

TB April 20, 2011

RESOLUTION #9-110/2011
Award Low Quote – GPS Unit

RESOLUTION #9-111/2011
Authorize Personnel Items

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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 20th DAY OF APRIL, 2011 AT 7:00 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

Good evening. Before starting on the Agenda, I wanted to mention that there was some publicity about a scheduled Public Hearing about revoking the solicitor's license for a company called "Just Energy" because of some complaints and concerns that were raised about their actions around town. The Hearing will not be held for the simple reason that their solicitor's license expired two (2) days ago, so they can no longer go around town, they don't have a permit for us to revoke. We're, and unfortunately, there was an article, as some of you know, in today's D & C because they had filed it awhile ago and didn't see the information about it being canceled. However, we're glad that there was the publicity there was so that people became aware of, not only these solicitors, but there are others doing similar types of soliciting, either in Henrietta or in other areas of the County. And, we continue to want any residents who get contacted by solicitors like that to check and see if they do have a solicitor's license and if they don't to contact the Town, and in addition, if you're concerned about their tactics, even if they have a solicitor's license, to contact the Town. And, at this point, I just wanted to ask our Town Attorney, Mr. Mastrella, to just briefly describe, he had some interaction with representatives of the company that led to them suspending operation and to this final point we're at now.

DANIEL MASTRELLA, TOWN ATTORNEY

Yes, Mr. Supervisor, I did have several conversations and correspondence with both the attorney for Just Energy, and one of their corporate officers, and I will say that they were very cooperative in their dealings with me. When we had originally noticed them for a meeting two (2) weeks ago, they requested a two (2) week adjournment, which the Board had granted on the condition that they cease soliciting activities in the interim until

the meeting scheduled for tonight. We then recognized that the permits, the solicitor's permits actually expired on Monday evening, and there was nothing to revoke. Our Town Code does give some discretion to the Building Department to deny an application for a solicitor's license and the remedy to somebody who has been denied is to appeal to the Town Board that denial. So, in essence, and I told the people from Just Energy, if you plan to solicit in Henrietta again, please contact me in advance of making your application because based on what's occurred, there's a strong possibility that you'll be denied and then be in front of the Board just in the same fashion that they would have been in front of the Board this evening, just a little bit of a different procedure, but in essence the same thing. They understood that, and agreed that they would do so. So, at this point in time, there is no permit to revoke and should they seek another permit, the Building Department can exercise its discretion.

SUPERVISOR YUDELSON

Okay. Thank you, Mr. Mastrella. And, if anybody is here that came in anticipation of speaking about that, you certainly can do that under the public comment section at the end of the meeting. So, now proceeding with the regular Agenda, this is the opportunity for anybody that would like to comment on any of the items that are on the Agenda for tonight's meeting. Mr. Schmitt?

JOHN SCHMITT, 139 CAMPFIRE ROAD NORTH

This is a very hard one for me. I'm questioning Resolution No. 111 that you're going to be presenting. It has to do with the increase that's being proposed for the Planning Board Chairman for just under five thousand dollars (\$5,000) to nineteen thousand dollars (\$19,000) a year. This is not about Mr. Minotti; let me make that very certain right now. Has the job qualifications changed or has the job description changed or is there anything about . . .

SUPERVISOR YUDELSON

Yes.

JOHN SCHMITT, 139 CAMPFIRE ROAD NORTH

. . . I mean, is there money in the Budget, those are the types of questions I'm interested in. I don't question his ability or anything, I'm just interested in the structure of how it comes about.

SUPERVISOR YUDELSON

Sure. Yes, and we would have discussed this at the personnel, when we got to that Resolution, but that's fine that you're asking now. So, the answer to your question is that it certainly does entail a change in the responsibilities of that position, which is based on the past few years of activity in the Town, the work that's come through the Planning Board and the work that is done outside of the Planning Board meetings and the need for more assistance in that. Specifically for this position, I mean there's more work

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across the board in Engineering and Building, but as it relates to this position, several things that we were looking for the Planning Board Chairman, as a representative of that Board to do, so there would be things like meeting with the developers, and I have to say a lot of this Mr. Minotti is doing already, but without being compensated for it, but I'll tell you why we're doing it at this time. So, there's meetings with developers and builders to again talk about things being in compliance with Planning Board approvals, as well as things they would like to see before they get to the application point, there are things related to, several of these are related to new regulations, some of which you may have heard about, there are several new Codes that are on the books, both Federal and State, related to storm water, related to green building, related to energy, a number of things that we are going to have to spend considerable time going through and finding out how they apply to us, resolving with the help of our attorneys, some that appear to be in conflict with each other, but yet are both being kind of forced upon us to interpret. This person, I think you'd be glad to know this position in doing this, Mr. Minotti is being asked to be the lead person after we approve the update to the Strategic Plan, the Comprehensive Plan, to be the person who makes sure that we stay faithful to that, that there is a process for making sure the steps are underway of setting bench marks for that. So, there's a number of things, I actually have a print out that I did just for the Board's discussion purposes the other day that I'd be glad to share with you that has a number of these things listed. I don't have it right here, but I'd be glad to do it. So, that's the reason for that. And, so in essence, we made it into the equivalent of a half time position.

JOHN SCHMITT, 139 CAMPFIRE ROAD NORTH
Thank you.

SUPERVISOR YUDELSON
Thank you, for the question. It was a good question.

COUNCILWOMAN ZINCK
Yes, a very good question.

SUPERVISOR YUDELSON
Anybody else who wants to speak on any other Agenda items? *(Pause, no response)* If not, may I have the approval of the Minutes?

COUNCILWOMAN McCABE
Mr. Supervisor, I move we approve the Minutes of April 6, 2011.

COUNCILWOMAN ZINCK
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	Aye
Supervisor Yudelson	voting	Aye

Carried

SUPERVISOR YUDELSON

May I have the first Resolution, please?

RESOLUTION #9-104/2011

On Motion of
Councilwoman Zinck

Seconded by
Councilman Moore

BE IT RESOLVED, that the Supervisor or his designee be authorized to pay the following bills payable:

EXHIBIT A	Bills Payable dated 4/20/2011	\$ 154,747.62
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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 Yudelson	voting	Aye

Carried

RESOLUTION #9-105/2011

On Motion of
Councilwoman Zinck

Seconded by
Councilman Moore

WHEREAS, 700 Jefferson Road II, LLC, heretofore commenced proceedings against the Assessor, the Board of Assessment Review, and other respondents for a review of the assessments for the years 2006, 2007, 2008, 2009, and 2010 for premises

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located at 720 Jefferson Road and 790 Jefferson Road in the Town of Henrietta, being Tax Account Numbers 162.05-1-3.111 and 162.05-1-3.41, 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 700 Jefferson Road II, LLC, for the years 2006, 2007, 2008, 2009, and 2010 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 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 #9-106/2011

On Motion of
Councilman Mulligan

Seconded by
Councilwoman McCabe

WHEREAS, Resolution #6-82/2011 authorized the advertisement for bids for the Year 2011 Sanitary Sewer Repairs Project, for the spot repairs to the existing sanitary sewer at Amsden Drive, Camelot Drive, Elaine Drive, Down Street, Gate House Trail, Guildhall Road, Kramer Street, Red Lion Road, Round Hill Road, Strawbridge Road, and Tomahawk Trail, and

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WHEREAS, three (3) bids were received, and the low bid, meeting specifications, was received from FineLine Pipeline, Inc., for a total cost of \$313,275.00.

THEREFORE, BE IT RESOLVED, that FineLine Pipeline, Inc., 6271 Decker Road, Livonia, New York 14487, be hereby awarded the bid.

BE IT FURTHER RESOLVED, that the Supervisor or his designee be hereby authorized to pay FineLine Pipeline, Inc., in an amount not to exceed \$313,275.00 upon successful completion of said work and acceptance by the Director of Engineering and Planning.

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 #9-107/2011

On Motion of
Councilwoman McCabe

Seconded by
Councilman Mulligan

WHEREAS, the Safety Coordinator has requested authorization to attend the Annual PERMA Safety Conference at the Sagamore Hotel in Bolton Landing, New York on May 26, 2011 through May 27, 2011, and

WHEREAS, funds are available in the year 2011 Budget, and

WHEREAS, PERMA covers the cost of meals and lodging for one (1) employee of the Town, and

WHEREAS, the Town Board supports and encourages additional training for all Town employees.

THEREFORE, BE IT RESOLVED, that Dean C. Marshall, Jr., Safety Coordinator, be hereby authorized to attend the two (2) day Annual PERMA Safety Conference at a cost not to exceed \$100.00, to include New York State Thruway tolls and the use of a Town vehicle.

BE IT FURTHER RESOLVED, that all properly prepared vouchers be submitted to the Supervisor or his designee for reimbursement.

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 #9-108/2011

On Motion of
Councilman Moore

Seconded by
Councilwoman Zinck

WHEREAS, the Assessor, Acting Superintendent of Highways, Fire Marshal/Building Inspector, the Henrietta Public Library, Parks and Facilities Department, Engineering Department, and the Town Clerk, have requested that the attachments be declared surplus materials and removed from the Town's inventory.

THEREFORE, BE IT RESOLVED, that the attachments from the Highway Department, Building and Fire Prevention, Engineering, and Parks and Facilities be consigned to the Teitsworth Municipal Auction, to be held on May 14, 2011, in Palmyra, New York, all others to be disposed of as noted.

SUPERVISOR YUDELSON
Discussion?

COUNCILMAN MULLIGAN
Just under discussion, I'd like to commend the Administration for getting as many miles out of these vehicles as possible. A lot of them are ten (10), twelve (12), and fourteen (14) years old, and apparently through appropriate maintenance programs they're able to last a long time, and get a good bang for our buck!

SUPERVISOR YUDELSON
Yes.

COUNCILWOMAN McCABE
I agree.

SUPERVISOR YUDELSON
I agree. We have a lot of good employees down in the garage, as you know, who keep these things going a long time. Thank you, for saying that. 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 #9-109/2011

On Motion of
Councilwoman McCabe

Seconded by
Councilman Mulligan

WHEREAS, the Town of Henrietta owns and maintains a drainage easement upon property located at 1280 Jefferson Road (Penn Detroit Diesel property) which is owned by High Bay Owner SPE, LLC, and

WHEREAS, a concrete wall within the drainage channel easement has collapsed and is the subject of a claim against the Town by High Bay, and

WHEREAS, the Town's insurance carrier has adjusted said claim and offered a settlement, and

WHEREAS, the Town wishes to complete the necessary repairs to the drainage channel, and

WHEREAS, High Bay has agreed to release the proceeds of the insurance settlement to the Town upon completion of said repairs.

THEREFORE BE IT RESOLVED, that the Town Supervisor is hereby authorized to execute a Drainage Channel Repair Agreement to accomplish the completion of said repairs and payment of the insurance proceeds to the Town.

SUPERVISOR YUDELSON
Discussion?

COUNCILMAN MULLIGAN
Can you summarize, Mr. Supervisor, what we're doing here?

COUNCILWOMAN McCABE
I thought I read it.

SUPERVISOR YUDELSON
I could, but I could probably defer to the Town Attorney, and he would do it more eloquently, but . . .

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COUNCILWOMAN McCABE

I thought I just read it. *(Laughter)*

SUPERVISOR YUDELSON

Mr. Mastrella, are you able to just summarize this transaction, if you will.

DANIEL MASTRELLA, TOWN ATTORNEY

I am. The Town owns an easement on which there is a drainage culvert over this property. We did not own the property. There's a concrete wall that is part of that channel that collapsed last fall. The property owner, once they realized that it was in our easement, put in a claim for us, against us, for damage to his property and asking us to restore the concrete wall. We submitted the claim to our insurance carrier; the insurance carrier has agreed to pay the claim. They can't pay the claim to us, we don't own the property, and we are the insured, they can pay the claim to the property owner. We wish to conduct the repairs though because it's our drainage feature and the Town Engineer wants to supervise that. So, in order to accomplish that, we're going to do the work, and they are going to give us the insurance proceeds in exchange for us doing the work.

COUNCILMAN MULLIGAN

Thank you.

SUPERVISOR YUDELSON

Thank you, Mr. Mastrella. Anything further?

COUNCILWOMAN McCABE

No.

COUNCILMAN MOORE

One other question; the insurance proceeds are coming from our insurance company though, right?

DANIEL MASTRELLA, TOWN ATTORNEY

That is correct.

COUNCILWOMAN McCABE

Yes.

DANIEL MASTRELLA, TOWN ATTORNEY

Our insurance carrier is paying, is settling the claim.

COUNCILWOMAN ZINCK

To us for doing the work.

COUNCILWOMAN McCABE

It's our property that's damaged, so, but they can't pay us directly.

SUPERVISOR YUDELSON
Right.

COUNCILWOMAN McCABE
That's what the Resolution said, I think. *(Laughter)*

SUPERVISOR YUDELSON
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 #9-110/2011

On Motion of
Councilwoman McCabe

Seconded by
Councilwoman Zinck

WHEREAS, the 2011 Engineering Budget provides funds for a GPS Unit for physically locating Town utility structures in the field to be incorporated into the Town's G.I.S. database, and

WHEREAS, three (3) quotes were received and the low quote, meeting Engineering specifications, was received from McMahon LaRue Associates, P.C., for a total cost of \$12,864.97.

THEREFORE, BE IT RESOLVED, that McMahon LaRue Associates, P.C., 1800 Hudson Avenue, Suite 2, Rochester, New York 14617, be hereby awarded the quote.

BE IT FURTHER RESOLVED, that the Supervisor or his designee be hereby authorized to pay McMahon LaRue Associates, P.C., in an amount not to exceed \$12,864.97, upon satisfactory delivery and receipt of all proper documentation.

SUPERVISOR YUDELSON
Discussion? Call the roll, please.

Duly put to a vote:
Councilwoman McCabe voting Aye
Councilman Mulligan voting Aye
Councilman Moore voting Aye

SUPERVISOR YUDELSON

Absolutely. 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, before we adjourn, is there anybody who would like to speak on any items involving the Town of Henrietta? Mr. Nolan?

(Eugene Nolan, 107 Rouge Road, spoke in reference to lack of maintenance and upkeep of residential properties within the Town. (Hand-out is attached). – Audio File available upon request.)

(Arthur Brooks, 368 Hollybrook Road, spoke in reference to car registration and car inspection. – Audio File available upon request.)

(David Lyle, 183 Camelot Drive, spoke in reference to inquiring about when to expect changes to the Town Code . – Audio File available upon request.)

(Greg Briceland, 2 High Manor Drive, spoke in reference to the Special Permit Public Hearing Application, "Jeffrey's", and his appreciation for the Town Board approving this Application . – Audio File available upon request.)

SUPERVISOR YUDELSON

Thank you. Is there anybody else who would like to speak on any issue involving the Town of Henrietta? *(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 Zinck, seconded by Councilwoman McCabe at 7:59 P.M. and was adjourned without objection.

Respectfully submitted,

Leann C. Case

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Deputy Town Clerk