TOWN BOARD MEETING Public Hearing September 8, 2014 6:00 P.M.

PRESENT:Councilpersons: Kevin Armstrong, Leonard Govern, Luis
Rodriguez-Betancourt, Patty Wood, Supervisor Bruce Dolph,
Hwy. Supt., Walt Geidel, Attorney Sean Beckman and Town
Clerk Ronda Williams

OTHERS PRESENT:

Lillian Brown-Burdick – The Walton Reporter, Stephen Dutcher, Charlie Gregory, Guy Ragusa, Jolene Kemp, Shannon Connelly, and Branden Whant,

Supervisor Dolph opened the Public Hearing for anyone wishing to speak in favor or against the proposed Local Law 1 of 2014 to amend Local Law 1 of 2012 for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

With no comments, the Public Hearing was closed at 6:04 p.m.

TOWN BOARD MEETING September 8, 2014 6:00 P.M.

RESOLUTION #85 <u>APPROVAL OF MINUTES</u>

A motion was made by Councilman Armstrong, seconded by Govern approving the minutes of August 4th and August 28, 2014 as presented. All in favor, motion carried.

FLOOR TIME:

Mr. Gregory questioned Supervisor Dolph if the Industrial Park would have enough space to house the Mental Health facility? Supervisor Dolph stated that Mr. Gregory should submit a list of proposed areas that he can take to the committee. Supervisor Dolph stated that one area that is available would be the old Miller Avenue School and a nearby house.

SUPERINTENDENT OF HWY. REPORT:

Reported that the excavator has been delivered.

Reported that he is waiting for PW's from the May Flash Flooding Declared event.

Reported that he expects the plow truck to be completed the end of next week.

Reported a concern to the Board on Smith Road. He indicated that a property owner has placed large stones in a turn-around location making it virtually impossible for a plow truck to get turned around safely. Supervisor Dolph suggested turning this over to the Town's Attorney and have him look into abandoning or making the road seasonal from a certain point.

Requested to purchase stone this year from the awarded low bidder for next year's use. He feels the availability now is very favorable.

RESOLUTION #86 <u>HIGHWAY DEPARTMENT TO PURCHASE STONE</u>

A motion was made by Councilman Armstrong, seconded by Wood granting Superintendent Geidel permission to purchase stone this year for next year's use. All in favor, motion carried.

Provided the 2014 Highway Inventory to the Town Clerk

Provided his 2015 budget request to the Board.

Informed the Board that he has purchased a ditching bucket from A. Montano Company after receiving three quotes.

A Montano Co. Inc.	\$2,950.00
Tracey Road Equipment	\$3,798.00
Contractors Sales	\$9,800.00

Reported that he received a request from the Sheriff's Department to place a "Dead End" sign on Johnson Hill Road after a Garman directed a driver over Johnson Hill Road enroute to Oneonta. The driver became stuck in mud on the abandoned farm road past the last house on the dead end road. Although there was a sign in place already, Superintendent Geidel placed another one.

Reported that the new parking lot at the Town Hall will be completed tomorrow.

TOWN CLERK'S REPORT:

Reported that several dogs are currently past due and would like the Board to consider amending the fee schedule within the Local Dog Law to establish a late payment fee to cover the cost associated with sending second notices and postage.

Reported that I have received notification from the Department of Ag. & Markets stating that Dog Control Officer has received a "Satisfactory" inspection.

Reported that my deputies have completed the copying of the Employee Handbook while I was away on vacation and can now be distributed to the employees.

Reported that I held bid openings for the foyer windows on Friday, September 05, 2014. The apparent low bidder was Botsch-Zupo General Construction for \$4,500.00.

Botsch-Zupo	\$4,500.00
D&N Improvements	\$6,248.50

RESOLUTION #87 WINDOW BID AWARD

A motion was made by Councilwoman Wood, seconded by Rodriguez-Betancourt approving and awarding the window replacement bid to Botsch-Zupo General Construction as presented for \$4,500.00. All in favor, motion carried.

Reported that a couple of years ago I signed the Town up for a Business Program for our phone service through Frontier. Since we have started the new service, the Town has saved \$1002.12 over the last two years.

Reported that the quote came in from Kiff Fuel for a maintenance agreement for the new boiler. I informed the Board that Kiff Fuel was higher than our current agreement with Suburban Energy. The Board was in agreement to continue with Suburban Energy.

RESOLUTION #88 BOILER MAINTENANCE AGREEMENT

A motion was made by Councilman Rodriguez-Betancourt, seconded by Armstrong granting permission to enter into a maintenance agreement with Suburban Energy for the cleaning and maintenance of the Walton Town Hall boiler. All in favor, motion carried.

Councilwoman Wood question if a thank you note has been sent to Senator Bonacic for the grant money. I informed the Board that it has not because we have not yet completed the final application process. Councilwoman Wood indicated that she would be happy to draft a letter and include his help in getting Main Street paved this year.

I provided my financial reports to the Board.

Supervisor Dolph thanked me and my deputies for everything we do for the Town.

CODE ENFORCEMENT/DOG CONTROL REPORT:

Provided his monthly reports to the Board.

Reported that he deemed one house in the Town of Walton unfit for occupancy and is currently working with the property owner to get the problem resolved.

Reported that the dog issues have been minimal until this past week.

Councilman Armstrong thanks Mr. Dutcher for his detailed reports.

SUPERVISOR'S REPORT:

With no public comment on the proposed Local Law #1 of 2014, Supervisor Dolph recommended its adoption.

LOCAL LAW#1 OF 2014 TO AMEND LOCAL LAW# 1 OF 2012 ENTITLED "FLOOD DAMAGE PREVENTION LAW"

A motion was made by Councilman Govern, seconded by Armstrong approving the adoption of Local Law #1 of 2014 to amend Local Law#1 of 2012 entitled "Flood Damage Prevention Law". All in favor, motion carried.

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Section 6. Variance Procedure:

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Planning Board as established by the Town of Walton shall hear and decide requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals as established by the Town of Walton shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator or the Planning Board in the enforcement or administration of this local law.
- (3) Those aggrieved by a decision made pursuant to section 6.1(2) of this local law may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4) In passing upon such applications, the Planning Board or the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, any standards specified in other sections of this local law and:

- (i) The danger that materials may be swept onto other lands to the injury of others;
- (ii) The danger to life and property due to flooding or erosion danger;
- (iii)The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) The importance of the services provided by the proposed facility to the community;
- (v) The necessity to the facility of a waterfront location, where applicable;
- (vi)The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) The compatibility of the proposed use with existing and anticipated development;
- (viii) The relationship of the proposed use to the comprehensive plan and flood plan management program of that area;
- (ix)The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- (xi) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (xii) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Planning Board or the Zoning Board of Appeals may attach such conditions to the granting of variances as they deem necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - i.) The proposed repair or rehabilitation will not preclude the structure's continued désignation as a "Historic Structure"; and
 - ii.) The variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i.) The criteria of subparagraphs 1,4,5, and 6 of this Section are met; and
 - The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to rant the variance would result in exceptional hardship to the applicant; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - (i.) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (ii.) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

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* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

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5.	(City I	ocal	lav	NCC	once	rning	Charter	revi	sion	pr	opo	sed	by	pet	ition	.)	

the City of ______ having been submitted to referendum.p of 20_ _ of the City of ______ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on 20_____, became operative.

6. (County local law concerning adoption of Charter.) I hereby certify that the local law annexed hereto, designated as local law No._

of 20 of the County of _____ State of New York, having been submitted to the electors at the General Election of November ______20______ 20______ pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.) I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in

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Clerk of	the count	y legis	lative-boo	iy, Gity, To	wn or Villag	e-Clerk or
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Date:	9	8	14	-		

(Seal)

paragraph <u>1</u> above.

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Supervisor Dolph introduced a resolution opposing the US/EPA and Army Corps of Engineering (ACOE) rulemaking to change the definition of navigable waters of the United States to expand their jurisdiction over waters of the United States. He indicated that such a rule change would effect if approved all intermittent water bodies, wetlands, floodplains, ponds and waters with or without a visible surface connection to a navigable water.

RESOLUTION NO. 90 TITLE: OPPOSITION TO PROPOSED US/EPA AND ARMY CORPS OF ENGINEERING (ACOE) RULEMAKING TO CHANGE THE DEFINITION OF NAVIGABLE WATERS OF THE UNITED STATES TO EXPAND THEIR JURISDICTION OVER WATERS OF THE UNITED STATES: Docket ID No. EPA-HQ-OW-2011-0880

DEPARTMENTS OF WATERSHED AFFAIRS, ECONOMIC DEVELOPMENT AND PUBLIC WORKS

WHEREAS, The Town of Walton supports the reasonable protection of natural resources and acknowledges progress achieved under the Clean Waters Act in protecting water quality and

WHEREAS, The Town of Walton also supports the protection of private property rights; and

WHEREAS, the ACOE and EPA are proposing to change the definition of "navigable waters of the United States from, "the waters of the United States, including the territorial seas" [33 U.S.C.A. § 1362 (7)] to read in section (a) of the proposed rule for all sections of the CWA to "[t]raditional navigable waters; interstate waters, including interstate wetlands; the territorial seas; impoundments of traditional navigable waters, interstate waters, including interstate waters, including interstate wetlands, the territorial seas, and tributaries, as defined, of such waters; tributaries, as defined, of traditional navigable waters, interstate waters, 1 or the territorial seas"; and

WHEREAS, this would include all intermittent water bodies, wetlands, floodplains, ponds and waters with or without a visible surface connection to a navigable water; and

WHEREAS, the implications of this rulemaking at the local level is beyond the practical understanding by federal bureaucrats in Washington D.C.; and

WHEREAS, the proposed rulemaking by the EPA and ACOE to expand their jurisdiction over all waters by changing the definition of navigable waters in the United States under the premise of significantly improving water quality protection under the Clean Waters Act, of which measurable change is questionable while interfering with and delaying day to day activities of landowners, business development, municipalities and commerce at an undetermined cost to those affected; and

WHEREAS, past attempts to accomplish complete control over all waters have been unsuccessful in the Supreme Court; and

WHEREAS, the jurisdiction sought will cost not only property owners more money for compliance on properties with water features on them, including standing water on a crop field, but all citizens of the County and the municipalities they reside in, with increased costs of compliance associated with transportation infrastructure, such as ditch maintenance, road repair such as potholes, bridge and culvert sites and other unintended consequences, via increased taxes; and

WHEREAS, the Town of Walton and New York State Farm Bureaus oppose this rulemaking due to its potential impact on crop and pasture land activities; and

WHEREAS, the US Congress has failed to fulfill its responsibility to legislate on such important issues and therefore by default leave such attempts to make the changes through rulemaking by unaccountable federal bureaucracies to pursue this expansion of jurisdiction; and

WHEREAS, wetlands and water bodies are currently regulated extensively, relative to land disturbance and improvements near surface water features for the protection of water quality, particularly in the New York City watershed; and

WHEREAS, the implementation and enforcement of the proposal is impractical and would require hiring more staff for enforcement, resulting in more bureaucratic oversight with un-foretold and imprecise costs to United States taxpayers.

NOW, THEREFORE, BE IT RESOLVED that the Town of Walton Board strongly opposes this rulemaking as it is an unnecessary, additional bureaucratic and costly burden for questionable results in the name of water quality protection, since water is currently regulated aggressively across the country, even more so in New York State and the New York City watershed and as demonstrated in this town, water quality has improved substantially and continues to do so, as a result of existing regulatory oversight and voluntary programs. This attempt at rulemaking is an act of federal agency overreach and as proposed, is not acceptable. Actions such as this should be legislated by congress not through rulemaking by faceless and unaccountable federal bureaucrats with unfettered enforcement prerogatives from Washington DC.

BE IT FURTHER RESOLVED that a certified copy of this resolution be sent to U.S. Senators Charles Schumer and Kirsten Gillibrand, Congressman Chris Gibson, Committee Members of the U.S. Senate Committee on the Environment and Public Works, The House of Representatives Committee on Science, Governor Cuomo, NYS Senators Bonacic, Seward and Libous and NYS Assembly Members Crouch, Lopez and Tenny, US EPA Administrator, the Army Corps of Engineers, National and State Associations of Counties, New York State Farm Bureau and the Delaware County Farm Bureau. State of New York

RESOLUTION #90OPPOSITION TO PROPOSED US/EPA AND ARMY
CORPS OF ENGINEERING (ACOE) RULEMAKING TO CHANGE THE
DEFINITION OF NAVIGABLE WATERS OF THE UNITED STATES TO EXPAND
THEIR JURISDICTION OVER WATERS OF THE UNITED STATES:
Docket ID No. EPA-HQ-OW-2011-0880 DEPARTMENTS OF WATERSHED
AFFAIRS, ECONOMIC DEVELOPMENT AND PUBLIC WORKS

A motion was made by Councilman Rodriguez-Betancourt, seconded by Wood approving the resolution opposing the rulemaking to change the definition of navigable waters as stated. All in favor, motion carried.

Reviewed various mail

Reported that information has been received from FEMA informing residents on the process to appeal the preliminary copies of the flood insurance rate maps that were provided to the Town on April 15, 2014. I was directed to forward this information to the Flood Plain Manager.

Reported that Sidney Federal Credit Union has requested an 80% reduction in assessed valuation. Supervisor Dolph reported the Attorney Cowen's Office is working on the matter.

Reported that the Justice Department has request a separate fax line. Supervisor Dolph stated the Board can look at this during the upcoming budget season.

Reported on his Financial Reports.

Supervisor Dolph presented a proposed Local Law that will address Grass, Brush, and Weeds in our Zoning Laws.

Town of Walton

Zoning Law § 504 (C) – Grass, Brush, and Weeds. [Added *date* by L.L. No. 2 of 2014] C. Grass, Brush, and Weeds.

- 1. Applicability. The provisions of this section shall be applicable to any lots or lands situated within the Town of Walton (hereinafter referred to as "Town"). The provisions of this section shall not apply to shade trees, ornamental flowers, ornamental shrubs or bushes, other decorative plants, agricultural growth such as crops or hay, or any other growths which do not violate any applicable provisions of the New York State Property Maintenance Code, New York State Public Health Codes or other applicable laws.
- 2. Growth Restricted. It shall be unlawful for any owner, occupant, or person in control of any lots or lands located within the Town to allow on any such lot or land any growth of grass, brush, or weeds to a height of ten (10) inches or more.
- 3. Responsibility for Maintenance. Property owners, occupants, or persons in control of any lot or land located in the Town shall maintain their respective property, as well as curbs, gutters, and sidewalks bordering their parcels of land, in such condition as to be clear of all growth of grass and weeds within the curbs, gutters, and sidewalks.
- 4. Notice to Abate Violation. The Code Enforcement Officer is hereby authorized and empowered to give written notice to the owner, occupant, or person in control of any lot or parcel of land who has permitted the excessive growth of grass, weeds, or brush upon the property or in the curb, gutter, or sidewalk to cut, destroy, and remove the same within ten (10) days from the date of such notice. Such notice may be served personally upon such owner or their agent by the Code Enforcement Officer or, at the discretion of the Code Enforcement Officer, may be served by Certified U.S. Postal Mail addressed to said owner or their agent at the last known address as the same appears upon the parcel's tax records.
 - a. In the event that an owner, occupant, or person in control of any lot or parcel of land has received a prior notice under this section in the same calendar year and the same owner, occupant, or person in control again permits excessive growth in violation of this section, then the notice period set forth above shall be reduced from ten (10) days to seven (7) days.
- 5. Failure to Comply; Removal by Town. Upon the failure, neglect, or refusal of any owner, occupant, or person so notified to cut, destroy, and remove such excessive growth of grass, weeds, and brush on the property ad any growth on the curb, gutter, or sidewalk, either or both, within ten (10) or seven (7) days, as the case may be, after the date of written notice is served pursuant to the provisions of Section D, *supra*, the Code Enforcement Officer may have the noncompliant growth cut and removed there from without further notice to such owner or occupant, and the cost of such removal, together with an additional charge of fifty (50) percent thereof for supervision and administration, shall be assessed against such property, and the same shall be levied, corrected, enforced, and collected in the same manner, by the same proceedings, at the same time, under the same penalties, and having the same lien upon the property so assessed as the general Town tax and as a part thereof.

RESOLUTION #91 LOCAL LAW #2 OF 2014 PUBLIC HEARING

A motion was made by Councilman Armstrong, seconded by Rodriguez-Betancourt to schedule a Public Hearing for person to speak in favor or against the proposed Local Law #2 or 2014 as presented. All in favor, motion carried.

Councilman Rodriguez-Betancourt questioned when the boat launch would be completed. Supervisor Dolph informed the Board that they are waiting for approval from the DEP on the design.

COMMITTEE REPORTS:

Nothing reported

APPROVAL OF BILLS:

RESOLUTION #92 <u>APPROVAL OF BILLS</u>

A motion was made by Councilman Armstrong seconded by Rodriguez-Betancourt approving the vouchers as presented for payment. All in favor, motion carried.

General Fund A	#159 -176	\$14,901.89
General OV B	#14-15	\$27,017.09
General Hwy DA	#101-110	\$93,747.37
OV Hwy DB	#27-34	\$17,758.01

EXECUTIVE SESSION:

RESOLUTION #93 <u>EXECUTIVE SESSION</u>

A motion was made by Councilman Armstrong, seconded by Rodriguez-Betancourt to enter into executive session for a particular employee matter. All in favor motion carried.

Entered executive session at 6:40 p.m. with no intended action following executive session, I was dismissed at this time.

Respectfully submitted,

Ronda Williams Town Clerk