

**HENRIETTA TOWN BOARD  
AGENDA  
APRIL 1, 2009**

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):      March 18, 2009
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 #8-89/2009  
    Authorize Accounts Payable

RESOLUTION #8-90/2009  
    Accept Dedication of Sanitary Sewers/Pump Station – Stonefield Mews  
    Subdivision

RESOLUTION #8-91/2009  
    Authorize Attendance of Highway School

RESOLUTION #8-92/2009  
    Authorize Independent Construction and Plan Review Services – Paul Moore  
    and Robsonwise, Inc.

RESOLUTION #8-93/2009  
    Declare Items Surplus Materials

RESOLUTION #8-94/2009  
    Authorize Special Permit Extension – Application Nos. 2008-052, -053, -054 –  
    Express Mart – 5300 West Henrietta Road

RESOLUTION #8-95/2009  
    Authorize Special Permit Extension - Application No. 2007-050 – Express Mart –  
    3001 Winton Road South

RESOLUTION #8-96/2009  
    Accept Time Warner Settlement

RESOLUTION #8-97/2009  
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 1<sup>ST</sup> DAY OF APRIL, 2009 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

Is there anybody who would like to speak on any of the Agenda items at this time, any items that are on tonight's Agenda? *(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 March 18, 2009.

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	Aye
Supervisor Yudelson	voting	Aye

Carried

SUPERVISOR YUDELSON

May I have the first Resolution, please.

RESOLUTION #8-89/2009

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 4/1/2009	\$ 262,615.27
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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 #8-90/2009

On Motion of  
Councilwoman McCabe

Seconded by  
Councilwoman Zinck

WHEREAS, Stone View Development, LLC, the Developer of Stonefield Mews Subdivision, located on Stonefield Mews Lane, has installed sanitary sewers, including pump station, in said subdivision, and

WHEREAS, the Developer has offered to dedicate and relinquish ownership of the stated utility to the Town of Henrietta and for this purpose has delivered to the Town of Henrietta filing instruments granting easements to the Town for said sanitary sewer system, including pump station, and

WHEREAS, the Town Attorney has examined these easements and has found them to be in good order, and

WHEREAS, the Superintendent of Drainage, Sewer, Sidewalks, Parks and Facilities, and the Director of Engineering and Planning have determined that the said sanitary sewer system, including pump station, was installed in accordance with Town requirements and have recommended that they be accepted by the Town.

THEREFORE, BE IT RESOLVED, that the said sanitary sewer system, including pump station, for the described subdivision be and they hereby are accepted and that easements be recorded in the Monroe County Clerk=s Office.

BE IT FURTHER RESOLVED, that such acceptance is made subject to the

Developer, or its representative, securing with the Town of Henrietta a properly executed Maintenance Bond in the sum of Twenty-one Thousand, Five Hundred Dollars (\$21,500.00) for a period of two (2) years.

SUPERVISOR YUDELSON  
Discussion?

COUNCILMAN MULLIGAN  
Under discussion, Stonefield Mews, is that over off of Stone Road?

SUPERVISOR YUDELSON  
That's correct.

COUNCILMAN MULLIGAN  
Thank you.

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 #8-91/2009

On Motion of  
Councilwoman Zinck

Seconded by  
Councilwoman McCabe

WHEREAS, the Superintendent of Highways, Russell C. Martin and Fleet Maintenance Supervisor, Robert Tobey, have requested authorization to attend the 2009 Highway School to be held at Ithaca College, Ithaca, New York on June 1, 2009 through June 3, 2009, and

WHEREAS, funds are available in the year 2009 Budget, and

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

THEREFORE, BE IT RESOLVED, that Russell C. Martin, Superintendent of Highways and Robert Tobey, Fleet Maintenance Supervisor, be hereby authorized to attend the three (3) day school at a cost not to exceed \$500.00 per person to include registration, meals, hotel accommodations, and the use of a Town vehicle.

TB April 1, 2009

BE IT FURTHER RESOLVED, that all properly prepared vouchers be submitted to the Finance Department 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 #8-92/2009

On Motion of  
Councilman Mulligan

Seconded by  
Councilman Moore

WHEREAS, the current number and complexity of construction projects, from time to time, have made Independent Consultation Review Services necessary, and

WHEREAS, it is in the Town's best interest to maintain quality construction and plan review services in a timely fashion, and

WHEREAS, it is necessary for developers and contractors to absorb the costs incurred by the Town for such services, and

WHEREAS, Independent Plan Review Services billing, including all consultants costs, will be at an hourly rate, and

WHEREAS, the Building Inspector/Fire Marshal has arranged for such Construction and Plan Review Services with Paul Moore, 186 Leroy Street, Rochester, New York 14612, at the rate of Sixty Dollars (\$60.00) per hour, and

WHEREAS, the Building Inspector/Fire Marshal has arranged for such Construction and Plan Review Services with Robsonwise, Inc., Salina Meadows Office Park, 301 Plainfield Road, Suite 180, Syracuse, New York 13212, at the rate not to exceed One Hundred Thirty Dollars (\$130.00) per hour.

THEREFORE, BE IT RESOLVED, that the Building Inspector/Fire Marshal is hereby authorized and directed to secure the Independent Construction and Plan Review Services in accordance with the above, subject to the approval of the Director of Finance & Personnel and/or the Town Supervisor, as per the Town's Procurement Policy.

BE IT FURTHER RESOLVED, that the Director of Finance be authorized to pay said consultants upon receipt of all proper documentation.

SUPERVISOR YUDELSON

Discussion?

COUNCILMAN MULLIGAN

A quick question, Terry's title, has that changed, didn't we change it to the Building and Development Coordinator?

SUPERVISOR YUDELSON

No, that was changed previous to that, so it should be . . .

COUNCILMAN MULLIGAN

Okay.

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 Yudelson	voting	Aye
Carried		

RESOLUTION #8-93/2009

On Motion of  
Councilman Moore

Seconded by  
Councilman Mulligan

WHEREAS, the Henrietta Public Library Board of Trustees has requested that the following item be declared surplus material:

<u>Inventory #</u>	<u>Description</u>
451	Piano Spinet with Bench

WHEREAS, the Engineering Department has requested that the following item be declared surplus material:

<u>Inventory #</u>	<u>Description</u>
4057	Dell Desktop PC

WHEREAS, the Building Department has requested that the following items be declared surplus materials:

<u>Inventory #</u>	<u>Description</u>
3699	Sony Digital Camera
n/a	Sony Digital Camera

THEREFORE, BE IT RESOLVED, that the item described above from the Henrietta Public Library Board of Trustees be declared surplus material and be sent to

the Parks and Facilities Department for disposal.

BE IT FURTHER RESOLVED, that the items described above from the Engineering Department and the Building Department be declared surplus materials and be sent to Maven Technologies, LLC, for disposal.

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 #8-94/2009

On Motion of  
Councilwoman McCabe

Seconded by  
Councilwoman Zinck

WHEREAS, pursuant to Application Nos. 2008-052, -053 and -054, the Applicant, Express Mart, 5300 West Henrietta Road, obtained approval for Special Use Permits from the Henrietta Town Board on April 16, 2008, and

WHEREAS, the Applicant has been delayed in proceeding with this Project, but is now in a position to proceed to obtain necessary approvals from other Boards and has requested an extension of the aforesaid approvals, and

WHEREAS, the Henrietta Town Board finds that the Project remains substantially the same as approved, and that cause exists for such extension, and

WHEREAS, the Director of Engineering and Planning has indicated that more than an additional six (6) months is required to obtain the necessary approvals and building permits.

THEREFORE, BE IT RESOLVED, that the aforesaid approvals are hereby extended for two (2) additional six (6) month periods from April 16, 2009 until April 16, 2010.

SUPERVISOR YUDELSON

Discussion?

DANIEL MASTRELLA, TOWN ATTORNEY

It's not Express Mart, it should be Sickles Corporation, the Pitstop, not Express Mart. Express Mart is the next one.

SUPERVISOR YUDELSON

Oh, okay, thank you. So, should we . . .

DANIEL MASTRELLA, TOWN ATTORNEY

The only thing that's wrong with it is it says, "Express Mart", it should say, "Sickles Corporation."

COUNCILWOMAN McCABE

Could you spell that?

DANIEL MASTRELLA, TOWN ATTORNEY

S.i.c.k.l.e.s.

COUNCILWOMAN McCABE

Do I have to make a motion to change it?

SUPERVISOR YUDELSON

I think we can just . . .

DANIEL MASTRELLA, TOWN ATTORNEY

No, I think we can just correct it. It's just a clerical error.

COUNCILWOMAN McCABE

Okay, Sickles Corporation, then. Is that the proper address?

DANIEL MASTRELLA, TOWN ATTORNEY

Yes.

COUNCILWOMAN McCABE

Okay.

*(Let the Record show that "Express Mart" was corrected to read "Sickles Corporation.")*

SUPERVISOR YUDELSON

Further discussion? Call the roll, please.

RESOLUTION #8-95/2009

On Motion of  
Councilwoman Zinck

Seconded by  
Councilwoman McCabe

WHEREAS, the Applicant, Express Mart, 3001 Winton Road South, received

approvals for a Special Use Permit from the Henrietta Town Board pursuant to Application No. 2007-050, on June 6, 2007, and then Site Plan Approval from the Henrietta Planning Board through Application No. 2007-108, on January 22, 2008, and thereafter obtained various zoning variances for the same property, and

WHEREAS, the Applicant has made a request for an extension of said approvals in order to obtain building permits and commence construction of the Project, and

WHEREAS, the Henrietta Town Board finds that the Project is substantially the same as previously approved and cause for extension exists.

THEREFORE, BE IT RESOLVED, that all said approvals are hereby extended for a period of six (6) months from January 22, 2009 until July 22, 2009.

**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 #8-96/2009**

On Motion of  
Councilman Moore

Seconded by  
Councilman Mulligan

WHEREAS, the firm of Computel Consultants advised the Town of Henrietta in the year 2003 that the formula utilized by Time Warner Cable to determine the amount of annual franchise fee payment to the Town of Henrietta, may understate those payments, and

WHEREAS, the Town hired Computel Consultants to audit said payments and claim any additional revenues to which the Town was entitled, and

WHEREAS, on behalf of the Town, Computel Consultants filed and extensively litigated a complaint on behalf of the Town before the New York State Public Service Commission, and

WHEREAS, the Public Service Commission ultimately ruled that additional franchise fees should be paid to the Town, and

WHEREAS, after extensive negotiations, the Town and Time Warner Cable have agreed on a settlement figure of \$161,831.00 to settle underpayments dating from November, 1999 through December, 2008, and

WHEREAS, the Agreement between the Town of Henrietta and Computel Consultants calls for a payment to Computel Consultants of fifty percent (50%) of any

recovery.

THEREFORE, BE IT RESOLVED, that the Supervisor is hereby authorized to settle the Town's claim for the sum of \$161,831.00, and to execute any documents in furtherance of said settlement.

BE IT FURTHER RESOLVED, that the Director of Finance is hereby authorized to pay Computel Consultants fifty percent (50%) of any settlement funds received, as specified in the Contract of Engagement.

**SUPERVISOR YUDELSON**

Under discussion, I just wanted to thank the Town Attorney, Dan Mastrella, and our Director of Finance, Paul Liess. They both have been working with Computel for a couple of years on trying to get this matter resolved with Time Warner, and I'm glad we were finally able to get this to this point. Any further 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 #8-97/2009**

On Motion of  
Councilman Mulligan

Seconded by  
Councilman Moore

BE IT RESOLVED, that the following persons be hired:

Charles Mosele                      Fire/Building/Code Enforcement, Part-time Fire Inspector @ \$11.40/hr., effective 4/13/2009.

Douglas Barber                      Fire/Building/Code Enforcement, Part-time Fire Inspector @ \$11.40/hr., effective 4/27/2009.

**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

That's the end of the regular Agenda, before we adjourn is there anybody that would like to speak on any matter involving the Town of Henrietta?

TONY KEMMER, 39 CLOONEY DRIVE

Hi, Tony Kemmer, 39 Clooney Drive, Henrietta. I was wondering where, if there's any progress on the situation I read in the paper with the sidewalks up by East River Road, the development up by East River Road where the, do you know which one I'm talking about?

SUPERVISOR YUDELSON

Yes, I do, and as you may have read, the Planning Board determined that they would require the sidewalks, and now it's up to the Developer, whether he decides to go forward with the Project or not.

TONY KEMMER, 39 CLOONEY DRIVE

So, am I to understand that the sidewalks were in the original plan when it was written up before this development was started, is my question. Was it in the planning, the plan itself for sidewalks before it was, when the developer passed it?

SUPERVISOR YUDELSON

Yes, where they were going to be located changed during the process based on some input from the public, which side of Farrell Road Extension it would be on. For sidewalks, the Planning Board had asked for that from the beginning.

TONY KEMMER, 39 CLOONEY DRIVE

Thank you, for clearing that up. I ask that you make an exception, I want to speak on an item on the Agenda.

SUPERVISOR YUDELSON

Well, you know, the item has already been acted on, you can certainly speak on any item involving the Town, so feel free.

TONY KEMMER, 39 CLOONEY DRIVE

Why does the Library's piddly things, like the Library things that are being retired or, why does that require Town Board approval?

SUPERVISOR YUDELSON

Anything that's on the inventory, that's State Law, it has to come to the Town Board since they belong, it's public property, property of the Town Library . . .

TB April 1, 2009

TONY KEMMER, 39 CLOONEY DRIVE

So the people can't run away . . .

SUPERVISOR YUDELSON

They have to be disposed of by the Town Board, so in other words, they couldn't, somebody just couldn't say, "Well, we can't use it anymore", and take it with them. No, that equipment is on inventory, we check that inventory every year . . .

TONY KEMMER, 39 CLOONEY DRIVE

There couldn't be an easier way to cut costs and time for, you know, an easier process, computerize it or something so it would minimize manpower, and time and costs.

SUPERVISOR YUDELSON

Well, we don't really, it doesn't take any time to do it, I mean, it is completely, the inventory is all computerized and we look through it, and we just verify each year that the equipment is all still in place, and still usable, and the ones that aren't, they just let us know, and it really doesn't involve much time, it's just using the appropriate means to get rid of something, as I say, so that it is not going for anybody's personal use.

TONY KEMMER, 39 CLOONEY DRIVE

Thank you, very much.

SUPERVISOR YUDELSON

Sure. Is there anybody else? 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 was adjourned without objection.

Respectfully submitted,

Leann C. Case  
Deputy Town Clerk