

September 27, 2012

The regular meeting of the Town Board of the Town of Warwick was held on Thursday, September 27, 2012 at the Town Hall, 132 Kings Highway, Town of Warwick. Supervisor Sweeton called the meeting to order at 7:30 p.m.

ATTENDANCE: Supervisor Michael Sweeton
Councilman Floyd DeAngelo
Councilman Russell Kowal
Councilman James Gerstner
Councilman Mickey Shuback

Town Attorney, John Hicks – Absent
Special Counsel, Don Nichol, Jacobowitz & Gubits
DPW Commissioner, Jeff Feagles
Police Chief, Thomas McGovern, Jr.

**PRESENTATION: WARWICK 9/10 GIRLS ALL-STARS – DISTRICT 19
CHAMPS**

Supervisor Sweeton and the Town Board presented the Warwick 9/10 Girls All-Stars who were the New York State District 19 Girls Youth Softball Champions with certificates and a proclamation for their outstanding achievements.

Supervisor Sweeton – I would like to recognize special counsel for the Town Don Nichol from the firm Jacobowitz and Gubits to give the Board a little background.

Don Nichol – Special Counsel, Jacobowitz & Gubits – This hearing is in regard to the East Shore Road project. The project was undertaken with financial assistance administered through the Department of Transportation. The project has not been completed or closed out. The Department of Transportation and our engineer have identified defects in terms of noncompliance with the contract related to work that's not proper or that's not properly documented such that the Town has not been fully reimbursed the amount from the State that is still due to the Town. It's in the neighborhood of \$180,000. In order to get the project completed and closed out the State wants us to get it promptly completed or closed and have threatened to remove the remaining funding if we don't accomplish that. We've met with the contractor trying to resolve it and not having any success in that regard the Board at its last meeting took an action to declare the contract in default, however, as a municipal government who follows the constitutional laws of the United States we do not want to do so without providing a due process opportunity for the contractor to dispute or have their say with respect to that declaration. The hearing was scheduled for tonight for that purpose. Our hearing record will include the Town's entire file which I am just by referencing into the record which will support the determination made at the last meeting and that record will include that. At this point in time we would want to recognize the contractor or anyone from the bonding company who

may wish to address the Board. After that opportunity has been had the Board can take several actions which depend upon what we hear so I would suggest we open the floor.

Supervisor Sweeton – I think the representatives are here so if you come forward and state your names for the record please.

Adam Schwartz – Esq., McElroy, Deutsch, Mulvaney & Carpenter, LLP – I'm the attorney for Harrison Park. John Maffei is the Vice President for Harrison Park and Danielle Cotignala is the project manager and professional engineer for Harrison Park. Harrison Park has been a contractor for 20 years and has never been defaulted by any owner in its history and they take very seriously the resolution that has been passed on September 13th by the municipality. We want the Town to know that Harrison Park will vigorously defend any claimant that did anything wrong and its bonding company and will seek any damages held by the Town by defaulting Harrison Park and calling on its bond. We've had discussions and we appreciate the Town has been open and we've had meetings, phone calls and letters with the attorney. We think a default is improper; the road was done two years ago and we think under New York laws it's improper to default the contractor after the road is done and utilized for two years. Secondly, Harrison Park performed the roadwork according to the specifications and the directives of the Towns engineer, McFarland Johnson. We wrote to the Town and the Towns attorney and we outlined, well we appreciated that the Town is unable to get reimbursement for certain items and we pointed out the causes of why the Town can not get reimbursements from the DOT for not the default of the contractor but it had to do with defective specifications that were given by McFarland and Johnson and other documents that we provided the Towns Attorney. We've asked the Town to investigate them and we've heard nothing back so we assumed that the default from September 13th was done without an investigation of the issues that the contractor raised. I'm not speaking to the specifics of the technical; Harrison Park is here today and they'll talk to it but we have letters already to the Town laying out our positions in response to the Towns claim that Harrison Park is the reason why the Town hasn't been reimbursed. Harrison Park objects to the resolution declaring the default, it doesn't have any information that the Town investigated the issues that Harrison Park raised. We think that the Town is heading toward a costly litigation when it's not being reimbursed by the DOT and again we appreciate that and understand the frustrations but we believe the cause of that has nothing to do with Harrison Park. We thank you for your time. One thing for the record, if you would like a copy of the file that the attorney brought me which apparently is the grounds for what brought me here tonight we did receive a copy in advance and I will follow up with a letter for the file.

Attorney Nichol – We did provide you the basic relevant information, a complete set, and you can speak to Danielle regarding that we have that available and open. Our records are available under the Freedom of Information Law at any time or place. In terms of the contract we're unaware on the Town Board level of any

requests or changes in the specifications and the engineer doesn't have the availability to change the specifications or allow things contrary to specifications in the absence of the order from this Board permitting that. We're unaware of any application to the Board for change in specifications and unaware of any authority to change specifications. The obligation of the contract is for the contractor to perform in accordance with the specifications which of course had DOT regulations referenced in them. I understand that you did indicate that you believe that the engineer was responsible. We did and I just received it today a letter from the engineer indicating, excuse me the engineers attorney, indicating their position in that regard and they will be happy to provide it to you. I will email that to you tomorrow so you have that. Our concern is we have to complete the contract. The contractor was required to do all the work under the current contract and do it in a way that we would be able to be reimbursed. We don't really have much option but to move forward in that regard. I think I can speak on behalf of the Board to say that we're always willing to deal reasonably and fairly and if we had a proposal to resolve the matter we certainly would be willing to listen to it but in the absence of any of that, I think I'm compelled to recommend to the Board that they confirm as a result of the confirmation this evening. Confirm the default and authorize actions to be taken including calling on the bonding company initiating suit and relaying the contract to other contractors in order to complete the work as necessary. That would be my recommendation based on what I've heard so far at the hearing.

Supervisor Sweeton – Do any of the Board members have any questions? We have tried and I readily admit that you have been discussing that with us to find some resolution. We can't seem to find it and DOT is insisting that we bring this to a resolution. As the attorney said our options are narrowed significantly and I don't see where we have a whole lot of choice.

Attorney Nichol – You're authorizing litigation and authorizing the re-letting of the contract and there will be steps along the way before those things happen but I think we should authorize it.

Supervisor Sweeton – OK, so amended.

Councilman Shuback – Mike I think you should have a roll call vote on this.

Supervisor Sweeton – If you would like, sure.

#R2012-247 CONFIRM THE RESOLUTION DECLARING DEFAULT – HARRISON PARK ASSOCIATES – DRAINAGE AND ROADWAY IMPROVEMENTS ALONG A SECTION OF EAST SHORE ROAD PIN 8759.47

Motion Supervisor Sweeton, seconded Councilman DeAngelo to adopt a resolution to confirm the resolution of September 13, 2013 and to move forward to declare that Harrison Park Associates is in default of the Contract PIN 8759.47 and to authorize litigation and authorize re-letting of the contract.

ROLL CALL VOTE: Councilman Michael Sweeton voting Aye
 Councilman Floyd DeAngelo voting Aye
 Councilman Russell Kowal voting Aye
 Councilman James Gerstner voting Aye
 Supervisor Mickey Shuback voting Aye

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

ACCEPTANCE OF MINUTES:

1. Regular Meeting, 9/13/12

Motion Councilman DeAngelo, seconded Councilman Shuback to accept the minutes as written from the Regular Meeting held on September 13, 2012.

Motion Carried (5 ayes, 0 nays)

CORRESPONDENCE:

JEN CROVER – Supervisor of Transportation, Town of Warwick Dial-A-Bus – Letter to the Supervisor and Town Board requesting permission to attend the 19A Examiners class on November 15, 2012 in Harriman, NY.

LAURA BARCA, PE – HDR Engineering, Inc., 7 Coates Drive, Suite 2, Goshen, NY 10924 – Letter to the Supervisor requesting an erosion control bond be released in the amount of \$5,600 to William Mendrzycki.

KIMBERLY DECKER – Secretary, Township of Vernon Land Use Board, Municipal Building, 21 Church Street, Vernon, NJ 07462 – Notice that on Wednesday, September 26, 2012 at 7:00 p.m. in the Council Chambers of the Vernon Township Municipal Building, 21 Church Street, Vernon, New Jersey a public hearing will be held before the Land Use Board for re-examination of the Municipal Master Plan and adoption of a Highlands Element of the Vernon Township Master Plan.

ALBERT A. NATOLI, P.C. – The Woolworth Building, 233 Broadway, Suite 810, New York, NY 10279-0815 – Letter to the Supervisor and Town Board regarding the modifications made to the resolution passed by the Town of Warwick on July 19, 2012 for the United Water South County Sewer rate increase.

JOHN M. WOOD - Hill-N-Dale Abstractors, Inc., P.O. Box 547, 20 Scotchtown Avenue, Goshen, NY 10924 – Letter to Deputy Town Attorney John Bollenbach enclosing an original final policy of fee title insurance for a 25' road dedication strip.

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Memo to the Town Board requesting a budget transfer of check from Town of Woodbury Police Dept. in the amount of \$150.00 to the Training budget line (B02.00.3120.480).

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Memo to the Town Board requesting a budget transfer of check from Village

of Suffern Police Dept. in the amount of \$150.00 to the Training budget line (B02.00.3120.480).

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Memo to the Town Board requesting a budget transfer of check from Property Room.com in the amount of \$78.97 to the Special Department Funds budget line (B02.00.3120.466).

BOARD’S DISCUSSION ON CORRESPONDENCE

VISITING ELECTED OFFICIALS

REPORTS OF BOARDS AND COMMISSIONS

COMMITTEE REPORTS

ENVIRONMENTAL CONSULTANTS REPORT

DEPARTMENT OF PUBLIC WORKS

<u>WORK BEING</u>	<u>LOCATION</u>	<u>REASON FOR WORK</u>	<u>LENGTH</u>
DONE			
CULVERT			
PIPES	104 Sleepy Valley Rd.	Crossover pipe	40 ft. 18 in.
	108 Sleepy Valley Rd.	Replace pipe	20 ft. 15 in.
	Jessup Rd.	Replace pipe	40 ft. 24 in.
CATCH BASINS	Jonathan Ct.	Repair basin	
	Sunrise Ridge	Repair basin	
DITCH WORK	Jessup Rd.	Clean ditches	
	Kain Rd.	Clean ditches	
	Sleepy Valley Rd.	Clean ditches	
MOWING	Town wide	As needed	
POT HOLES	Town wide	As needed	
ROAD SIGNS	Town wide	As needed	
WATER DEPT.	37 Wickham Dr.	Assist Water Dept.	

COUNCILMAN DE ANGELO REPORT

1. For the month of September the Post Report is as follows: Greenwood Lake had 216 calls, the Town outside the Village had 798 calls, Pine Island 276 calls and the Village of Warwick had 657 calls for a total of 1,947 calls for the month of September.

Chief McGovern – The construction has been completed on Pine Island Turnpike so

that road has been reopened and we ask the motorists to use a little caution to respect the traffic pattern that is considerably different than it used to be because we've had some instances out there already.

Supervisor Sweeton – Have we had any more correspondence from the County on the blinking light at the intersection of County 1 and Blooms Corners Road?

Chief McGovern – No. Every time we have an accident at that location which seems to be at least once a month, I call and update them with those numbers.

2. The Warwick Valley Humane Society is going to have a rabies clinic on September 30th and it's cats only from 10:00 a.m. until 10:45 a.m. and dogs only from 10:45 a.m. until 12:00 p.m. It will be at the Animal Shelter at 48 Public Works Drive off of Kings Highway and it's \$15 per pet cash only, no pre-registration and the phone number is 986-2473. The dogs must be on leashes and the cats must be in carriers and all the proceeds are to benefit the homeless animals.

3. The Warwick Valley Humane Society is having a program on "How to Speak Dog". How to read and understand a dog's body language on October 13th at 11:00 a.m. by the K-9 Case Squad, certified dog behaviorists and trainers at \$20 per person. Kids and adults (14 plus years) and reservations are required and the phone number is 986-2473.

4. Suzyn Barron the President asked me again to make a plea for natural wood stove pellets, ground canned cat food and bleach are needed. They have over 100 cats to feed because they have taken in so many pets to feed.

COUNCILMAN KOWAL REPORT

1. The progress on the park in Greenwood Lake is coming along very nice and the baseball park is in great shape. The seeding that was done a couple of weeks ago is coming in very nicely because of the cool wet weather we've been having and all the other parks seem to be in very good condition.

COUNCILMAN GERSTNER REPORT

1. I received a letter from Cablevision from Roger Connor the Director of Government Affairs, "Please let this letter serve to notice that effective October 24, 2012 the Sundance Channel 192 will no longer be offered as a premium channel subscription or as an a-la-carte service. Sundance Channel will be available on the same channel position IO192 to customers in the grandfathered IO package and our preferred package customers will be notified through tiering, on air, view messaging and they can also check the website at www.optimum.com.

2. Speaking for Russ, the fields are in great shape. If you could pass it on Commissioner, if you would to all the boys out there they're doing a great job. The leagues are utilizing them to the fullest and they appreciate all of your efforts.

COUNCILMAN SHUBACK REPORT

1. You may have been hearing a lot about replacing culverts in the Town of Warwick the last 5 or 6 years and the reason is prior to Mr. Feagles coming aboard all the guys were putting in metal pipes. We are replacing them with heavy duty plastic pipes, in other words, they will never have to be replaced and it might be a little bit more expensive but it will last 30 or 40 years from now. Not like 7 or 8 years from now like we have been replacing them in the past.

ATTORNEY'S REPORT

TOWN CLERK'S REPORT

SUPERVISOR'S REPORT

1. The tentative budget has been delivered to the Clerk this evening and to the Board members as required under State law. The tentative budget has been compiled from all of the departments. It's a budget that changes as we get closer to actually adopting a budget in November but they do have it and we did meet our obligation. Now the work begins for us to go through that budget and see if we can't find a way to bring that under the 2% tax cap that the State has indicated that they would like to see. That will be our task for the next 6 weeks or so.

2. Mid Orange Correctional Facility - On the agenda tonight is a resolution to have the Town declare itself lead agency and circulate that lead agency resolution to various agencies throughout the State. This is for the potential transfer of the facility to the combination of the Town of Warwick and the Local Warwick Valley Development Corporation that was formed as a not-for-profit to manage the portion of the facility that will be redeveloped. It's the beginning of the process. We are still in negotiations with the State of New York on terms and conditions of that transfer but it is one step closer to realizing the goals that the Town Board has set and that the citizens committee that was formed recommended to turn that into once again an asset for the Town of Warwick that will produce jobs and create tax ratables as well preserving some of the critical environmental area on that facility. We are pleased to take that action this evening.

3. FEMA - Permanent repairs are going to unfortunately start to happen all at once. It's just the way FEMA approved our projects from Hurricane Irene and Tropical Storm Lee. The two major projects again will be the Cascade Road, Bellvale 17A side of Cascade Road where the temporary bridge is in place. On or about the second week in October that section of road at that end will be shut down and the temporary bridge will be dismantled and a new bridge will be installed. Ryerson Road is the other major project and that won't be as troublesome in terms of getting around but it will be none the less a large project. Then there's a series of four other culverts that have been approved around the Town. All of these will be signed and posted for detours and warnings and we ask people to be attentive to it. There remain three culverts that we are in a struggle with FEMA with to convince them that what they've approved is inadequate. Unfortunately one of those is Brady Road at the intersection of Cascade which continues to deteriorate and we may have to take some action if we can't resolve it with FEMA shortly; to put a little detour

there, because we want to make sure the traveling public is safe going through there. Again we ask motorists and residents to be aware that these detour signs are going to start to pop up so leave yourself plenty of time to get around them.

4. Old Dutch Hollow culvert repair is complete and that was one that was not covered under FEMA but none the less was damaged. It has been repaired and I understand Commissioner that it came out really well and looks good and meets the needs of getting people safely along Old Dutch Hollow Road.

5. Lifeline discount program - I just want to bring it to everyone's attention; this came to us from the Public Service Commission of the State of New York. Consumers are eligible for Lifeline if they participate in a qualifying federal assistant program or if their income is at or below 135% of the federal poverty guidelines. The Lifeline discount can either be applied to your home or your wireless service but is available for only one line per household. Through the service landline customers can save as much as \$250 per year. If anyone is interested this information will be available in the Clerks office and on the table in the lobby.

6. The monthly budget review for the Boards information there were no transfers that needed to be reviewed and the budget is under budget so far for this period of time, so that's a good thing and let's keep it that way.

7. Supervisors Corner is published each week in the Warwick Dispatch, with excerpts printed in the Warwick Advertiser.

PRIVILEGE OF THE FLOOR (AGENDA ITEMS)

There were no comments or questions on the agenda items.

NEW BUSINESS:

#R2012-236 AUTHORIZATION TO ATTEND 19A RECERTIFICATION TRAINING – JENNIFER CROVER

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to authorize Jennifer Crover to attend the 19A Recertification training session to be held in Harriman, NY on November 15, 2012. Funds for this class are in the current training budget.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this is a requirement for operators of para-transit buses and Jennifer is our new manager and we're glad that she's getting retrained.

#R2012-237 SUPPORT 2012-2013 JUSTICE COURT JCAP GRANT APPLICATION

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to support the 2012-2013 Justice Court grant application for additional office renovations including paint, carpeting, court bench and emergency door provided there is no cost to the Town.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-238 ACCEPT FOR DEDICATION – STRIP ON CASCADE ROAD – ITJEN

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to accept for dedication a strip of land located on Cascade Road from Douglas and Dawn Itjen subject to Town Attorney review and acceptance of Title report for the subject property. Copy of the deed description is attached as Schedule A.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2012-239 SCHEDULE PUBLIC HEARING – CHANGES TO CHAPTER 164,
“ZONING” OF THE TOWN CODE OF THE TOWN OF WARWICK**

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to schedule a public hearing to consider changes to the Town Code of the Town of Warwick, Chapter 164, “Zoning” specifically sections 164-73C and D, 164-47.10, the zoning maps as well as minor corrections to the Table of Bulk Requirements. Said public hearing to be held at 7:30 p.m. on October 25, 2012, or as soon thereafter as the matter may be heard at the Town Hall, 132 Kings Highway, Town of Warwick.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that the first section is the new storm water regulations that we adopted. We found that people who were doing small projects on their property like putting a shed or garage on the property had to comply with the full storm water regulations as if you were doing a major subdivision and it became costly and onerous. We made some provisions to have some review done internally by our professionals to ensure that we are complying but not making the applicant have to go through a whole planning process and spend a lot of money. The second one was, there’s a provision in our zoning that if you have an approved subdivision all approved subdivisions had to have been filed with the County by the end of this year. Due to the economic conditions that we’ve been under the Planning Board has recommended that we extend that for one year and the Board is going to consider that at the hearing so we’ll take testimony on that. The minor corrections to the zoning map are, we’ve had an applicant ,a resident request, to be added to the APO, the Agriculture Protection Overlay Zone which is a map change so we have to actually make that map change. That will be here that evening as well and the last one was a correction to the Table of Bulk Requirements. When we created the Community Business district which was changing the Design Shopping zone in the Route 94 area at the end of the Table of Bulk Requirements there’s a reference to Design Shopping that goes back up to the Community Business and we didn’t include Community Business so we’re making that change at the table.

**#R2012-240 RE-NAME A PORTION OF FOX HILL ROAD TO BE KNOWN AS KAYS
WAY**

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to re-name a portion of Fox Hill Road running from Hambletonian Road to a point

terminating at the cul-de-sac to be known as Kays Way subject to proper notification to the Orange County 911 Coordinator.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that these are residents on Fox Hill Road. If you don't know it comes off of East Ridge Road and it also comes off of Hambletonian Road and then goes up to a cul-de-sac. The residents that live on the road want to improve the road and they've agreed to improve the section that comes off of Hambletonian up to the cul-de-sac but they would like it renamed to prevent confusion and emergencies from people coming in Fox Hill from different directions. We've got signoffs from all the residents that want this and I don't see why we wouldn't.

#R2012-241 ACCEPTANCE OF AFFORDABLE MARKETING PLAN – FUSCO SUBDIVISION

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution accepting the affordable marketing plan for the sale of an affordable unit in the Fusco Subdivision as per Section 164-46 J(100).

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that four years ago we put in provisions for affordable housing in subdivisions of ten or more and we had one that was going to happen which was Foxwoods. They've only built three homes so they're not required yet. Now we have another brave soul who's going to move forward with a subdivision and they have submitted a marketing plan and it has been reviewed and is in order. They intend to build so this could be our very first affordable home that you'll have a lottery for and as we get closer I'll remind everybody what the criteria is to be in the lottery and it is open to Town of Warwick residents as a priority.

#R2012-242 ACKNOWLEDGMENT OF ACCEPTANCE OF OFFER OF DEDICATION – KATELYN COURT

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt the following resolution:

BE IT KNOWN THAT the Owner(s) set forth below, as Grantor(s), being corporations which owned property within the Town of Warwick, and having offered to dedicate and cede certain lands (Town Law §279(4)) to the Town on Warwick, a municipal corporation with offices at 132 Kings Highway, Warwick, NY 10990, as Grantee;

SBL	Map #	Street	Owner
33-1-5.231	136-01 Paradise Estates	View Katelyn Court	Robert Knebel General Contractor, Inc.

WITNESSETH:

WHEREAS, the subdivision plat(s) or map(s) as numbered above have been filed in the Orange County Clerk's Office which plat(s) or map(s) show proposed road(s) known by the name(s) listed, together with related drainage easements; and

WHEREAS, the public has used and the Town has maintained the listed street(s), the Town Board has agreed to accept dedication of such streets by resolution dated September 27, 2012, which authorizes the Supervisor to execute and record this Acceptance in the Orange County Clerk's Office as a memorial thereof.

NOW, THEREFORE, BE IT KNOWN that the Town of Warwick hereby acknowledges acceptance of said offer of dedication of the above-listed street in the Town and the related drainage easements and accepts title to said lands as a public street in the Town of Warwick.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-243 SCHEDULE PUBLIC HEARING – AMENDING THE TOWN CODE OF THE TOWN OF WARWICK, CHAPTER 8, “COMMUNITY PRESERVATION PROJECT PLAN”

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to schedule a public hearing to consider amending Chapter 8 of the Town Code of the Town of Warwick entitled “Community Preservation Project Plan” to include certain additional properties at the request of the parcel owners. Said public hearing to be held at 7:15 p.m. on Thursday, October 25, 2012 at the Town Hall, 132 Kings Highway, Town of Warwick.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this is the transfer tax the Community Preservation Plan it was put in place. It is able to be amended after three years of which the law was adopted in 07 so we can make additions to it. We have had several farms who have requested development right purchases from the Community Preservation Fund. Some of them are not in the plan and it's a requirement to get those funds to be in the plan. We will also put hopefully in the press that if there are other interested parties with properties if they would like to be included in the plan they certainly can write to my office with a section, block and lot of those properties and we can consider those as well.

#R2012-244 SCHEDULE PUBLIC HEARING – 2011-2012 MS4 ANNUAL REPORT

Motion Councilman Gerstner, seconded Councilman Shuback to adopt a resolution to schedule a public hearing regarding the 2011-2012 MS4 Annual Report. Said hearing to be held on October 11, 2012 at 7:30 p.m., Town Hall, 132 Kings Highway, Town of Warwick. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this is an annual requirement to meet the DEC regulations. We have been declared an MS4 area which is primarily because of Greenwood Lake and the drainage that goes into the lake from the Town areas and we have a report which last years report is on the Town website and we're required to have a hearing before we file it.

#R2012-245 SEQR – ESTABLISH LEAD AGENCY - MID ORANGE CORRECTIONAL FACILITY TRANSFER

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS, the Town Board of the Town of Warwick has proposed transfer of the former Mid-Orange Correctional Facility from the State of New York to the Town through the Warwick Valley Local Development Corporation, consisting of five parcels of land totaling approximately 726 acres and located at State School Road, Town of Warwick, Orange County, New York; and

WHEREAS, a Part 1 Environmental Assessment Form (EAF) dated September 25, 2012 has been prepared to describe the proposed action and the potential environmental effects of the transfer; and

WHEREAS, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Town Board has determined that the proposed project is a Type 1 action meeting the thresholds contained within 6 NYCRR 617.4(b)(4) and (9); and

WHEREAS, after examining the EAF, the Town Board has determined that there are other involved and/or federal agencies on this matter including the Town of Warwick Planning Board, the New York State Office of General Services, Empire State Development and the New York State Department of Corrections and Community Supervision.

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby declares its intent to be Lead Agency for the review of this action; and

BE IT FURTHER RESOLVED, that the Town Board hereby authorizes the Supervisor to circulate the attached lead agency coordination request letter(s) to all other involved agencies and to discharge any other SEQR responsibilities as are required by 6 NYCRR 617 in this regard; and

BE IT FURTHER RESOLVED, that unless an objection to the Town Board assuming lead agency status is received within thirty (30) days of the date of mailing the EAF, the Town Board will become lead agency for the review of this action.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2012-246 BUDGET TRANSFERS – POLICE DEPARTMENT

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to authorize the following Police Department budget transfers:

FROM	TO	AMOUNT
Check from Property Room.com	Special Department Funds (B02.00.3120.466)	\$78.97
Check from Town of Woodbury Police Dept.	Training (B02.00.3120.480)	\$150.00
Check from Village of Suffern Police Dept.	Training (B02.00.3120.480)	\$150.00

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this is from the motorcycle training that we provided for the other agencies.

BILLS: Motion Councilman DeAngelo, seconded Councilman Gerstner to pay the bills as audited. Motion Carried (5 ayes, 0 nays)

PRIVILEGE OF THE FLOOR (GENERAL)

Bill Makofske – Resident, Town of Warwick, NY 10990 – I’ve been a resident of Warwick for some 40 years and as you all know about a week ago Sustainable Warwick had a forum on fracking in this very room. About 150 people filled the room and listened respectfully to the pros and cons on fracking and what it might mean for Warwick. We thought this was an important and timely issue and opportunity to think about these issues, particularly because New York State is about to decide if and how to permit this controversial process. No matter what side you are on everyone agrees fracking is a huge industrial process, potentially 63,000 all through New York State, 100,000 in Pennsylvania and being extracted over a 60 year duration. We believe this will provide some real issues for Warwick even though we are not directly above the Marcellus shale that is currently being fracked. We do sit on the Utica shale though more importantly we are right on the path of gas production to the north and west and New York City and the associated markets to the east. Without going into detail tonight those issues include pipelines and compressor stations, heavy demands upon water, truck trafficking and costly road damage, waste water control and processing, air and water pollution, negative impacts on property owners insurance and mortgage options among many others. Two weeks from tonight we will come back and lay out some suggestions for what we feel Warwick’s response should be. We will be likely asking that you consider a ban or moratorium or some other home rule restriction on this practice in exactly the same way 130 other communities in New York State have. These include big cities like Syracuse, Buffalo, Rochester and smaller towns like Oneonta, Forestburgh and Beacon. As you know for any home rule initiative to be viable it must be enacted before statewide regulations are in place. This provides a sense of urgency for us and that is why we will be back here asking for this home rule restriction; time is very critical here. We set the rules so the State sets the rules for us if we don’t act soon we loose the ability to act at all. If we don’t act we might become a larger part of more negative impacts as other communities place restrictions on some of the operations. Finally, any restriction you might choose to enact will always be reversible but potential damage to our community our roads, our work, our farms, our tourism and the rural character of Warwick described in our Comprehensive Plan would definitely not be reversible.

Supervisor Sweeton – Thanks Bill. The only thing I would ask is because we’ve had experience with pipelines, we’ve had experience with the Millennium Pipeline. It’s a

FERC approved project. They don't need to come to the Town for Planning Board approval and so if you have examples of local laws that might affect that. That would be helpful as an information point. The truck issue we have weight limits and things that you can do but that has ramifications beyond just a truck that's taking waste water from a fracking operation. Those are things if you have examples or things that you want to share prior to that time would be helpful.

David Bishop – Resident, Town of Warwick, NY 10990 – My issue is the contractor who is providing the recycling services for the Town; it's County Waste. They also do our garbage pickup which is a very fine service and we are their customer today. For the recycling they are contracted with the Town to perform that service.

Supervisor Sweeton – Correct.

David Bishop – Customer service from that aspect has absolutely no meaning what so ever to them. They hit our street at 4:30 a.m. in the morning every Thursday morning. Now if any of you are familiar with Ketchum Road it's a very short road, small road, nice little valley kind of a thing in there and you might just be trying to sleep through a halogen garage when that truck comes down the road. We've talked to them and neighbors on both sides have called and asked if they would change and there's no avail what's so ever.

Supervisor Sweeton – We've had sporadic instances with them on these kinds of issues and usually someone will call our office and we will call them and explain to them you can't do this at 4:00 a.m. in the morning. We give them some leeway 6:00 a.m. maybe, people can live with but we will call and see if we can't straighten it out for you. Hopefully you will see some improvement shortly.

David Bishop – It's a community and a lot of people travel through it.

Supervisor Sweeton – I absolutely agree with you and hopefully you'll see some improvements shortly.

Councilman Kowal – Ours gets picked up at 4:30 a.m. in the morning as well on Pulaski Highway.

Supervisor Sweeton – We probably chased them out of one neighborhood and now they're in Ketchum. We'll get on them again. We do have a contract with them I don't know what provisions within the contract would give us any leverage. We know the contract will expire next year so we'll make sure when we put that out for bid again we're very clear about how soon they can start.

David Bishop – It's not County Waste in general it's the recycling.

Supervisor Sweeton – We've noticed a little slip in their customer service in the recycling area lately and we don't know what that's about, but we'll address them.

David Bishop – Thank You.

Supervisor Sweeton – You're welcome.

**ADJOURN: Motion Councilman DeAngelo, seconded Councilman Gerstner that the regular meeting be adjourned. Motion Carried (5 ayes, 0 nays) 8:20 p.m.
09-27-12 CP.**

Marjorie Quackenbush, Town Clerk