. He stated that we will only end up with 2 vehicles that are working. He suggested that we get someone who knows how to work on golf carts and tell us what it will cost to get them fixed.

Mr. Harlow suggested that we surplus all 6 vehicles at \$1,500.00 per car. He stated that that will be \$9,000.00 and we haven't got a nickel in them.

Supervisor Seney suggested that the liaisons for the Park District, Jack and Chuck, discuss this with Butch.

Supervisor Seney stated that she has been asked that the Energy Services program be put on the agenda and discussed.

Mr. Kissel stated that the only comment he has is on the Insurance. He stated that it is pretty hefty insurance if we are already covering the situation with that kind of Insurance, if not, we should determine what the cost would be. He stated that, just to do an Energy audit, the insurance is \$2,000,000.00 per occurrence.

Councilman Rand stated that the Insurance is pretty standard.

Mr. Kissel suggested contacting our Insurance Co. to determine if this is okay.

Councilman Rand stated that there is no commitment until we say yes or no. He stated that they Power Authority under their Energy Services program will meet with us and go through the Town Hall here and the Town Hall in Saranac Lake. He stated that they will give us recommendations, a plan and the cost and before we go ahead with it, we have to pay them a fee. He stated that the Power Authority will finance the work to be done and we could pay the Power Authority back. He stated that, if everyone is interested, he would ask them to come to a meeting to answer questions and go over this with the Board to start it off.

Supervisor Seney stated that they can come for the meeting in either November or December.

Supervisor Seney stated that she was asked by Dan McKillip to put the Union negotiations contract on the agenda as he said that it was ready for approval. She stated that the negotiating team need to tell me whether the contract is ready or not and where we go from here.

Mr. Harlow and Councilman Favro stated that they haven't seen the final contract.

Councilman Favro stated that in the last e-mail there were a couple of problems and haven't talked to Dan since then. He stated that there were wordage problems, not a big deal.

Councilman Rand stated that he thought that they had settled everything in the contract. He stated, as far as he is concerned, they we have worked out everything that we could and feels that it is okay. He told Norm to go through the contract and make sure that all the changes that we wanted done, were done.

Supervisor Seney stated that we can go on and approve of the contract, if it is okay, later on in the meeting.

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Supervisor Seney stated that NYMIR was here in September, they met with Norm, Butch, Cathy. She stated that they have sent through a list of recommendations that have to be completed in 60 days from the date of receipt of this notice. She stated that she gave everyone a copy. She stated that there are things that have to be done.

Councilman Damp stated that these are things that have to be taken care, but none of them are critical.

Mr. Harlow stated that, everything will be done.

Supervisor Seney stated that she received a letter from the Essex County Visitor's Bureau wanting us to proclaim the 35th Annual National Volunteer Week, April 27 through May 3rd, 2008.

Councilman Damp moved and Councilman Favro seconded the motion for the Essex County Visitor's Bureau request. There being no discussion, the motion was unanimously carried.

Supervisor Seney stated that she got a call from Councilman Favro yesterday and stated that he was impressed with John Hopkinson's attendance at the AuSable River Association meetings and suggested that we have John as the Town's representative on that committee.

Councilman Favro moved and there was a unanimous second to approve of the recommendation that John Hopkinson be appointed to the AuSable River Association to represent the Town of North Elba. There being no discussion, the motion was unanimously carried.

Supervisor Seney asked for a motion to appoint Morgan Wikoff, on the recommendation of the Budget Officer, as Account Clerk as of October 29th, 2007. She stated that we're going to have to discuss some recommendations that Cathy has made in Executive Session.

Councilman Doty moved and Councilman Damp seconded the motion to appoint Morgan Wikoff to the position of Account Clerk. There being no further discussion, the motion was unanimously carried.

Supervisor Seney stated that she has received a letter from Peter Roland which stated that he is going to retire at the end of his term on December 31st. She stated that he is not our appointment. She stated that she gave everyone a copy of the current Board members. She stated that it is very important that we each keep our appointments, so that we will each be well represented. She stated that she copied the e-mail from Michael Clarke, who has some concerns about the committees.

Supervisor Seney stated that Jim Morrissey e-mailed her today about the Apron project, final close out and payment to contractor. She stated that the Town Board has to make a decision, today, on this project. She stated that this has to be sent off to the FAA for approval. She read the e-mail stating all the things that need to be done, before request for payment can be made.

Mr. Harlow stated that he is very disappointed in this, he can't see why a contractor should be paid more for something that should have been done right the first time. He stated that, in his personal opinion, he would not pay the person more and they should have to negotiate some kind of settlement where he reimburses the contractor for faulty work.

Councilman Doty stated that C & S is asking the Town to accept Change Order #2, we don't have to!

Mr. Harlow answered, that Derek is correct. He stated, if we don't do the change order, they are just going to pay them the whole amount of the contract, in his opinion, the contract was not performed correctly the first time.

Councilman Doty stated that C & S represented the Town and in fact, didn't do their job.

Councilman Rand asked, who okayed the final product down there?

Mr. Harlow answered, C & S did against his recommendation. He stated that the land wasn't graded properly and it wasn't installed properly, there were all kinds of divots in it.

Councilman Damp stated that there is \$36,000.00 left to be paid to Riffenberg, why don't we use that as leverage?

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Mr. Harlow stated that it is a hassle and we might get sued.

Councilman Damp stated that we never signed off that we were satisfied, did we?

Mr. Harlow answered, no.

Mr. Kissel asked, was the Town required to sign off under the contract?

Councilman Doty answered, probably not, because C & S was the representative.

Mr. Kissel stated that the Town's representative often has that authority.

Councilman Rand asked, what is the solution to this problem?

Mr. Harlow answered, to leave it like it is. He stated that if he were to fix the problem, he would grind away the black top and repave it correctly.

Councilman Rand stated that we have a retainage fee and hold the check that is in audit.

Mr. Kissel asked for the contract with C & S and the contract with the contractor, he would like a copy. He stated that he would also like the renewal contract date for C & S.

Councilman Favro moved and Councilman Rand seconded the motion to approve of the Union contract for the North Elba Highway Department and authorize the Supervisor to sign said contract. There being no discussion, the motion was unanimously carried.

Councilman Rand asked that everyone be given a copy of the Union contract.

Supervisor Seney stated that the Department Head meetings have been set, we start on Thursday, October 11th at 3:00 p.m. Town Clerk, 3:45 Park District and 4:30 Finance, then Tuesday, October 16th with the Assessor at 3:00 p.m., Human Resource and Justice Court and then Wednesday, October 17th., the Highway, Transfer Station and Airport, Building/Planning and then Town Hall maintenance.

Councilman Damp stated that he will not be here on the 16th nor on the 17th, but he will be here for the 11th.

Supervisor Seney stated that, after we meet the Department Heads, we will then schedule our workshops to put the Budget together.

Supervisor Seney stated that the Department Head meeting would be held on the 6th of November, which is Election Day. She asked when the Board would like to have the Department Head meeting, on Monday or Wednesday?

The Board agreed that they would rather have it on Monday, the 5th of November at 3:00 p.m.

Supervisor Seney asked for the Town Attorney report.

Mr. Kissel stated that the only item is Rangeview and River Bend. He stated that he reviewed the letters that you received from the Department of Health on these projects.

Supervisor Seney stated that she sent letters to Brad Hathaway about Cascade Road sewer and water lines and she sent another letter for the residents at the Peninsula.

Mr. Kissel stated that the main one we should look at is the new one, River Bend, Pat Ledger's project. He stated that we did a conceptual, if they want to make an application for creation or extension of a sewer district or a water district for the portion of the project that's in the Town, we'll consider it, we'll approve it if they go through all the steps. He stated that the Board did do that, he stated that that was a last minute request by Brad Hathaway.

Mr. Kissel stated that the developer has not asked, as far as he knows, of the Town for any formation or extension of any sewer or water districts. He stated that one of the standard conditions in the letter from the N.Y.S. Health Department is, they tell him that he needs to get any Municipal approvals that are required. He stated that the letter states that a Sewer District must be formed Pursuant to Article 12 or 12- A of the Town Law. He stated that they are telling him that he has to form a sewer district. He stated that the Town will presumably will react to that to the extent that is in the Town. He stated that the developer needs to make a request to

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the Town that we either form or extend the District.

Supervisor Seney stated that we will wait to hear from the developer.

Supervisor Seney stated that she copied to the Board the amount of bed tax paid to the County by each Town. She stated that the Town of North Elba contributed \$8,148,497.00.

Supervisor Seney reported that the Jail opened, it was a very nice ceremony. She stated that they have closed the old facility and opened the new facility, they've put the 20 people they had, in there and they have 26 more that they will be bringing back in. She stated that she asked if there is a waiting list from other facilities for housing. She was told that they have not yet been approved by the Commissioner to accept them, but they are planning on housing a good number from other facilities.

Councilman Favro asked what the expense of the jail was?

Councilman Doty stated that it started at \$40,000,000.00 and ended up about \$60,000,000.00.

Supervisor Seney asked for a motion on audits per the audit numbers as follows: Abstract #9 for the month of September 2007.

Town General: The Total is \$107,400.73 with the following voucher numbers: 22071666-20071668; 20071672; 20071792; 20071798; 20071800; 20071805; 20071807; 20071810-20071812; 20071818-20071820; 20071824; 20071830-20071832; 20071835; 20071841-20071842; 20071856-20071859; 20071862; 20071864; 20071866-20071867; 20071891-20071892; 20071898; 20071900; 20071906-20071907; 20071909-20071910; 20071913-20071916; 20071919; 20071921-20071929; 20071932-20071933.

Part Town: The Total is \$10,347.63 with the following voucher numbers: 20071769; 20071793; 20071799; 20071805-20071807; 20071815; 20071899.

Townwide Highway Fund: The Total is \$7,012.62 with the following voucher numbers: 20071805; 20071829; 20071850; 20071917-20071918; 20071920.

Town outside of Village Fund: The Total is \$293,473.79 with the following voucher numbers: 20071805; 20071823; 20071828; 20071836; 20071912; 20071930.

2006 Airport Capital Project: The total is \$1,515.22 with the following voucher number: 20071809.

2007 Airport Capital Project: The Total is \$47.56 with the following voucher number: 20071816.

Park District: The Total is \$230,294.03 with the following voucher numbers: 20071673; 20071765-20071766; 20071794-20071797; 20071805; 20071807-20071808; 20071817; 20071821-20071822; 20071825; 20071827; 20071833-20071834; 20071834-20071840; 20071843-20071849; 20071851-20071855; 20071860-20071861; 20071889-20071890; 20071893-20071894; 20071896; 20071902-20071906; 20071908; 20071911.

Sewer District(SS14): The Total is \$2,997.50 with the following voucher number: 20071865.

Sewer District(SS15): The Total is \$375.00 with the following voucher number: 20071865.

Sewer District(SS16): The Total is \$8,240.00 with the following voucher number: 20071865.

Sewer District(SS17): The Total is \$3,580.00 with the following voucher number: 20071865.

Sewer District(SS18): The Total is \$2,270.00 with the following voucher number: 20071865.

Sewer District(SS19): The Total is \$8,522.50 with the following voucher number: 20071865.

Water District #1: The Total is \$15,640.00 with the following voucher number: 20071865.

Total Claims: \$691,717.58.

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Councilman Doty moved and Councilman Favro seconded the motion to approve the audits to be paid as presented. There being no discussion, the motion was unanimously carried.

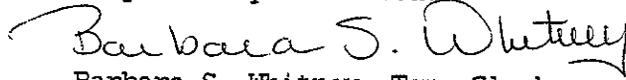
Supervisor Seney made a motion to go into Executive Session to discuss contracts. Councilman Doty seconded the motion. The time being 10:29 p.m. The motion was unanimously carried.

Councilman Damp moved and Councilman Doty seconded the motion to come out of Executive Session and back into Regular Session and make the following motion,

Councilman Favro moved and Councilman Rand seconded the motion to hire Morgan Wikoff at the hourly rate of \$12.71. There being no discussion, the motion was unanimously carried.

There being no further motions to be made, Councilman Doty moved and Councilman Favro seconded the motion to adjourn the meeting at 10:45 p.m.

Respectfully submitted.

  
Barbara S. Whitney, Town Clerk