

**HENRIETTA TOWN BOARD  
AGENDA  
OCTOBER 5, 2011**

Supervisor Yudelson  
Councilman Mulligan  
Councilwoman Zinck  
Councilman Moore  
Councilman Page

**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 21, 2011
  - On Motion of: Councilwoman Zinck Seconded by: Councilman Moore
6. Miscellaneous Communications
7. Public Hearing:
  - Proposed Establishment of Extension No. 207 (1249 Lehigh Station Road) to Henrietta Sewer District No. 1
8. Introduction of and Action Upon Local Laws, Ordinances, Resolutions
9. Reports of Standing Committees and Actions Thereon
10. Reports of Special Committees
11. Public Comment
12. Adjournment

**RESOLUTION #19-178/2011**

Appoint M. Rick Page as Town Board Member

**RESOLUTION #19-179/2011**

Authorize Accounts Payable

**RESOLUTION #19-180/2011**

Authorize Placement of Delinquent Property Maintenance Bills on Tax Rolls

**RESOLUTION #19-181/2011**

Authorize Proposed Establishment of Extension No. 207 (1249 Lehigh Station Road) to Henrietta Sewer District No. 1

**RESOLUTION #19-182/2011**

Award Low Quote – Drum Roller

TB October 5, 2011

RESOLUTION #19-183/2011

Adopt Local Law No. 2 of 2011 - Amending Chapter 207, entitled, "Vehicles: Abandoned, Junked and Unlicensed" and Chapter 240, entitled, "Streets and Sidewalks" of the Town Code – To Restrict Parking on Residential Properties

RESOLUTION #19-184/2011

Call for Public Hearing - Proposed Adoption of Local Law No. 3 of 2011 – A Law Amending the Definition of "Family" in the Henrietta Town Code §295-2

RESOLUTION #19-185/2011

Authorize Personnel Items

TB October 5, 2011

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 5<sup>th</sup> DAY OF OCTOBER, 2011 AT 7:00 P.M.

**PRESENT**

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

*(SILENT PRAYER)*

*(PLEDGE OF ALLEGIANCE TO THE FLAG)*

*(Councilman Mulligan arrived at 7:01 P.M.)*

SUPERVISOR YUDELSON

I'm going to do a detour, a little bit, from our normal order of things, and we are going to move first to the very first Resolution, which I have the privilege of reading.

RESOLUTION #19-178/2011

On Motion of  
Supervisor Yudelson

Seconded by  
Councilman Mulligan

WHEREAS, a vacancy exists on the Henrietta Town Board due to the resignation of Councilwoman Catherine A. McCabe duly filed in the office of the Town Clerk and effective September 30, 2011, and

WHEREAS, M. Rick Page, residing at 155 Cape Henry Trail, West Henrietta, New York 14586, a qualified resident and elector of the Town of Henrietta has expressed an interest in fulfilling the unexpired term of Councilwoman McCabe, which expires on December 31, 2011, and

WHEREAS, it is the considered opinion of the Town Board that M. Rick Page should be appointed to fulfill said unexpired term.

THEREFORE, BE IT RESOLVED, that M. Rick Page is hereby appointed as a member of the Henrietta Town Board to serve the unexpired term of Councilwoman Catherine A. McCabe, effective immediately, and expiring on December 31, 2011.

SUPERVISOR YUDELSON

Under discussion, I would just like to say, first, how much we appreciate the many years of service of Councilwoman McCabe, who surprised us after our last Board meeting letting us know that she would be stepping down and allowing Mr. Page, soon to be Councilman Page, to take her place, which I thought was a very unselfish act. Just for the Record, Mr. Page is a candidate for Town Board running unopposed, so he will definitely be filling that spot January 1<sup>st</sup>, and this will allow him to join the Board, at this point. Those of you who know Cathy know that she was a very passionate advocate for the Town of Henrietta, had strong opinions, was a valuable member of the Board and we appreciate her service. And, speaking now about soon to be Councilman Page, I think we're all very pleased that Rick is going to be joining us on the Board. All of us on the Board have known Rick for a very long time. He has many years of service to the School District, to the community as a volunteer, too many things to mention here. He's well known throughout the community, and has always been about giving back to the community, and we know he's going to be just a great member of the Board. So, we're looking forward to working with him. Anybody else for discussion?

COUNCILWOMAN ZINCK

I think that was well said. Welcome, Rick.

SUPERVISOR YUDELSON

At this point, if you would call the roll, please.

Duly put to a vote:

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

SUPERVISOR YUDELSON

And at this point, I would ask Rick to come forward, and our Town Clerk, Patty Shaffer, will administer the Oath of Office.

*(M. Rick Page was sworn in by Patricia Shaffer, Town Clerk/Tax Receiver.) Applause*

SUPERVISOR YUDELSON

Before we return to the regular Agenda, I'd just like to give Councilman Page a chance to address the audience.

COUNCILMAN PAGE

Well, thank you, Michael. It's nice to sit at the right hand of the father. *(Laughter)*

SUPERVISOR YUDELSON

It's going to be a long four (4) years. *(Laughter)*

COUNCILMAN PAGE

It's been a pleasure. Everybody here at the head table, and Cathy, especially, who's done such a wonderful job, who's been so welcoming, and so helpful, spending a lot of time with me assisting in the transition, and I just have one (1) story to tell. As I've been going door to door and meeting with people and talking to groups, it was very surprising to me, it's very difficult this day in age to be a politician, but as I visited houses and spoke to people in this process of running for Election, it was amazing to me the number of times that people told me that they don't consider the people up here to be politicians, but leaders and that they're very happy with the way the Town is. They're happy with the tax rate. There's always going to be problems that arise, but by and large, they feel that the people at this table, I'm not talking about myself, I haven't done anything yet, but that the people at this table, and for years past, really represent the people, they really listen, they're not politicians, but they're leaders in the community, and it's an honor to be here. Thank you.

COUNCILMAN MULLIGAN

Thank you.

SUPERVISOR YUDELSON

Thank you, Rick. Thank you, very much. At this point, we'll return to the regular order of business and now is the opportunity for anybody to speak on any of the items that are on the Agenda for tonight's meeting other than the Public Hearing. There will be an opportunity for public comment at the end of the meeting, but at this time it would be anything that's on the Agenda for tonight. Anybody? *(Pause, no response)* If not, can I have the approval of the Minutes, please?

COUNCILWOMAN ZINCK

Mr. Supervisor, I'd like to move approval of the Minutes of September 21, 2011.

COUNCILMAN MOORE

Second.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

SUPERVISOR YUDELSON

At this point, I'll open the Public Hearing on proposed Establishment of Extension No. 207 at 1249 Lehigh Station Road to Henrietta Sewer District No. 1. Is there anybody who would like to speak on this topic? *(Pause, no response)* If not, I will close this Public Hearing, and may I have the Resolution starting with the Accounts Payable, please.

RESOLUTION #19-179/2011

On Motion of  
Councilman Page

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 10/5/2011	\$ 109,587.78
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SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #19-180/2011

On Motion of  
Councilman Moore

Seconded by  
Councilman Page

WHEREAS, owners of several properties located in the Town of Henrietta have neglected to maintain their property, resulting in the inordinate accumulation of vegetation and/or debris, and have otherwise allowed said property to fall into a state of disrepair, in violation of the Henrietta Town Code, and

WHEREAS, said property owners have failed to comply in a timely fashion to notices of violation thereof served upon them by the Town of Henrietta Code Enforcement Office, and

WHEREAS, this failure resulted in the Town authorizing this work to be performed

and the property owners being invoiced for said work, and

WHEREAS, said property owners have failed and neglected to pay said invoices.

THEREFORE, BE IT RESOLVED, that the unpaid invoices on the properties, as per the attachment, totaling \$25,421.00, be added as a lien against said real property on the 2012 tax levy for collection.

**SUPERVISOR YUDELSON**

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

**RESOLUTION #19-181/2011**

On Motion of  
Councilman Page

Seconded by  
Councilman Mulligan

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IN THE MATTER OF THE PETITION FOR THE ESTABLISHMENT OF EXTENSION NO. 207 (1249 LEHIGH STATION ROAD) TO HENRIETTA SEWER DISTRICT NO. 1 LOCATED ON LEHIGH STATION ROAD IN THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK.

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**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF HENRIETTA APPROVING THE ESTABLISHMENT OF EXTENSION NO. 207 (1249 LEHIGH STATION ROAD) TO HENRIETTA SEWER DISTRICT NO. 1**

WHEREAS, a written Petition for the establishment of an extension to Henrietta Sewer District No. 1 in the Town of Henrietta, County of Monroe, State of New York, to be known as Extension No. 207 (1249 Lehigh Station Road) of said Sewer District was duly presented to this Town Board, together with the necessary map and plan attached thereto, and

WHEREAS, pursuant to an Order a Public Hearing was held on the Petition, and the findings as specified on Exhibit "A" were made.

THEREFORE, BE IT RESOLVED, that the establishment of Extension No. 207 to the said Sewer District as proposed in the said Petition be approved; that the improvement therein mentioned be constructed and the service therein mentioned be provided for upon the required funds being made available or provided for; and that such extension shall be designated and known as Extension No. 207 to Henrietta Sewer

District No. 1 and shall be bounded as described in attachments annexed hereto.

BE IT FURTHER RESOLVED, that the Town Clerk of this Town shall, within ten (10) days after the adoption of this Resolution, file Certified copies thereof in duplicate in the Office of the State Department of Audit and Control at Albany, New York.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

Councilman Mulligan	voting	Aye
Councilwoman Zinck	voting	Aye
Councilman Moore	voting	Aye
Councilman Page	voting	Aye
Supervisor Yudelson	voting	Aye
Carried		

RESOLUTION #19-182/2011

On Motion of  
Councilman Moore

Seconded by  
Councilwoman Zinck

WHEREAS, funds are available for the purchase of one (1) drum roller, and  
WHEREAS, the Highway Department has requested quotes from different sources, and

WHEREAS, three (3) quotes were received and the low quote, meeting specifications, was received from Admar Supply Company, Inc., for a total cost not to exceed \$12,375.00.

THEREFORE, BE IT RESOLVED, that Admar Supply Company, Inc., 1950 Brighton-Henrietta Town Line Road, Rochester, New York 14623, be hereby awarded the purchase of one (1) drum roller, per specifications.

BE IT FURTHER RESOLVED, that the Supervisor or his designee be hereby authorized to pay Admar Supply Company, Inc. in an amount not to exceed \$12,375.00, upon delivery and receipt of all proper documentation, and acceptance by the Acting Superintendent of Highways.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

Councilman Mulligan	voting	Aye
Councilwoman Zinck	voting	Aye
Councilman Moore	voting	Aye
Councilman Page	voting	Aye

Supervisor Yudelson voting Aye  
Carried

RESOLUTION #19-183/2011

On Motion of  
Councilman Mulligan

Seconded by  
Councilman Page

WHEREAS, true and correct copies of proposed Local Law No. 2 of 2011, a Local Law amending Chapters 207 and 240 of the Henrietta Town Code to restrict parking on residential properties and driveway extensions and to prohibit the placement of any obstruction in a public right of way, were delivered to each member of the Town Board, and

WHEREAS, upon proper notice, a Public Hearing was held on the 7<sup>th</sup> and 21<sup>st</sup> of September, 2011 where all persons wishing to speak regarding proposed Local Law No. 2 of 2011 were heard by the Town Board, and

WHEREAS, after consideration of all information presented and available, it is the determination of the Town Board that the Town Code should be amended to restrict parking on residential properties to driveways and driveway extensions, and to prohibit the placement of any obstruction in a public right of way.

THEREFORE, BE IT RESOLVED, that the Henrietta Town Board hereby enacts Local Law No. 2 of 2011.

BE IT FURTHER RESOLVED, that said Local Law shall be designated Local Law No. 2 of 2011 and that the Town Clerk shall file with the Secretary of State, as soon as possible, and in any event no later than twenty (20) days from this date, one Certified copy of said Local Law No. 2 of 2011, and that said Law shall take effect immediately, upon filing with the Secretary of State.

SUPERVISOR YUDELSON  
Discussion?

COUNCILWOMAN ZINCK

I just want to comment on it real quickly, if I could. I know we had a lot of people speak on this at the last meeting, and I think I'm very, very comfortable, after going back to the table with the Board, that for the many, many people that were here who had exceptions, perhaps a property that they didn't have enough space to put the driveway extension that met our specifications, there's a process for them. They can go to the Zoning Board, they can have their case heard, and I'm very comfortable that for those people there is something that they can do if it doesn't work for them, but as a whole I think this is great for the Town.

SUPERVISOR YUDELSON  
Any further discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #19-184/2011

On Motion of  
Councilman Mulligan

Seconded by  
Councilman Moore

WHEREAS, the Town Attorney has advised that the definition of "Family", as set forth in Town Code §295-2, is subject to legal challenge, and

WHEREAS, the Town Board wishes to preserve the character of residential neighborhoods and comport with Court decisions related to this matter, and

WHEREAS, Local Law No. 3 of 2011, a Local Law amending the definition of "Family", as set forth in Town Code §295-2, has been drafted and delivered to each member of the Town Board and is hereby introduced.

THEREFORE, BE IT RESOLVED, that a Public Hearing will be held on the 19<sup>th</sup> day of October, 2011 at 7:00 p.m. at the Town Hall, Main Meeting Room, 475 Calkins Road, Henrietta, New York on the question of the adoption of the attached proposed Local Law No. 3 of 2011, as heretofore described where the Town Board will hear all persons interested in the subject.

BE IT FURTHER RESOLVED, that Notice of said Public Hearing shall be published in the manner provided by law.

SUPERVISOR YUDELSON

Under discussion, as the Resolution says, at this point, we're only calling for a Public Hearing, but just for the benefit of those in attendance tonight, I would just ask the Town Attorney if he could briefly give an overview of what we would be putting into effect by taking a new definition of "Family" in our Code.

DANIEL MASTRELLA, TOWN ATTORNEY

Well, as has been previously been the subject of discussion at numerous Town Board meetings over the past two (2) to three (3) years, there is a problem with our present definition of "Family". It really purely goes on the basis of the number of people, unrelated people, in a residence and the Court of Appeals in this State and several other courts and several decisions have indicated that that is improper that you can't have six (6), because six (6) people are related, as opposed to six (6) people who are not related, you can't distinguish on that basis alone. What is proposed here is less restrictive, actually, than what we have in our Code at present, but it is, and it's going to be difficult

on a practical basis, there's going to be difficulties with enforcement. Nonetheless, it has been enacted elsewhere. In fact, the Village of Brockport utilizes the language of this statute, and it did withstand challenge in the Pellet Division Fourth Department, which would also govern any action taken by this Board. So, while it has practical difficulties associated with it, we know that there is at least precedent saying that it is likely to be upheld, again by a court if we have occasion to enforce it and it's challenged. And what it does is it limits the number of unrelated individuals living together unless they function as a traditional family, the functional equivalent of a traditional family. And it creates a presumption that more than four (4) unrelated people are not functional equivalent, but gives, it's a rebuttable presumption that gives the individuals residing together the opportunity to demonstrate that they are the equivalent of a traditional family. As I said, enforcement is not going to be simple, and proof is not going to be simple, but at least it's a legitimate exercise of the Town Zoning and Police power. It is a defensible statute on its face, the application is going to be, you know, it remains to be seen, and we can say we can't, there may be instances where we can't prove the violation of this statute, but it takes out of play the current situation where we would have to pretty much concede that we can't enforce this statute because it's not legal.

SUPERVISOR YUDELSON

Thank you, very much. Are there any other comments or questions from the Board?

COUNCILMAN MOORE

I just have a question for Dan, again. So, how would we go about enforcing this once it's enacted? We'll say we have more than four (4) people unrelated in a house.

DANIEL MASTRELLA, TOWN ATTORNEY

If in the determination of the Building Inspector they were not the equivalent of a traditional family, the Building Inspector could issue an appearance ticket directing either the occupants or the homeowner to appear in Town Court for a violation of the Zoning Code. Alternatively, a civil action could be maintained in civil court by the Town against the owner and/or occupants of the residence to ask for an injunction or cease and desist. The residents or the homeowner would have various recourse. They could appeal the determination of the Building Inspector to the Zoning Board of Appeals, which would then stay any Town Court action or civil action until there was a determination by the Zoning Board of Appeals, which then of course could be further challenged in State Supreme Court were the Zoning Board to uphold the determination of the Building Inspector. So, you know, there's complexities and variations to it, but it's certainly better than what we have now.

COUNCILMAN MOORE

Thank you.

COUNCILWOMAN ZINCK

TB October 5, 2011

I just have one (1) question, as well. Underneath where it says, "*the following makes the equivalent of a traditional family*", do all of those things have to comply, and for example, "*members of the household are employed in the area*"?

DANIEL MASTRELLA, TOWN ATTORNEY

No, and what, those are basically guidelines. Those are criteria for the Building Inspector to consider in making the determination. They are not, there's nothing in there that if one of them is missing then you're not a traditional family or something along those lines. Those are just, the Town Board giving some direction to the Building Inspector as to how you're to make this determination.

COUNCILWOMAN ZINCK

Okay. Thank you.

SUPERVISOR YUDELSON

Anything else from the Board? Okay, call the roll, please.

Duly put to a vote:

Councilman Mulligan	voting	Aye
Councilwoman Zinck	voting	Aye
Councilman Moore	voting	Aye
Councilman Page	voting	Aye
Supervisor Yudelson	voting	Aye
		Carried

RESOLUTION #19-185/2011

On Motion of  
Councilwoman Zinck

Seconded by  
Councilman Mulligan

BE IT RESOLVED, that the following persons be hired:

Christopher Martin	Engineering, Director of Engineering and Planning @ \$75,000/yr., effective 10/11/2011 (six months provisional).
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Eric Zelbacher	Recreation, Recreation Part-time Assistant @ \$9.75/hr., effective 10/3/2011.
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BE IT FURTHER RESOLVED, that the following employee changes be made:

TB October 5, 2011

Garth Carney

Highway, Laborer B @ \$14.24/hr. to MEO @ \$17.01/hr., effective 8/18/2011. (Reached 1600 hours, per Collective Bargaining Agreement.)

Maureen Coon

Recreation, Recreation Assistant @ \$8.50/hr. to \$9.75/hr., effective 10/9/2011.

**SUPERVISOR YUDELSON**

Under discussion, I know I speak on behalf of the entire Town Board when I say how pleased we are to have Chris Martin coming on board as our Director of Engineering and Planning. He spent many years working with the Town providing advisement to the Planning Board, also as a customer, if you will, through his Firm and other positions he's held, and has been here already several months kind of steering the ship for us and we're just very pleased that he's joining us.

**COUNCILMAN MULLIGAN**

Just a quick story. Number one (1), I think Chris will do an outstanding job. I've worked with him on probably twenty (20) different projects over the last twenty (20) years, and I was kind of surprised he took the job because I mentioned it to him a couple times, and he said, "You know, Bill, that really isn't my cup of tea, I appreciate your support, but not at this time." A couple days later I ran into Mike Yudelson and he said, hey, good news, Chris wants that job. I said, are you sure? I said I talked to him and I don't think he has a lot of interest. He said, yes, I talked to him for a couple of minutes, he's on board. And, I ran into Chris and he said, "He's a lot better salesman than you are, Bill."

**SUPERVISOR YUDELSON**

Well, truth be told . . .

**COUNCILMAN MULLIGAN**

Congratulations, Chris.

**SUPERVISOR YUDELSON**

. . . it took more than a couple of minutes. Thank you.

**COUNCILWOMAN ZINCK**

Welcome.

**COUNCILMAN MOORE**

Thanks, Chris, for all the help you gave us in the interim. Welcome aboard and Chris's ancestors date back in this Town to about 1880, so, he's got a lot of heritage here, too.

**COUNCILMAN PAGE**

Welcome aboard, Chris.

SUPERVISOR YUDELSON

Call the roll, please.

Duly put to a vote:

Councilman Mulligan	voting	Aye
Councilwoman Zinck	voting	Aye
Councilman Moore	voting	Aye
Councilman Page	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 item involving the Town of Henrietta. Sir? If you'd give your name and address, for the Record.

*(Shawn Drake, 148 Oak Mills Crossing, spoke in reference to putting speed bumps in his neighborhood. Submitted a petition. – Audio File available upon request.)*

*(Carol Burritt, 620 Shore Drive, spoke in reference to support Shawn Drake and his petition for requesting speed bumps. – Audio File available upon request.)*

*(Arlene Burdett, 2 Pine Tree Circle, Rush, New York, commented about how nice the Town of Henrietta is, as well as the Town Board. – Audio File available upon request.)*

The Regular Meeting of the Henrietta Town Board was moved for adjournment by Councilwoman Zinck, seconded by Councilman Page at 7:30 P.M. and was adjourned without objection.

Respectfully submitted,

Leann C. Case  
Deputy Town Clerk