

Perrysburg Town Board

Minutes of the Regular Monthly Meeting of the Town Board, Town of Perrysburg, Cattaraugus County, NY, March 11, 2019 at the Town Hall

PRESENT: Jennifer Dabolt, Town Supervisor • Richard Gabel, Councilman • Andy Lord, Councilman/Deputy Town Supervisor • Michael Becker, Councilman

ABSENT: Dennis Parker, Councilman

ALSO PRESENT: Tamara A Utley, Town Clerk/Tax Collector
Dan Stang, Highway Supt.
Jake Hansen-Ivett, Gowanda Water Dept.
Lisa Towne
David Swift
Tim Mesch

Supervisor called the meeting to order at 7:00 p.m. with the Pledge of Allegiance

GOOD OF THE COMMUNITY: None

PUBLIC COMMENTS/QUESTIONS: None

MINUTES OF THE PREVIOUS MEETING: Correction to the date on the February meeting minutes – should state February 11th, 2019 not 12th. Town Clerk will make correction in the Official Minute Book

Motion by Councilman Lord, second by Councilman Becker to approve February minutes with correction.

ALL AYE MOTION CARRIED

CORRESPONDENCE: None

REPORTS:

Building & Code Enforcement Officer: On file in the Town Clerk's office

Assessor's Report: Taxable Status Day (March 1) all exemptions that were received or postmarked will be applied into RPS. Sales after March 1, 2019 will not be entered until after July 1 per Catt. County Real Property Director.
Updating and reviewing Building permit projects for valuation now until May 1st

Water/Sewer Dept. Report: Jake reported Perrysburg processed 1,354,000 gallons of water and Versailles processed 176,000 gallons for the month of February. All water and sewer sites were maintained as per the contract. Continued to test the distribution system for pressure and disinfection levels. System seems to be using above average water, may be due to people running water to avoid frozen pipes. Back flush the Perrysburg system weekly. Called Koester Assoc. regarding the blower motor at filtration plant; processed 4 work orders, installed new lockset at Versailles building.

Supervisor's Financial Report prepared by Bahgat & Laurito-Bahgat: On file in the Town Clerk's office

Town Clerk Report: Town Clerk collected \$1515 for the month of February. \$783.80 was the town portion paid to the Supervisor. The new Code Enforcement software has been installed. Dave Heckman spent time training me on the permit application and complaint sections of the software so I can begin logging the information as it is received in the Town Clerk's office. Letters were mailed to Assemblyman Giglio and Senator Young from the Town Board expressing opposition to Governor Cuomo's proposal to eliminate AIM Funding (Aid to Municipalities). The Annual Update Document (AUD) for 2018 was filed with the NYS Comptroller by Bahgat & Laurito-Bahgat. Town Clerk sent the Legal Notice to be published in the Dunkirk Observer.

Tax Collector Report: For the month of February the tax collector received \$254,628.61 in taxes and \$786.37 in tax penalty.

Highway Supt. Report: Plowing/sanding. Got cold patch ready for pot holes. Dealing with high winds, limbs and trees down. Councilman Gabel expressed concern about the large pothole on Route 39 that appears every year possibly due to a spring in that area; that section of roadway is maintained by NYS DOT

Justice Report: Judge Dankert closed the following cases: 23 V/T, 6 Penal Law and 9 Animal Control – Total reported to the State Comptroller was \$6438

Dog Control Officer's Report: None

OLD BUSINESS

- Supervisor Dabolt reported that she is waiting to hear from the Village of Gowanda liaison regarding the Sewer Contract. She will follow up with Gowanda

PROSPECT STREET STATUS REPORT

The following report was given by Supervisor Dabolt:

Prospect Street Project Status Report for the Town Board
Town of Perrysburg
Town Board Meeting March 11, 2019

UPDATE/STATUS

We have advertised the Prospect Street bid package for a contractor on March 9, 2019 with bids scheduled to be due on April 1st, 2019. The Army Corps of Engineer Permits and DEC permits are in process and expected to be granted by the end of March. The proposed schedule anticipates a contract to be in place between the Town of Perrysburg and the contractor about mid-April and anticipate a Notice to Proceed to be issued immediately thereafter.

The DEC and Army Corps limits work in the creek to between June 1st and September 15th. Our hope is that the contractor will be able to mobilize during May and complete the project in 90 days. We will not have an exact start date until the contractor is selected.

THE SENECA NATION OF INDIANS HAS RAISED SOME CONCERNS ABOUT THE PROJECT

- Starting in early February 2019, the Seneca Nation of Indians began raising concerns about the process because they are located directly downstream from the project and may be affected both during construction and after completion.
- The Nation also raised jurisdictional concerns regarding Nation permits for work on the road and in the creek.
- In response to those concerns, I convened a meeting last Monday, March 4th with the Nation, our Project Engineer, our FEMA consultants and various Town representatives to discuss the jurisdictional and regulatory compliance requirements for the project and to allow Nation Representatives an opportunity to directly ask questions of Town Officials, the Town's Engineer and Consultant.
- At the meeting it was determined (except for the road detour plan) that the FEMA approved work plan and project area does not anticipate any encroachment on Nation territory.
- I AM DISTRIBUTING A MAP CREATED BY THE NATION SHOWING THE PROJECT AREA, NATION BOUNDARIES AND WATER LINE
- The Nation requested that the Town engage in a precautionary permit process, in the event of flood or if the existing plan is not adequate to complete the work and ultimately encroachment on Nation land is required during construction. It was not clearly resolved at the meeting if this precautionary permit process would require a fee to the Nation, trigger the TERO requirements on the entire project or how the process would be executed, although the topics were discussed at length.

THIS IS AN IMPORTANT ISSUE FOR THE TOWN BECAUSE:

- Participation in the FEMA grant program requires the Town to be fully financially responsible for this project. The Town of Perrysburg will pay for the work upfront and request reimbursement from FEMA and NYS at completion.
- In October 2018 the Town of Perrysburg received approval for funding from FEMA to rebuild Prospect Street based on a specific plan that was developed in April 2017 and submitted to FEMA by the licensed engineer that was hired by the Town of Perrysburg.
- Reimbursement is contingent on project completion in accordance with the exact design specifications that were submitted, adherence to Federal procurement procedures and regulatory compliance requirements in accordance to the FEMA Public Assistance Program.

- The TERO bidding requirement and precautionary permit process and related fees are a departure from the regular Federal procurement process and FEMA PA regulatory compliance requirements.
- In the absence of legal justification for these modified protocols or additional expenses, FEMA can deny reimbursement to the Town at project closeout.
- If legal Jurisdictional authority can be established by the Nation and these regulatory requirements are deemed eligible for reimbursement by FEMA, they WILL be incorporated into the project plan as requested by the Nation.
- At the meeting on Monday, we requested that the Nation provide statutory language demonstrating their legal jurisdictional authority and the details of this pre-emptive/precautionary permit process and associated fees. To date we have not received a response.

FEMA'S INVOLVEMENT

- On Tuesday morning, March 5th, the Seneca Nation of Indians reached out directly to FEMA Region II, NFIP division for their opinion on the request for a precautionary permit process based on flood plain regulatory requirements.
- These same FEMA representatives then spoke to our consultant and requested additional documentation regarding the project design, existing permit requirements and the Nations concerns so they can make a jurisdictional and programmatic determination. Our consultant immediately provided the requested documentation.
- As part of their review, FEMA suggested that a Memorandum of Understanding (MOU) be developed to include FEMA, the Town of Perrysburg and the Seneca Nation of Indians determine the following:
 - define the legal jurisdiction of each entity and clarify the eligible regulatory and permit requirements
 - define the precautionary permit process requested by the Nation
 - define the extent of the impact of project activities on Nation lands
 - determine the eligible/reimbursable costs
 - determine when the TERO requirements will be triggered and how they integrate within the FEMA Public Assistance and Federal procurement procedures
- We have requested the Nation to begin drafting a MOU to expedite this process and ensure all their concerns are addressed.
- We anticipate the draft MOU to be completed late this week.
- After the draft MOU is received, it will be reviewed by FEMA and our Legal Counsel.
- This is a FEMA funded project, FEMA will make the final determination regarding; the eligibility of specific contract conditions and permits required by the Nation, eligible activities under the FEMA Public Assistance program, federal procurement requirements and the Town's eligibility for reimbursement for any expenses associated with these requirements.
- If the terms of the MOU impact the RFP for the contractor, we will publish an addendum to the bid documents and extend the bid deadline if necessary

NEW BUSINESS

Motion by Councilman Gabel, second by Councilman Becker to adopt the 2019 Standard Work Day & Reporting Resolution.

ALL AYE MOTION CARRIED

BOARD MEMBER COMMENTS

- Councilman Lord stated that AT&T offers internet streaming service for those who are unable to get cable
- Councilman Gabel reported that he saw damage to Tim Mesch's property; Tim confirmed that the damage is from Spectrum subcontractor and is extensive due to a truck that got stuck on his property. Tim was able to contact a Supervisor in the area and the Supervisor stated they would be back in the spring to repair the damage; Tim will forward photos of damage to the Town Clerk; Town will contact government liaison for Spectrum of behalf of property owner Tim Mesch
- Councilman Gabel reported Versailles Vol. Fire Dept. will hold their monthly training; Perrysburg Vol. Fire Dept. is in the process of getting energy efficient lighting in the Fire Hall

ABSTRACT #3 of 2019, Vouchers #85 thru 127 – Audit of Claims

| | | | | |
|----------------------------|----|--------------|--|--|
| General Fund Townwide | A | \$ 9,523.09 | | |
| Highway Fund Townwide | DA | \$ 14,618.87 | | |
| Gowanda Prospect St. Water | GW | | | |
| Capital Projects Fund | H | \$ 4,741.52 | | |
| Central Water | PW | \$ 52,832.61 | | |
| Fire Protection | SF | \$ 2,000.00 | | |
| Street Lighting | SL | \$ 607.60 | | |
| Special Residential | SR | \$ 1,216.69 | | |
| Special Sewer | SS | \$ 286.81 | | |
| Versailles Water | VW | \$ 125.75 | | |
| | | | | |
| Total: | | \$ 85,952.94 | | |

Totals from each fund were read by the Town Clerk. Motion by Supervisor Dabolt, second by Councilman Gabel to pay all audited vouchers #85 thru #127 in the amount of \$85,952.94

DABOLT - AYE GABEL - AYE LORD - AYE BECKER - AYE

7:27 p.m. Motion by Councilman Becker, second by Supervisor Dabolt to adjourn
ALL AYE MOTION CARRIED

Respectfully Submitted,

Tamara A. Utley, Town Clerk