

**WALWORTH TOWN BOARD – REGULAR MEETING
18 OCTOBER 2012**

Presiding Supervisor Plant called the regularly scheduled Town Board Meeting, County of Wayne, State of New York, held at the Walworth Town Hall, 3600 Lorraine Drive, Walworth, NY to order at 7:30 PM with the Pledge to the Flag.

PRESENT:

Robert Plant	Supervisor
Patricia Marini	Councilwoman
Vaughn Pembroke	Councilman
Larry Ruth	Councilman
Tom Yale	Councilman
Michael Frederes	Highway Superintendent
Susie Jacobs	Town Clerk

OTHERS PRESENT: Rob Burns, Sewer Superintendent; Jacqueline VanLare, Recreation Director; Brendan Bystrak, Labella Associates, P.C. Engineer for the Town; Denise Munson, Attorney for the Town; Norm Druschel, Building Inspector; Town Newspaper Reporter, and sixteen attendees.

MINUTES:

Motion by Councilman Ruth to approve the Minutes of October 4, 2012 as presented.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 5 Nays 0

Motion carried.

SUPERVISOR'S REPORT:

Motion by Councilwoman Marini to accept as presented the Supervisor's Report for September, 2012.

Seconded by Councilman Yale.

Adopted: Vote Ayes 5 Nays 0

Motion carried.

EXECUTIVE SESSION:

Motion by Councilwoman Marini to enter into executive session to discuss litigation.

Seconded by Councilman Yale.

Adopted: Vote Ayes 5 Nays 0

Time: 7:32 PM.

Motion carried.

RECONVENE:

Supervisor Plant reconvened the regularly scheduled meeting.

Time: 7:48 PM.

**WALWORTH TOWN BOARD – REGULAR MEETING
18 OCTOBER 2012**

AUTHORIZATION FOR TOWN ATTORNEY TO CONTACT EXCELLUS AND PAYCHEX:

Motion by Councilwoman Marini authorizing Town Attorney to contact Excellus and Paychex.

Seconded by Councilman Ruth.

Adopted: Vote Ayes 5 Nays 0

Motion carried.

PUBLIC PARTICIPATION:

Supervisor Plant stated this is the time if anyone from the public would like to address the Town Board. Please state your addresses for the record. Time will be allotted to 3 minutes.

The following four (4) residents addressed the Board.

- Resident from Church Street stated she had read in the Times that the Town is dismantling, removing, and eliminating the Tennis Courts in the Hamlet. She asked why the Town is taking this away from our kids. She also stated that she uses the park and the kids use it too Why? Thank you.
- Resident from Main Street spoke stating she has five (5) kids. Her home backs up to the Tennis Courts. She sees how her children along with others use this space. She hopes the Town really puts some thought into selling the park. She never sees any trouble, just kids and adults enjoying the park. Thank you.
- Resident from High Street stated he also read in the paper about the Town's plans for the Tennis Courts/park. He said his kids and adults enjoy this space. He also noted that there is no disclaimer stating "not to be used as a skateboard park"; if there had been he would have approached individuals and said the park should not be used for this purpose. He stated he would gather more support if needed.
- Resident from Hunter Circle and President of the Walworth Hamlet Association read the following:

Good Evening. My name is Steve MacNeal, 3376. I speak to you as the president of the Walworth Hamlet Association. For those of you who don't know, the WHA is a nonprofit organization that was established in 2011 to advocate for, and revitalize the Hamlet of Walworth. Tonight, I am here to speak against the town's proposal to sell the basketball court located on Center Street in the Hamlet.

It is my understanding the main reason for the proposed property sale is because of a financial burden that would be placed on the town in the event it has to purchase additional insurance to cover skate boarders utilizing the basketball court. I am certainly not opposed to skate boarders but I do understand the additional liability placed upon a municipality as it pertains to skate boarders. A simple solution to this problem would be to prohibit the skate boarders from utilizing the basketball court as a skate park. I know this decision would be an unpopular one in the eyes of those who enjoy skateboarding, however, it seems as though it would make the most sense. Unfortunately, today's society requires the town to carry certain insurance for certain activities conducted on town property. I also understand at times of economic hardship the town must save money wherever practical and it appears as though the town is not going to pay for the additional insurance for a skate boarding facility. I also understand

the town had explored the option of building a skate park but there was little interest from the public.

As a child I played basketball at these courts, as did some members of your board. I frequently see children and teens gathering at these courts for recreational purposes. These kids are making some of the same memories I did with my family, friends, and church youth group.

Last night, at a meeting of the WHA, the Board of Directors unanimously voted to support the efforts of those wishing keep the basketball courts a property that is owned and maintained by the town.

I believe the decision to sell the property is an extreme measure to take without exploring other avenues to address the actual problem at hand. If the town chooses to prohibit skateboarding at the basketball court, that is their right. Properly marked signs must be posted at both entrances of the basketball court to prohibit skateboarding. Community members and neighbors who wish to keep the basketball courts as they are, must work together to discourage prohibited activities. I spoke with a representative from the Wayne County Sheriff's Office who assured me they would respond when called to address prohibited activities at the basketball court.

Yesterday, I took the opportunity to tour the basketball court. With the exception of some cracking in the asphalt, the property as a whole, appears to be in good condition. The fence also appears to be in a generally good condition. Although the tennis net is sagging, I am sure it could be returned to working condition with little effort.

As I spoke to a town board member yesterday, I was told if the skateboarding issue was successfully addressed, there was a great likelihood the basketball court would be kept and maintained by the Town of Walworth. It was even suggested the town may provide additional basketball hoops to make a total of four. In addition, the cracks in the asphalt could be repaired at little cost. I also learned the financial burden to the town as a result of maintaining this property is insignificant.

When preparing the town's budget, \$5000 was budgeted as income based on the sale of this property. I think you need to take a look at the long term effects of selling this property. In 2010 I hired an independent consultant to review the options of revitalization of the Hamlet of Walworth. The consultant told me moving the town hall to its current location devastated the hamlet. Selling this property would be one more step in dismantling our hamlet. You would take away a central location for the children of our town to gather to socialize, exercise, and make memories. Is the instant gratification of an estimated \$5000 property sale worth the long term effects this move could have on our children?

The WHA has agreed to donate the "Prohibited Activities" signs upon approval of the town board and town attorney. In addition, the WHA will utilize our media outlets to advertise the improvements that were made at the basketball court to ensure increased traffic and usage. I would encourage anyone interested in protecting the basketball court for our children, our grandchildren, and their children, to join the WHA and help us to support this movement.

I would encourage the town board to reconsider selling this property. As a Fire Commissioner for the Walworth Fire District I understand you are bound by the 2% tax cap. I know you are working hard to balance the budget to be fair to our taxpayers while providing quality services to them. I think it is important to weigh the benefits of maintaining the basketball court versus the benefit of a one time, insignificant gain. I am sure there are other budget lines you can make insignificant cuts from.

Help protect this staple property of our Hamlet and keep it as a town owned and maintained property. Thank you.

Supervisor stated that the Board will not be discussing this tonight but will be discussed after the Public Hearing on November 1, 2012.

COMMITTEE REPORTS:

Council members reported on their respective committees. Following were the Town Board actions. Discussion ensued.

LIBRARY- WALWORTH SEELEY PUBLIC LIBRARY PRESENTATION – JOINT MEETING:

Councilman Ruth stated that the Town Board and the Library Board of Trustees will meet December 13, 2012 to discuss the Library's future plans and a possible Rental/Lease Agreement.

RESOLUTION 91-12 AUTHORIZING THE TOWN SUPERVISOR TO SIGN THE AGREEMENT WITH WAYNE CENTRAL SCHOOL DISTRICT FOR SALT AND SANDING FOR THE 2012-2013 SCHOOL YEAR:

Councilman Yale offered the following Resolution 91-12 and moved its adoption. Seconded by Councilman Pembroke to wit:

WHEREAS, Mike Frederes, Highway Superintendent has reviewed the Agreement with Wayne Central School District for 2012-2013 school year, and

WHEREAS, the Council members of the Town of Walworth authorizes the Town Supervisor to sign the Agreement with Wayne Central School District for salt and sanding 2012/20123 at \$20.00 per trip to cover cost of materials, as presented by Mike Frederes, Highway Superintendent.

**WALWORTH TOWN BOARD – REGULAR MEETING
18 OCTOBER 2012**

AGREEMENT BETWEEN
TOWN OF WALWORTH and WAYNE CENTRAL SCHOOL DISTRICT

THIS AGREEMENT, made the _____ day _____, 2012, by and between the Town of Walworth, Wayne County, New York, (hereinafter referred to as the "Town of Walworth") and the Wayne Central School District, a school district of the State of New York with an office and principal place of business at Ontario Center, County of Wayne, New York (hereinafter referred to as the "School District"), made pursuant to Section 142-b of the Highway Law of the State of New York, as follows:

WHEREAS, said School District maintains buildings, grounds and appurtenant driveways and parking lots at various locations within the Town of Walworth, and

WHEREAS, the Town of Walworth, by its Highway Department, regularly salts and sands the highways adjacent to said driveways and parking lots of the School District, and

WHEREAS, while the School District, has by separate contract, contracted with private snow removal concerns for the removal of snow from its parking lots and driveways, it is desirous of using the services of the Highway Department of the Town of Walworth for salting and sanding the driveways and parking lots as aforesaid for the protection of the health, safety, and welfare of the citizens and children of the Town of Walworth in attendance at the School District, and

WHEREAS, it appears that the actual cost to the Town of Walworth by its Highway Department, for the provision of salting and sanding services, when, as and if salt and sand are being applied by the Town of Walworth Highway Department to the roads of the Town of Walworth, are nominal in amount and would be beneficial to the School District as well as the citizens and residents of the Town of Walworth generally.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That during the 2012-2013 snow removal season,
 - a) trucks and equipment of the Town of Walworth Highway Department will, in the sole and uncontrolled discretion of the Highway Superintendent of the Town of Walworth, enter upon driveways and parking lots of the School District, located within the Town of Walworth, as and if trucks and equipment of the Town of walworth are operating in the vicinity of school facilities above described.
 - b) said Highway Superintendent will conduct salting and sanding of said driveways and parking lots only at the request and direction of authorized and designated school district personnel, including the amount of salt and/or sand to be placed on said driveways and parking lots.

- 2. The School District, by its Board of Education, hereby agrees to provide reasonable access to such driveways and parking lots, and hereby expressly releases the Town of Walworth and its Highway Department from any and all claims and damage to paving, parking facilities, or landscaping arising from or connected with such salting and sanding operations, and
- 3. In consideration of the foregoing salting and sanding services to be performed by the Town of Walworth Highway Department, the School District hereby agrees to pay to the Town of Walworth the sum of \$1.00 annually for such service and to further pay the actual value of salt and sand spread and delivered as calculated by the Town of Walworth Highway Superintendent, in an amount estimated to be \$ 20,000 / year for the said 2012-2013 snow removal season.
- 4. This School District agrees to hold harmless and indemnify the Town of Walworth from any and all claims, actions, suits, orders, judgments of whatever nature that may be brought and/or obtained against the Town of Walworth, caused by or resulting from or incidental to the salting and sanding operations by the Town of Walworth on School District property as provided herein and in connection with any such claim, action, suit, order, judgment of whatever nature the School District shall hold harmless and indemnify the Town of Walworth from any and all reasonable and necessary expenses and disbursements which may be incurred, including reasonable attorneys fees.
- 5. In consideration of the foregoing salting and sanding services to be performed by the Town of Walworth Highway Department, the School District hereby agrees to name the Town of Walworth Highway Department as an additional insured on the school district's insurance policy.

THIS AGREEMENT is made pursuant to Section 142-b of the Highway Law of the State of New York.

TOWN OF WALWORTH

Seal

by _____
Supervisor ROBERT PLANT

Seal

by _____
Superintendent of Schools

BE IT RESOLVED, that the Town Supervisor, sign the contract.

Adopted this 18th of October 2012, at the meeting of the Town Board.

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

Resolution carried.

OUT OF DISTRICT SEWER REQUEST – 1879 SHERBURNE ROAD:

Supervisor Plant stated that he received a letter dated October 18, 2012 from the resident of 1879 Sherburne Road requesting “acceptance of sewage from outside service area” according to the Town of Walworth Code §139.20 (C). Robbie Burns, Sewer Superintendent and Brendan Bystrak, Labella Associates, Engineer for the Town, have reviewed the request along with the documents; stating everything is in order. Supervisor Plant asked Mr. Conrad Russell, if he is

**WALWORTH TOWN BOARD – REGULAR MEETING
18 OCTOBER 2012**

in agreement that all expenses for this project including the Engineer for the Town are at his expense. Mr. Conrad Russell agreed.

Motion by Councilman Pembroke authorizing acceptance from Outside Service Area at the Town of Walworth prevailing rates.
Seconded by Councilman Ruth.

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

Motion carried.

LINCOLN VOLUNTEER FIRE DEPARTMENT 2013 BUDGET PUBLIC HEARING SCHEDULED:

Motion by Councilman Yale to set the Lincoln Volunteer Fire Department 2013 Budget Public Hearing for **Thursday, November 1, 2012** at the following time:

- LINCOLN VOLUNTEER FIRE DEPARTMENT contract request hearing to be held; at 7:50 PM.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 5 Nays 0
Motion carried.

WEST WALWORTH VOLUNTEER FIRE DEPARTMENT 2013 BUDGET PUBLIC HEARING SCHEDULED:

Motion by Councilman Yale to set the West Walworth Volunteer Fire Department 2013 Budget Public Hearings for **Thursday, November 1, 2012** at the following time:

- WEST WALWORTH VOLUNTEER FIRE DEPARTMENT contract request hearing to be held; at 7:55 PM.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 5 Nays 0
Motion carried.

INTER-MUNICIPAL AGREEMENT FOR MS4 – DISCUSSION:

Discussion ensued.

Motion by Councilman Yale to table Resolution 93-12 as presented and have the Attorney for the Town review the Inter-Municipal Agreement for MS4 and for Councilmembers to review the said document and contact Norm Druschel with any concerns they might have prior to Tuesday.
Seconded by Councilman Ruth.

Adopted: Vote Ayes 5 Nays 0
Motion carried.

**WALWORTH TOWN BOARD – REGULAR MEETING
18 OCTOBER 2012**

APPROVAL OF ABSTRACT #10:

The following was submitted by the Town Comptroller.

To: Walworth Town Board
From: Jean Johnson, Town Comptroller
Date: 17-Oct-12
Re: Abstract #10

Attached please find a copy of the Abstracts by Fund. I have audited all claims and will be transferring funds to cover payments by Fund as follows:

Voucher Numbers #1409 to #1583

General Fund	\$34,026.73
Highway Fund	\$58,427.38
Sewer Fund	\$36,062.80
Parks Special Revenue Fund	\$1,767.32
Parkview Green Park District	\$200.00
Walworth Consolidated Drainage Self Insurance Fund	\$92.00
Walworth Light District	\$534.20
Harvest Hill Light District	\$638.44
Gananda Light District	\$1,183.34
Brookside Light District	\$9.48
Orchard View Light District	\$87.86
Total Abstract #10 Payments	\$135,545.50

Voucher Numbers #159 to #176

Trust & Payroll	\$21,635.81
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Checks will be issued on October 19, 2012.

Motion by Councilwoman Marini to approve Abstract #10 as submitted.
Seconded by Councilman Yale.

Adopted: Vote Ayes 5 Nays 0
Motion carried.

**WALWORTH TOWN BOARD – REGULAR MEETING
18 OCTOBER 2012**

RESOLUTION 92-12 FINANCIAL TRANSFERS:

Councilwoman Marini offered the following Resolution 92-12 and moved its adoption.

Seconded by Councilman Yale to wit:

BE IT RESOLVED that the Town Comptroller be authorized to modify budget as follows:

Town of Walworth

Town Board Meeting 10-18-12

\$650.00 from A1330.42 Receiver of Taxes Conference/AOT to A1330.41 Receiver of Taxes Office Expense. To cover current expenses.

\$22.32 from A1990.41 Contingent Account to A1410.43 Town Clerk Codification. To cover current expenses.

\$73.27 from A3310.22 Highway Signs to A3310.41 Traffic Lights. To cover current expenses.

\$1,021.25 from A1990.41 Contingent Account to A3510.41 Control of Animals Office Expense. To cover cost of Dog Case.

\$355.00 from A5132.41 Highway Garage Gas/Electric to A5132.44 Highway Garage Maintenance. To cover current expenses.

\$817.30 from General Fund Balance to A7310.43 Youth Recreation New/Special Programs. To cover current expenses. Funds to cover this transfer were credited to A2001 Recreation Fees.

\$2,000.00 from General Fund Balance to A8020.43 Planning Board Engineering Fees. To cover current Expenses. Funds to cover this transfer were credited to A2770R Reimbursement Review Fees.

\$1,840.00 Transfer from General Fund Balance (A1355.11 Assessor Personal Services) to MS Fund. MS9050.81 Unemployment Payments. To cover cost of extended payments to former Assessment Employee.

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

Resolution carried.

**WALWORTH TOWN BOARD – REGULAR MEETING
18 OCTOBER 2012**

RESOLUTION 94-12 - STALKER ROAD FORCEMAIN:

Discussion ensued.

Councilman Pembroke offered the following Resolution and moved its adoption.
Seconded by Councilman Ruth to wit:

WHEREAS, Labella Associates has received all outstanding supporting documentation as required in the executed agreement for the Stalker Road Forcemain Replacement and filed in the Town Clerk's office, and

WHEREAS, Labella Associates recommends final payment to G.P. Smith Excavation for an amount not to exceed \$9,778.72.

BE IT RESOLVED, final payment to G.P. Smith Excavation to be released.

Adopted on this 18th day of October, 2012.

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

Resolution carried.

GENERAL CODE - LASERFICHE UPGRADE VERSION 8:

Discussion ensued.

Motion by Councilman Ruth authorizing the Town Supervisor to sign the change order with General Code for the Laserfiche Upgrade Version 8 for an amount not to exceed \$4,500.00 from A1410.44R
Seconded by Councilman Yale.

Adopted: Vote Ayes 5 Nays 0
Motion carried.

ADJOURNMENT:

Motion by Councilman Yale to adjourn.

Seconded by Councilwoman Marini and unanimously carried.

Time: 8:32 PM.

Respectfully Submitted,

Susie C. Jacobs, CMC, RMC
Town Clerk