

**MINUTES OF STAFFORD TOWN BOARD MEETING OF May 11, 2009**

**PRESENT:**

R. Clement                -Supervisor  
D. Vicary                 -Councilman  
R. Panek                 -Councilman  
R. Pacer                 -Deputy Supervisor  
M. Mouery               -Councilman  
Steven Boldt            - Highway Superintendent

**OTHERS PRESENT:**

Walter Kershenski    -Town Clerk  
Approximately 11 members of the Community per sign in form

Supervisor Clement called the meeting to order at 7:30 p.m., followed by Pledge to the Flag.

**Motion** made by Councilman Mouery sec. by Councilman Pacer to accept the minutes of the April 13, 2009, Regular Town Board Meeting as presented by the Town Clerk. **Motion** carried.

**Motion** made by Councilman Vicary, sec. by Councilman Panek to accept the financial report as submitted by the Supervisor. **Motion** carried

**OLD BUSINESS:**

**1. NYS Snow & Ice Removal contract -- Steve Boldt:**

Highway superintendent Boldt offered the following resolution for consideration by the Town Board members.

**RESOLUTION NO.        13-2009                                DATED: May 11, 2009**

**Authorization to accept “Agreement to Extend Fixed Lump sum Municipal Snow and Ice Agreement” for the 2010/2011 contract year:**

**Be it resolved that**, the Town of Stafford, Town Board hereby authorizes the Supervisor to sign the ‘Agreement to Extend Fixed Lump sum Municipal Snow and Ice Agreement’ for the 2010/2011 contract year.

This Resolution was presented to the Stafford Town Board at the May 11, 2009 regular meeting and a motion was made by Councilman Vicary, and seconded by Councilman Pacer. The motion was passed by a vote of  
  5   to   0  .

**2. Water District Status -- R. Clement**

Supervisor Clement reported that applications for Water District numbers 5, 7 & 8 have been submitted to the NYS Comptroller’s Office for their final approval to proceed with implementation of these Water Districts. They have asked for additional information and clarification of other information which we have provided for them. We are still awaiting their decision. Also there will be a Bond Closing meeting scheduled for Water District #6 with Attorneys and representatives from the Town of Batavia on June 21<sup>st</sup>, 2009. This meeting will be held at the Rural Development Office in Batavia. Supervisor Clement is scheduled to attend this meeting.

## **NEW BUSINESS:**

### **1. SEQR – Comp Plan Update 2009 Future Land Use Plan:**

Supervisor Clement presented to the Town Board members a SEQR form , Comprehensive Plan Upgrades and Future Land Use Map regarding the Town of Stafford Comprehensive Plan Upgrade. He then asked them to review these documents and then approve that they be forwarded to the Genesee County Planning Dept. After a brief discussion, a **Motion** was made by Councilman Vicary and seconded by Councilman Pacer to approve the proposed Text Amendments to the Town of Stafford Comprehensive plan and future Land Use Map and that Town Clerk Kershenski forward such to the Genesee County Planning Department for their Review and approval at there June 2009 meeting. Motion was passed

### **2. Sexual Harassment Policy Adoption Resolution 16 -2009:**

Supervisor Clement presented the following Resolution for consideration and approval by the Town Board Members:

**RESOLUTION NO. 16-2009 DATED: May 11, 2009**

#### **Resolution on Sexual Harassment in the Town of Stafford**

##### **WHEREAS, BACKGROUND.**

Harassment on the basis of a person's sex by a supervisor, co -worker or other person is a discriminatory practice which violates Title VII of the Civil Rights Act of 1964 and regulations passed by the United States Equal Employment Opportunity Commission. Aside from being illegal, sexual harassment undermines the integrity of individual work relationships and damages the morale of the entire work force.

##### **WHEREAS, POLICY**

It is the policy of the Town of Stafford that all employees are entitled to work in a n environment free from all forms of illegal discrimination including that which is based upon a person's sex. Accordingly, any practice or activity which constitutes sexual harassment is strictly forbidden within Town work places and shall, if substantiated in accordance with this policy, result in disciplinary action.

##### **WHEREAS, PROHIBITED CONDUCT.**

A. Definition. Sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment; or
2. Submission to or rejection of such conduct by a person is used as a basis for employment decisions affecting that person; or
3. Such conduct has the purpose or effect of unreasonably interfering with a person's work performance; or
14. Such conduct creates an intimidating, hostile or offensive work environment.

B. Sanctions. Sexual harassment is a serious violation of the work rules of the Town of Stafford and, if proven, shall be grounds for the imposition of discipline. Potential sanctions for the offense shall range from a minimum of a written reprimand to termination depending upon the following:

1. The individual facts of any given case; and
2. The employment record of the person determined to be guilty of committing such harassment.

IV. EMPLOYEE RIGHTS. Any employee who believes that another employee is engaging in sexual harassment may file a complaint within a reasonable period of time after the event (normally not more than 180 days).

##### **WHEREAS, RETALIATION PROHIBITED.**

No person filing a complaint under this policy or who legitimately assists another in the prosecution of any such complaint shall be subjected to retribution or retaliation of any kind for doing so.

##### **WHEREAS, FILING OF COMPLAINTS.**

All complaints of sexual harassment shall be filed with the Town Supervisor. In the event the Town Supervisor is the subject of the sexual harassment charge, the complaint shall be filed with the Town Deputy Supervisor, and the Deputy Supervisor shall discharge the duties of the Town Supervisor.

**WHEREAS, INVESTIGATION.**

1. Complaints filed under this policy shall be promptly and thoroughly investigated by an individual designated by the Town Supervisor.
2. Upon completion of the investigation, a comprehensive report addressing all allegations in the complaint and objectively documenting all relevant factual findings of the investigation shall be prepared. The investigatory report shall contain neither conclusions concerning the complaint nor recommendations as to disposition.
3. The investigative report shall be presented to the Town Supervisor upon completion and within fifteen (15) days after receipt of the complaint. This time requirement may be extended by the Town Supervisor, in writing, upon request of the investigator and good cause shown for such an extension.

**WHEREAS, ADJUDICATION.**

A. All complaints of Sexual Harassment shall be adjudicated by the Town Supervisor.

B. Upon receipt of the completed investigative report, the Town Supervisor shall conduct an administrative hearing at which the report will be presented and considered. All witnesses shall provide testimony under oath and a verbatim transcription/recording of the proceedings shall be made, which shall serve as the official record of the hearing.

C. The accused employee shall be notified, in writing, at least ten (10) days before the hearing of the complaint and the underlying allegations. The accused employee may request one (1) postponement of the hearing upon receipt of the notice in order to obtain legal counsel, however, the delay occasioned by such request shall not exceed thirty (30) days from the date of receipt of the notice by the accused employee.

D. The accused employee shall be entitled to attend the hearing and testify in his or her own behalf, and shall be entitled to confront and cross-examine the employee who filed the complaint. In the event that the complainant elects not to attend the hearing and upon objection from the accused to the complainant's absence, the complaint shall be dismissed and the accused deemed innocent of the allegations.

E. The accused employee shall be entitled to call witnesses in his or her own behalf and to introduce evidence which bears upon the issues presented by the complaint and investigative report.

F. At the conclusion of the hearing, or within five (5) days thereafter, the Town Supervisor shall make findings concerning the innocence or guilt of the accused of the offense of sexual harassment.

G. A finding of guilt must be supported by substantial, credible evidence that;

1. The facts alleged by the complainant are true; and
2. Those facts constitute sexual harassment within the meaning of this policy; and
3. The accused is the person who committed the acts amounting to sexual harassment.

**WHEREAS, RESPONSIBILITY.**

A. TOWN SUPERVISOR. It is the responsibility of the Town Supervisor to:

1. Provide information to Councilman and Deputy Supervisors regarding this policy specifically, and sexual harassment generally; the gravity of such behavior; and the procedure to be employed in the event a complaint of sexual harassment is made or conduct amounting to sexual harassment is observed.
2. Provide necessary training to Town Employees, and Elected Officials in order to reduce the likelihood of sexual harassment in the work place.

**WHEREAS, FALSE ACCUSATIONS.**

Due to the serious and private nature of this offense, false accusations of sexual harassment are, and will be treated as, a disciplinary offense and will result in the same level of punishment as that applied to one who engages in such behavior.

**NOW, THEREFORE,**

**BE IT RESOLVED, that** this resolution becomes a Policy Statement regarding issues of Sexual Harassment in the Town of Stafford

**Offered by: Councilperson Pacer**  
**Second by: Councilperson Mourey**

Passed by a vote of 5 yeas and 0 nays.

Roll Call vote as follows:

Councilperson Vicary	<u>Yes</u>
Councilperson Mourey	<u>Yes</u>
Councilperson Panek	<u>Yes</u>
Councilperson Pacer	<u>Yes</u>
Supervisor Clement	<u>Yes</u>

### **3. Letter from Karen Nostrant & Paul Hendel :**

Supervisor Clement presented to the Board members, a copy of a letter he recently received from Karen Nostrant & Paul Hendel who live on Caswell Road. Their property is immediately adjacent to property where there has been a recent proposal by Amy Mathisen to implement a Gymnastics and after School facility. They have some concerns regarding this business venture and wanted to share them with the Town Board Members and possibly offer an alternative proposal for the facility. The Board members took time to read the letter and commented briefly. The consensus of opinion was that before any action for approval of a Gymnastics and after School facility can be taken, Amy Mathisen must 1<sup>st</sup> apply for a Land Separation Permit for the location of this facility. No further action was taken on this issue at this time.

### **4. Sleds of Stafford Land Use Agreement approval :**

Town Clerk Kershenski presented to the Board Members the annual land use Agreement form that he recently received from the Sleds of Stafford Snowmobile Club. After a brief discussion by the Board members a **Motion** was made by Councilman Panek and seconded by Councilman Vicary to authorize Supervisor Clement to sign the Land Use Agreement form to allow the Sleds of Stafford Snowmobile Club use of Town Land for Snowmobile Trails. Motion was passed.

### **5. Genesee County Towns & Villages Collaboration on Legislative Term Lengths :**

Councilman Stephen Ferry from the Town of Darien forwarded correspondence to the Stafford Town Board members regarding consideration for adjustment to Legislative term lengths for Genesee County Legislatures from two years to four years. It was noted by the Board members that now all terms come due at the same time and that is would be wise to have them staggered. After further discussion, a **Motion** was made by Councilman Panek and seconded by Councilman Pacer to support whatever decision GAM approves and suggest that the terms be staggered, based on experience. The Motion was passed.

### **6. GAM MEETING:**

Town Clerk Kershenski gave a brief report of the content of the recent GAM meeting that was hosted By the Town of Oakfield on April 16th, 2009. There were discussions regarding term length's of the County Legislatures, RFP's for County Ambulance services, and status of County Rural Development Plan. Supervisor Clement is scheduled to attend the May 21st, 2009 meeting in the Town of Darien.

### **7. HIGHWAY DEPT. – STEVE BOLDT:**

- **Emery Park Pavilions:**

- Emery Park Re-roofing Status:  
Highway Superintendent Boldt commented that the Roofing of the two pavilions at Emery Park will be completed this week.
- New Loader Purchase Bid Selection:  
Supervisor Clement opened all Bids for the purchase of a new Rubber Tired Front End Loader for the Town Highway Department. The results are as follows:
  - Five Star Equipment -----\$98,000
  - George Swede -----\$107,000 & \$85,000
  - Monroe Tractor -----\$155,792.42

Superintendent Boldt stated that he recommends the Five Star Equipment Bid Proposal because it is a John Deere Brand Loader and therefore it provides continuity and parts interchangeability with current equipment in the shop. He stated that because of these factors, this bid actually would be the cheaper over time. After further discussion among the Board Members, a **Motion** was made by Councilman Vicary and seconded by Councilman Panek to purchase the John Deere Loader for \$98,000 from Five Star Equipment because it was in fact the only bid that truly met the required specifications.

Passed by a vote of 5 yeas and 0 nays.

Roll Call vote as follows:

Councilperson Vicary	<u>Yes</u>
Councilperson Mourey	<u>Yes</u>
Councilperson Panek	<u>Yes</u>
Councilperson Pacer	<u>Yes</u>
Supervisor Clement	<u>Yes</u>

**8. RESOLUTION NO. 14-2009 WD #6:**

Supervisor Clement presented the following resolution to the Town Board members for their consideration:

**RESOLUTION NO. 14-2009 DATED: May 11, 2009**

**Authorization to move funds from Contingency to Administrative:**

**BE IT RESOLVED, that** the Stafford Town Board hereby authorizes the Town of Stafford Financial Bookkeeper to move \$59,099.30 from Contingency to Administrative Miscellaneous on form E Revised #9 for Water District #6.

**Offered by: Councilperson Vicary**

**Second by: Councilperson Pacer**

Passes by a vote of 5 yeas and 0 nays.

Roll Call vote as follows:

Councilperson Vicary	<u>Yes</u>
Councilperson Mourey	<u>Yes</u>
Councilperson Panek	<u>Yes</u>
Councilperson Pacer	<u>Yes</u>
Supervisor Clement	<u>Yes</u>

**9. RESOLUTION NO. 15-2009:**

o Opposition to State Bill regarding elected vs. appointed Town government Positions:

Town Clerk Kershenski presented the following Resolution to the Town Board members for their consideration:

**RESOLUTION NO. 15-2009 DATED: May 11, 2009**

**Opposition to State Bill regarding elected vs appointed Town Government Positions:**

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF STAFFORD, GENESEE COUNTY, NEW YORK IN OPPOSITION TO CHANGE THE TOWN CLERK, RECEIVER OF TAXES AND SUPERINTERNDENT OF HIGHWAYS POSITIONS FROM ELECTED TO APPOINTED**

**WHEREAS**, the Offices of Town Clerk, Receiver of Taxes and Superintendent of Highways in New York State are elective offices pursuant to Section 20 of Town Law of the State of New York, and

**WHEREAS**, legislation has been introduced in New York State Legislature, Senate bill 56-A and Assembly Bill A.156, which was included in the Budget Bill under Part NN, Sections 26 -28, amending Town Law to permit towns to make the offices of Town Clerk, Receiver of Taxes and Highway Superintendent appointive positions subject only to a permissive referendum rather than a mandatory referendum, and

**WHEREAS**, Municipal Home Rule Law 23(2) (e) already provides that a town may adopt a local law changing the office of Town Clerk, Receiver of Taxes and Superintendent of Highways from elected to appointed positions, with said law requiring a mandatory referendum, thereby allowing all of the voting residents of the Town of Stafford their very important right to vote for or against such a proposal before any change could occur, and

**WHEREAS**, the Town Board of the Town of Stafford goes on record as supporting the Town Clerk, Receiver of Taxes and Superintendent of Highways remain as elected positions.

**WHEREAS**, there would be no financial benefit or savings to the Town in making these changes from elective to appointive offices, and

**WHEREAS**, the election process helps to maintain the independent nature of the Town Clerk, Receiver of Taxes and Highway Superintendent's offices and creates additional checks and balances in local government.

**NOW, THEREFORE BE IT RESOLVED** that the Town Board of the Town of Stafford, Genesee County, New York does hereby go on record as *opposing* any change in the existing New York State Statutes, specifically Senate bill 56-A and Assembly Bill A.156, which were included in the Budget Bill under Part NN, Section 26-28, providing for a change in the positions of Town Clerk, Receiver of Taxes and Highway Superintendent in the Town of Stafford, New York State from an elected to an appointed position through the process of a permissive referendum, thereby avoiding a mandatory referendum taking away the very important rights of the electorate in Stafford to vote on this matter before a change can occur, and

**BE IT FURTHER, RESOLVED**, that a copy of this Resolution be transmitted to the Governor, the Attorney General, the Senate Majority Leader, the Speaker of the Assembly, the Majority Leader of the Assembly, the Minority Leader of the Senate, the Minority Leader of the Assembly, and the Chairpersons of the Senate and Assembly Local Government Committees, Senator Michael Ranzenhofer 61<sup>st</sup> District Assemblyman Stephen Hawley, 139<sup>th</sup> Assembly District.

**Offered by:** Councilperson Mouery

**Second by:** Councilperson Vicary

Passes by a vote of 5 yeas and 0 nays.

Roll Call vote as follows:

Councilperson Vicary	<u>Yes</u>
Councilperson Mouery	<u>Yes</u>
Councilperson Panek	<u>Yes</u>
Councilperson Pacer	<u>Yes</u>
Supervisor Clement	<u>Yes</u>

**10. Highway Dept. Union Contract Status:**

- Councilman Pacer & Councilman Mouery:  
Nothing to report at this time. Need for an executive session to discuss Highway Dept. Personnel issues.
- A **Motion** to adjourn the regular Town Board meeting at 8:45 pm was made by Councilman Pacer and seconded by Councilman Vicary for purposes of retiring to an Executive Session to discuss Highway Dept. Personnel issues. Motion was passed.
- Supervisor Clement called the Regular Town Board meeting back to order at 9:10 PM.

Supervisor Clement stated that there has been some concerns recently about the Highway Superintendents availability during normal working hours. A brief discussion ensued between the Board members and the Highway Superintendent. No action was taken. Also, it was decided as part of the Union Contract negotiations the Town would require that the Deputy Highway Superintendent be paid \$1 per hour more at all times that he is working. This would also include time when he is not filling in during the absence of the Highway Superintendent.

#### 11. Miscellaneous:

- **Garden Club:**
  - Linda Call and Jean Ianni, members of the Stafford Garden Club addressed the Town Board members. They gave a brief description of what the Garden Club of Stafford is all about and what projects they have proposed for the future. One project that they are proposing for the immediate future is to plant new shrubs and flowers along the eastern border of Ilette Park. They asked the Town Board's permission to proceed with this project and also for some funding if available to purchase shrubs and flowers. A **Motion** was made by Councilman Pacer and seconded by Councilman Vicary to allocate \$250 from the Town General Fund account to be used by the Garden Club to purchase Shrubs and flowers for Ilette Park. The Motion was passed.
- **Historical Society:**
  - Linda Call, on behalf of the Stafford Historical Society requested that the Town possibly allocate some funds for the Historical Society to put sun screens on the museum windows to prevent ultraviolet light from damaging historical documents in the museum. The Board requested that she get some quotes for such Sun Screens and then present them to the Board Members at a future meeting for further review and consideration.
- **Emery Park Custodian:**
  - Terry Young, the custodian of Emery Park requested permission to get the Emery Park sign refurbished. Permission was granted by the Board to have Terry look in to the cost of such a project and proceed with the repairs.

#### ABSTRACT PROCESSING & VERIFICATION:

##### GENERAL FUND Prepay

**Motion** by Councilman Mouery sec by Councilman Pacer to pay  
Abstract #07 Vouchers #156- #157 in the amount of \$408.01  
Motion Passed

GENERAL FUND Motion by Councilman Panek sec by Councilman Vicary to pay  
Abstract #08 Vouchers #159- #199 in the amount of \$43,056.13  
Motion Passed

##### HIGHWAY FUND

**Motion** by Councilman Mouery sec by Councilman Pacer to pay  
Abstract #06 (Voucher #62- #82) in the amount of \$9,115.19  
Motion Passed

##### WATER FUND

**Motion** by Councilman Mouery sec by Councilman Pacer to pay  
Abstract #6 (Voucher #16 - #18) in the amount of \$89,000.00  
Motion Passed

**Motion** made by Councilman Vicary and seconded by Councilman Pacer to adjourn at 9:28 PM.  
**Motion** was carried and meeting was thus adjourned.