

June 11, 2013

The monthly meeting was held at 7PM at the Town Hall.

Present were:	Supervisor:	Steve Breneman
	Councilmen:	Sharon Eltz
		Jeff Smith
		Riley Closson
		Nancy Elwood
	Town Clerk:	April Law
	Code Officer:	Mike Andersen
	Dog Warden:	Chip Elwood
	Accountant:	Debbie Fisher

Absent:	Highway Super:	Jim Smith
	Planning Board Chair:	Kathryn Elwood

Also present were: Historian Beth Hummel, Kim Hayden, Lawyer Ron Walsh, Roy Eltz and Marie Peri.

Steve began the meeting at 7PM with the Pledge of Allegiance to the Flag.

PUBLIC COMMENT:

NONE

Prior to the meeting the Board members read copies of the minutes

MOTION: "Accept minutes of meeting as written"

Made by Sharon Eltz, 2nd by Jeff Smith

Votes Cast: Sharon Eltz
Riley Closson
Nancy Elwood

carried

MOTION: "Accept Accountant's report as written"

Made by Sharon Eltz, 2nd by Jeff Smith

Votes Cast: Sharon Eltz
Riley Closson

Nancy Elwood **carried**

Prior to the meeting the Councilmen reviewed, discussed and signed vouchers

MOTION: Pay Highway Vouchers for a Total of: \$2,873.08

Made by Sharon Eltz, 2nd by Jeff Smith

Votes Cast: Sharon Eltz

Riley Closson

Nancy Elwood **carried**

MOTION: Pay General Fund Vouchers for a total of: \$3,055.64

Made by Sharon Eltz, 2nd by Jeff Smith

Votes Cast: Sharon Eltz

Riley Closson

Nancy Elwood **carried**

Total Funds disbursed: \$5,928.72

Steve began by saying we have Mr. Walsh here with us tonight and we were under the impression that Rollan was coming. Nancy told the Board that “He was counseled today not to come” and Steve said okay. Steve said that Liz Burns was to be coming with him also and Nancy said “She is the one who called him today and told him not to come”. Steve said “Okay that’s fine; personally I think what happened last meeting was just a heated discussion”. He didn’t feel there was any ill will towards anyone, just a difference of opinion. Steve said his question, as spoke about before, was the whole warrant thing. At this point Mr. Walsh began saying that from what he can tell Mr. Wilkins was issued a violation back in 2003 and whoever was in the position at that time gave him 10 days to clean it up and that didn’t happen. What usually happens after that is the person would be summoned to Court under a violation and it appears nothing happened after that, or he didn’t show up. Mr. Walsh said the question of issuing a warrant 10 years after the fact is a good one but ordinarily a person is allowed to appear in Court and plead Guilty or Not Guilty to the charges. Mr. Walsh said to him it doesn’t look like that ever happened. Sharon added that he showed up for Court and Mr. Walsh asked if he was found in violation. Sharon said that is when he was given 10 days to clean it up or he would be fined. Mr. Walsh said it seemed like he should have plead one way or the other as to whether he was in violation or not. He said most of the time he is involved with the Prosecution and they generally give 10

days to clean up the property, if after that it is not then it is up to the Judge to take it to trial. Then it is up to the Town to prove he was in violation which he doesn't think would be very hard in this case, but did point out that the building is done so that should end the problem. Mr. Walsh added that a lot of this he just pulling together because he was not around when this was going on, but the house is currently boarded up and is not in violation according to Code Officer Mike Andersen. He said he wasn't sure there was ever a time when Mr. Wilkin's admitted he was in violation. Jeff told him that yes this started back in 2003 and it was dropped but we started this up again when Mike took office and he began fighting with him last year. At this point Nancy interrupted Mr. Walsh and advised him to speak with Rollan. Mr. Walsh said there are regulations against him talking with the Judge without the accused or accused's attorney present. He said in all honesty he should be speaking with the Lawyer of Mr. Wilkins, even though he is the Town attorney talking to the Town Justice over a Town issue. He said it doesn't matter we are talking about a specific issue in front of the court and you are really not supposed to do that. With that said, he did agree to speak with Rollan to get a little history from him about this issue. Mr. Walsh said he had spoken with Mike who has given him a rundown, in his perspective, as to the goings on with the property and feels the overall issue is taken care of meaning the house is boarded up. Jeff said he was not at the last meeting so he missed a lot of this and he was happy the house was boarded up, but he felt everyone's main issue was that Rollan fined the guys that were cleaning it up that were issued tickets for burning. The Judge had a history of knowing what went on trying to get this taken care of and by the time the guys paid their fines they didn't make anything cleaning that place up. Nancy asked Jeff who paid the guys for doing it and Jeff said Mr. Wilkins did and Nancy replied "That's right the Town didn't pay them". Jeff said "Yes, Mr. Wilkin's paid them to do the work" and Nancy said "I am not going to talk about it because he was counseled not to". She then said to Mr. Walsh "If you want to know anything about the Law come down and talk to him". Mr. Walsh replied that he would like to sit down and get some history from him but he suggested that the Board figure out procedures to figure out the best way to move forward. He is more than happy to help with prosecution of Code violations when they come up and said he actually helps represent Town of Harford as well as some others. He followed by saying that usually the Code Officer will issue a summons for them to appear in court and hopefully they show up, if not then a warrant is issued. When they show up for court typically the Judge will say this is your problem what is your position on

this? At this point they have the right to deny the violation in which case they get a hearing on that. If they acknowledge the violation the Judge usually gives them X number of days to clean it up and if they don't then the Judge will have to bring him back in and then he has the choice of fines or putting him in jail. The Judge cannot really make him clean up the property and Nancy interrupted saying she was not going to talk about it. Mr. Walsh then asked her if she was the Judge's wife and she said yes and he said okay that is where his authority is limited too. At this point Sharon said "That is where it stopped because he did appear, he gave him 10 days to clean it up and he told him at that time if he didn't clean it up in that 10 days he would be fined certain amount. He didn't do it, to my knowledge; he tried to serve a warrant or whatever". Mr. Walsh said "Mr. Wilkins will still have the right to have a hearing or not have a hearing. In that hearing he can say yes I'm guilty or no I'm not guilty and you need to prove it before there is a violation". Sharon added that he never came back in front of the court and Mr. Walsh again said "moving forward the Town needs to implement procedures that would be enforceable to haul someone in if they don't show up to court. He stated that we would need to cover Standard of proof, which shows there is a violation, could be something as easy as photographs. Proof is presented to the court and they are allowed to say their side of the story. He told the Board that he would be more than happy to work with them moving forward on this so it makes things easier in the future. Mike added that when the accused comes into court they have the right to an attorney then they are presented with the charge and asked whether they plead guilty or not guilty. Mr. Walsh said "Yes generally and they would have to bring him back in and agree that the building is cleaned up but you were in violation for 10 years and a fine should be instituted; most Judges are just looking for compliance". Jeff agreed that it is a good thing the building is taken care of and Mr. Walsh added that maybe just the threat of a warrant shook him up enough that he decided to get it taken care of. He then addressed the fines charged and said after looking up the DEC fine violation (regulations) regarding burning there is a minimum fine of \$500.00 and added that he was not here so he did not know what the men were fined but pointed out that there is minimum fine that has to be charged. Jeff stated again "What bothered everyone is that we had tried so hard to get that place cleaned up and these guys were burning stuff to get rid of it. Everyone burns stuff, it just so happens that these guys were burning by the wrong guy". Mr. Walsh said that was a done deal and over with but to him it looks like the minimum fine to be issued was \$500.00 but again he was not sure whether it was a provision of a

regulatory fine, DEC violation or Penal Code. Judges do not have a lot of discretion when the DEC states a minimum surcharge. The Judge will issue the fine/surcharge upon pleading guilty and Nancy stated that's what they did, plead guilty. Riley said one of the tickets was for burning to close to a stream and he did not even think was possible because it is not a protected stream. Nancy added that it is a trout stream and there was a small discussion about it being one. Jeff said he thought it was and Chip added Wells? Was unprotected years ago and Jeff replied yes wells is unprotected but the Pond is protected. Chip said he didn't realize that and Jeff agreed that it was weird the way they did it, unprotected the bottom but protecting the top. Mike spoke about a creek in Cortland where it is unprotected but then you go upstream 20 yards and all of a sudden it is protected, you never know how they are going to work it. Mr. Walsh suggested to Mike that when he issues a Code Violation to also send a copy to him; then he will be informed of it. We will give them time to fix it and if they don't he gets involved and will prove our case and move on from there. Mike added that in most cases he has dealt with they take care of the violation before the court date and he is there to verify that they are no longer in violation and it is cleared up. This was the first time he had dealt with it hanging on like this. Mr. Walsh ended saying he hoped he answered a lot of the Board's questions and Steve replied not a whole lot but that's okay and chuckled. Steve then Thanked Mr. Walsh for coming out and asked if anyone had more questions for him.

INFORMATIONAL CORRESPONDENCE:

Steve pointed out that the Town was receiving a rebate from our Insurance Policy and we also received one last year. They have calculated things and this area had done real good, he didn't have final numbers and would get back to Steve. Riley asked "So we were overpaying them? That's awesome, I love rebates". Steve agreed saying it is a good thing. We moved on to address the cemetery fence brought up by Historian Beth Hummel last meeting and Steve said Jim went up and looked it over and it is not salvageable. Steve asked Roy if he went up with Jim and he nodded saying it is junk. Jeff asked where they were speaking of and Sharon replied up by Durand's. Beth asked if there was nothing that could be done with it. She thought it could be sandblasted and saved, it is metal. Jeff added that would be a big expense unless someone, from the Historical Society, wanted to step in and do it. Steve told her that if they really want it is theirs. He suggested putting it up behind the old school house or something. Beth said they just wanted to know if they could move it and store it. They hope to one day redo it

but if not it will go to the junk heap. She felt it was a pretty fence and it would be a shame to see it go to waste so if it alright to go and get it they will. Steve and Sharon both agreed they could take it. Sharon brought up the letter Steve received from David Briggs about the inflation rate (?) being 94% which is what it was last year. She was under the impression that is why the Town had to do a reevaluation every year. Briggs claims that #1 he feels it should be 100% but the State says no and has felt that way for 2 years. He did feel that it might come back up but it didn't so he did a little checking and the only thing he has seen out of line is land. Next year he will probably increase land assessment. Sharon said that she told him she though he did that every year and that's why he got paid the extra. According to him the State has not paid that extra in the last 3 years and asked Debbie if she knew. Sharon explained that we used to get \$5.00 a parcel and that went to Mr. Briggs because he was supposed to be doing the re-eval every year plus what he normally gets. She didn't think there was an assessment payment, at least last year, and Sharon said okay. He states that is has been 3 years and Sharon said she was unaware of that. Steve clarified that it was the State not paying and she said right. So apparently he hasn't been getting paid so he hasn't been doing it. Sharon said next year hopefully chances are land assessment will go up to try and get that back to 100%. Steve asked if it was a real big bite and she said Mr. Briggs thought it might go up about \$200.00 an acre. Jeff asked if that was straight across the Board and she said that is what he thought. Sharon said that she wasn't positive but assessment is about \$1000.00 for anything less than 10 acres. Mr. Briggs stated the other day that it should be around \$200.00 an acre for increase which would get us back up to 100%. She added all she knew was what he said to her. She asked if we had heard anything back from Time Warner and Steve said he had heard nothing back. So we do not have to do anything about that at this meeting. Jeff asked what thing with Time Warner and Sharon said the franchise agreement; we didn't pass it last time because we had an issue with the transfer to another company if bought out. Riley explained the concern over the 15 year term and how we wanted to see if they would change it to say that this agreement is terminated if Time Warner is bought by another company. He pointed out the last 15 year contract we ended up seeing 3 or 4 transfers to different cable companies.

CODE ENFORCEMENT:

Mike began saying he issued a building permit for a garage on Taylor Valley Road for Suzanne Reed but is still waiting for the drawing that shows all the specs and

such. He stopped up to Gonzales on Taylor Valley as well and checked on the foundation work. He said that he found out something new as well and said all footers now have to be poured with a grounding rod. He stated that this is new to him and this is done so that the building can disperse static. He pointed out that this now involves the electrical inspector being there while you are pouring the footers to make sure they are there. Steve said that was unbelievable and Mike agreed. He said he got a phone call from MR. Fox on Cheningo Solon Pond Road asking about a building permit and hasn't heard anything more on that. He did receive a complaint about the race track and that something might be going on. He has driven up there twice now and there are no buildings up there. Both times he has been there no one has been around but without any buildings there is not much Mike can do. He did make a call to Department of Health, Environmental Health and DEC and they are looking into it. They called him back the other day and asked if he had observed anything and he told them nothing that he was concerned about. He was asked if they are bringing in mobile homes to stay and if they bathroom facilities, things like that. Mike stated again this has nothing to do with him but they were going to check into it and get back to him. He followed up on a couple complaints one being a deck built on Burchesky Road. He did go up and look at it and left his card in the door. Now that he knows who owns the property he will actually give them a call because the deck was not built to code. He used treated lumber without galvanized nails and he has somewhat of an issue on that. He looked into getting a property cleaned up on Union Valley Road and they did mow it. He said technically household furniture being thrown out on the lawn is nothing that can be addressed. The only thing we can address is household waste or garbage. Household waste includes bodily waste, garbage, cardboard and such. He did make a call to DEC about this and they said they can pile all the sofas, couches and chairs on their property they want. That is where we came into the problem on Hubbard Hill but that they had a covenant that stated it could not become a dump site and that is how Mike was able to go after them. So if we have someone with this we can send them a letter asking them to clean it up but it is not something he can haul them into court over. He reported that Latta's pool on Taylor Valley Road is almost all fenced in. He hasn't talked with him since last fall but he did say that he was going to do it this spring. He was pretty heated about it last fall but Mike presented him with the Code that states all new and existing structures must comply and he settled down and said he will do it. Mike Root applied for a permit to put a shed on Telephone Road but he has not come back into pay for it yet. Mike said that he stopped over to Riley's place

and Riley said while I was down south. Mike chuckled and said you have got a mess there, whole lot of work and said that was all he had to report.

HIGHWAY REPORT:

Steve said Jim is not here but did ask Steve to ask if he could crush stone again this year the way he has in the past. Jeff and Riley both said yes, go for it.

PLANNING BOARD REPORT:

NONE

DOG WARDEN REPORT:

Chip pointed out that the Local Dog Law revised and accepted in 2010 has practically nothing in it. He said the Board would have to make an Amendment to cover specific incidents, such as tearing up garbage, destruction of property and running loose. Steve asked him if our law was too general and chip answered that there is nothing there but to cover licensing the dogs. Sharon said some of the stuff that was in the original they didn't carry over. Chip said he had to revert back to State Law to issue tickets recently. He said he didn't have to for the overdue licensing of dogs but for the running at large he needed to use State Law. He has gathered Dog Laws from four different Towns and he thinks it would be good to look them over and see what the Board would like to add to ours to cover more specific issues. Sharon asked him if he would get it all together before the next meeting and he agreed. Chip then reported he went out to Country Acres for a couple three hours and the girl out there was a tremendous help to Chip. Steve agreed that she has a wealth of knowledge and is of much help. Chip stated that there is way more to the job than anyone realizes and just to issue 5 tickets took him 3 hours of prep work. He suggested looking into a program or something that would keep all of this on file along with complaints. Sharon said she did not think that was necessary but they would look into it. She said she did not think he needed to go through all he did for the tickets and Chip said he wouldn't do it again. Sharon said she would look into forms of some sort so that all he would have to do is copy them and fill in the necessary information. April suggested finding a form he liked and bringing it down to the office and she would scan it in and change what he wanted to making it our own form. April explained that she could scan it, change the information and then send it to Chip in an Email and then he would have it saved in his computer. Sharon said for April and Chip to get together and they agreed.

CLERK'S REPORT:

April was happy to announce that she had settled with Kellie Greene in Cortland which officially ends Property Tax season. In the last month of Tax collection she received \$11,980.33, of which \$214.00 was interest and. A final check was written to Cortland County Treasurer's Office for \$46,820.05. A check was written for \$214.00 payable to Steve. This month's hunting license sales were \$145.00 with the Town receiving \$8.00. DEC will automatically deduct \$137.00 on or about June 14, 2013. She licensed 2 spayed dogs for a total of \$14.00; \$12.00 for the Town and \$2.00 going to Dept. of Ag. & Markets. There was one building permit issued for Suzanne Reed at a fee of \$75.00. Check written to Steve for total of \$95.00 (\$8.00+\$12.00+\$75.00).

Sharon added that John Walsh is still working on website and if anyone had anything they would like to add contact April or John and we will work on getting it on there.

MOTION: Adjourn meeting was made by Sharon Eltz, 2nd by Riley Closson.....**carried**

Respectfully Submitted,

April D. Law
Town Clerk