

## **Town of Fowler June 12, 2023 Minutes of Regular Scheduled Board Meeting at 6PM.**

The Town of Fowler Regular scheduled Town Board meeting was held on the above date with four board members present. Also present were Town Clerk Tami Gale, Town Justice Tim Knowlton, Highway Superintendent Randy Durham, Town Custodian Rosalee Thornton, Ethics Committee Member Vivian Goodman, Planning Board Members Stephen Gale, Leo Knight, and Vicky Cappellino, John and Deb Walsh, Michael Cappellino, Richard Clement, Joan Shove, Brian Koerick, and Rachel Hunter, Editor of the Gouverneur Tribune Press. Councilperson Scott Cleveland attended via teleconference.

Supervisor Newvine called the meeting to order at 6:00 PM then proceeded with the pledge of allegiance and led a moment of silence to honor our military men and women, all healthcare workers, and our friend and benefactor Mr. Brad Card.

Supervisor Newvine asked for a motion to approve the minutes from the May 8, 2023, regular scheduled board meeting. A motion was made by Councilperson Simmons, seconded by Councilperson Bishop. All in Favor. MOTION CARRIED.

### **FOOD PROGRAM MONEY PRESENTATION**

Supervisor Newvine introduced Joan Shove to the board with a presentation of cash in the amount of \$382.00 to Councilperson Karen Simmons for the Support Our Seniors (SOS) Program and the Hometown Assistance Program (HAP). Councilperson Simmons reported the funds presented this evening were raised through a long running rummage and bake sale held at 1591 County Route 22 in the Town of Fowler throughout the month of May and thanked all those who shopped or donated to the sale, for their support. Town of Fowler board members thanked Joan for her hard work and generous donation.

### **RESIGNATION**

Supervisor Newvine read aloud a letter of resignation from Scott Fenlong, an employee of the highway department, whose last day of work will be May 30<sup>th</sup>, 2023.

Supervisor Newvine asked for a motion to accept Scott Fenlong's resignation. A motion was made by Councilperson Andrews, seconded by Councilperson Bishop, with regret. All in Favor. MOTION CARRIED.

### **DISCUSSION ON OFFICE RD**

Supervisor Newvine asked Highway Superintendent Durham to start the discussion on paving Office Rd. Hwy. Superintendent Durham read aloud the following exerts of Highway Law:

#### **Highway Law 149 Page 212**

**A, Authorizes Superintendent of Highways with the boards consent to grant permission to lay pipes and maintain water pipes and sewer under roads.**

**2, This statue specifically authorizes the placement or laying of underground drainage, sewer, and water pipes within the highway, however the superintendent of highways may not grant permission for the laying or maintaining under the traveled portion of the highway, except where they go beneath the highway, crossing under all or portion of it. Public travel on the highway may not be interrupted or interfered with by such installation, and the person applying for permission must agree to replace the highway in all respects as good as its previous condition. He must also agree that he will keep such installation in repair and save the town harmless from all damages that may accrue by reason of their location in the highway, and that, upon notice by the superintendent of highways, the applicant will make the repairs required for the protection or preservation of the highway.**

**C, Repairs If an applicant should fail to make any repairs required under the permit, such repairs may be made by the town superintendent of highways at the applicants' expense, and these expenses will constitute a prior lien upon any land benefitted by the use of the highway for such utility installation.**

**D, Revocation** Any person so granted may be revoked by the town superintendent of highways upon the applicant's failure to comply with any conditions

## **Highway Law 189 Page 187**

### **Period of Continued use**

**A, A land that has been used by the public as a highway for a period of ten years or more shall be a highway, with the same force and effect as if had been duly laid out and recorded as a highway, and the towns superintendent of highways shall open all such highways to the width of at least two rods. (11yards)**

**B, A municipality is required to maintain and exercise control over the road for the full statutory period of use before the highway will be deemed a public highway. If the municipality has not exercised its dominion and control over the highway for the statutory period, even though the public has used it for the full period of time or longer, the highway will remain a private thoroughfare.**

**C. Continuous use by the public for the statutory period is only half of the requirement necessary to establish a road for public use. The road must also have been maintained, repaired, and controlled by the public authorities for the statutory period.**

**Isolated acts of repair and maintenance are generally not enough to demonstrate acceptance.**

**D, in order for a private road to become a public highway by use, a municipality must exercise control over it by repairing and maintaining it, which of course will necessitate the use of public funds. When and if public funds are used for the full statutory period to maintain a private highway, it then becomes a public highway for which the municipality will be responsible, and from which the control of the owner of the land will be divested.**

Hwy. Superintendent Durham reported the Town of Fowler has not received any CHIPS funds for the section of highway that is in question, and the town has not maintained the road as is obvious by the big hole in the road. Hwy. Superintendent Durham reported, if they had, it would be considered a town road.

Supervisor Newvine stated the bottom line then is that we don't own the road.

Hwy. Superintendent Durham reported they will now be paving the East Rd. and will be turning left with no paving to be done on the Office Rd. Hwy. Superintendent Durham stated that is what the town will be maintaining as a town road and the rest of the road will be up to the 4 families who live on the road to take care of themselves.

Taxpayer Rosalee Thornton reported she was happy with the decision stating she felt she had already proven the town didn't own the road during the May 8<sup>th</sup>, 2023 town board meeting and wished she had been contacted to attend the April 10, 2023 town board meeting where her property and septic line had been talked about as part of the Office Rd discussion.

## **RESCIND JANUARY 9, 2023 MOTION FOR AGREEMENT TO SPEND TOWN HIGHWAY FUNDS**

Supervisor Newvine reported the board needed to rescind the motion that was made for the agreement to spend town highway funds at the January 9, 2023 board meeting, as the town is no longer paving Office Rd.

A motion was made by Councilperson Andrews seconded by Councilperson Bishop to rescind the motion. All in Favor. MOTION CARRIED.

## **NEW AGREEMENT TO SPEND TOWN HIGHWAY FUNDS**

Supervisor Newvine asked for a motion allowing the majority of the Town board members and Hwy. Superintendent Durham to sign the new agreement to spend Town highway funds. The sum of \$86,000 for general repairs on 56.37 miles of town highways. \$42,000 will be spent commencing at Popple Hill Rd(Glasby Rd) and leading to End of Town Road, a distance of .27 (1558 ft), \$32,270 will be spent commencing at SH 812(Whitford Rd) and leading to the end of pavement, a distance of 966 Feet. \$18,600 will be spent commencing at CR 24 (East Street) and leading to Office Street, a distance of 556 Feet, \$65,660 will be spent commencing California Rd(Sibley Rd) and leading to Seasonal piece of Sibley Rd , a distance of 2217 Feet, \$48,160 will be spent commencing California Rd (Shantyville Rd) and leading to Seasonal piece of Shantyville Rd , a distance of 1488 Feet.

Supervisor Newvine reported the cost is the same and the only change is the town is now paving Glasby Rd instead of Office Rd.

A motion was made by Councilperson Bishop seconded by Councilperson Simmons. All in Favor. MOTION CARRIED.

## **YEARLY BUS TURN AROUND AGREEMENT**

Supervisor Newvine asked for a motion allowing Hwy. Superintendent Durham to sign the yearly bus turn around agreement between Edelweiss Holdings LLC and the Town of Fowler. Hwy. Superintendent Durham reported it is an agreement signed yearly for the bus turn around on the Sands Rd. which requires providing the town's certificate of liability insurance.

A motion was made by Councilperson Andrews seconded by Councilperson Simmons. All in Favor. MOTION CARRIED.

## **DISCUSSION ON LIFEGUARD WAGES**

Supervisor Newvine reported the wages per hour for the lifeguards are \$15.00 per hour for the head lifeguard and \$14.00 per hour for all other lifeguards and asked the board to raise the lifeguard wages to \$16.00 per hour for the head lifeguard and \$15.00 per hour for all other lifeguards.

A motion was made by Councilperson Bishop seconded by Councilperson Simmons. All in Favor. MOTION CARRIED.

## **Town Department Reports**

### **Justice Department**

Town Justice Tim Knowlton reported:

- Court security officer Willie Wilson has started his position with the court and has been taken on a tour of the building.
- The new court security cameras are in the process of being installed. He stated the resolution is great and invited the board to his office after the meeting to look at what can be seen on the cameras.
- The cameras begin recording as soon as any motion is detected and can zoom in on areas.

Councilperson Bishop asked if the cameras would be able to record night occurrences at the playground. It was reported they would be able to.

### **Bookkeeper**

Bookkeeper Barbara Finnie:

- Reported she had provided Town of Fowler cash balance reports and budget balance reports for Month Ending May 31, 2023 to the board members for their review.

- Reported the general fund was 49.05% spent and should be at around 40% spent right now, with 80.50% of revenue received. She reported some of the increase may be due to spending on the SOS Program and family day preparations.
- Reported the highway fund was 22.94% spent with 75.51% of revenue received.

## Assessors

There were no assessors in attendance.

- Supervisor Newvine reported he had hoped Assessor Chair Kathy Besaw would be in attendance this evening so he could recognize her as now being a New York State Certified Assessor. Supervisor Newvine discussed it was a big accomplishment in a short amount of time and extended congratulations for her hard work.

## Historian

Historian Karen Simmons reported:

- She has had a few pictures donated to the Historian Office from Brenda Allen. The pictures are of her grandfather and his comrades during World War I, and the other was a picture of a French village where he fought during World War I.
- She would like to thank Brenda for the photos and maintenance worker Byron Woodward for installing the pictures on the wall in the historian's office.

## Animal Control

Dog Control Officer Dan Moyer reported:

- There are 2 dogs in the kennel right now that were picked up last week. He reported he and Councilperson Simmons have been in contact with the owner, but she has not made any effort to retrieve the dogs.

Supervisor Newvine asked DCO Moyer when the new dog kennel regulations go into effect that he has concerns over. DCO Officer Moyer reported the new regulations are set to go into effect in 2025 and he had provided Councilperson Simmons a copy of the regulations before the meeting.

- DCO Moyer reported that as it stands right now the Town of Fowler dog kennel will not conform and discussed several of the new regulations to include:
  - \* Installation of an HVAC System to circulate air in the kennel and yearly inspection.
  - \*An agreement signed by a veterinarian who would be on call 24/7.
  - \*Any dog in the kennel for a period of time, must be taken to the veterinarian to be checked and weighed.
  - \*Certification of a staff member, be it him or another person to spend 20 minutes a day with each dog in the kennel grooming, playing, and orienting the animal so it is not just dumped in the kennel and left there.
  - \*A dog in the shelter for more than 5 to 7 days would need to be let outside for 20 minutes a day for exercise 5 days a week.
  - \*He reported the shelters and rescues are full and one rescue that he deals with has already shut its doors as they are not going to comply with the new regulations.
  - \*He reported Friends 4 Pound Paws is going to be switching over to mostly cats. They have been helping him get a few dogs out to the Potsdam Humane Shelter, but both

the Potsdam and Watertown Shelters are full, and he has dogs that have been in his personal kennel for 6 months.

\* longer holding times for dogs in the kennel, as no one is available to take them due to their being full.

- He reported Janet Collier of NYS Ag & Markets had made a recommendation for the Town of Fowler to give their Town attorney a copy of the new regulations and have him contact the State to see if we would apply for an exemption from the new regulations due to the small size of the town's kennel.

## **Beaver Control**

Dan Moyer of Moyer's Wildlife Control Reported:

- Hwy. Superintendent Durham has him working on four sites right now: Chub Lake Rd, Shantyville Rd, Swiss Hill Rd, and County Route 22.

## **Code Enforcement**

Code Enforcement Officer Glen Besaw reported:

- He has condemned the property on CR 22 that has been discussed at several previous board meetings.
- The owner is deceased, his family doesn't want anything to do with the property, and the County has stated they aren't going to move on it as the taxes are in arrears, and they don't want anything to do with it, so it is being left up to the town to do something.
- He is waiting on the town attorney to provide the town with an order to knock the nuisance home down.

Councilperson Simmons asked CEO Besaw why the County wouldn't put it in the tax sale. CEO Besaw reported if you pull the residence up on a DANC map you would see why they don't want it. He reported the roof is caved in and he went through the floor when he was posting it as condemned.

- He issued one order to remedy, and the owner is in the process of complying, so he will not be issuing a ticket at this time.
- Albany has issued a recommendation known as New York Regulation 905.1, which recommends that code enforcement officers wear body armour when they go on complaints.
- He reported likely within 18 months the recommendation will be mandatory, and suggested the town should get ahead of the game.
- Reported the price of building materials have gone down and people are starting to build again.
- Reported there are several properties that need to be cleaned up, and he will be visiting the owners.

Supervisor Newvine asked CEO Besaw if the individual who was building without a permit has been resolved.

CEO Besaw reported it has been taken care of.

## **Town Clerk**

Town Clerk Tami Gale reported:

- DEC Gross sales for the month were \$627.00 with the Town of Fowler's Commission being \$34.62. She had licensed 40 dogs, handled 12 building permit applications, issued 1 certified marriage transcript, and had collected \$15.00 for bicentennial book sales.
- Tax collection is over and tax collector calculations matched the County's calculations. The final check was mailed to the County and the final check was written to the Town of Fowler. 91.79% of the roll was collected, which is down from the previous two years.

- Bottle & Can money was received in the amount of \$111.65.
- Pepsi Machine money received was \$253.00.
- One FOIL had been completed for seethroughny.net on the town's collective bargaining units.
- There will be a local government conference held at SUNY Potsdam on Tuesday, October 10, 2023, and education classes will be offered for assessors, board members, budget & finance, highway superintendents, municipal clerks, planning and zoning, and water & sewer. If anyone would like to be signed up for the conference training contact her to be registered. The cost will be \$35.00 to attend.
- She has been busy with family day preparations. Tickets are available for purchase and are also available for individuals to sell.

## **Highway Department**

Highway Superintendent Randy Durham:

- Asked to have a discussion on rules regarding working in a right of way. He advised there was a problem last month with a logger being parked in the roadway creating a road hazard.
- Discussed there is a fix to the issue by establishing a local law. After some discussion, Supervisor Newvine stated he would contact Town Attorney Henry Leader and have him prepare a local law to address the town's concerns.
- Reported the box for the 2024 Mack Plow Truck should be here in July and it will be assembled by September or October.
- Discussed the need to hire a new highway laborer and none of the 8 applicants who applied had a CDL license.
- Discussed he recommends sending a new hire to school to obtain a class A license, as only one highway employee presently holds a Class A license which is needed to move equipment.

### **Hwy. Superintendent Durham Proposal of Hiring a new employee with no CDL.**

**Cost of School = \$7900**

**To qualify for school must have CDL Permit, CDL Physical, and Clean Drug Test.**

**Next class with an opening is October 2023.**

**I have found a \$6000 scholarship to help defray the cost. That would leave \$1900 for the town to pay. John Pinkerton Project Manager for the IDA is helping to get this scholarship.**

**It would be a class A license giving him the capability to move our equipment.**

**Henry Leader, the town attorney says he will write a contract with the new hire requiring him to stay a certain amount of time or will have to pay the town back the cost.**

Hwy. Superintendent Durham asked the board their thoughts on the proposal. He reported 2 of the 8 applicants lived in the Town of Fowler, and he would like to give preference to town residents.

Board members discussed that a 3-year employment stipulation should be added to the contract of the employee being sent to school, and if they don't work for the town for a full 3 years after receiving the training, they would need to pay the town back for the cost of the training. After some further discussions, a motion was made by Councilperson Andrews seconded by Councilperson Bishop approving the 3-year employment stipulation. All in Favor. MOTION CARRIED

## Councilmembers

### **Councilperson Cleveland:**

- Reported he and his wife Marcia had weeded and cleaned the playground and had fluffed the wood chips.
- He received an email from town clerk Gale that the remaining playground equipment will be delivered tomorrow.
- He advised he will get a plan together on getting the new rock-climbing wall installed.
- He has met with maintenance worker Byron Woodward and discussed the layout of the new spring ride toys.
- He reported he would let everyone know when the work will begin to try to get it installed as quickly as possible.
- It was discussed that the equipment will be stored in the yellow barn when it is delivered tomorrow.

### **Councilperson Karen Simmons:**

- Reported in the month of May she only had 22 people visit the HAP food program on Thursdays.
- Reported she is going to cut the days down to two days a month beginning in July through August, the HAP Food Program will only be open on the 2<sup>nd</sup> and 4<sup>th</sup> Thursdays of the month.
- Reported she will re-evaluate the days needed to be open in September and decide at that time to remain open only two days a month or go back to being open four days a month.
- Reported there will be a SOS Program delivery on June 23<sup>rd</sup> and there are 97 senior citizen households who will be receiving the deliveries.
- Reported John Dickey, Mike Tresmette, Dr. Robert Saidel, Randy Durham, and Cindy Wranesh, had all donated food to the HAP Program in May, and Robert and Diane Jennings had donated money to the HAP Program in May.
- Asked Supervisor Newvine if he had found out anything about the Balmat Cemetery. Supervisor Newvine reported he hadn't yet.
- Discussed, the Town of Fowler will probably eventually have to take over the Fullerville Cemetery where Brad Card was. She reported he had 16 lots he kept, and we will likely be taking over the mowing as part of an agreement that will be discussed at a later time.
- Reported the Family day t-shirts and hats are in and she will be picking them up tomorrow.

### **Councilperson Jeff Andrews:**

- Asked Hwy. Superintendent Durham what was being done with the 1998 International Truck that was declared excess equipment and not awarded in the bidding process. Hwy. Superintendent Durham reported BOCES needed to come to inspect it to determine if they wanted it.
- Asked Hwy. Superintendent Durham about the big hole on the Doane Road. Hwy. Superintendent Durham reported they are waiting for it to settle and will be hot mixing it.

### **Councilperson Lynn Bishop:**

- Complimented the nice job that was done on the mowing of the cemeteries for Memorial Day this year.
- Complimented the mowing jobs being done on the roadsides by the highway department. Hwy. Superintendent Durham reported the mowing was being done by Terrell Ferrer and Anthony Seguin.

## **Supervisor Ricky W. Newvine:**

Supervisor Newvine discussed there is a desk and stand that is no longer being used by the town and a taxpayer had expressed interest in purchasing the two items. Supervisor Newvine asked bookkeeper Finnie if the items needed to be declared as surplus and advertised or if the town could declare as surplus and sell the items to the interested party. It was discussed the items are of little value and could be declared as surplus and sold to the interested party. A motion was made by Councilperson Simmons seconded by Councilperson Andrews declaring the items as surplus and will be sold as is. All in Favor. MOTION CARRIED.

- Supervisor Newvine asked Hwy. Superintendent Durham to introduce Brian Koerick to everyone in attendance.

Hwy. Superintendent Durham introduced Mr. Koerick as the individual he is considering hiring as was discussed earlier in the meeting during the discussion on hiring a highway employee with no CDL. Hwy. Superintendent Durham reported Mr. Koerick has one more step to go before he can be hired, and he will keep the board informed of exactly where he is in the hiring procedure.

## **Public Comment**

- Michael Cappellino asked the board if they had spoken to the County regarding the hazardous conditions on the hill by a farm stand that has been previously discussed at past board meetings. Supervisor Newvine reported Town Attorney Henry Leader is in the middle of determining what the town's legal rights are regarding placing "no parking" signs in the vicinity of the road stand. Supervisor Newvine stated he has contacted the town attorney so the town would not be held liable for something else.
- Planning Board Chair Stephen Gale reported the planning board had a work session to further discuss the request of dock regulations and he will be typing the information and getting it to the town attorney.
- Rachel Hunter, editor of the Gouverneur Tribune Press asked when the beach will be opening for the season. It was discussed that the beach will be open June 28<sup>th</sup> through August 30th.

Supervisor Newvine asked for a motion to audit the bills. A motion was made by Councilperson Simmons seconded by Councilperson Bishop to audit the bills. All in Favor. MOTION CARRIED.

The bills audited for the General and Highway Fund were #192 to #243, with a total of \$69,558.73.

The next regularly scheduled board meeting will be held on July 10th, 2023, at 6:00PM.

With no further business, on a motion of Councilperson Andrews, seconded by Councilperson Bishop, the June 12<sup>th</sup>, 2023, Regular Town Board meeting was adjourned at 6:46PM. CARRIED UNANIMOUSLY.

Tami Gale; Town Clerk