

Minutes of the regular meeting of the Brant Town Board held on Tuesday, October 8, 2002 at 8:00 p.m. and Public Hearings held at 8:15 p.m. for the Community Development Block Grant and 8:30 p.m. for the Local Law #1 & 2 – Waste Management Law, held at the Brant Town Hall, Brant-N. Collins Rd, Brant, New York.

There were present:

Supervisor	Samuel J. Chiavetta
Councilman	Dennis Rubeck
Councilwoman	Ellen Bowman
Councilman	Martin Rosiek
Councilman	Eugene Czyz
Attorney	John Grennell

Also present:

Maggie White	Zoning Board Chairman
Leonard K. Pero	Revitalization Chairman
Diane Czyz	Supervisor's Secretary
Joseph Giambrone	Highway Superintendent
Lee Brunelli	Jean Brunelli
Ed Dion	Dolly Dion
Neal Wilson	Louis Small
Ann Small	Bob Palmer
Judy Palmer	Lee Mirusso
Betty O'Donnell	John O'Donnell
Peter Nowicki	Bill Henry
Mark Hageman	Margaret Hageman
Elmer McSkimming	Sherman Reickart
Joe Gardyjan	Joan Reickart

The meeting was opened with a pledge to the flag led by Maggie White.

Councilwoman Bowman made a motion; seconded by Councilman Czyz to accept the minutes of the Town Board meeting of September 9, 2002 as submitted by the Town Clerk. MOTION CARRIED.

A Motion was made by Councilman Rosiek, seconded by Councilman Rubeck to accept the Supervisors financial report for the month of August as submitted. MOTION CARRIED.

While reviewing the Code Enforcement Officers report, Councilman Rubeck questioned the Daniel's property on Route 20 as poles were being set for signs without a proper permit and also questioned the Reynolds property and the renewal of Special Use permit as there was more junk on the premise. Code Enforcement Officer stated that he would look into both of these matters. A motion was made by Councilwoman Bowman and seconded by Councilman Rubeck to approve the Code Enforcement Officers report for the month of September as submitted. MOTION CARRIED.

It was noted that there was no Dog Control Officer's report for September submitted.

It was noted that there was no Police Chiefs report for the month of September submitted. The Town Clerk stated that Chief Falk did submit one to her however it was inadvertently left out of the packet. It would be presented at next meeting.

A motion was made by Councilman Rosiek and seconded by Councilwoman Bowman to accept the minutes of the Planning Board for the September 24, 2002 meeting as submitted. MOTION CARRIED.

Supervisor Chiavetta gave a quick update on the Water Consortium meetings and stated that nothing is really new, however they are working on locating areas that need water, this wouldn't happen next week, it may take a few years.

Len Pero had no new information on the Brant Revitalization Committee to report at this time.

Supervisor Chiavetta opened the Acknowledgement of Visitors and explained that we did have public hearings scheduled for 8:15 and 8:30 p.m. and that we would have to interrupt if need be to hold the Public Hearings.

Bill Henry of Milestrip Road asked what was going on with the clean up on the illegal junkyard. Attorney Grennell stated that the court matter had been adjourned, he was not aware of it until last night when the appearance was to take place. He also stated that according to the Code Enforcement Officers report that there has been some movement on the clean up.

Mr. Henry stated that he only does the clean up days before the court appearance. He also stated that there are a number of tires on the property collecting water and that there is a West Nile scare in the area.

Code Enforcement Officer stated that he did talk with the judge and it had been adjourned for 30 days and if it is not cleaned up within 30 days, that he will be fined \$100.

Attorney Grennell stated that that is the maximum provided for by law. Mr. Henry stated that it is zoning violation, and why are they receiving an agricultural exemption on the property. Attorney Grennell stated that he has no direct involvement with the exemptions.

Supervisor Chiavetta stated that they could not intervene on the Judges, they are elected just as the Board is, no other person such as the Code Enforcement Officer can be blamed if the Judges postpone it.

Joan Reickart of Brant North Collins Road asked how many violations are in this community. She has noticed a number of cars just sitting in yards. She stated that the buck is being passed from the courts and back. She questioned the repeat offenders in the area.

Code Enforcement Officer stated that there are fines in place for seconded or repeat offenders. According to NYS, you cannot excessively fine for administrative violations.

Councilman Czyz explained that once a matter goes to the court, the Court is responsible. The Town Board can not intervene with this process, it is illegal to do so.

Supervisor Chiavetta explained that it was 8:15 p.m. and it was necessary to break for the Public Hearing.

Town Clerk opened the public hearing for the Community Development Block Grant by reading the legal notice that was published in the Hamburg Sun on October 8, 2002.

Supervisor Chiavetta summarized prior use of these funds as the ADA accessibility for the Town Hall and Town Park renovations to include wheelchair, ramps, elevators. Other uses were for sidewalks and playground equipment. Supervisor Chiavetta stated that the Village of Farnham has submitted a request for the Town to support their request for a new playground in the Village.

Mark Lee of Erie County Department of Planning also gave an overview of what projects may be funded by this grant. He also explained the point system for grading the grant necessity. He stated that Rural Transit or community services usually funded in part by this grant. It would have to be a Town wide project.

Supervisor Chiavetta stated that the pool at the Town Park was made handicap accessible and perhaps the wading pool for the little ones could be retiled as it is original 1970's. Mark Lee stated that it would have to be made wheelchair accessible.

Joan Reickart questioned the purchase of homes by the Town for remodeling for private housing. Mr. Lee explained that there were other grants available for housing renovations and brochures are available, normally at the Town Clerk's office.

Bill Henry suggested solar panels for the park for more efficient heat use. Mr. Lee explained that this would not be an option under this program.

As all wanting to be heard had been heard, Councilwoman Bowman made a motion to close the public hearing which was seconded by Councilman Czyz. The Public Hearing for Community Development Block Grant was closed.

Councilman Rubeck made a motion pass a resolution to prioritize the use of Community Block Grant funds as 1. Wading Pool renovations at the Town Park, 2. Support the Village of Farnham Playground and 3. Rural Transit funding. The motion was seconded by Councilwoman Bowman and a roll call vote taken:

ROLL CALL VOTE:

Councilman Rubeck	Aye
Councilwoman Bowman	Aye
Councilman Czyz	Aye
Councilman Rosiek	Aye
Supervisor Chiavetta	Aye

5 Ayes, No Nays. RESOLUTION ADOPTED.

Supervisor Chiavetta stated that we needed to start the Public Hearing on Local Laws #1 & 2.

Town Clerk read the Notices of Public Hearings for Local Laws 1 & 2 to rename the Solid Waste Chapter and "Solid Waste Management Law", which were published in the September 19, 2002 issue of the Hamburg Sun.

The Town Attorney summarized the changes of the local law. One was just renaming the "Solid Waste" law to "Waste Management Law". The second portion would reinforce the existing laws and dealing with health and safety. He stated that there are limitations on what the Town can prevent from coming in from out of state due to the State Commerce Law, due to crossing interstate lines. This would just change the text of these laws to strengthen. He stated that these are just the same as the August meeting however the County had not responded to the Town's request and has since responded with authorization.

He stated that it had to be done all over again with the authorization of the County. He is now asking the Town to follow a couple of procedural steps. First would be to ask the Board to pass a Resolution issuing a negative declaration of Environmental Significance for the proposed Local Laws #1 and #2 of the Year 2002.

As everyone wanting to be heard had been heard, a motion was made by Councilwoman Bowman and seconded by Councilman Czyz to close the public hearing.

A motion was made by Councilwoman Bowman to pass Local Law #1, the motion was seconded by Councilman Rubeck and a roll call vote taken.

ROLL CALL VOTE:

Councilwoman Bowman	Aye
Councilman Rubeck	Aye
Councilman Czyz	Aye
Councilman Rosiek	Aye
Supervisor Chiavetta	Aye

5 Ayes and no Nays. LOCAL LAW #1, 2002 ADOPTED.

Councilman Czyz made a motion to adopt Local Law Number 2, seconded by Councilman Rosiek and a roll call vote taken:

ROLL CALL VOTE:

Councilman Czyz	Aye
Councilman Rosiek	Aye
Councilman Rubeck	Aye
Councilwoman Bowman	Aye
Supervisor Chiavetta	Aye

5 Ayes, No Nays. LOCAL LAW #2, 2002 ADOPTED.

The meeting continued with the Acknowledgment of Visitors discussing various zoning violations.

Sherman Reikart questioned why the fines are so low. John explained that some of the fines are determined by the Town and others such as the Junkyard violations is set by the State.

Supervisor Chiavetta gave an overview of the difference between the zoning and junkyard violations.

Bill Henry questioned the agricultural exemption application. Supervisor Chiavetta stated that he may want to go over it with Code Enforcement and the Assessors office.

Bob Palmer of the Town of Evans questioned the composting violations and if reported to DEC. Code Enforcement Officer stated that DEC has no problem with his operations now. He was in violation when he had the ice cream dumpings there.

Mr. Palmer stated that there were a number of fires due to spontaneous combustion on the windrows. Mr. Brecker asked if Mr. Palmer talked to the DEC himself and what was stated to him. Mr. Palmer explained that he talked with DEC for the Town of Evans site. Mr. Brecker stated that there are no windrows at the Brant location.

As everyone wanting to be heard had been recognized, the Acknowledgement of visitors was closed.

A request was received by the Brant Cemetery Association to use the Community Building on October 26<sup>th</sup>. Councilwoman Bowman made a motion, seconded by Councilman Czynz to approve the request. MOTION CARRIED.

A petition was received by a number of residents concerning the Wildlife Rehab hospital asking for a public hearing. Supervisor Chiavetta explained that there is nothing in the code book preventing the hospital so a public hearing would not be appropriate. He did suggest that Code Enforcement officer schedule an informational meeting with the residents and NYS Health Department along with the DEC, to discuss the matter.

Joan Reickart asked if anyone checked with the City of Buffalo to see if she had the proper permits. She stated that she did, and there are no permits for her to operate there. She has been operating for 5 years without the proper permits. She is licensed by the DEC but not the city. No official from the City is aware of the animals she harbors. She asked if this wasn't a problem for Code Enforcement when someone is currently operating outside the law?

Code Enforcement officer stated that she is following the proper procedure in the Town of Brant. The City of Buffalo has the problem, not the Town of Brant.

Joan Reickart stated that no one that signed the petition knew that the hospital was going to take place, that the Town should have kept the residents informed. She knew nothing until she read the Hamburg Sun.

Supervisor Chiavetta stated that it is a permitted use in that area. No hearings or notification is necessary.

She stated that the people who signed the petition would like a hearing on this matter as no one has been informed of how the wildlife hospital will be operated.

Code Enforcement Officer stated that she is not going to be handling any rabid animals. He suggested a meeting with the DEC and Dept. of Health along with the owner and residents to clarify.

Councilman Rosiek stated that there is no Special Use Permit involved that a formal hearing is not proper procedure.

A lengthy discussion continued as to procedures and local laws regarding this type of business.

Supervisor Chiavetta asked Code Enforcement Officer, Gary Brecker to see if he could set up a meeting with all the concerned parties. Perhaps within two weeks and to check with the Town Clerk to see if any meeting scheduled would create a conflict.

Councilman Czyz made a motion to pass a resolution to set the time and date for Halloween trick or treating on October 31, 2002 from 6-8 p.m., the motion was seconded by Councilwoman Bowman and a roll call vote taken.

ROLL CALL VOTE:

Councilman Czyz	Aye
Councilwoman Bowman	Aye
Councilman Rosiek	Aye
Councilman Rubeck	Aye
Supervisor Chiavetta	Aye

5 Ayes, No Nays. RESOLUTION ADOPTED.

A request to sign a new agreement for the County of Erie Department of Housing & Urban Development was received asking the Town to sign a three-year agreement as the County of Erie had received re-designation as an Urban County and requires agreements with each Town. Councilman Czyz made a motion to pass a resolution to authorize the Supervisor to execute and enter into such contract. The motion was seconded by Councilman Rubeck and a roll call vote taken.

ROLL CALL VOTE:

Councilman Czyz	Aye
Councilman Rubeck	Aye
Councilwoman Bowman	Aye
Councilman Rosiek	Aye
Supervisor Chiavetta	Aye

5 Ayes, No Nays. RESOLUTION ADOPTED.

A motion was made by Councilman Czyz and seconded by Councilwoman Bowman to re-appoint Michelle Hy as the Town's Affirmative Action Officer. MOTION CARRIED.

Samples of Property Maintenance Laws from other municipalities were presented, by Attorney Grennell, to the Town Board and Planning Board. Supervisor Chiavetta stated that the Planning Board would look at the samples and make additional suggestions to the Town Board.

A letter was received from Cost Control Associates regarding the completion of the Street Lighting Audit. They estimated that the refund due the Town is \$7,803.00 and that Niagara Mohawk would need a resolution and signed Settlement Agreement and Release to complete the refund.

Councilwoman Bowman made a motion to accept the \$7,803.00 as full satisfaction and that the Supervisor be authorized and directed to sign the Settlement Agreement and Release. The motion was seconded by Councilman Czyz and a roll call vote taken.

ROLL CALL VOTE:

Councilwoman Bowman	Aye
Councilman Czyz	Aye
Councilman Rosiek	Aye
Councilman Rubeck	Aye
Supervisor Chiavetta	Aye

5 Ayes, No Nays. RESOLUTION ADOPTED.

A request from the Village of Farnham regarding support on the Community development Block Grant project was previously discussed and acted upon.

A letter was received from the Village of Farnham asking for additional Police Protection for the upcoming budget year. Supervisor Chiavetta stated that the Board would look at the request at the budget hearings.

A request was received from Rural Transit to reserve the Community Center for the Holiday Party on Friday, December 13<sup>th</sup>. As the Town Clerk indicated that the date was open on

the calendar, Councilwoman Bowman made a motion to authorize the request which was seconded by Councilman Rubeck. MOTION CARRIED.

A letter was received from Martin Farber, Attorney regarding the final signed papers from Justice Michalek to settle the Assessment matter of Southtowns Rural Preservation and the Town of Brant.

Councilman Czyz made a motion and the motion was seconded by Councilwoman Bowman to authorize Supervisor Chiavetta to sign the Contract with Peter J. Smith for the Master Plan as all parties had approved the proposal. MOTION CARRIED.

Supervisor Chiavetta stated that there would be a meeting with the Masterplan Committee on October 29<sup>th</sup> or 30<sup>th</sup> with Peter J. Smith Company and that Gene Czyz would be setting up the meeting as the Chairman.

A letter from Erie County Planning was received regarding the Assessment Survey on compliance with applicable laws and regulations being followed, was received and filed.

A request from Rural Transit to include them in funding with the CDBG Grant request was received and previously discussed.

The Town Clerk has presented the Tentative Budget to the Town Board and meetings with department heads were previously set up. It was noted that the Public Hearing on the Budget must be held before the adoption of the budget.

Councilwoman Bowman made a motion to change the September meeting from the 12<sup>th</sup> of September to the 13<sup>th</sup> of September and to hold a the Public Hearing at 8:15 p.m. on this date, the motion was seconded by Councilman Rubeck and Roll call vote was taken.

ROLL CALL VOTE:

Councilwoman Bowman	Aye
Councilman Rubeck	Aye
Councilman Czyz	Aye
Councilman Rosiek	Aye
Supervisor Chiavetta	Aye

5 Ayes and No Nays. RESOLUTION ADOPTED.

Erie County Planning was to hold a luncheon on October 23, 2002 to honor Chet Jandzinski who would be retiring. Supervisor Chiavetta read a proclamation that the Town Board would like to present for the years that they have worked with Chet. The County would also be holding a meeting on October 29, 2002 at the Boston Hotel.

A motion was made by Councilwoman Bowman, seconded by Councilman Rubeck to adopt a resolution to adopt budget modifications as recommended by the Town Accountant.

ROLL CALL VOTE:

Councilwoman Bowman	Aye
Councilman Rubeck	Aye
Councilman Czyz	Aye
Councilman Rosiek	Aye
Supervisor Chiavetta	Aye

5 Ayes, No Nays. RESOLUTION ADOPTED.

Notice that the Erie County Governments Meeting would be held on October 24, 2002 in Akron was received and filed.

A letter was received by Mayor Carlson of the Village of Angola, thanking the Town for their participation in the remembrance of September 11, 2001 ceremonies at the Gazebo and was filed.

An email was read regarding the Town of Brant's fight to keep the landfill from our area and was filed.

A motion was made by Councilwoman Bowman and seconded by Councilman Rubeck that General Town Wide Warrant 2002 #10, Vouchers 355-404, totaling \$24,034.07, General Town Wide Payroll 2002, Warrant #10, Vouchers 36-39, totaling \$24,901.32, General Part Town Warrant 2002 #10, Vouchers 31-34, totaling \$6,824.63. Highway Fund Payroll 2002, Warrant #10, Vouchers 18-19, totaling \$5,936.58, Highway Town Wide 2002 #10, Vouchers 83-93, totaling \$16,804.38, Street Lighting Fund 2002, Warrant #10, Voucher 9, totaling \$ 171.10, Lotus Bay Sewer Dist 2002 Warrant #10, Voucher 11-12, totaling \$5,413.43, be presented for payment. MOTION CARRIED.

A motion was made by Councilwoman Bowman seconded by Councilman Czyz to adjourn the meeting at 9:19 p.m. MOTION CARRIED.

Respectfully submitted,

Jamie S. Nolan, Town Clerk

APPROVED BY:

SUPERVISOR CHIAVETTA: \_\_\_\_\_

COUNCILMAN RUBECK: \_\_\_\_\_

COUNCILWOMAN BOWMAN: \_\_\_\_\_

COUNCILMAN CZYZ: \_\_\_\_\_

COUNCILMAN ROSIEK: \_\_\_\_\_