

**HENRIETTA TOWN BOARD
AGENDA
SEPTEMBER 15, 2004**

ORDER OF BUSINESS

1. Roll Call
2. Prayer
3. Pledge of Allegiance to the Flag
4. Public Presentation/Agenda Items
5. Approval of Minutes of the Preceding Meeting(s) - September 1, 2004
6. Miscellaneous Communications
7. Introduction of and Action Upon Local Laws, Ordinances, Resolutions
8. Reports of Standing Committees and Actions Thereon
9. Reports of Special Committees
10. Public Comment
11. Adjournment

RESOLUTION #17-213/2004

Authorize Accounts Payable

RESOLUTION #17-214/2004

Authorize Supervisor to Sign Settlement Agreement With First Niagara Bank

RESOLUTION #17-215/2004

Authorize Tax Certiorari Settlement - International Hospitality, Inc.

RESOLUTION #17-216/2004

Authorize Approval of Change Order No. 1 - Karenlee Drive

RESOLUTION #17-217/2004

Authorize Clean Water State Revolving Fund Application and Agreement for Project Financing - Extension No. 170 (Country Hill Estates and Southern Hills Manor) to Henrietta Sewer District No. 1

RESOLUTION #17-218/2004

Call for Public Informational Hearing - Preliminary Growth Management and Land Use Regulations for Lands South of the New York State Thruway

RESOLUTION #17-219/2004

Authorize Attendance of Association of Public Historians of New York State Fall 2004 Convention

RESOLUTION #17-220/2004

Authorize Support for Restoration of Traffic Fine Revenues

RESOLUTION #17-221/2004

Call for Public Hearing - Relocation of Origin Management to Wayne County Empire Zone

RESOLUTION #17-222/2004

Award Low Bid - Henrietta Senior Center Building Addition Foundation Project

RESOLUTION #17-223/2004

Authorize Personnel Items

PURSUANT TO CALL A REGULAR MEETING OF THE TOWN BOARD OF THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK, WAS DULY HELD AT THE HENRIETTA TOWN HALL, 475 CALKINS ROAD, HENRIETTA, NEW YORK ON THE 15TH DAY OF SEPTEMBER, 2004 AT 8:00 P.M.

MEMBERS PRESENT

Supervisor James R. Breese
Councilwoman Catherine A. McCabe
Councilman William J. Mulligan, Jr.
Councilwoman Janet B. Zinck
Daniel J. Mastrella, Town Attorney
Patricia J. Shaffer, Town Clerk

MEMBERS ABSENT

Councilman Michael B. Yudelson

SUPERVISOR BREESE

Is there anyone that would like to speak on agenda items? Just agenda items at this time? Yes, Sir?

JOHN SCHMITT, 66 FAWN RIDGE ROAD

Good evening. One of the Resolutions tonight will be calling for a Public Hearing in regard to a report prepared for the Town by, I think it's Behan?

SUPERVISOR BREESE

Correct.

JOHN SCHMITT, 66 FAWN RIDGE ROAD

Will that report . . .

SUPERVISOR BREESE

No, it's not a Public Hearing. It's an Informational Meeting.

JOHN SCHMITT, 66 FAWN RIDGE ROAD

Okay. I'm sorry. Thank you. There is a difference. What they have, will a copy of their report be available to anyone that wants to review it prior to that Informational Meeting?

SUPERVISOR BREESE

Good question. I'm not sure if they'll have all that material ready before or not. If you want, check with us a couple days before the meeting and see what we have then.

JOHN SCHMITT, 66 FAWN RIDGE ROAD

Thank you very much.

SUPERVISOR BREESE

Anybody else on just agenda items at this time? *(Pause - no response)* If not, may I have the approval of the Minutes, please.

COUNCILWOMAN McCABE

Mr. Supervisor, I move we approve the Minutes of September 1, 2004.

COUNCILMAN MULLIGAN

Second.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

| | | |
|---------------------|--------|---------|
| Councilwoman McCabe | voting | Aye |
| Councilman Mulligan | voting | Aye |
| Councilman Yudelson | voting | Absent |
| Councilwoman Zinck | voting | Aye |
| Supervisor Breese | voting | Aye |
| | | Carried |

SUPERVISOR BREESE

May I have the first Resolution, please.

RESOLUTION #17-213/2004

On Motion of
Councilwoman Zinck

Seconded by
Councilwoman McCabe

BE IT RESOLVED, that the Director of Finance be authorized to pay the following bills payable:

| | | |
|-----------|-------------------------------|---------------|
| EXHIBIT A | Bills Payable dated 9/15/2004 | \$ 561,991.67 |
|-----------|-------------------------------|---------------|

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

| | | |
|---------------------|--------|---------|
| Councilwoman McCabe | voting | Aye |
| Councilman Mulligan | voting | Aye |
| Councilman Yudelson | voting | Absent |
| Councilwoman Zinck | voting | Aye |
| Supervisor Breese | voting | Aye |
| | | Carried |

RESOLUTION #17-214/2004

On Motion of
Supervisor Breese

Seconded by
Councilwoman Zinck

WHEREAS, the Town Board previously resolved, through Resolution #16-203/2004, to commence an action to collect monies due and payable from First Niagara Bank pursuant to an irrevocable standby Letter of Credit, Number CEHB-2002-1, for the account of Country Estate Home Builders, Inc. for the payment of fees and completion expenses related to the Autumn Woods Senior Housing Facility located at 1280 Lehigh Station Road, Town of Henrietta, New York, and

WHEREAS, the Town Attorney has engaged in negotiations to settle this matter with First Niagara Bank, and

WHEREAS, the proposed settlement protects the Town of Henrietta and its right to collect monies due on said Letter of Credit in the amount of \$178,600.00 and also affords the best opportunity for completion of development on the subject parcel.

THEREFORE, BE IT RESOLVED, that the Supervisor is authorized to execute the Settlement Agreement as negotiated and recommended by the Town Attorney.

SUPERVISOR BREESE

Discussion?

COUNCILMAN MULLIGAN

Under discussion, through you, Mr. Supervisor, Town Attorney, Mr. Mastrella, where does this leave us with this Project? Is there a chance this could get done? Is it your understanding that the wood is still salvageable or not?

DANIEL MASTRELLA, TOWN ATTORNEY

Well, obviously that's going to be up to whomever is, decides to engage in the completion of the project, but the First Niagara Bank has, in essence, a first mortgage on the property in the sum of One Hundred Seventy-eight Thousand Six Hundred Dollars (\$178,600.00), and the property, in and of itself, regardless of the condition, is certainly worth that and above that. So, we can reasonably be assured that somebody will be interested in certainly acquiring that property and developing that property given the financial realities of the situation. We are protected in the sense that the money is being deposited into an escrow account, either upon completion of the foreclosure or the expiration of the period of one (1) year, whichever comes sooner, we will either be paid those sums, or we will renegotiate another Letter of Credit with another developer who will finish the Project. So, the goal of getting the Project completed is really fostered by this proposal.

COUNCILMAN MULLIGAN

Thank you.

SUPERVISOR BREESE

Call the roll, please.

Duly put to a vote:

| | | |
|---------------------|--------|---------|
| Councilwoman McCabe | voting | Aye |
| Councilman Mulligan | voting | Aye |
| Councilman Yudelson | voting | Absent |
| Councilwoman Zinck | voting | Aye |
| Supervisor Breese | voting | Aye |
| | | Carried |

RESOLUTION #17-215/2004

On Motion of
Councilwoman McCabe

Seconded by
Councilman Mulligan

WHEREAS, International Hospitality, Inc. heretofore commenced proceedings against the Assessor and the Board of Assessment Review and other respondents for a review of the Assessments for the years 2001, 2002 and 2003 on premises located at 4635 West Henrietta Road in the Town of Henrietta, being Tax Account Number 175.10-2-82, and

WHEREAS, negotiations have been had between the Attorney for the Town and the Attorneys for the Petitioner in an attempt to settle and compromise Petitioner's claim, and

WHEREAS, after such negotiations, tentative agreement has been reached between all parties on the terms of a proposed settlement subject to the approval of the Town Board and to the approval of the Supreme Court of the State of New York, which terms of settlement are set forth in the stipulations on file in the Office of the Town Assessor, and

WHEREAS, upon due consideration of all facts and circumstances, the Town Board finds that the proposed compromise and settlement is fair and reasonable and should be approved.

THEREFORE, BE IT RESOLVED, that the proposed settlement of the Tax Certiorari proceedings brought by International Hospitality, Inc. for the years 2001, 2002 and 2003 be and hereby are approved.

BE IT FURTHER RESOLVED, that the Attorney representing the Town be and hereby is directed to make application to the Supreme Court of the State of New York for approval of such settlement and that upon obtaining such approval, the Assessor of the Town of Henrietta be and he hereby is directed to make the necessary adjustments in the Assessment Rolls for the Town of Henrietta to reflect the terms of such settlement.

SUPERVISOR BREESE
Discussion? Call the roll, please.

Duly put to a vote:
Councilwoman McCabe voting Aye
Councilman Mulligan voting Aye
Councilman Yudelson voting Absent
Councilwoman Zinck voting Aye
Supervisor Breese voting Aye
 Carried

RESOLUTION #17-216/2004

On Motion of
Councilwoman Zinck

Seconded by
Councilwoman McCabe

WHEREAS, Resolution #17-195/2003 authorized Lu Engineers to provide professional engineering

services for the preparation of a voluntary cleanup plan and final report in the amount not to exceed \$20,000.00, and

WHEREAS, in order to comply with stipulations mandated by the New York State Department of Environmental Conservation (NYSDEC) additional work was necessary to finalize site testing and to address NYSDEC comments, and

WHEREAS, Extra Work Order No. 1 provides for the additional professional engineering services costs necessary to complete this Project and obtain final written approval from the NYSDEC, and

WHEREAS, the Director of Engineering and Planning has reviewed and approved the proposed change of this Contract and recommends that this be accepted by the Town.

THEREFORE, BE IT RESOLVED, that the Town Supervisor, on behalf of the Town, be and hereby is authorized to execute Extra Work Order No. 1, increase of \$15,951.00, resulting in increasing the total Contract amount to \$35,951.00.

BE IT FURTHER RESOLVED, that the Director of Finance be authorized to pay Lu Engineers, 2230 Penfield Road, Penfield, New York 14526, upon successful completion of this Project and acceptance by the Director of Engineering and Planning.

SUPERVISOR BREESE
Discussion? Call the roll, please.

Duly put to a vote:

| | |
|----------------------------|--------|
| Councilwoman McCabe voting | Aye |
| Councilman Mulligan voting | No |
| Councilman Yudelson voting | Absent |

| | |
|---------------------------|---------|
| Councilwoman Zinck voting | Aye |
| Supervisor Breese voting | Aye |
| | Carried |

RESOLUTION #17-217/2004

On Motion of
Councilwoman McCabe

Seconded by
Councilman Mulligan

WHEREAS, the Town of Henrietta, herein called the "Applicant," after thorough consideration of the various aspects of the problems and study of available data, has hereby determined that the Project generally described as Country Hill Estates and Southern Hills Manor, Sewer District No. 1, Extension No. 170 and identified as CWSRF Project Number C8-6508-03-00, herein called the "Project," is desirable and in the public interest, and to that end it is necessary that action preliminary to the construction of said Project be taken immediately, and

WHEREAS, the United States, pursuant to the Federal Water Quality Act of 1987 (as such may be amended from time to time, the "Water Quality Act"), requires each State to establish a Water Pollution Control Revolving Fund to be administered by an instrumentality of the State before the State may receive capitalization grants under the Water Quality Act, and

WHEREAS, the State of New York has, pursuant to the State Water Pollution Control Revolving Fund Act, Chapter 565 of the Law of New York 1989, as amended (the "CWSRF Act") established in the custody of the New York State Environmental Facilities Corporation (the "Corporation") a Water Pollution Control Revolving Fund (the "Fund") to be used for purposes of the Water Quality Act, and

WHEREAS, the Corporation has been created, reconstituted and continued pursuant to the New York State Environmental Facilities Corporation Act, as amended, being Chapter 744 of the Laws of 1970, as amended, and constituting Title 12 of Article 5 of the Public Authorities Law and Chapter 43-A of the Consolidated Laws of the State of New York, and constitutes a public benefit corporation under the laws of the State of New York, being a body corporate and politic with full and lawful power and authority to provide financial assistance from the Fund, and

WHEREAS, the Corporation has the responsibility to administer the Fund and to provide financial assistance from the Fund to municipalities for eligible projects, as provided in the CWSRF Act, and

WHEREAS, the CWSRF Act authorizes the establishment of a program for financial assistance for planning, design and construction of eligible projects.

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

1. The filing of an Application for CWSRF assistance in the form required by the Corporation in conformity with the CWSRF Act is hereby authorized, including all understandings and assurances contained in said Application.
2. The following person is directed and authorized as the official representative of the Applicant to execute and deliver an Application for CWSRF assistance, to execute and deliver the Project Financing Agreement and any other documents necessary to receive financial assistance from the Fund for the Project, to act in connection with the Project and to provide such additional information as may be required and to make such agreements on behalf of the Applicant as may be required: James R. Breese, Town Supervisor.
3. The official designated above is authorized to make Application for financial assistance under the CWSRF Program for either short-term or long-term financing, or both.
4. One (1) Certified copy of this Resolution shall be prepared and sent to the New York State Environmental Facilities Corporation, 625 Broadway, Albany, New York 12207-2997.
5. This Resolution shall take effect immediately.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

| | | |
|---------------------|--------|---------|
| Councilwoman McCabe | voting | Aye |
| Councilman Mulligan | voting | Aye |
| Councilman Yudelson | voting | Absent |
| Councilwoman Zinck | voting | Aye |
| Supervisor Breese | voting | Aye |
| | | Carried |

RESOLUTION #17-218/2004

On Motion of
Councilwoman McCabe

Seconded by
Councilman Mulligan

WHEREAS, Resolution #9-127/2004 enacted under Local Law No. 1 of 2004, a Temporary Moratorium on the Subdivision of Real Property South of the New York State Thruway, and

WHEREAS, Resolution #11-138/2004 authorized Behan Planning Associates, LLC to provide professional planning services for Henrietta's open space protection and zoning needs, and

WHEREAS, Behan Planning Associates, LLC, on behalf of the Henrietta Town Board has prepared preliminary Growth Management and Land Use Regulations Study for lands south of the New York State Thruway.

THEREFORE, BE IT RESOLVED, that a public informational Hearing shall be held at the Henrietta Town Hall, 475 Calkins Road, in the Town of Henrietta, Monroe County, State of New York, on the 30TH day of September, 2004 at 7:00 P.M., to hear all persons interested in providing input regarding the proposed preliminary Growth Management and Land Use Regulations Study.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

| | | |
|---------------------|--------|---------|
| Councilwoman McCabe | voting | Aye |
| Councilman Mulligan | voting | Aye |
| Councilman Yudelson | voting | Absent |
| Councilwoman Zinck | voting | Aye |
| Supervisor Breese | voting | Aye |
| | | Carried |

RESOLUTION #17-219/2004

On Motion of
Councilman Mulligan

Seconded by
Councilwoman Zinck

WHEREAS, the Town Historian has requested authorization to attend the Association of Public Historians of New York State Fall 2004 Convention to be held in Lockport, New York on September 26, 2004 through September 28, 2004, and

WHEREAS, funds are available in the 2004 Budget, and

WHEREAS, the Town Board supports and encourages such participation for all Town employees.

THEREFORE, BE IT RESOLVED, that Helen Elam, Town Historian, be hereby authorized to attend the Association of Public Historians of New York State Fall 2004 Convention at a reimbursable cost not to exceed \$350.00.

BE IT FURTHER RESOLVED, that all properly prepared vouchers be submitted to the Finance Department for reimbursement.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

| | | |
|---------------------|--------|---------|
| Councilwoman McCabe | voting | Aye |
| Councilman Mulligan | voting | Aye |
| Councilman Yudelson | voting | Absent |
| Councilwoman Zinck | voting | Aye |
| Supervisor Breese | voting | Aye |
| | | Carried |

RESOLUTION #17-220/2004

On Motion of
Supervisor Breese

Seconded by
Councilwoman McCabe

WHEREAS, Vehicle and Traffic Law, §1803 governs the disposition of fines and penalties collected in connection with convictions pursuant to the Vehicle and Traffic Law, and

WHEREAS, Chapter 56 of the Laws of 2004, effective August 20, 2004, changed the distribution of the fines taking them away from municipalities and placing them in the State Treasury, and

WHEREAS, this change in the fine and penalties distribution formula will result in a loss to taxpayers of all municipalities in the State of more than \$20 Million in fine monies - monies which have historically been used to fund justice court operations, and

WHEREAS, the Town of Henrietta will likely lose approximately \$150,000.00 per year in anticipated fine revenues, and

WHEREAS, this State Budget provision with its immediate effective date will result in significant 2004 deficits and will negatively impact Town property tax rates for 2005.

THEREFORE, BE IT RESOLVED, that the Town of Henrietta calls for the restoration of the original fine distribution formula in order to provide towns with necessary revenues to fund justice court operations.

BE IT FURTHER RESOLVED, that the Town of Henrietta urges the passage of legislation introduced by Senator Bonacic (S.7757) and Assemblyman Cahill which amends the Vehicle and Traffic Law to restore this source of revenue to local governments.

BE IT FURTHER RESOLVED, that a copy of this Resolution be sent to Governor George E. Pataki; Joseph L. Bruno, Majority Leader of the Senate; Sheldon Silver, Speaker of the Assembly; Senator Elizabeth Little, Chair of the Local Government Committee; Assemblyman Robert Sweeney, Chair of the Local Government Committee; Senator Owen Johnson, Chair of the Finance Committee; Assemblyman Herman D. Farrell, Jr., Chair of the Ways and Means Committee; Senator John A. DeFrancisco, Chair of Judiciary Committee; Assemblywoman Helene E. Weinstein, Chair Judiciary Committee; Senator James S. Alesi and Assemblyman Joseph A. Errigo.

SUPERVISOR BREESE

Under discussion, this is one of the more outrageous acts by our famous State Legislature that I can ever recall. They're basically trying to pull a scam here, as far as I'm concerned, to help balance the State Budget, and they'd like to do that on the backs of the Town property taxpayers, and I think they're not going to get away with it. Unfortunately, a lot of the Legislators, not necessarily the ones that represent us, but a lot of them, I don't think, knew what was in this Budget and didn't know that this item was in the Budget, which I think is scary. So, I'm pleased that we're taking a position on this. I had already written a letter to Senator Alesi a couple of weeks ago, and to Assemblyman Errigo, objecting to this, and I did talk to Joe Errigo and he said he would do his best to try to get this particular provision repealed. So, this Resolution only helps add emphasis to the concerns this Town and all the towns in the State have.

COUNCILWOMAN ZINCK

Through you, Mr. Supervisor, I was just going to say this is a wonderful Resolution, and it does impact, the change does impact the Town negatively. So, happy to support it, and thank you for bringing it forward.

SUPERVISOR BREESE

Thank you.

COUNCILMAN MULLIGAN

Through you, Mr. Supervisor, Mr. Liess, if you could answer one question, please. One Hundred Fifty Thousand Dollars (\$150,000.00), if that is an offset with expenditure cuts, what does that mean on the tax rate? Is that two (2) percent? Four (4) percent? What does that mean?

PAUL LIESS, JR., DIRECTOR OF FINANCE AND PERSONNEL

(From audience) I do not have that number for you right now.

COUNCILMAN MULLIGAN

Can you please get that to us?

PAUL LIESS, JR., DIRECTOR OF FINANCE AND PERSONNEL

(From audience) Yes.

COUNCILMAN MULLIGAN

Thank you.

SUPERVISOR BREESE

It's also, you know, we're trying to put together a Budget for next year, right now, and we're in a position where we don't know whether this One Hundred and Fifty Thousand Dollar (\$150,000.00) revenue will be coming in anymore. So, it certainly could affect our Budget and conceivably could affect the tax rate.

COUNCILMAN MULLIGAN

And the Resolution indicates that this went into effect immediately, so that negatively impacts this year's Budget?

SUPERVISOR BREESE

I'm not sure what the effective date of the Law is. I believe it's January 1ST of next year, but I don't think it affects this year's Budget.

COUNCILMAN MULLIGAN

Is there any chance of it being overturned?

SUPERVISOR BREESE

Frankly, I don't know. When you talk about Albany, who knows what they're going to do.

COUNCILMAN MULLIGAN

If they don't know what they voted on the first time, maybe the second time in overturning it they'll know what they voted on.

SUPERVISOR BREESE

Well, I think by now they all know that they shouldn't have voted for it. Call the roll, please.

Duly put to a vote:

| | |
|----------------------------|---------|
| Councilwoman McCabe voting | Aye |
| Councilman Mulligan voting | Aye |
| Councilman Yudelson voting | Absent |
| Councilwoman Zinck voting | Aye |
| Supervisor Breese voting | Aye |
| | Carried |

RESOLUTION #17-221/2004

On Motion of
Supervisor Breese

Seconded by
Councilwoman Zinck

WHEREAS, the Town Board of the Town of Henrietta is in receipt of a request from Origin Management, 1225 Jefferson Road, Suite 200, Rochester, New York 14623, to relocate their Call Center at the above location from the Town of Henrietta, Monroe County Empire Zone, to the Wayne County Empire

Zone, and

WHEREAS, a Public Hearing must be held so that the Town Board of the Town of Henrietta has an opportunity to hear public comments that extraordinary circumstances exist to warrant the relocation of Origin Management into the Wayne County Empire Zone.

THEREFORE, BE IT RESOLVED, that a Public Hearing on the relocation request will be held on October 6, 2004 at 8:00 P.M. at the Henrietta Town Hall, Main Meeting Room, 475 Calkins Road, Henrietta, New York 14467, to consider the request for relocation of Origin Management from the Town of Henrietta, Monroe County Empire Zone, to the Wayne County Empire Zone.

SUPERVISOR BREESE

We've had these kinds of Resolutions before. I talked to the owner of Origin Management today. This didn't come in until yesterday, so that's why we didn't talk about it in Workshop. The owner of the company said why they are moving out of Henrietta, their space in Henrietta is already being taken over by another company in the same building. So he assured me there would be no vacant space because of their moving out of Henrietta. But we have to have a Hearing under the Law, and that's what this is all about. Call the roll, please.

Duly put to a vote:

| | |
|----------------------------|---------|
| Councilwoman McCabe voting | Aye |
| Councilman Mulligan voting | Aye |
| Councilman Yudelson voting | Absent |
| Councilwoman Zinck voting | Aye |
| Supervisor Breese voting | Aye |
| | Carried |

RESOLUTION #17-222/2004

On Motion of
Councilman Mulligan

Seconded by
Councilwoman McCabe

WHEREAS, Resolution #16-211/2004 authorized the advertisement for bids for the Henrietta Senior Center Building Addition Foundation Project at 515 Calkins Road, and

WHEREAS, three (3) bids were received, and the low bid, meeting specifications, was received from LeChase Construction Services, LLC for the total cost of \$49,800.00.

THEREFORE, BE IT RESOLVED, that LeChase Construction Services, LLC, 300 Trolley Boulevard, Rochester, New York 14606, be hereby awarded the bid at a cost not to exceed \$49,800.00.

BE IT FURTHER RESOLVED, that the Director of Finance be hereby authorized to pay LeChase Construction Services, LLC in an amount not to exceed \$49,800.00 upon

successful completion of said work and acceptance by the Director of Engineering and Planning.

SUPERVISOR BREESE

Discussion? We saved Ten Thousand Dollars (\$10,000.00) by delaying this for a couple weeks.

COUNCILMAN MULLIGAN

Thank you for rebidding it.

SUPERVISOR BREESE

Call the roll, please.

Duly put to a vote:

| | | |
|---------------------|--------|---------|
| Councilwoman McCabe | voting | Aye |
| Councilman Mulligan | voting | Aye |
| Councilman Yudelson | voting | Absent |
| Councilwoman Zinck | voting | Aye |
| Supervisor Breese | voting | Aye |
| | | Carried |

RESOLUTION #17-223/2004

On Motion of
Councilman Mulligan

Seconded by
Councilwoman Zinck

BE IT RESOLVED, that the following persons be hired:

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|------------------|--|
| Clarence Spohr | Crossing Guards, Crossing Guard @ \$9.60/hr., effective 9/13/2004. |
| Jesse Noble, Jr. | Crossing Guards, Crossing Guard @ \$9.60/hr., effective 9/20/2004. |
| Nicholas Lalka | Recreation, Part-time Recreation Assistant @ \$6.25/hr., effective 9/5/2004. |
| Jessica Wade | Recreation, Part-time Recreation Assistant @ \$6.15/hr., effective 9/5/2004. |
| Jennifer Duris | Recreation, Part-time Recreation Assistant @ \$7.50/hr., effective 9/5/2004. |
| Terri Richardson | Recreation, Part-time Recreation Assistant @ \$7.00/hr., effective 9/5/2004. |
| Stacey Sharp | Recreation, Part-time Recreation Assistant @ \$7.00/hr., effective 9/5/2004. |
| Jane Leuchtner | Town Clerk, Part-time Clerk @ \$9.00/hr., effective 9/13/2004. |

BE IT FURTHER RESOLVED, that the following employee changes be made:

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|-----------------|--|
| Marlene Goodwin | Recreation, Part-time Recreation Assistant @ \$8.25/hr. from |
|-----------------|--|

\$7.75/hr., effective 9/5/2004.

| | |
|---------------------|---|
| Melisa Hafner | Recreation, Part-time Recreation Assistant @ \$10.00/hr. from \$9.50/hr., effective 9/5/2004. |
| Susan Mummery | Recreation, Part-time Recreation Assistant @ \$7.50/hr. from \$7.25/hr., effective 9/5/2004. |
| Rebecca Murphy | Recreation, Part-time Recreation Assistant @ \$7.25/hr. from \$7.00/hr., effective 9/5/2004. |
| Stacey Reed | Recreation, Part-time Recreation Assistant @ \$7.50/hr. from \$7.25/hr., effective 9/5/2004. |
| Jennifer Westerdahl | Recreation, Part-time Recreation Assistant @ \$7.00/hr. from \$6.75/hr., effective 9/5/2004. |

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

| | |
|----------------------------|---------|
| Councilwoman McCabe voting | Aye |
| Councilman Mulligan voting | Aye |
| Councilman Yudelson voting | Absent |
| Councilwoman Zinck voting | Aye |
| Supervisor Breese voting | Aye |
| | Carried |

SUPERVISOR BREESE

That's the end of the agenda. Before we adjourn, would anybody else like to speak on anything involving the Town of Henrietta? Yes?

CAROL BURRITT, 182 COUNTESS DRIVE

Hello. My name is Carol Burritt. I live at 182 Countess Drive, and I'm just here tonight in regards to the ongoing problems with Lake Pamela. We did receive, I acted as Co-Chair of the second Lake Pamela Subcommittee of the Riverton Community Association last year. Janet Zinck was very kind enough to come and meet with us and talk to us about our problem. Long story short, Lake Pamela is a problem in Riverton that is still degrading, and every summer it seems to get worse. I did bring some pictures that you can all take a look at that were taken of Lake Pamela on August 26TH, and they kind of give you an overview of what it was like to live near this body of water this summer. It's a lovely place to be for some of the time of the year. However, we do have the problem that our properties, six (6) of them, are seeping into the pond because of the erosion of the wall that kind of holds it out. For the benefit of the audience, this pond was sold by Conifer Riverton Associates, a fairly wealthy company, to a bunch of lawyers in 1991 who formed a company called MEJT Associates. They bought Lake Pamela for a Dollar (\$1.00) and abandoned it, and we are now at the point where we have a pond that is choked with green, slimy algae all summer. A couple of weeks ago when we had that rain storm that came through suddenly on a Sunday, we literally had a wall of methane gas come up from Sauger Creek, the bottom of it, from all the rotting matter. It just came across

the pond and woke people up out of, you know, that were taking naps, it was that bad. We're very grateful right now for all the rain that we had last week because it cleared the pond for a while. We were hoping that the new hurricane was going to bring us more rain because the gook is growing again and will keep growing until winter comes. So, that's one of the problems. That's the problem that everyone faces in Riverton by just having to deal with the smell, the look of it, the quality of life that we have living near it. But then there's the other problem of the few of us whose houses border right on the pond. Now, we've been told that nothing can be done because this group of lawyers has abandoned this. This is private property. They never paid taxes on it - imagine us doing that - and no one seems to want to do anything, even though this pond is a retention pond that serves to drain quite a bit of land around us, around the pond. I think last week when all those rains were happening, there would have been a lot of flooded roads and a lot of flooded basements within probably a good square mile or more that people would have had to deal with and the Town would have had to deal with if it wasn't for the fact that Lake Pamela is there. So, I think that what I'm saying is, I can't accept the idea that this isn't a community problem when the very existence of that pond, it was meant to be, and it does serve the purpose of being a drainage facility for an entire community, and a growing community. Frankly, I think, I'm planning on taking a few more walks into the areas that are being developed around us, but I think there's even been some new channels built to drain to it. So, I just wanted to let you know that despite the idea that you keep telling us there's nothing that can be done, we're not giving up, and we will not go away, and something will be done about Lake Pamela. We can't afford lawyers to write letters back and forth all the time, but we can be here and we can keep trying. Thank you very much.

SUPERVISOR BREESE

Is there anybody else that would like to speak on any other items involving the Town? Yes, Sir?

GREG KASE, 1294 LEHIGH STATION ROAD

God's honest truth, I'm kind of sad that I have to be here. My family has been in Henrietta since 1962. I'm the youngest out of seven (7) children, and when I got married my wife wanted to live elsewhere, but I told her, "No, I want to live in Henrietta" because I had faith in this community. We purchased a house on 1294 Lehigh Station Road. A lot of people may or may not be familiar with it, but I'm sure the police department is familiar with it, Code Enforcement is familiar with it because it was an eyesore. For the last three and a half (3½) years I worked six (6), seven (7) days a week, I worked at Wegmans, and any spare moment I get I try and improve the property, improve the house to make it more outstanding for the community. When we first moved there, the neighbors were afraid of us because they thought it was another Section Eight (8) tenant and whatnot. Now, when this Lehigh Valley Trail proposition came up, we had no knowledge of it because it was a timing issue, part of it was my own ignorance. I should have been more in-depth than that.

I had some resistance to that project, but it was due to a lack of communication, and for the most part, I believe it's a positive thing. But the negative thing that's happened is, at the end of it, across from my street on Lehigh Station Road, it's a drainage nightmare, an absolute nightmare. When they ended it, they took out a drainage pipe this big (*indicating a large pipe*) and put in one this big (*indicating a small pipe*). So, obviously, laws of physics are going to tell you the water is going to build up. Now, I have photos of the damage that's being done to my property, the property across the street and the property down the road, and I really just can't believe that, we've called everybody from Maggie Brooks' office, right down the line, and everybody wants to pass the buck.

SUPERVISOR BREESE

Who's doing the damage?

GREG KASE, 1294 LEHIGH STATION ROAD

That was done by the contractors that put in the sidewalk, because they put the drainage in . . .

SUPERVISOR BREESE

Have you . . .

GREG KASE, 1294 LEHIGH STATION ROAD

. . . and what they did on both sides of the street is they took a backhoe and they dug out like this. Now the water sits there, and I have a huge mosquito problem.

SUPERVISOR BREESE

Who have you talked to in our staff?

GREG KASE, 1294 LEHIGH STATION ROAD

I talked to your secretary, Sir.

SUPERVISOR BREESE

No, I mean staff, Department Heads. Who have you talked to about it? Have you talked to the Engineer about it? The Town Engineer?

GREG KASE, 1294 LEHIGH STATION ROAD

My wife has tried to speak to several individuals within this building with no response.

SUPERVISOR BREESE

They won't talk to her?

GREG KASE, 1294 LEHIGH STATION ROAD

No. I'd like to know what type, who is responsible for this, because . . .

SUPERVISOR BREESE

Who's doing the work? Is it connected with Belfrey?

GREG KASE, 1294 LEHIGH STATION ROAD

Well, let me back step. We never . . .

RESIDENT

(From audience - inaudible)

SUPERVISOR BREESE

No, I want him to answer. You can come up later.

GREG KASE, 1294 LEHIGH STATION ROAD

We originally had no problems until Belfrey started with their project, because the water flow went this way, went under the street, went through the golf course. They elevated the land, so now the water is backflowing, backflowing, backflowing. So, what the company, they sent, there's so many people involved, but what ultimately did it was the company that put in the sewage and the sidewalks because they couldn't

figure out what to do with all the water, they dumped landfill in there to try and conceal some of it, and then they took a backhoe on both sides of the street and dug it out so nobody could tell which way the water is supposed to run. Granted, the last two (2) storms have been a little extreme, but when I go in my basement and there's a steady stream going from one corner into the crock, I know there's a serious problem. I can't even, I tried to mow my lawn yesterday and it looks like somebody did four-wheeling in my back yard. The overflow, I mean, as you can see from these pictures, I never had that problem before.

SUPERVISOR BREESE

Have you shown these pictures to anybody in Town Hall until now?

GREG KASE, 1294 LEHIGH STATION ROAD

No.

SUPERVISOR BREESE

Okay. I'd like to ask the Director of Engineering and Planning, Mr. Byrne, to come up and give us his input on this issue.

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

Well, the sidewalk job was done by, for the Lehigh Valley Trail system. They put the same size pipe that was previously there. The culvert that controls this water is owned by the State of New York, which they need to clean it out but it hasn't been done. The, of course, the Belfrey golf course has not been given approval on their plans yet, so the piping and the final grading of the new road that would go in hasn't been done yet. They've tried to move earth over to minimize the amount of stagnant water that's sitting there to bring it over into the drainage channel for the State culvert.

SUPERVISOR BREESE

You said the State could clean it out but they haven't? Have you had discussions with the State people?

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

Yes. It's on their list to do.

SUPERVISOR BREESE

Oh, it's on their list?

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

Yes. I don't know what year that may be, but . . .

COUNCILMAN MULLIGAN

Weren't we talking about them earlier?

SUPERVISOR BREESE

The State? Yes. I think we better make sure that gets moved up to the top of their list. This is, you know, I understand the concern of the neighbors, and I think we have to do what we can to help.

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

As I said, they believe the culvert is probably partially clogged.

SUPERVISOR BREESE

It's partially clogged and it's the State's responsibility to clean it out?

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

Yes. It's their culvert, not the Town's.

SUPERVISOR BREESE

Okay.

COUNCILWOMAN McCABE

Through you, Mr. Supervisor, is there anyway that the Town can clean it and bill the State?

SUPERVISOR BREESE

You can bill the State all you want, but you won't get paid.

COUNCILWOMAN McCABE

Another problem.

COUNCILMAN MULLIGAN

It can't be that much money.

COUNCILWOMAN McCABE

The other question is, is it legal for us to go ahead and do that, to clean that out?

SUPERVISOR BREESE

I think we'd have to . . .

DANIEL MASTRELLA, TOWN ATTORNEY

Without knowing the details, I really can't answer . . .

SUPERVISOR BREESE

We'd probably have to have State permission to do it.

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

It would only open up the Town of Henrietta to a liability if something happened on the road.

SUPERVISOR BREESE

Let's you and I get together tomorrow and get a hold of the State.

GREG KASE, 1294 LEHIGH STATION ROAD

Can I add one more thing? You get another serious rain storm, I don't think you're going to have to worry about the road, because the road on the other side of my street, it couldn't handle the water, so it took down sections of the road, they're being sucked right down into the other side.

COUNCILWOMAN ZINCK

And we are going to get more water.

COUNCILMAN MULLIGAN

What, Mark, did the contractor do that was putting in the trail to exacerbate this problem? What did they do?

GREG KASE, 1294 LEHIGH STATION ROAD

Well, number one, when they went to put the sewage in, they found an extra pipe that they had no idea existed. They don't know where it came from. They came to this building, and somebody from this building told them they didn't know where it came from. So, they had to put a huge, huge round circle in the middle of my neighbor's driveway. Nobody still knows what it is or what it does, but it all funnels out into a small tube like this. It comes down Lehigh Station this way, goes into this big thing, two huge tubes, and it funnels out into a little one like this. That last severe rain storm, the water built up on his side, flowed across the street, covered the street and dropped into my side. As it subsided, on his side of the street it was like a, I don't know how to explain it, when you fill your tub and you pull a cork and it creates that spinning thing. It was just absolutely taking everything with it, erosion, everything.

SUPERVISOR BREESE

Mark, have you had somebody from your staff over there to take a look at all that? Recently?

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

I was there today, as a matter of fact.

SUPERVISOR BREESE

Oh. You were there today?

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

Yes.

SUPERVISOR BREESE

Okay. All right.

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

As I said, what he's talking about is called a manhole, but they filled in the swale so they could put the sidewalk over it.

SUPERVISOR BREESE

Okay. I understand.

COUNCILMAN MULLIGAN

Mark, looking at this, is this something that can be corrected? Because this gentleman's basically, from these pictures, lost his yard. He's got a lake.

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

Well, we can do some, but as I said, once again, the Belfrey plans are not approved that would address, you know, the total project. There's stuff that can be done in the interim.

COUNCILWOMAN ZINCK

I do understand your concern. If there's more water, and there is going to be more water . . .

GREG KASE, 1294 LEHIGH STATION ROAD

Part of it, you know, I was going to come here with a different approach. This is really not my style, confrontational type thing, but my wife has various illnesses and such, and when I came home yesterday, because she likes doing her gardening, she's with welts on her back from the mosquitos, that gets my nerve up and makes me angry, and I want to know why. It never happened before, and I want to know if anything's going to be done about it. Plain and simple. I love my wife, but I can't continue to live there if this is going to happen. She's going to get welts all over her back and possibly get sick again. It's that simple.

SUPERVISOR BREESE

Well, I'm glad you came, and we'll be discussing this tomorrow, and we'll be talking to the State tomorrow about this.

GREG KASE, 1294 LEHIGH STATION ROAD

Okay. Thank you.

SUPERVISOR BREESE

Thank you very much. Anybody else before we adjourn? *(Pause - no response)*

The Regular Meeting of the Henrietta Town Board was moved for adjournment by Councilwoman McCabe, seconded by Councilwoman Zinck at 8:45 P.M. and passed unanimously.

Respectfully submitted,

Amber N. Hutchinson
Deputy Town Clerk