

**Town of Murray Public Hearing Minutes  
Tuesday, February 14, 2006 7:15 p.m.**

Present: Supervisor Henry Lehning, Councilmen Lloyd Christ, Ed Bower, John Morriss, Town Attorney Jeffrey Martin, Highway Superintendent Ed Morgan, Frank Spiotta, Town Clerk Cindy Oliver, P.E., Paul Wood, Pat Wood, Richard Downey, Rocco Gervasi, Tim Rogers, Joe Sidonio

Absent: Councilman Henry Wagner

Supervisor Lehning read aloud the legal notice that appeared in the Albion Advertiser.

The town is proposing to apply for a Small Cities Grant to fund a new water district. This would be water district #12 and would be a small district that would consist of Route 31 from where the water line ends at the end of Holley Road to Hulberton Road and going west on Holley Road all the way to the county line, with a small stretch on Hindsburg Road going to the first residence.

Attorney Jeffrey Martin explained that when applying for Small Cities Grant funding we are required by law to hold two public hearings. The first public hearing being tonight, the second one will be on March 14<sup>th</sup> at 7:15 p.m. The new water district #12 involves 11,000 feet of pipe. There is a filing deadline for the Small Cities Grant of early April. Jeff asked residents if anyone was interested in having the town pursue grant funding for anything other than a water district this year. The small cities program is federal funding available to municipalities to pay for projects involving water districts, sewer districts, and housing projects. Maximum eligibility is \$400,000.00 in grant money and that is what we will be applying for this year for water district #12. For the project, the town would need about \$150,000.00 above the grant. This would either be borrowed through conventional bank financing or a bond anticipation note that would be renewed every year. There are 34 ½ parcels in the proposed water district and the debt service would appear to be about \$260-\$270 a year.

Public Hearing closed at 7:25 p.m.

**Town of Murray Regular Board Meeting Minutes  
February 14, 2006 7:30 p.m.**

Present: Supervisor Henry Lehning, Councilmen Lloyd Christ, Ed Bower, John Morriss, Highway Superintendent Ed Morgan, Assessor Chairman Lynn Wood, Assessor Nick Quaranto, Code Enforcement Officer Lynda Woolston, Frank Spiotta, P.E., Legislator Kenneth Rush, Town Clerk Cindy Oliver, Residents Paul Wood, Pat Wood, Joe Sidonio, Richard Downey, Rocco Gervasi, Tim Rogers

Meeting called to order by Supervisor Lehning at 7:30 p.m.

Pledge to the flag.

MOTION by Christ, SECOND by Bower that the minutes for the January board meeting be approved and accepted. CARRIED

MOTION by Bower, SECOND by Morriss, that the minutes for the February 7<sup>th</sup> Town Board special meeting be approved and accepted. CARRIED

David Paul and Krista Wiley are on the agenda but neither one of them are present.

**Assessor** – Lynn Wood reported that the Assessors are starting an assessment update of all properties in the Town for the year 2007. Lynn asked for a resolution requesting state assistance specifically from the NYS Office of Real Property Services to help do a reassessment project to maintain a uniform standard of assessment in accordance with Section 305 of the Real Property Tax Law and authorizing the town to expend necessary funds for the preparation of said plan and the establishment and maintenance of the Real Property Improvement Program. The rate of reimbursement is \$5.00/parcel, which the town would get in 2008.

David Paul and Taryn Hilliker arrive.

Lynn stated that we have three light districts in the town; Fancher, Hulberton and Brockville. Assessors have noted that some properties on Telegraph Road also have a light district fee. Lynn asked for some clarification of what properties are supposed to have light district fees other than Fancher, Hulberton and Brockville. Jeff Martin said that in the 20 years that he has been council for the town no lighting districts have been established. All of the lighting districts pre-date his involvement, but those original formation documents would indicate the basis for assessment. Cindy said she would look for anything on file as she is organizing the records. If documents are found, Jeff will look at them and determine the basis for the assessment. Supervisor Lehning said this would be researched.

Lynn talked about the dollar value of exemptions in the town. There is over \$3,500,000.00 in veteran exemptions alone. In the Village of Holley there is \$1,453,000.00 worth of veteran exemptions. In the Town of Murray, outside the village there is \$2,203,813.00 in veteran exemptions. In the village there is \$132,500.00 worth of aged exemptions. In the town, outside the village there is \$1,504,584.00 worth of aged exemptions. This is not including the STAR program.

The state has come up with revisions for their version 4 program. The older computer the assessors have is no longer able to handle the new version. They will need a new computer and will go through state bid as they did previously with the newer computer. Supervisor Lehning reminded Lynn to print the state bid and attach it to the voucher along with the bill per state auditor. There is money in the assessor's contractual for the new computer.

**David Paul** – Explained why he offered the town \$4,000.00 versus \$5,000.00 and apologized if anyone was offended.

Mr. Paul asked about the videotape that was taken of his property a couple years ago. After discussion, it was determined that the previous Code Enforcement Officer Keith Kernan must have it. If Keith has the tape, he can bring it to Jeff, and it will be duplicated for Mr. Paul.

Mr. Paul asked Jeff for a letter stating that no building permit has been issued for 19 Jay Drive. Jeff will check with the town's records and if there was a building permit issued or not, it will be indicated in the letter. Mr. Paul can pick it up on Friday at 11:00 a.m.

Mr. Paul would like to put in an adult-only mobile home park on his Gulf Road property. He cannot sell these lots and stated the reason is that they are in the Holley School District. The lot sizes would be 100 x 100. Mr. Paul mentioned the 4-family house on the corner, single-family houses and Holley Karate across the street, a doublewide. He would like to put 30 adult mobile homes on 33 acres. Each would have their own water meters. The park would be responsible for trash pick-up and mowing. There is room for a recreation area and outside storage that could be fenced. Mr. Paul stated the Planning Board told him he needed to speak to the Town Board about a zoning change to commercial or it could be done under a special-use permit. Jeff Martin explained that his property is in an R/A zoning district. The only zoning district in which a mobile home park is permitted by special-use permit is in the business-zoning district. The Planning Board has no authority to issue you a special permit for a mobile home park in the zoning district, which is why it was suggested to Mr. Paul about possibly re-zoning the property or amending zoning that would allow a mobile home park as a special permit

use in an R/A district. Mr. Paul said that County Line Mobile Home Park has 190 mobile homes on 39.10 acres. He would like to put 30 doublewides in one loop on 32.58 acres. Jeff informed him that he could apply for a use-variance, which authorizes a use that is otherwise not permitted in a district. The criteria that an applicant needs to satisfy in order to justify the awarding of a use-variance is very difficult. An applicant has to submit dollar and cent proof that that property wouldn't yield a reasonable rate of return for a use permitted in that district. He would have to establish that for ag-use, agri-business, single-family, and two-family. There is also other criteria that is in the zoning ordinance that Mr. Paul should read. Mr. Paul questioned the board approving a business across the street from his property, which is on the tax record as being commercial. Jeff informed him that the board did not approve it and that the interpretation made by the then building inspector was that that use was a recreational use and a building permit was issued as a recreational use. Under the R/A district, among the 5 permitted uses is recreational use. It wasn't a variance or a special permit. Mr. Paul stated that he doesn't want to challenge this but thinks a court would say that it was not recreation. He said that spot zoning is against the law. Jeff stated that the area was never re-zoned and what Mr. Paul is essentially asking the board to do is spot-zone. Mr. Paul questioned the steps he needs to take in order to start the procedure with his project. He was told if he wished he could request the town board to have the property re-zoned to a business zone as that is the only zoning district in the town that allows a mobile home park. If that were to occur, there could be issues as to spot zoning.

**Code Enforcement/Zoning** – Lynda Woolston reported junk cars/clean-up letters have continually been mailed. Some have complied. Dan and Lynda have an appointment with Jay Gelb, owner of the County Line Mobile Home Park. They will be going on the property and they will provide Mr. Gelb with the existing town and state law, let him know what is expected of him regarding the trailer park. Everything in park will be photographed and a book will be put together and from this point on, anything that changes in the park must go through a building permit process. Dan and Lynda have already met with Kevin Diehl, owner of the mobile home park on Ridge Rd. and he is on the same page. He is willing to meet code and town law. He has been issued permits for a couple trailers that have been replaced there.

They are working with Mr. Kirk about cleaning up his property. They've given him a little time to get things cleaned up. Rather than sending a letter, Lynda will be setting up an appointment with the Mr. Moyer to speak to him about cleaning up his property.

The Millspaugh 100 x 50 ft. building is completed.

George Karpenko is scheduled for trial on the 22<sup>nd</sup> of February. Jeff Martin will be representing the town. Judge Spada has arranged to have council present at court for Mr. Karpenko so he can consult with an attorney.

Nick Quaranto questioned if the permits for the trailer park would be issued through the owner of the park or through the person that lives there. Lynda said it would be through the person that lives there, as they are the actual owner of the structure. After meeting with Mr. Gelb, we can make a decision, maybe have management sign permit and also owner of the structure. Discussion regarding our building inspector going in and ordering some of these existing structures be torn down if hazardous. Is there a limit of how far back we can go? If there is no C of O, there is no statute of limitation and it would be actionable.

### **Correspondence**

- Westside News sent letter asking for more news to report.
- County Planning Board Minutes from November

**Old Business** – **MOTION** by Christ, **SECOND** by Morriss to re-appoint Richard Downey to the Board of Assessment Review for a two-year term beginning 10/01/05 and ending 09/30/07 and to re-appoint Thomas Martin to the Board of Assessment Review for a three-year term beginning 10/01/05 and ending 09/30/08. **CARRIED**

**New Business** – The Town of Kendall is looking at forming a water district on Petersmith Rd, from where our water line ends to a mile north of Route 18. If they do move forward with this they will then come to us with a proposal for us regarding selling them water.

MOTION by Bower, SECOND by Christ approving the reassessment project and authorizing the Board of Assessors to submit the application into the state for assistance for a reassessment project for the Town of Murray. CARRIED Resolution on file in Town Clerk's office.

We will be submitting an application to small cities for a grant for proposed water district #12. Route 31 and Holley Rd., around 11,000 feet of water line. Stu Brown has prepared a short form E.A.F. concluding that there won't be any long-term environmental impact, just short-term during the stage of construction. MOTION by Morriss, SECOND by Christ authorizing the Town Board to serve as lead agency, to conduct the environmental review, to accept the environmental assessment form that Stu Brown has prepared and to issue a negative declaration on the project. CARRIED Resolution on file in Town Clerk's office.

MOTION by Christ, SECOND by Bower, approving payment of \$2,500.00 to Stuart Brown Associates, Inc. for the application fee for water district #12 small cities grant. CARRIED

Discussion regarding proposed water district #12. We will have people within this proposed water district sign petitions in advance. The petition will describe the district boundaries, it has to indicate the method of financing, the maximum proposed to be spent to construct the district and how that would be paid. The person carrying the petition would have to witness each signature. There are 41 parcels of property in the district and the total assessment is just over 2.9 million. We need in advance enough signatures on the petition that constitute at least half of the total assessment. Once that is done, the town board will adopt an order scheduling a public hearing concerning the establishment of the district. Doing it this way would also eliminate the need for a referendum later on. We are proposing not to have Rural Development involved in financing the local share of \$150,000.00. We would borrow from a bank conventionally or do it on a Bond Anticipation Note and renew the note every year. A lot of banks do not care to loan that small amount of money over forty years. After some research by Jeff, it would be more beneficial to do a BAN every year and continue to roll that over. Per parcel debt service would be around \$260.00. If the board would recess tonight and reconvene in a week or so. Hopefully we'll have the petitions, the board can adopt an order and we can set some date. A notice will be put in the Albion Advertiser.

**Attorney Jeff Martin** – Supervisor Lehning and Jeff went to Batavia and closed out water district #11 and our interest rate on that is 4.5%. They informed Jim Walfrin (sp?) that we didn't need the money for district #12 that they had set aside last time around.

The Village of Holley approved the fire and rescue service contracts last month. Jeff filed the ambulance, fire protection and rescue service contracts with the Town Clerk. They are valid through December 31, 2008.

Jeff also filed the agreement between the Village of Holley, Towns of Murray and Clarendon and the Holley School District on the Joint Recreation Program with the Town Clerk.

MOTION by Morriss, SECOND by Bower to adopt a resolution introducing the Local Law No. 1 of 2006; *The Town of Murray Moratorium on Wind Energy Deriving Towers and Transmission Facilities Law*. CARRIED A Public Hearing will be scheduled before the March regular board meeting. Jeff will distribute copies of the local law for the board to look at before next month.

Jeff passed out the proposed contracts with the village for ice and snow control. Village Attorney John Sansone prepared it, this is just a draft.

Ed Morgan stated that back in December the Village Mayor contacted him and asked if the Town would be interested in snow and ice control of the village streets. He spoke to Supervisor Lehning about it and met with the Village Board to find out what their needs were and what they expected. Ed also wanted to speak to the Town of Bergen as they have done this in the past. Ed looked at the state contract and the county contract and tried to determine what equipment and manpower would be needed. This has created a lot of gossip and Ed was concerned about this happening at the first meeting and told the village board that they should let your village employees know what you're proposing. The Village Board opted to keep it quiet. Last meeting when Councilman Christ asked Ed how he was going to take on the Village D.P.W. for 60,000 a year when he was elected in the Town of Murray, Ed denied it, which in fact, was the truth. At that point, Ed didn't feel it was up to him to say anything as it was the village that was generating this whole process. Since then, the Mayor, Village Attorney, Supervisor Lehning, Jeff Martin and Ed met to go over what was to be in the contract. This is just a rough draft. In general it is fairly accurate, but Ed thinks there needs to be more detail. They spoke about what standard they want, is the standard that the town and the state get sufficient for the village. More things need to be addressed that are not in the contract. Ed thinks this is very doable, and also that the village is looking to downsize the D.P.W. to save money. He thinks the town would need at least one more employee, possibly two. We are still operating with one part-time employee so there would possibly be positions here if the town were actually going to enter into this agreement to pick up the two employees that the village will lose. One of Ed's concerns is that one of the employees needs three years to retire. The village will offer two positions to village residents first. If those two residents do not want to stay on whatever their job description is going to be, then they possibly would ask the other two who live in the town, but outside the village. We would be taking care of snow and ice control on public roads only. No sidewalks or parking lots. The town would have sole use of the village's single axel plow truck and their sander at no charge. We would also have use of their facility to store that equipment plus possibly our backhoe with a pusher for the Village Square or areas where it's more economical to do that. There is a lot employee-wise that needs to be worked out by us. There is also dollars figured into the amount for Ed as Superintendent for taking on this added responsibility. The town would bill the village \$42,000.00 (which is a rough figure) for taking care of six miles of village streets. That includes everything, just like what is done with the state and county. We supply everything other than; we get the use of their equipment for the first three years. It doesn't say it in the contract but it should say that after those three years it is up to us to possibly purchase it at a fair market value if the contract is going to continue or let it go back to the village and we buy something that maybe we feel is more efficient or productive for the village streets. It is a renewable contract; we cannot cancel the contract within a year. They are always going to have a year's notice; if we don't want to do it next year, then we had to cancel it last year. If this comes to be, we would maintain the village streets the same way we maintain the town roads. He informed the village that unless it's an ice storm, the Town of Murray goes out at three o'clock and they go home at ten o'clock. Councilman Christ asked if that was stated in the contract. It is not, but Ed said it needs to be added. Ed thinks the town can benefit and also the village can benefit. The biggest problem that the Town of Bergen had was when the village and town board changed and some of the things that were promised by the village to the town were not right. Councilman Christ said that from experience, all of these things need to be in the contract. Supervisor Lehning stated that the village is facing another problem as the D.E.C. is telling them that their salt storage is too close to the gorge and they have to tear it down, move it and build a new one. The village does not want to go through that expense. It was also mentioned that even if this agreement doesn't happen, there is no reason why the town cannot sell salt to the village. Ed thinks there are ways that the town can work with the village. Presently, we are looking at possibly helping them with a small, 400-foot sewer system. Ed understands that the village taxes are high and this board is elected by everyone in the town. Whatever we can do to help the village taxpayers, but by no means is the town or Ed trying to take over the village. This contract is no different than the town has with the state or the county. Councilman Christ said that if this is finalized that would be something we would want to put in the paper. Ed said that people are going to believe what they want to believe no matter what is put in the paper. Supervisor Lehning stated that the village is the lead agency here and they should be the ones to do so. Ed said that is everything that has come out of the village meeting and he feels terrible for the village

employees not knowing anything about this, but it was the village trustees who opted to keep it quiet. Councilman Christ stated that he doesn't have a problem with it, but he wants to see everything in writing to protect Ed, the village and the town. Ed stated that he represents the town; he himself has nothing to gain. Councilman Christ said that Ed would be the one running this. Ed said he is not running the show, that he will be the one to tell his employees to go plow the village, just like he tells his guys to go plow the county roads or the state roads. Ed will be the one to get the phone calls and have the added headache. Ed wanted to make it clear, that if his salary is \$45,000.00 and out of the \$42,000.00 from the village, there is \$5,000.00 put in there for him, we'd have to advertise in October that his salary will be \$50,000.00. Those are just rough figures but that is how he would be reimbursed. Councilman Christ said he doesn't expect Ed to work for nothing, which is why he stated that before. Ed has the right as the elected Highway Superintendent to deny this extra responsibility. Joe Sidonio said he is all for consolidation, and he sees the benefit for the village, but what is the benefit to the Town of Murray for doing this? The concern he has is possibly having to buy more equipment and how that factors into our budget. Ed said that typically, we make out very well for snow and ice. It is the way the state opted to set up their initial contract. Ed explained how the state reimburses the town for equipment, labor and materials. Ed doesn't think we will have the number of trips in the village as we do in the town as you don't have the wind factor and we will use fewer materials in the village because of the lower speeds. The village has a \$70,000.00 truck they just bought, in conjunction with our present equipment. We have the option to use that truck at no charge other than maintenance and fuel. Presently the village plows in a single axel truck, park it and take another truck out to sand. We should put the sander in the plow truck and do it in one trip, cutting your time or labor in half. Maybe that truck isn't even needed and can be done with a \$30,000.00 one-ton with a plowing wing and if it needs to be pushed back or hauled out it can be done with one of our own trucks. We plow everything in the Town of Murray except Routes 104 and 31 which the state does themselves and the Village of Holley. We get paid from the county to take care of the county roads and we get paid from the state to take care of Routes 237 and 387. If this goes through, the village will pay us to take care of the village streets. Ed said this will not cost the taxpayers of the town anything extra, it will actually benefit them. Jeff Martin stated that nothing is scheduled to take action on this. The contract needs to be looked at by the board and more detail needs to go into it.

The tax proceeding regarding the 15 properties in the village supposedly impacted by Diaz still hasn't settled. It is close to settlement but there are some revisions being made to the stipulation of settlement.

A reconvening date was set for February 27<sup>th</sup> at 4:00 p.m.

Joe Sidonio received a call from Dave Piedmonte regarding the variance application for the auto repair business going into the post office in Fancher. Dave was concerned as to why Jeff filled out the application for a variance instead of the Zoning Officer and why the Planning Board is being bypassed in the process. Jeff explained that Lynda Woolston was on vacation in Florida for a week and he was accommodating an applicant, as has been his custom for 20 years as being Town Attorney. Jeff got things initiated because not only did this have to go to the Zoning Board for the variance, it also has to be referred to County Planning. It is then scheduled before the Murray Planning Board on March 7<sup>th</sup>. The Town Planning Board cannot take final action until there is a recommendation back from County Planning. Jeff has always referred to County Planning first, and this application is no exception. He refers it to County Planning for them to make their recommendation, he then schedules it with the Town Planning Board a week or so after we get the recommendation back so they can see what the county recommends and can address those issues at that public hearing. Jeff can give Dave a call to address his concerns.

**Town Clerk** – Receipts for January were \$1,465.76 with \$1,362.04 going into the general fund.

Over two million dollars in taxes have been collected and things are going smoothly.

Representatives from Williamson Law Book and Business Automated Systems will be coming in the next two weeks to show Cindy the software for their Town Clerk's programs. A better decision can be made as to which company to go with once she sees what each program can do.

Hickory Ridge Golf and Country club notified the town that they are applying for their liquor license renewal; serial #3117409, which is their 'Ball Park Beer License' which allows them to sell beer from their beverage cart.

**Highway Superintendent** – Amy Machamer sent Ed information and pictures of historical picket fences that are in the area. Ed came up with a material list and did some research as to amount of difficulty and what would last the longest considering the proximity of the cemetery and snow factors, etc. This would cover about 216 linear feet, with a gate. Posts will be 6 x 6, pressure treated and wrapped with cedar. All the other wood is going to be cedar so it will last, pre-painted and then painted on site. The cost is about \$6,500.00 just for materials. The only thing this doesn't include is the paint. This is something that we can certainly do, but we need to act on it so we can do it in the springtime.

The new truck has arrived, as has the new chipper.

In water district #7 there have been some meter valves that have blown right off the service line going into the houses in the Route 31 area.

Regarding the water district that the Town of Kendall wants to form. Basically it would be putting in 2-2½ miles of line, serving 34 people and having Murray maintain it. We would do just about what we're doing on County Line Road. They would pay for the bond repayment, we would read the meters and bill them directly.

We've got a hydrant user who hasn't paid a bill yet. Numerous letters have been sent and the bill is about \$1,400.00. He doesn't live in the district. Ed asked what our recourse is to recover our funds. Jeff told Ed to give him the information.

Water Department needs a new water-billing computer. The present computer is at least five years old and won't accept any upgrades. They looked into putting Windows 2000 or XP into the existing computer and it can't handle it.

MOTION by Bower, SECOND by Morriss, authorizing Ed to sign the State Highway System Roadside Mowing Proposal for the 2006 season. CARRIED Resolution on file in Clerk's office.

MOTION by Christ, SECOND by Bower to purchase the cemetery fence material. CARRIED

Joe Sidonio will look into paint prices.

Ed will be going to G.C.C. tomorrow and Thursday for an all day seminar for EPA on ground water, stage 2. From talk that Ed has heard it may cost the town approximately \$10,000.00 to do four samples, per year, per district. Samples have to be taken to a special lab and the cost is about \$175-\$250 per sample. We don't fall into the category yet because our suppliers, the water authority in Albion falls above the population. Every person who is responsible for water districts must go to this seminar. Every district is a separate entity and it doesn't matter how small or large it is.

MOTION by Christ, SECOND by Morriss that the following bills be approved except General Fund claim #50 and approving the Supervisor's Financial Report as presented. CARRIED

Highway Fund, Claims 37 through 90, totaling	\$52,786.56
General Fund, Claims 31 through 71, totaling	13,199.12
Water District #1, Claims 6 through 12, totaling	1,026.33
Water District #2, Claims 6 through 13, totaling	7,124.22

Water District #3, Claims 6 through 11, totaling	6,928.35
Water District #4, Claims 6 through 11, totaling	2,630.76
Water District #5, Claims 6 through 9, totaling	526.18
Water District #6, Claims 4 through 9, totaling	536.86
Water District #7, Claims 5 through 8, totaling	3,356.53
Water District #8, Claims 3 through 7, totaling	2,731.40
Water District #9, Claims 3 through 6, totaling	744.40
Water District #10, Claims 6 through 11, totaling	420.15
Water District #11, Claims 5 through 14, totaling	5,525.45

Meeting recessed at 9:40 p.m. by Supervisor Lehning until February 27<sup>th</sup> at 4:00 p.m.

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Cynthia Oliver