

**HENRIETTA TOWN BOARD
AGENDA
JANUARY 18, 2006**

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): December 21, 2005
January 1, 2006 Organizational Meeting
January 1, 2006 Regular Meeting
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 #3-48/2006
Authorize Accounts Payable

RESOLUTION #3-49/2006
Call for Public Hearing - Proposed Local Law No. 1 of 2006 - A Local Law Establishing the Position of Fire Marshal/Building Inspector and Abolishing the Independent Titles of Fire Marshal and Building and Development Coordinator and/or Building Inspector

RESOLUTION #3-50/2006
Authorize Tax Certiorari Settlement - 800 Jefferson Road

RESOLUTION #3-51/2006
Authorize General Engineering and Planning Services - Corneles Engineering, P.C. and Lu Engineers

RESOLUTION #3-52/2006
Authorize Supervisor to Sign 2006 Monroe County Youth Services Agreement

RESOLUTION #3-53/2006
Appoint Member to Recreation Commission

RESOLUTION #3-54/2006
Authorize Amendments to the 2005 Budget

RESOLUTION #3-55/2006

Authorize 2005 Budget Transfers

RESOLUTION #3-56/2006

Authorize Town Board to Accept Employment Release

RESOLUTION #3-57/2006

Declare Items Surplus Materials

RESOLUTION #3-58/2006

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 18TH DAY OF JANUARY, 2006 AT 8:00 P.M.

MEMBERS PRESENT

MEMBERS ABSENT

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

SUPERVISOR BREESE

Is there anybody who would like to speak on Agenda items, Agenda items only at this time? *(Pause - no response)* Okay. May I have the approval of the Minutes, please.

COUNCILWOMAN McCABE

Mr. Supervisor, I move we approve the Minutes of December 21, 2005, January 1, 2006, the Organizational meeting, and January 1, 2006, the Regular meeting.

COUNCILMAN YUDELSON

Second.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

SUPERVISOR BREESE

May I have the first Resolution, please.

RESOLUTION #3-48/2006

On Motion of
Councilwoman Zinck

Seconded by
Councilman Yudelson

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

EXHIBIT A	Bills Payable dated 1/18/2006	\$ 432,446.17
EXHIBIT B	Manual Bills Payable	\$ 1,833.00

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #3-49/2006

On Motion of
Councilman Mulligan

Seconded by
Councilwoman McCabe

WHEREAS, true and correct copies of proposed Local Law No. 1 of 2006, A Local Law Establishing the Position of Fire Marshal/Building Inspector and Abolishing the Independent Titles of Fire Marshal and Building and Development Coordinator and/or Building Inspector, were delivered to each member of the Town Board, and

WHEREAS, due consideration has been given to the adoption of proposed Local Law No. 1 of 2006, A Local Law Establishing the Position of Fire Marshal/Building Inspector and Abolishing the Independent Titles of Fire Marshal and Building and Development Coordinator and/or Building Inspector, by all members of the Town Board, and

WHEREAS, the Town Board wishes to consider and solicit public input on the proposal to consolidate the functions of the Fire Marshal and the Building and Development Coordinator and/or Building Inspector into a single office, and

WHEREAS, it is the considered opinion of the Town Board that a Public Hearing should be held on the 15TH day of February, 2006 at 8:00 p.m. at the Town Hall, 475 Calkins Road, Henrietta, New York, to consider the adoption of proposed Local Law No. 1 of 2006, A Local Law Establishing the Position of Fire Marshal/Building Inspector and Abolishing the Independent Titles of Fire Marshal and Building and Development Coordinator and/or Building Inspector.

THEREFORE, BE IT RESOLVED, that a Public Hearing be held on the 15TH day of February, 2006 at 8:00 p.m. at the Town Hall, 475 Calkins Road, Henrietta, New York, on the question of the adoption of proposed Local Law No. 1 of 2006, A Local Law Establishing the Position of Fire Marshal/Building Inspector and Abolishing the Independent Titles of Fire Marshal and Building and Development Coordinator and/or Building Inspector, and a summary thereof be published in a newspaper previously designated as an official newspaper for publication of public notices, not less than five (5) days prior to said Hearing.

BE IT FURTHER RESOLVED, that the Town Clerk shall post Certified copies of both this Resolution and said proposed Local Law No. 1 of 2006, A Local Law Establishing the Position of Fire Marshal/Building Inspector and Abolishing the Independent Titles of Fire Marshal and Building and Development Coordinator and/or Building Inspector, or a summary thereof, on the bulletin board maintained by the Town Clerk, pursuant to Section 30(6) of the Town Law, for a period of not less than five (5) days prior to said Public Hearing.

SUPERVISOR BREESE

Under discussion, I asked the Town Attorney, my understanding of Town Law of the State of New York is that a Resolution like this has to refer specifically to the Town Law Number that it's superceding. I don't see that on here.

DANIEL MASTRELLA, TOWN ATTORNEY

I think . . .

SUPERVISOR BREESE

If you want to see the section of the Law, I have it.

DANIEL MASTRELLA, TOWN ATTORNEY

I think it references Section 1-11B(2), B(3), and B(4), and then Town Code Sections 48-7(B) and 119-10(B) for repeal in the Local Law itself.

SUPERVISOR BREESE

So, as the Law says, the Local Law must specify which section and paragraph the Town Law is being superceded. You feel that this Resolution has accomplished that?

DANIEL MASTRELLA, TOWN ATTORNEY

The Local Law accomplishes that. The Resolution just calls for the Public Hearing on the Local Law, but the Local Law recites the sections in the Code that are going to be, in essence, changed, just as they were previously.

SUPERVISOR BREESE

So, the Resolution doesn't have to state it.

DANIEL MASTRELLA, TOWN ATTORNEY

No, the Resolution calls for the Public Hearing. The Local Law has to state it, and the Local Law has to, and the way this is done, there's, between Fire Marshal and Building Development and Coordinator and/or Building Inspector, there's several hundred references in the Town Code, and the way this was done, amended previously, and the way it's proposed to be amended now is by changing Section 1-11 in the appropriate places and then the other sections that are unnecessary, deleting them.

SUPERVISOR BREESE

There was an issue I raised, which you told the Board you would follow up on when they requested an opinion from the State Comptroller. Are you prepared to send that letter in to the State Comptroller on that issue that I raised?

DANIEL MASTRELLA, TOWN ATTORNEY

I will be glad to solicit the opinion of the State Comptroller. I have not drafted . . .

SUPERVISOR BREESE

You know what I was talking about?

DANIEL MASTRELLA, TOWN ATTORNEY

I understand specifically.

SUPERVISOR BREESE

And I understand the Board wants that information, too, before they, I presume, before they adopt this Law.

DANIEL MASTRELLA, TOWN ATTORNEY

And one issue that needs to be resolved before I send that letter is whether or not this Town has previously passed legislation designating itself as a Suburban Town.

SUPERVISOR BREESE

Yes, we talked about that. I'd like to ask Paul Liess, our Director of Personnel, to come up. I have a question I want to ask him. I know you haven't had a lot of time to get a lot of answers, but this refers to establishing a position of Fire Marshal/Building Inspector. Is there such a position in the Civil Service?

PAUL LIESS, DIRECTOR OF FINANCE/PERSONNEL

At this time, they're currently reviewing it. They do not have a position to their knowledge, but they have to go through all of their titles.

SUPERVISOR BREESE

So, right now they're not aware of such a position. It would have to have a job description to what it would entail, obviously. So, what happens when they don't have a specific position? What do we have to do?

PAUL LIESS, DIRECTOR OF FINANCE/PERSONNEL

We have to fill out a Form 222 to create the duties and the title and have it reviewed by Civil Service and taken to the Civil Service Commission, at which time they vote on it.

SUPERVISOR BREESE

So, that could take some time, is that correct?

PAUL LIESS, DIRECTOR OF FINANCE/PERSONNEL

That's correct, it could.

SUPERVISOR BREESE

Well, I'll ask the Town Attorney - I think that's all I need from you right now, unless you want to talk. I just want to ask the Town Attorney if this goes to the Civil Service Commission and they turn this down, what does that do to this whole Resolution?

DANIEL MASTRELLA, TOWN ATTORNEY

It depends if the position has to be a Civil Service position or not. If it has to be a Civil Service position and they won't approve it . . .

SUPERVISOR BREESE

Well, I think I heard that it did have to be. Go ahead.

DANIEL MASTRELLA, TOWN ATTORNEY

Well, I think they make that determination as well, but if it has to be a Civil Service position and they do not approve it, I think that then the Board has to make it, I'm not sure, to be honest with you. An appointed position, perhaps, I'm not sure.

SUPERVISOR BREESE

Okay. So, maybe the prudent thing to do would be to wait until we get all this information back before we adopt this new Law. It doesn't mean you can't go to a Public Hearing, but before you adopt the new Law, there's some pieces out there that we need to get back here, isn't that right? To make sure we're doing the right thing?

DANIEL MASTRELLA, TOWN ATTORNEY

I would agree that it would be much better to have more information before there was an actual adoption of the Law.

COUNCILWOMAN McCABE

Through you, Mr. Supervisor, I think we did discuss that, and I think maybe the Public Hearing, calling for the Public Hearing on February 15TH gives us at least a month, and hopefully we'll have all the answers by then.

SUPERVISOR BREESE

Okay. Well, I usually make a practice of voting in favor of having Public Hearings, but obviously, I can't do it in this case because I, without going into a lot of back and forth

stuff, I don't want to be associated with this particular effort. I think it's a mistake, and I hope that somehow the Board can, and me, I'm part of the Board, can work all this out in a satisfactory way, but I can't support this Resolution because I don't want to be associated with it, with what's being attempted here, and I stated that on January 1ST, so it's not news. Okay, anybody else? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye
Councilman Mulligan	voting	Aye
Councilman Yudelson	voting	Aye
Councilwoman Zinck	voting	Aye
Supervisor Breese	voting	No

Carried

RESOLUTION #3-50/2006

On Motion of
Councilman Yudelson

Seconded by
Councilwoman McCabe

WHEREAS, Marketplace Realty, LLC heretofore commenced proceedings against the Assessor and the Board of Assessment Review and other respondents for a review of the Assessments for the years 2002, 2003, 2004, and 2005 on premises located at 800 Jefferson Road in the Town of Henrietta, being Tax Account Number 162.06-1-10.V, 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 Marketplace Realty, LLC for the years 2002, 2003, 2004, and 2005 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 BREESE

Discussion?

COUNCILMAN MULLIGAN

Through you, Mr. Supervisor, because the Applicant is a tenant on the property that I manage, I will abstain on this Resolution.

SUPERVISOR BREESE

Fine. Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #3-51/2006

On Motion of
Councilman Mulligan

Seconded by
Councilman Yudelson

WHEREAS, Corneles Engineering, P.C., 3495 Winton Place, Building E, Suite 260, Rochester, New York 14623, and Lu Engineers, 2230 Penfield Road, Penfield, New York 14526, have each submitted to the Town of Henrietta a proposal for General Engineering and Planning Services, dated December 28, 2005 and January 17, 2006, respectively, copies of which are attached and on file in the Town Clerk's Office, and

WHEREAS, the proposed scope of services, as more fully detailed therein, is to provide General Engineering and Planning Services in order to supplement current Town Staff.

THEREFORE, BE IT RESOLVED, that the Supervisor is hereby authorized, on behalf of the Town of Henrietta, to execute the proposed General Engineering and Planning Services proposals with Corneles Engineering, P.C. and/or Lu Engineers, for a combined total cost not to exceed \$23,000.00 through December 31, 2006 at the hourly billing rates set forth in said proposals.

BE IT FURTHER RESOLVED, that the Director of Finance is hereby authorized to pay Corneles Engineering, P.C. and/or Lu Engineers, for Engineering and Planning

Services performed at the rates set forth in said proposals upon satisfactory completion and acceptance of the services provided by the Director of Engineering and Planning.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #3-52/2006

On Motion of
Councilwoman McCabe

Seconded by
Councilman Yudelson

WHEREAS, the Town of Henrietta wishes to continue to participate in the Comprehensive Youth Services Planning in Monroe County, and

WHEREAS, in order for the Town to participate in the County's Comprehensive Plan, the Town Board delegates its right to claim Youth Development and Delinquency Prevention (Y.D.D.P.) State aid to the County of Monroe for the Year 2006, and

WHEREAS, the State Office of Children and Family Services requires that the annual Youth Services Agreement between the County of Monroe and the Town of Henrietta be approved by the Town Board.

THEREFORE, BE IT RESOLVED, by the Henrietta Town Board as follows:

- Section 1. In order to participate in the County's Comprehensive Plan, the Town of Henrietta delegates its right to claim Y.D.D.P. State aid to the County of Monroe for the Year 2006.
- Section 2. The Town's Application for Y.D.D.P. State aid in the amount of \$25,080.00 is hereby approved.
- Section 3. The Town of Henrietta and the County of Monroe shall Contract regarding the financial agreement under the Comprehensive Youth Services Planning in Monroe County.
- Section 4. This Resolution shall take effect immediately.

BE IT FURTHER RESOLVED, that the Supervisor be hereby authorized to sign, on behalf of the Town, the Annual Monroe County Youth Services Agreement for the Year 2006.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #3-53/2006

On Motion of
Councilman Yudelson

Seconded by
Councilman Mulligan

WHEREAS, a vacancy exists on the Henrietta Recreation Commission, and

WHEREAS, John Picone is a qualified resident of the Town of Henrietta and wishes to serve on the Henrietta Recreation Commission, and

WHEREAS, the Henrietta Town Board wishes to maintain the Boards at their authorized strength for maximum input.

THEREFORE, BE IT RESOLVED, that John Picone, 3 Withams Court, West Henrietta, New York 14586, be appointed to the Henrietta Recreation Commission for the remainder of a seven (7) year term effective January 19, 2006 and expiring December 31, 2007.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #3-54/2006

On Motion of
Councilman Mulligan

Seconded by
Councilwoman McCabe

WHEREAS, the Town Board authorizes Budget amendments, and

WHEREAS, the Highway Department collected revenues for services rendered,
and

WHEREAS, the Highway Fund has available funds to increase retroactively the
2005 Budget.

THEREFORE, BE IT RESOLVED, that the following 2005 Budget amendments
be approved retroactively as follows:

<u>Description</u>	<u>Increased Amounts</u>	<u>Revised Amounts</u>
2.5112.400	\$ 4,574.00	\$121,574.00
2.5130.430	\$112,340.00	\$312,616.19

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #3-55/2006

On Motion of
Councilman Mulligan

Seconded by
Councilman Yudelson

BE IT RESOLVED, that the Director of Finance be authorized to make the 2005
Budget transfers, as per the attachments.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye
Councilman Mulligan	voting	Aye
Councilman Yudelson	voting	Aye

Councilman Yudelson

Councilman Mulligan

WHEREAS, the Town Clerk has requested that the following items be declared surplus materials:

<u>Inventory #</u>	<u>Description</u>
03505	Pitney Bowes Postage Machine
03506	Pitney Bowes Postage Scale

THEREFORE, BE IT RESOLVED, that the items described above be declared surplus materials and be returned to Pitney Bowes, as per the new Postage Meter and Scale Lease Agreement.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

RESOLUTION #3-58/2006

On Motion of
Councilman Mulligan

Seconded by
Councilman Yudelson

BE IT RESOLVED, that the following persons be hired:

Nicole Anderson Recreation, Part-time Recreation Assistant @ \$6.75/hr., effective 1/8/2006.

Gretchen Oechsle Recreation, Part-time Recreation Assistant @ \$7.50/hr., effective 1/8/2006.

Pamela Cook Court, Part-time Cashier @ \$10.00/hr., effective 1/16/2006.

BE IT FURTHER RESOLVED, that the following employee changes be made:

Linda Kelley Court, Clerk to the Justice @ \$20.00/hr. from \$12.76/hr., effective 1/23/2006.

Marc A. Duclos

Attorney to the Zoning Board, to amend Resolution #1-4/2006, annual salary to \$9,616.00 from \$9,336.00, which is consistent with the 2005 rate.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

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

Carried

SUPERVISOR BREESE

That's the end of the regular Agenda. Before we adjourn, would any of you like to speak on any other items involving the Town of Henrietta? This is your chance, now or never. *(Pause - no response)* I guess it's never.

The Regular Meeting of the Henrietta Town Board was moved for adjournment by Councilman Yudelson, seconded by Councilwoman McCabe at 8:28 P.M. and passed unanimously.

Respectfully submitted,

Amber N. Hutchinson
Deputy Town Clerk