

**WALWORTH TOWN BOARD – SPECIAL MEETING
31 MAY 2012**

Presiding Supervisor Plant called the Town Board Special Meeting, County of Wayne, State of New York, held at the Walworth Town Hall, 3600 Lorraine Drive, Walworth, NY to order at 7:02 PM with the Pledge to the Flag.

| | | |
|------------------------|-----------------|--------------|
| <u>PRESENT:</u> | Robert Plant | Supervisor |
| | Patricia Marini | Councilwoman |
| | Larry Ruth | Councilman |
| | Tom Yale | Councilman |
| | Susie Jacobs | Town Clerk |

| | | |
|-----------------------|------------------|------------------------|
| <u>ABSENT:</u> | Vaughn Pembroke | Councilman |
| | Michael Frederes | Highway Superintendent |

OTHERS PRESENT: Beth Hart, Deputy Town Clerk, and twelve attendees.

Supervisor Plant commented that we have a 7:00 PM public hearing scheduled on the “Noise” Proposed Local Law. Town Board has received an updated / final version today. He asked the Board if they wanted to continue the public hearing or reschedule for a later date. No comments were offered.

**PUBLIC HEARING 7:00 PM – PROPOSED LOCAL LAW NO. 2 OF 2012
AMENDING THE CODE OF THE TOWN OF WALWORTH, CHAPTER 108
ENTITLED “NOISE”:**

Supervisor Plant declared the Public Hearing opened.

Time: 7:05 PM.

Supervisor Plant reviewed the Public Hearing Procedures for those present and wishing to speak.

Susie C. Jacobs, Town Clerk, stated the Notice of Public Hearing for Proposed Local Law No. 2 of 2012 was duly published two (2) times in the Town’s official newspaper on May 20, and May 27, 2012, with the same dates being posted at the Town Hall and on the Town website. Copies are available to the public.

Motion by Councilman Yale to waive the reading of the Legal Notice.
Seconded by Councilman Ruth.

Adopted: Vote Ayes 4 Nays 0
Motion carried.

**WALWORTH TOWN BOARD – SPECIAL MEETING
31 MAY 2012**

The following addressed the board:

Resident from Downs Road asked if the proposed law supplied by the Attorney for the Town is similar to the Meeting Minutes of May 17, 2012.

Supervisor Plant replied that he didn't know that; stating he did not have a copy of the minutes. Councilman Yale stated he believes there has been some minor changes to that; the concept was of the Meeting of May 17, 2012 is consistent with what is in the final version. The Law basically allows the events previously scheduled. A letter was sent to one of the commercial venues asking for what was scheduled before such and such a date; they complied with the request. The proposed Local Law addresses community events including the Festival in the Park and the Community Street Dance. It allows the Town Board to authorize beyond 10:00 PM community wide venues and an extension for them. Also the final version includes a monetary penalty.

Resident again wanted clarification about the wording / Motion authorizing the Attorney for the Town to draft changes to proposed Local Law No. 2 of the Year 2012, "Noise" Chapter 108; which indicated: The later of ½ hour after sunset or 9:00 PM except for Fridays and Saturdays when it shall be 10:00 PM.... Councilman Yale stated that has been cleared up and will remain at 10:00 PM.

Copies of the proposed Local Law and letter of the events scheduled at Greystone were distributed to those present.

RECESS:

Resident requested a five minute recess to review of the documents; the recess was granted.

Motion by Councilman Yale for a five (5) minute recess.
Seconded by Councilman Ruth.
Time: 7:06 PM.

RECONVENED:

Supervisor Plant reconvened the current opened Public Hearing.
Time: 7:16 PM.

The resident from Downs Road continued with her comments. She thanked the Board for their hard work on putting together something that is equitable for those involved. Discussion ensued.

A four year resident of Downs Road addressed the Board and stated Walworth is a "fantastic Town". Interesting Law; the comment he would like to make, is that it is an equitable situation 10:00 PM with permit until 11:00 PM. He is concerned with Greystone's events that extend until close to midnight; it is his hope this will change. How will this be enforced, does the public have to do this or is there going to be some enforcement by local police? Exactly how is the Town going to enforce this Local Law? Discussion ensued. Supervisor Plant stated the Town does not have a police department and the State Police does not enforce local ordinances nor does the Sheriff's department. Enforcement will fall locally and partially upon, not only our Code Enforcement Officer and police that will respond and notify our Code Enforcement Officer; but also the person making the complaint coming in. The noise has to be bothering someone and what might be bothering someone may not be bothering someone else. In the end it will be the Code Enforcement Officer bringing the person into court, but also the residents(s)

**WALWORTH TOWN BOARD – SPECIAL MEETING
31 MAY 2012**

that complains will have to be brought into court to testify. No decimal readings will be taken.

Downs Road Resident has a couple concerns regarding the Law as to the way it is written. If I am to understand, the Town Board at their discretion can allow violations not contained in the sheet I have. What prevents Greystone or someone else to go to the Town Board to get a permit to allow an 11:00 PM deadline? Councilman Ruth commented if you look at Item 4, community groups hosting public events that are open to all members of the public. This is for a commercial event and not open to all the public in a public locale. Resident then asked if he understood correctly that the Town Board will not issue extensions to Greystone. Supervisor Plant replied, "Yeah". Resident also commented that he does not feel that the facility is designed for the intended use. He feels the Board is asking him to accept something that is open, notorious and repetitive. He cannot believe anyone on this Board would want that. Suggestion was made for him to attend the meeting where the Public Assembly is discussed and authorized. Discussion ensued.

Downs Road Resident asked what are requirements for Greystone to be granted a Public Assembly Permit. Discussion ensued clarifying two (2) different items: First is the list of approvals to go into 11 PM this year. And the second allows anything at all. Discussion ensued clarifying. The resident stated it is a nuisance to put up with the noise. She asked Council members to be aware of this.

Discussion ensued.

No one else wished to comment.

With all persons desiring to be heard, Supervisor Plant asked for the following.

Motion by Councilman Yale to close the Public Hearing.
Seconded by Councilwoman Marini.

Adopted: Vote Ayes 4 Nays 0
Time: 7:32 PM.
Motion carried.

RESOLUTION 51-12 ADOPTION OF PROPOSED LOCAL LAW NO. 2 OF THE YEAR 2012 NOISE - CHAPTER 108:

Councilman Yale offered the following Resolution 51-12 and moved its adoption.
Seconded by Councilman Ruth to wit:

WHEREAS, the Town Board of the Town of Walworth held a Public Hearings on May 3, 2012 and May 31, 2012, to consider the adoption of proposed Local Law No. 2 of the year 2012, A LOCAL LAW AMENDING CHAPTER 108 "NOISE" OF THE TOWN OF WALWORTH MUNICIPAL CODE MORE PARTICULARLY AMENDING §108-3 Electronic Devices, Phonographs, Amplified Sound, Musical Instruments, Noise-Emitting Devices and §108-8 Penalties for Offenses; said proposed Local Law No. 2 of the year 2012 is hereby introduced before the Town Board of the Town of Walworth in the County of Wayne in the State of New York.

Be it enacted by the Town Board of the Town of Walworth as Follows:

§108-3 Electronic Devices, Phonographs, Amplified Sound, Musical Instruments, Noise-Emitting Devices

- A) No person shall amplify, operate, play or cause to be amplified, operated or played, any electronic device, phonograph, musical instrument, or noise-emitting device in such manner or with such volume at any time, particularly between the hours of 10:00 PM and 7:00 AM, as to annoy the quiet, comfort or repose of persons inside or outside any dwelling or building within the Town, except as hereinafter provided.
- B) No person shall, at any time, operate or cause to be operated, any noise amplifying device such that the speakers that transmit such amplified sounds are pointed in the direction of any private residence located within 1,000 feet of the amplified sound.
- C) Exceptions to §108.3 (A) – the following shall be considered exceptions to §108-3(A), and in such cases, noise shall be permitted until 11:00 PM:
 - 1) The Festival in the Park held by the Town of Walworth
 - 2) The Community Street Dance held in the Town of Walworth
 - 3) Any events at commercial venues within the Town of Walworth that have been previously booked for outdoor events as of 5/2/2012, and which are scheduled to take place any time up to and including 10/6/2012, provided that any such commercial venue has provided to the Town of Walworth, by no later than the date of the Public Hearing in this matter, a list of events which are expected to extend beyond 10:00 PM, including the date of the event; the expected time of commencement; the expected time of completion, which shall be no later than 11:00 PM; the name of the parties who contracted the event with the commercial venue (the “Parties”); along with an address and phone number of the Parties. In connection with said list, the commercial venue’s exception to §108-3(A) shall be limited to those dates and events and Parties which appear on the list hereinabove required. No additional dates, events and Parties may be added after the date of the Public Hearing in this matter.
 - 4) Community groups hosting a public event that is open to all members of the public, in a public locale, as opposed to a private residence or business, who have applied to the Town Board for an exception to Section 108-3(A) of the Walworth Town Code. Said requests must be in writing, and must include: the name of the community group; a contact person with name, address and phone number; the date and purpose of the proposed event; the number of people expected to attend, the location of the event; the expected time of commencement; the expected time of completion, which shall be no later than 11:00 PM. Said application should be submitted no later than eight (8) days prior to the next Town Board meeting at which the issue regarding the said application is to be addressed.

§108-8 Penalties for Offenses

Any person, corporation, partnership or business which shall violate a provision of this Chapter shall be punished by a fine not to exceed \$150.00, or imprisonment of not more than 15 days, or both such fine and imprisonment; provided, however, that a person, corporation, partnership or business which shall violate any provision of this chapter after having been convicted of a violation of any provision of this chapter within the preceding three (3) years shall be punished by a fine not to exceed \$300.00 or by imprisonment of not more than 15 days, or both such fine and imprisonment; and further, provided that any person, corporation, partnership or business which shall violate any provision of the chapter after having been convicted two (2) or more times of a violation of any provision of this chapter within the preceding three (3) years shall be punished by a fine not to exceed \$500.00 or by imprisonment of not more than 15 days, or both such fine and

imprisonment. Notice of said violation shall be by appearance ticket duly served upon the responsible party creating the violation, or upon the property owner of the property from which the violation emanates, served personally or by regular mail and certified mail, return receipt requested, at the last known residential or business address of said individual, directing them to appear in Walworth Town Court.

This Local Law shall take effect immediately after adoption by the Town Board of the Town of Walworth.

BE IT RESOLVED, the Town Board of the Town of Walworth does hereby adopt proposed Local Law No. 2 of the year 2012 to the Town of Walworth Municipal Code.

BE IT RESOLVED, the Town Clerk submits the necessary documents pertaining to the adoption of said proposed Local Law No. 2 of 2012, for filing with the Secretary of State.

NOW, BE IT FURTHER RESOLVED, that the Town Council of the Town of Walworth adopt Resolution 51-12.

Adopted this 31 day of May, 2012.

Discussion: Councilwoman Marini clarified the information on the Resolution stating it should be 10 PM as presented this evening. Council agreed.

| | | |
|-----------------|---------------------|--------|
| Roll call vote: | Supervisor Plant | Aye |
| | Councilwoman Marini | Nay |
| | Councilman Pembroke | Absent |
| | Councilman Ruth | Aye |
| | Councilman Yale | Aye |

Resolution carried.

PUBLIC PARTICIPATION:

No one present offered any comments.

RESOLUTION 65-12 AUTHORIZING AND DIRECTING THE TOWN SUPERVISOR TO SIGN PAYCHEX PLAN TERMINATION FORMS FOR THE 401(k) PLAN:

Councilwoman Marini offered the following Resolution 65-12 and moved its adoption. Seconded by Councilman Yale to wit:

WHEREAS, the Town Board of the Town of Walworth adopted Resolution 12-08 authorizing / executing any and all documents in connection with the amendment of the Paychex 401(K) Profit Sharing Plan (the "Plan"), and

WHEREAS, the "Plan" was amended to address the final regulations under Sections 415 and 411 of the Internal Revenue Service Code as indicated / recommended by Paychex, and

WHEREAS, the Town of Walworth has been advised that it is a violation of IRS code for a municipality to participate in a 401(k); and

WHEREAS, the Town of Walworth must terminate the "Plan" with Paychex.

THEREFORE BE IT RESOLVED that the Town Supervisor be authorized and directed to sign the "Plan Termination Form" and any and all other forms necessary to execute this termination.

**WALWORTH TOWN BOARD – SPECIAL MEETING
31 MAY 2012**

Adopted this 31st day of May, 2012.

| | | |
|-----------------|---------------------|--------|
| Roll call vote: | Supervisor Plant | Aye |
| | Councilwoman Marini | Aye |
| | Councilman Pembroke | Absent |
| | Councilman Ruth | Aye |
| | Councilman Yale | Aye |

Resolution carried.

RESOLUTION 64-12 AMENDS THE TOWN OF WALWORTH POLICY / PROCEDURES – TRAVEL POLICY AND ADOPTS THE EDUCATION & TRAINING REQUEST FORM:

Councilwoman Marini offered the following Resolution 64-12 and moved its adoption. Seconded by Councilman Ruth to wit:

WHEREAS, the Town Board of the Town of Walworth wishes to amend the Town of Walworth Policy / Procedures Manual - Travel Policy (Adopted 10.18.2007 and Amended 2.16.2012) with the following:

COMPLIANCE WITH THE TRAVEL POLICY:

Amend by adding paragraph:

All employees must complete the “Education & Training Request Form” to obtain pre-approval for any educational or training requests.

WHEREAS, the Town Board of the Town of Walworth wishes to adopt the “Education & Training Request Form” to the Town of Walworth Policy / Procedures Manual – Travel Policy.

BE IT RESOLVED THAT the Town Board of the Town of Walworth adopts Resolution 64-12.

Adopted this 31st day of May, 2012 at the meeting of the Town Board.

| | | |
|-----------------|---------------------|--------|
| Roll call vote: | Supervisor Plant | Aye |
| | Councilwoman Marini | Aye |
| | Councilman Pembroke | Absent |
| | Councilman Ruth | Aye |
| | Councilman Yale | Aye |

Resolution carried.

RESOLUTION 63-12 NYS RETIREMENT SYSTEM STANDARD WORK DAY & REPORTING:

Councilman Ruth offered the following Resolution 63-12 and moved its adoption. Seconded by Councilwoman Marini to wit:

WHEREAS, the following NYS Standard Work Day and Reporting Resolution for Elected and Appointed Officials has been completed as required; and

**WALWORTH TOWN BOARD – SPECIAL MEETING
31 MAY 2012**

WHEREAS, the Town Board of the Town of Walworth directs the Town Clerk to post the following:



Office of the New York State Comptroller
New York State and Local Retirement System
Employees' Retirement System
Police and Fire Retirement System
110 State Street, Albany, New York 12244-0001

**Standard Work Day and
Reporting Resolution
RS 2417-A**
(12/10)

BE IT RESOLVED, that the TOWN OF WALWORTH / Location code _____ hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the time keeping system records or the record of activities maintained and submitted by these officials to the clerk of this body:

| Title | Name | Social Security Number (Last 4 digits) | Registration Number | Standard Work Day (Hrs/day) | Term Begins/Ends | Participates in Employer's Time Keeping System (Y/N) | Days/Month (based on Record of Activities) | Tier 1 (Check only if member is in Tier 1) | Not Submitted (Check box if no record of activities completed or timekeeping system) |
|---------------------------------|---------------|--|---------------------|-----------------------------|--------------------------|--|--|--|--|
| Elected Officials | | | | | | | | | |
| RECEIVER OF TAXES & ASSESSMENTS | LINDA BRETSCH | | | 8 | 01.01.2012 TO 12.31.2016 | N | 18.96 | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | | | | | | <input type="checkbox"/> | <input type="checkbox"/> |
| Appointed Officials | | | | | | | | | |
| | | | | | | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | | | | | | <input type="checkbox"/> | <input type="checkbox"/> |

If additional rows are needed, please use form RS2417-B and attach.

On this 25TH day of MAY, 2012 _____ Date enacted: 05/25/2012
(Signature of clerk)

I, SUSIE C. JACOBS, clerk of the governing board of the TOWN OF WALWORTH, of the State of New York, do hereby certify that I have compared the foregoing with the original resolution passed by such board, at a legally convened meeting held on the 31 day of MAY, 2012 on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original.
(Name of Employer)

I further certify that the full board, consists of 5 members, and that _____ of such members were present at such meeting and that _____ of such members voted in favor of the above resolution.

IN WITNESS WHEREOF, I have hereunto Set my hand and the seal of the TOWN OF WALWORTH
(Name of Employer)

(Seal)

This document consists of 1 page(s) (see additional RS2417-B forms attached).

Discussion: Clarification / Discussion ensued.

Adopted this 31ST day of May, 2012 at the meeting of the Town Board.

**WALWORTH TOWN BOARD – SPECIAL MEETING
31 MAY 2012**

| | | |
|-----------------|---------------------|--------|
| Roll call vote: | Supervisor Plant | Aye |
| | Councilwoman Marini | Aye |
| | Councilman Pembroke | Absent |
| | Councilman Ruth | Aye |
| | Councilman Yale | Aye |

Resolution carried.

RESOLUTION 66-12 PROPOSED LOCAL LAW NO. 6 OF 2012 AMENDING CHAPTER 139 SEWERS, ARTICLE IV USE OF PUBLIC SEWERS REQUIRED; § 139-18 CONNECTION TO PUBLIC SEWER REQUIRED, AND § 139-20 ACCEPTANCE OF SEWAGE FROM OUTSIDE SERVICE AREA:

Councilman Ruth offered the following Resolution 66-12 and moved its adoption. Seconded by Councilman Yale to wit:

BE IT RESOLVED that Proposed Local Law No. 6 of the year 2012, A LOCAL LAW AMENDING CHAPTER 139 “SEWERS” OF THE TOWN OF WALWORTH MUNICIPAL CODE MORE PARTICULARLY AMENDING Article IV USE OF PUBLIC SEWERS REQUIRED; § 139-18 Connection to public sewer required, and § 139-20 Acceptance of sewage from outside service area is hereby introduced before the Town Board.

BE IT FURTHER RESOLVED that copies of the aforesaid proposed Local Law is laid upon the desk of each member of the Town Board.

BE IT FURTHER RESOLVED that the Town Board holds a Public Hearing on said Proposed Local Law at the Town Hall, 3600 Lorraine Drive, in the Town of Walworth, New York at **8:00 PM on Thursday, June 21, 2012.**

BE IT FURTHER RESOLVED that the Town Clerk notify the Town of Macedon of the Public Hearing.

BE IT FURTHER RESOLVED that the Town Clerk publish or cause to be published a public notice in the official newspaper of the Town of said public hearing at least five (5) days prior thereto.

BE IT FURTHER RESOLVED that the Town of Walworth call a meeting of the ad hoc committee to discuss changes within 30 days after adoption of proposed Local Law.

Adopted this 31st day of May, 2012.

| | | |
|-----------------|---------------------|--------|
| Roll call vote: | Supervisor Plant | Aye |
| | Councilwoman Marini | Aye |
| | Councilman Pembroke | Absent |
| | Councilman Ruth | Aye |
| | Councilman Yale | Aye |

Resolution carried.

TOWN COMPLEX EASTSIDE PARKING LOT – RETAINING WALL:

The following was discussed / submitted:

**WALWORTH TOWN BOARD – SPECIAL MEETING
31 MAY 2012**

TO: Board Members

RE: Retaining Wall

DATE: May 31, 2012

Bob asked that I get some quotes to replace the lower retaining wall.

Quote # 1: Lakeland Concrete(which manufactured the large retaining wall last year) is quoting the same system. These would be the same type block and would have to be set with our excavator and have the same appearance. At least 5 foot of dirt behind the wall would need to be removed because these blocks are 44 inches deep compared to the existing 16 inches. Because of their size we would need to cut into the sidewalk about 12 inches to make them lay up to the building correctly also the radius could be an issue. The price for block delivered with a cap is \$11,973.00 delivered. Stone to fill the block and behind would be about \$1000.00. I don't feel these larger blocks will look good at this location.

Quote #2: Phelps Cement is quoting a Rockwood Retaining wall system which is more like what currently exists, 8 inch by 16 inch blocks. The delivered cost for gray blocks and caps and adhesive for the caps is \$3,209.44, stone for block fill and behind should be more in the \$800.00 dollar range. The radius and building match would be no problem. More of the landscaping would be left since these blocks don't lay as deep, however they are much more labor intensive to install versus the large block. Colored blocks would be \$250.00 extra. The height would be about the same as exists. A sample is down on the wall now.

**WALWORTH TOWN BOARD – SPECIAL MEETING
31 MAY 2012**

Quote #3: Cleason's Cement has solid 2 foot x 4 foot x 2 foot deep blocks that inter lock but there is no Pattern (very ugly) . They require no stone fill and can't be cut to fit. The cost of the blocks are \$2465 not delivered. It would be 5 trips to Newark with our truck and trailer to pick these up (about \$900.00 in hauling). The radius would not work at all. I don't see this as an option at all.

My suggestion is to utilize Quote #2 from Phelps Cement for a Budget of:

| | |
|-------------------------------|-------------------|
| Block | \$ 3209.00 |
| Stone | \$ 800.00 |
| Highway Labor | \$ 5350.00 |
| Highway Equipment Time | <u>\$ 3300.00</u> |
| TOTAL | \$12659.00 |
| 10% Contingency/Miscellaneous | <u>\$ 1260.00</u> |
| RECOMMENDED BUDGET | \$13919.00 |

Approximate completion time of one week depending on weather and scheduling
Shrubs at both ends will need to be removed. Does not include replacing any plantings or landscaping

Sincerely,

Michael J. Frederes – Town of Walworth Highway Department

Discussion ensued.

Motion by Councilman Ruth authorizing the Highway Department to proceed with Option #2 per his recommendation utilizing the small grey blocks. To be expended from Capital Building Reserve.
Seconded by Councilman Yale.

Discussion: Councilman Ruth pointed out the wall is seriously deteriorating and needs to be addressed avoiding further damage / expense.

Adopted: Vote Ayes 4 Nays 0
Motion carried.

**WALWORTH TOWN BOARD – SPECIAL MEETING
31 MAY 2012**

EXECUTIVE SESSION:

Motion by Councilwoman Marini to enter into Executive Session to discuss medical, financial, credit, or employment history of a particular person/corp, or matters leading to said dismissal, removal, promotion, appointment, employment, discipline, demotion, or suspension.

Seconded by Councilman Yale.

Adopted: Vote Ayes 4 Nays 0

Time: 7:42 PM.

RECONVENE:

Supervisor Plant reconvened the regularly scheduled meeting.

Time: 8:37 PM

ADJOURNMENT:

Motion by Councilwoman Marini to adjourn.

Seconded by Councilman Yale and unanimously carried.

Time: 8:39 PM.

Respectfully Submitted,

Susie C. Jacobs, CMC, RMC
Town Clerk