

**HENRIETTA TOWN BOARD
AGENDA
OCTOBER 15, 2008**

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): October 1, 2008
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 #20-211/2008
Authorize Accounts Payable

RESOLUTION #20-212/2008
Rescind Resolution #16-179/2008 – Shell Edge Drive Sanitary Sewer Repairs Project

RESOLUTION #20-213/2008
Authorize Attendance of the 2008 Healthy Communities/Healthy Youth Conference

RESOLUTION #20-214/2008
Call for a Public Hearing - Fiscal Year 2009 Preliminary Budget

RESOLUTION #20-215/2008
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 OCTOBER, 2008 AT 8:00 P.M.

PRESENT

Supervisor Michael B. Yudelson
Councilwoman Catherine A. McCabe
Councilman William J. Mulligan, Jr.
Councilwoman Janet B. Zinck
Councilman John W. Moore
Daniel J. Mastrella, Town Attorney
Patricia J. Shaffer, Town Clerk

(SILENT PRAYER)

(PLEDGE OF ALLEGIANCE TO THE FLAG)

SUPERVISOR YUDELSON

Before we begin the Resolutions, is there anybody who would like to speak on any of the items that are on the Agenda, Agenda items at this point, please. *(Pause, no response)*
If not, can I have the Approval of the Minutes, please?

COUNCILWOMAN McCABE

Mr. Supervisor, I move we Approve the Minutes of October 1, 2008.

COUNCILMAN MOORE

Second.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye
Councilman Mulligan	voting	Aye
Councilman Moore	voting	Aye
Councilwoman Zinck	voting	Abstain
Supervisor Yudelson	voting	Aye

Carried

SUPERVISOR YUDELSON

May I have the first Resolution, please?

RESOLUTION #20-211/2008

On Motion of
Councilman Mulligan

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 10/15/2008	\$ 207,291.95
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SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye
Councilman Mulligan	voting	Aye
Councilman Moore	voting	Aye
Councilwoman Zinck	voting	Aye
Supervisor Yudelton	voting	Aye

Carried

RESOLUTION #20-212/2008

On Motion of
Councilman Moore

Seconded by
Councilman Mulligan

WHEREAS, Resolution #16-179/2008 requested bids for the Shell Edge Drive Sanitary Sewer Repairs Project, and

WHEREAS, only one (1) bid was received on September 12, 2008, and

WHEREAS, the Town Board rejects the bid received for the Shell Edge Drive Sanitary Sewer Repairs Project, due to the budgetary appropriation amount being exceeded.

THEREFORE, BE IT RESOLVED, that Resolution #16-179/2008 for the Shell Edge Drive Sanitary Sewer Repairs Project is hereby rescinded.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye
Councilman Mulligan	voting	Aye
Councilman Moore	voting	Aye
Councilwoman Zinck	voting	Aye

WHEREAS, Town Law requires that a Public Hearing be held on the Preliminary Budget.

THEREFORE, BE IT RESOLVED, that a Public Hearing be held on November 5, 2008 at 8:00 P.M. at the Henrietta Town Hall, 475 Calkins Road, Main Meeting Room, Henrietta, New York on the fiscal year 2009 Preliminary Budget.

BE IT FURTHER RESOLVED, that the notice of said Public Hearing be published and posted in the manner provided by law.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye
Councilman Mulligan	voting	Aye
Councilman Moore	voting	Aye
Councilwoman Zinck	voting	Aye
Supervisor Yudelson	voting	Aye

Carried

RESOLUTION #20-215/2008

On Motion of
Councilman Mulligan

Seconded by
Councilwoman Zinck

BE IT RESOLVED, that the following person be hired:

Jessica Knab	Animal Control, Part-time Animal Control Officer @ \$8.50/hr., effective 10/16/2008.
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BE IT FURTHER RESOLVED, that the following employee changes be made:

Elaine Conti	Highway, Seasonal Dispatcher @ \$8.75/hr., effective 11/1/2008.
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Ron Nicholson	Highway, Seasonal Dispatcher @ \$8.75/hr., effective 11/1/2008.
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Tom Clark	Highway, Seasonal Dispatcher @ \$8.75/hr., effective 11/1/2008.
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Al DaSilva

Highway, On-Call Animal Control Officer @ \$10.15/hr., from Part-time Animal Control Officer @ \$10.15/hr., effective 8/03/2008.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye
Councilman Mulligan	voting	Aye
Councilman Moore	voting	Aye
Councilwoman Zinck	voting	Aye
Supervisor Yudelton	voting	Aye

Carried

SUPERVISOR YUDELSON

That's the end of the Regular Agenda, at this point is there anybody that would like to speak on any matter involving the Town of Henrietta?

COUNCILMAN MULLIGAN

I see some people here are from the subdivision, you might want to update them on what's going on there. *(Speaking to Supervisor Yudelton referring to the Parkside Homeowners Association, and the Developer, Mr. Spoleta.)*

SUPERVISOR YUDELSON

Yeah, we do have people that I know are interested in that, and maybe as we did at our Workshop yesterday, if I could ask Mr. Mastrella to just give an update, same as you did for the Board, about the conversations you had with representatives from over there.

DANIEL MASTRELLA, TOWN ATTORNEY

Thank you, Mr. Supervisor. I did follow up on, Mr. Petersdorf did call me to give me some more detail on the items that were of concern to him and some of the other homeowners, and those items were threefold. One related to the parking, the guest parking in the facility, and the second was the gutters being tied into the storm sewers and the third was the punch list that the Town has outstanding, and I did look into those items. I got some contact information from Mr. Petersdorf, and spoke with the Parkside Homeowner's Association who then referred me to their Attorney, the Attorney Allan Reeve at Hiscock and Barclay, who's handling some litigation with Spoleta related to these very issues, and I was told that as far as the parking goes that in the Homeowner's Association offering plan, there is some guest parking called for, I did also obtain the site plan, the approved site plan for this section from our Engineering Department, and while there are a number of guest parking spaces shown on that plan, those spaces are labeled, "Future parking, if necessary." I did obtain the Minutes of the meetings, and

there is no specific reference or explanation as to the notation, "Future parking, if necessary", but because that's the way it's listed on the site plan, that is not a punch list item for the Town, it is not something that the Town has demanded of the developer thus far. However, the Homeowners Association's Attorney told me that he has previously filed for Arbitration, but then they had entered into settlement negotiations with Spoleta, and had arrived at what they believed to be a settlement wherein Spoleta was going to install twenty-six (26) parking spaces, and they were also going to pay the Homeowner's Association for some cash relating to some lawns or grading. The settlement fell through, apparently because the Spoleta Company would not do the work over the summer, they said it would be no earlier than October of this year, the Homeowner's Association wasn't satisfied with that, and therefore, they have now apparently, re-filed their Arbitration demand and are going to litigate this in Arbitration, and according to the Homeowner's Association Agreement the Arbitration is mandatory, they don't have the option of filing a Suit in the Supreme Court. The issue regarding the drain gutters being tied into the storm sewer that was not an item that was a Town requirement, but apparently again, according to the offering plan the front gutters were to be tied into the storm sewer, not the rear gutters, so whereas that was initially going to be a point of Arbitration between the Homeowner's Association and Spoleta, that was withdrawn by the Homeowner's Association as they recognized that under their Agreement they're not entitled to that, and there is no Town requirement of that. And, as far as the punch list goes, I do have the punch list, there are a number of items that are unfinished and that the Engineering Department is pursuing, most of those items are minor items dealing with touching up plans to reflect the actual sewer installations and changing the labels on some manhole covers, there is a section on landscaping where there are some trees and bushes that either have not been installed or were installed and have now died and need to be replaced, and the Town is pursuing those punch list items. I did tell the Homeowners Association's Attorney that certainly if there was anything that the Town could do that we would be receptive to hearing about that, and he appreciated that that was our position, and he has my number if he needs anything from us. Then of course, as the Board is aware, we did discuss this at the Workshop yesterday and there was an agreement that the Administration would make some efforts to convince the Spoleta Company to try to remedy some of these problems of the Homeowner's Association.

SUPERVISOR YUDELSON

Thank you, for recapping that, and just to try to underscore what Mr. Mastrella said, through his efforts, and working with some of the residents, we were really able to clarify this situation to date and what items, as few as they may be, are things that are Town issues because as he mentioned them being on the punch list, versus the things that are subject of the Arbitration. This was discussed at our last Town Board meeting as well as yesterday's Workshop, and the full Town Board would like to do everything within our power to be able to help the residents over there, so that's, we've tried to find out just exactly what, if anything, was within the Town's jurisdiction. Yesterday's discussion we did say even if it's not binding upon, we were hoping that the efforts of the Town to reach

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out to Spoleta would maybe yield some movement just because they would want to be seen as being cooperative with the Town, and I tried to reach Mr. Spoleta today, and he was not in the office, but I left a message and we can continue those efforts.

COUNCILMAN MULLIGAN

I have a question for the Town Engineer, Mr. Byrne, please. When the Planning Board states that this additional parking would be installed "If deemed necessary", who makes the decision as to whether or not it's necessary? What does that mean in your years of experience?

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

Well, I've never seen that in any of our other plans before, so it was kind of a surprise.

COUNCILMAN MULLIGAN

What's your best judgment on it from your experience?

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

Well, something like that I would assume would be either the Association or in conjunction with the Planning Board.

SUPERVISOR YUDELSON

Well, I also think that as Mr. Byrne said, that's not something that we can count on regularly or at all, that would be more of a legal question, and we talked about this some yesterday in the fact that because it's a private drive that some of these things were not on the punch list kind of would weaken any position the Town had to come back on, but this is something without any precedence to fall back on as far as that phrase of, "If necessary."

COUNCILMAN MULLIGAN

What's the status of topping the blacktop, it's my understanding they never topped that?

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

Over there I believe that has been topped.

SUPERVISOR YUDELSON

It's a different Project.

MARK BYRNE, DIRECTOR OF ENGINEERING AND PLANNING

It's a different Project.

COUNCILMAN MULLIGAN

A part of Spoleta?

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COUNCILWOMAN ZINCK

Oh, that's right, it is Spoleta though.

COUNCILMAN MULLIGAN

Thank you.

SUPERVISOR YUDELSON

Is there anybody who would like to speak on this issue or any other matter involving the Town?

BETH WHITE, 128 EAGLE PINE WAY

Beth White. 128 Eagle Pine Way. I'd like to thank Mr. Mastrella for the work he's done on behalf of Parkside, and also anything the Town could do would be greatly appreciated, because I know that we've had a real tough time with Spoleta. The other thing that I wanted to ask was how can we get a copy of the proposed Budget?

SUPERVISOR YUDELSON

That's on file in the Town Clerk's Office.

BETH WHITE, 128 EAGLE PINE WAY

Okay, it's not on the website?

SUPERVISOR YUDELSON

It is going, now that the Board has submitted the "Call for the Public Hearing", it's the Preliminary Budget that will be put up on the website, it's not there yet.

BETH WHITE, 128 EAGLE PINE WAY

Not yet.

SUPERVISOR YUDELSON

The Board had to do what they did tonight.

BETH WHITE, 128 EAGLE PINE WAY

Okay, thank you.

SUPERVISOR YUDELSON

It will be up on the website. Anybody else? *(Pause, no response)* If not, is there a motion to adjourn?

The Regular Meeting of the Henrietta Town Board was moved for adjournment by Councilwoman McCabe, seconded by Councilwoman Zinck at 8:20 P.M. and passed unanimously.

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Respectfully submitted,

Leann C. Case
Deputy Town Clerk