

**HENRIETTA TOWN BOARD
AGENDA
DECEMBER 16, 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):
On Motion of: Councilwoman Zinck Seconded by: Councilman Mulligan
- December 2, 2009 Regular Meeting
6. Miscellaneous Communications
7. Public Hearing:
- Proposed Local Law No. 1 of 2009 - Amending Residency
Requirements – Superintendent of Highways
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 #24-226/2009
Authorize Accounts Payable

RESOLUTION #24-227/2009
Authorize Supervisor to Sign Monroe County All Seasons County/Town Work
Agreement

RESOLUTION #24-228/2009
Authorize Tax Certiorari Settlement – 2970 West Henrietta Road – Delta Sonic
Car Wash Systems, Inc.

RESOLUTION #24-229/2009
Authorize Payment - Certiorari Attorney for Legal Services

RESOLUTION #24-230/2009
Authorize Acceptance of Dedication of Roadways and Storm Sewers – Calkins
Road Professional Business Park Subdivision, Section Three

RESOLUTION #24-231/2009
Authorize Acceptance of Dedication of Roadways and Storm Sewers – Shadow

TB December 16, 2009

Ridge Subdivision, Section Two

RESOLUTION #24-232/2009

Adopt Proposed Local Law No. 1 of 2009 – Residency Requirements –
Superintendent of Highways

RESOLUTION #24-233/2009

Declare Items Surplus Materials – Engineering/Library

RESOLUTION #24-234/2009

Appoint Superintendent of Highways

RESOLUTION #24-235/2009

Authorize Personnel Items

TB December 16, 2009

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 16th DAY OF DECEMBER, 2009 AT 8:00 P.M.

PRESENT

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

ABSENT

Councilwoman Catherine A. McCabe

(SILENT PRAYER)

(PLEDGE OF ALLEGIANCE TO THE FLAG)

SUPERVISOR YUDELSON

We do have a Public Hearing tonight, but before that, is there anyone who would like to speak on any of the Agenda items, other than the Public Hearing, any Agenda items?
(Pause, no response) If not, could I have the Approval of the Minutes?

COUNCILWOMAN ZINCK

I'd like to Approve the Minutes of the December 2, 2009.

COUNCILMAN MULLIGAN

Second.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

SUPERVISOR YUDELSON

We have one (1) Public Hearing tonight, on Proposed Local Law No. 1 of 2009, Amending the Residency Requirements for the Superintendent of Highways position. Is there anybody who would like to speak on this Public Hearing? Mr. Schmitt?

JOHN SCHMITT, 139 CAMPFIRE ROAD NORTH

Just a question, the wording of this particular Resolution sounds like it's an exception to a rule. Is there a rule?

SUPERVISOR YUDELSON

Yes, by definition, Highway Superintendents, by New York State Law, are supposed to live in the town that they represent, but it also, the same Law gives the Town, through adoption of a Local Law, the authority to expand that to whatever area they may deem appropriate.

JOHN SCHMITT, 139 CAMPFIRE ROAD NORTH

. . . that's specific to the job classification, the Highway Department Superintendent?

SUPERVISOR YUDELSON

Correct.

JOHN SCHMITT, 139 CAMPFIRE ROAD NORTH

Okay, thank you.

SUPERVISOR YUDELSON

Thank you. Is there anyone else who would like to speak on this Public Hearing? *(Pause, no response)* If not, I'll close this Public Hearing, and may I have the first Resolution, please.

RESOLUTION #24-226/2009

On Motion of
Councilman Moore

Seconded by
Councilwoman Zinck

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

EXHIBIT A	Bills Payable dated 12/16/2009	\$ 332,468.56
-----------	--------------------------------	---------------

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Absent
Councilman Mulligan	voting	Aye
Councilman Moore	voting	Aye

Councilwoman Zinck	voting	Aye
Supervisor Yudelson	voting	Aye
		Carried

RESOLUTION #24-227/2009

On Motion of	Seconded by
Councilman Mulligan	Councilman Moore

WHEREAS, Resolution #22-265/2006 authorized the Supervisor to sign the All Seasons County/Town Agreement for the provision of Town labor and equipment to perform various work for Monroe County for an initial period commencing on January 1, 2007 and ending on December 31, 2007 with the option of nine (9) one-year extensions, and

WHEREAS, the County of Monroe has submitted an Amendatory Agreement for 2010 containing updated labor reimbursement rates, and

WHEREAS, the Town of Henrietta desires to continue this Work Agreement with the County for the benefit of Henrietta residents.

THEREFORE, BE IT RESOLVED, that the Supervisor be hereby authorized to sign, on behalf of the Town, this Amendatory Agreement with Monroe County allowing the Town to continue to perform various work for Monroe County for the period commencing on January 1, 2010 and ending on December 31, 2010.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

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

RESOLUTION #24-228/2009

On Motion of	Seconded by
Councilman Moore	Councilwoman Zinck

WHEREAS, Delta Sonic Car Wash Systems, Inc., 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, and 2009

for premises located at 2970 West Henrietta Road in the Town of Henrietta, being Tax Account Numbers 148.20-1-14.11 and 148.20-1-14.111, 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 Delta Sonic Car Wash Systems, Inc., for the years 2006, 2007, 2008, and 2009 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	Absent
Councilman Mulligan	voting	Aye
Councilman Moore	voting	Aye
Councilwoman Zinck	voting	Aye
Supervisor Yudelson	voting	Aye
		Carried

RESOLUTION #24-229/2009

On Motion of
Councilwoman Zinck

Seconded by
Councilman Mulligan

WHEREAS, Certiorari proceedings have been commenced by various property owners to challenge tax assessments in the Town of Henrietta, and

WHEREAS, John Considine was hired by the Town of Henrietta to act as the Special Counsel in Certiorari proceedings per Resolution #15-199/82, and

WHEREAS, Mr. Considine has submitted an invoice for said services for the

TB December 16, 2009

period of August 1, 2009 through October 31, 2009.

THEREFORE, BE IT RESOLVED, that the Director of Finance be authorized to pay John Considine of the firm McConville, Considine, Cooman & Morin, P.C., 25 East Main Street, Rochester, New York 14614, the sum of \$8,762.25 for services rendered.

SUPERVISOR YUDELSON

Discussion?

COUNCILMAN MULLIGAN

Under discussion, the money for 700 Jefferson Road, is that part of Benderson? If Nate is here, just nod.

SUPERVISOR YUDELSON

700 Jefferson Road, LLC, . . .

COUNCILMAN MULLIGAN

Is that like where Home Depot is . . .

SUPERVISOR YUDELSON

Nine hundred and eighty-seven dollars (\$987.00) . . .

COUNCILMAN MULLIGAN

. . . all that retail?

COUNCILWOMAN ZINCK

Nate says "Yes."

SUPERVISOR YUDELSON

He nods, affirming. Thank you. Anything further?

COUNCILMAN MOORE

Under discussion, I'd also like to ask, Nate had suggested or talked about this Knowledge Learning Center for one hundred and twenty-six dollars and seventy-five cents (\$126.75), that was kind of not really our bill. Is there a way we can bill somebody back for that because it's actually in the Town of Webster?

COUNCILWOMAN ZINCK

Nate nods "No." No.

SUPERVISOR YUDELSON

I don't know, Dan, if this is, we basically were, as it was talked about Monday, billed for something that's not in the Town, but because a response was required, we're being billed for an amount and whether it would be paid or not, I guess do we have any

standing to try and get that money back?

DANIEL MASTRELLA, TOWN ATTORNEY

I think that because it was within the confines of a lawsuit that what would have to be done would be the attorney for the town would have to request sanctions against the other party for bringing a frivolous suit. If it was done by mistake or the like, it's doubtful that sanctions would be awarded and bottom line is that you would probably have to pay the attorney representing the town more to apply for sanctions than the sanctions would be.

COUNCILWOMAN ZINCK

Yes, because it's what, one hundred and twenty-six dollars (\$126.00)?

COUNCILMAN MOORE

Yeah, I know, but it's not really our bill.

COUNCILWOMAN ZINCK

Right.

DANIEL MASTRELLA, TOWN ATTORNEY

You know, unfortunately, it happens. If somebody brings an action, you do have to respond to it and there will be some expense to it, generally.

SUPERVISOR YUDELSON

We certainly can send a bill for the thing, but most likely it would be ignored.

COUNCILMAN MOORE

I'm just saying, if we're watching the taxpayer's dollars, and it's not our bill, I don't know about you, but if they send me a bill, I don't pay it because it's not mine.

SUPERVISOR YUDELSON

Absolutely, but this bill is for our attorney that had to respond on our behalf. So, we'll try.

COUNCILMAN MOORE

Right, but I mean, we ought to try to get it back from somebody that it belongs to, not us.

SUPERVISOR YUDELSON

Right.

COUNCILMAN MOORE

Or the taxpayers.

SUPERVISOR YUDELSON

Right, we'll send them a bill. Call the roll, please.

Duly put to a vote:

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

RESOLUTION #24-230/2009

On Motion of
Councilman Moore

Seconded by
Councilman Mulligan

WHEREAS, LeFrois Development, LLC, the Developer of Calkins Road Professional Business Park Subdivision, Section 3, located on Kenneth Drive, has constructed roads and installed storm sewers in said subdivision section, and

WHEREAS, the Developer has offered to dedicate and relinquish ownership of the said roads and the aforescribed improvements to the Town and for this purpose has delivered to the Town Deeds for tracts or parcels of land conveying said roadways to the Town, and filing instruments granting easements to the Town for said improvements, and

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

WHEREAS, the Superintendent of Highways and the Director of Engineering and Planning have determined that the said roads and said improvements were built in accordance with Town requirements and have recommended that they be accepted by the Town, and

WHEREAS, the standard required two (2) year period of time within which a Maintenance Bond would be required to be posted has elapsed, and

WHEREAS, the Director of Engineering and Planning and the Superintendent of Highways have re-inspected the improvements and recommend that they be accepted without requiring posting of said Bond.

THEREFORE, BE IT RESOLVED, that the said roadways and said improvements for the described subdivision section be and they hereby are accepted and that said Deeds and easements be recorded in the Monroe County Clerk's Office.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Absent
---------------------	--------	--------

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

RESOLUTION #24-231/2009

On Motion of
Councilwoman Zinck

Seconded by
Councilman Moore

WHEREAS, Conifer Realty, the Developer of Shadow Ridge Subdivision, Section 2, located on Goldfinch Drive, Nuthatch Drive and Warbler Lane, has constructed roads and installed storm sewers in said subdivision section, and

WHEREAS, the Developer has offered to dedicate and relinquish ownership of the said roads and the aforescribed improvements to the Town and for this purpose has delivered to the Town a Deed for tracts or parcels of land conveying said roadways to the Town, and filing instruments granting easements to the Town for said improvements, and

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

WHEREAS, the Superintendent of Highways and the Director of Engineering and Planning have determined that the said roads and said improvements were built in accordance with Town requirements and have recommended that they be accepted by the Town, and

WHEREAS, the standard required two (2) year period of time within which a Maintenance Bond would be required to be posted has elapsed, and

WHEREAS, the Director of Engineering and Planning and the Superintendent of Highways have re-inspected the improvements and recommend that they be accepted without requiring posting of said Bond.

THEREFORE, BE IT RESOLVED, that the said roadways and said improvements for the described subdivision section be and they hereby are accepted and that said Deed and easements be recorded in the Monroe County Clerk's Office.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #24-232/2009

On Motion of
Councilman Mulligan

Seconded by
Councilman Moore

WHEREAS, upon proper notice a Public Hearing was held on the 16th day of December, 2009, where all persons wishing to speak regarding proposed Local Law No. 1 of 2009 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 will be best served by expanding the residency requirement for the Superintendent of Highways to allow the person performing the said functions to be a resident of the County of Monroe, State of New York.

THEREFORE, BE IT RESOLVED, that the Henrietta Town Board hereby enacts Local Law No. 1 of 2009, a Local Law Amending the Residency Requirements for the Town Superintendent of Highways.

BE IT FURTHER RESOLVED, that said Local Law be designated Local Law No. 1 of 2009.

BE IT FURTHER RESOLVED, 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. 1 of 2009, and that said Law shall take effect immediately upon filing with the Secretary of State.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #24-233/2009

On Motion of
Councilman Moore

Seconded by
Councilwoman Zinck

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

Inventory #

2593

Description

Xerox 3001 Engineering Copier

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

Inventory #

469

Description

General Electric Refrigerator

n/a

Stove

THEREFORE, BE IT RESOLVED, that the items described above be declared surplus materials and be sent to the Parks and Facilities Department for disposal.

SUPERVISOR YUDELSON

Discussion? Call the roll, please.

Duly put to a vote:

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

RESOLUTION #24-234/2009

On Motion of
Councilwoman Zinck

Seconded by
Councilman Moore

BE IT RESOLVED, that effective January 1, 2010, the Town of Henrietta appoint Kenneth O'Neil, a resident of Monroe County, New York, as Superintendent of Highways for the Town of Henrietta to render to the Town Board and to the Town of Henrietta such services customarily rendered and performed pursuant to said office, said position to be held for a two (2) year term, at the discretion of the Board, expiring December 31, 2011.

BE IT FURTHER RESOLVED, that the Town of Henrietta pay to said Superintendent of Highways for all services rendered, the annual salary of \$68,000.00.

SUPERVISOR YUDELSON

Under discussion, I would like to commend and thank Rusty Martin for his service of many years to the Town, and most of that as Highway Superintendent, I think he's got about thirty-seven (37) years, if I'm not wrong, with the Town, which means that he started when he was about twelve (12), and Rusty has always served the Town's best interests at heart, and has seen a lot of changes in the Town's highway system, and we really appreciate his service to the Town. Anyone else? Call the roll, please.

TB December 16, 2009

not, I'll just mention, for the Record, this is the last time that the Board will be starting their meetings at 8:00 p.m., coming the start of the year we'll be having the Board meetings starting at 7:00 p.m. and the Special Permit Meetings will start at 6:00 p.m. or 6:30 p.m., depending on how much of an Agenda we have, and we again, thank Councilman Mulligan for bringing this forward to the Board and the rest of the Board for supporting it. I think a lot of people appreciate it. Is there anything else?

COUNCILWOMAN ZINCK

The only other thing, it's our last meeting before the holidays, so Happy Holidays to everyone, Merry Christmas, whatever you celebrate.

SUPERVISOR YUDELSON

Happy Holidays. Can I have a motion to adjourn?

The Regular Meeting of the Henrietta Town Board was moved for adjournment by Councilwoman Zinck, seconded by Councilwoman Mulligan at 8:30 P.M. and was adjourned without objection.

Respectfully submitted,

Leann C. Case
Deputy Town Clerk