

December 8, 2011

The regular meeting of the Town Board of the Town of Warwick was held on Thursday, December 8, 2011 at the Town Hall, 132 Kings Highway, Town of Warwick. Supervisor Sweeton called the meeting to order at 7:25 p.m.

ATTENDANCE: Supervisor Michael Sweeton
Councilman Floyd DeAngelo
Councilman Leonard DeBuck
Councilman James Gerstner
Councilman Mickey Shuback

Town Attorney, John Hicks
Deputy DPW Commissioner, William Roe
Police Sergeant, James Barnett

PUBLIC HEARING: Continued Unsafe Building Edsall Farm

Attorney John Hicks – The Edsall Farm there's still the issue with one building that we need to have resolved. I've been in touch with the representative and I believe that they are going to be complying with our request to demolish that building, although I'm not exactly sure what their final word is. These things are frustrating in that they take time because there are so many people that you have to go through to get a final resolution and of course our approach to these things is always try to get compliance, not necessarily to penalize people if they are working toward compliance. When we try to penalize people we get into court costs and what have you and it's really not worth it to the Town if we can get voluntary compliance. We will continue to work on that one and I expect we'll have a resolution on that within the next week or so.

PUBLIC HEARING: Continued Unsafe Building Castle Tavern

Attorney John Hicks – Castle Tavern is one that is very problematical to us since the owner of Castle Tavern resides in the State of Florida and his attorney has not given me permission to serve the owner by serving his attorney and we cannot, as I indicated at the last meeting, serve them as a corporation through the Department of State because it is a municipal proceeding and not a court proceeding. Without hiring a process server in the State of Florida to the tune of I don't know how many dollars to locate this guy and serve him personally. If that's what we want to do we can get him and bring him under the jurisdiction of the Town if we want to spend the money. It could be several hundred dollars to over a thousand dollars to find him. There are approximately fifteen people with the same name located in South Florida and we don't have any idea what the middle initials are so we would have to find somebody to track him down and serve him with our paperwork. If that's the Board decision to do that then we will do that but I didn't want to make that decision on my own since the budget is tight as it is.

Supervisor Sweeton – The issue with the Castle is the building itself has been secured and is secured it's the concern for the docks breaking loose and damaging other property and

being a danger to people. I don't know how much money you wanted to continue to expend on this? The drawdown will essentially ground the docks for the most part. They're not loose at the moment. I don't know what you want to do? How much more money do you want to authorize to spend on it? We can get the attorney to try to get an estimate of what the process server down there is going to run us and then report back to us, I mean there's no immediate danger.

Councilman Gerstner - If they're not looking like there causing a threat right now by breaking loose or doing any damage and with the drawdown they're not going to go any place.

Supervisor Sweeton – But once the lake starts filling we don't know what's going to happen that's the issue.

Councilman Gerstner – I understand that but we can have the Building Department keep an eye on it.

Supervisor Sweeton – Yeah.

Councilman DeAngelo – I think we should get an estimate as to what it would cost us because what's going to happen is if it drops down enough they might break loose and then when they fill up again they might be floating around loose.

Attorney John Hicks – OK I will do that.

PUBLIC HEARING: Continued Unsafe Building Mirkovic Moncilo

Attorney John Hicks – Again, Mirkovic is a situation where that individual has moved to Florida and we have tracked a couple of relatives of his to the State of Florida and I'm waiting for a final report from our process server as to his recommendations for proceeding with that. This is a process server we have in New York that has through internet searches and what have you located we think one member of the family but again this will require hiring somebody in the State of Florida to track that lead down and I can get you an estimate on that one too at the same time.

Supervisor Sweeton – If you recall this one is a house that is a little bit more of an issue and we certainly don't want to take the liability of removing the house that is unsafe without having properly served the potential owner.

Attorney John Hicks – That could put us in legal jeopardy.

Supervisor Sweeton – OK so you'll handle that as well.

Attorney John Hicks – I will get an estimate on that one also.

PUBLIC HEARING: Continued Unsafe Structure Buttermilk Falls Bridge

Attorney John Hicks – I was in touch with the attorney for the owner of the property as late as this afternoon about 4:00p.m. the owner of the property has determined that in order to repair the bridge to the point that it is passable based on some estimates that he received could run in the neighborhood of \$100,000, so he is not eager and will not my understanding is from the attorney proceed with the repair of the bridge. One of the reasons is he tells me he has done a search a title search of the properties and he finds no record and I don't know if this is accurate or not because the Town has not taken a position on this. We have not done a title search on this because it is a private road. We really have no issue with the road per say except it's a fact that there is this unsafe structure of a bridge which we have jurisdiction over. The attorney advises me that he has found through his title searchers that the other property owners on Buttermilk Falls Road in his opinion do not have any easement rights or rights-of-way to cross that bridge. That may change things if anybody has any proof that they do have the right to continue over that because that will possibly subject him to some civil lawsuits to force him to repair the bridge to allow public access over that bridge. In the mean time not feeling that he has any liability to do that he has indicated to us that he's willing to go along with the Town and construct permanent barriers on both sides of the former bridge or whatever is left of the bridge and install signs that say "Private Property Turn Around" or whatever that the bridge is out so it would be safe. He as agreed to put up what ever kind of barrier the Town wants whether they be guardrails perpendicular to the road which would go to either side of the roadway itself to prevent pedestrian access to the bridge other then obviously somebody walking around it. No matter how far you extend a jersey barrier or a guardrail somebody could walk around it if they wanted to trespass on private property to do it and still get around it, but he's agreed to install it, either one of those, which the Town prefers to prevent access to the bridge by vehicular or pedestrian traffic. He says they will do whatever they have to do to comply with what ever the final word is from either this Board or the Building Department as to what kind of barriers we want him to put up there. Other than that which we've solved our problem the Town Board to correct the dangerous situation what ever further recourse the property owners in the area feel that they have based on maybe some easements or rights-of-way that are contained in some of their deeds. I don't know if they are there or not I have not researched that.

Supervisor Sweeton – We could forward those if residents provided us with copies; we could forward those to that attorney. I think our code also gives us the authority to have him remove the debris of the unsafe structure so he couldn't leave a portion of it in the stream for instance and I think our code allows that too, but that would be something I would want to see him do as well.

Councilman DeAngelo – Absolutely.

Attorney John Hicks – What is it exactly that is in the stream?

Supervisor Sweeton – Well I haven't been down there but the pictures show part of the structure is dilapidated in the water, its concrete and stuff.

Christine Kick – Resident, Buttermilk Falls Road – In my deed along with everybody's deed you have got to have a right-of-passageway they all say right-of-passageway, we all own to the middle of the road. You guys are the Town you can pull everybody's deed yourself and find this out for yourself.

Resident - For ten years you should have already known that is a right-of-way.

Resident – That bridge is the access for all the other homes on that side of the property.

Supervisor Sweeton – If you can supply us with copies of your deeds we'll be happy to put those in the hands of his attorney and again because we have advised his attorney to research that. He's telling...

Christie Kick - What kind of time frames have you in place in regards to this? How long does this go on for?

Supervisor Sweeton – The owner has the right to due process.

Christine Kick – How long is due process?

Supervisor Sweeton – He did what he considered to be a sufficient blockage and we deemed it to be insufficient.

Christine Kick – I can tell you this week I jog what I call the loop which used to be all the way through Buttermilk Falls and all the way around Cascade. The kids who live around this area went into the stream and created a little walk through because they want to get across the stream to visit each other at each others houses. Well all this plywood with nails and everything else is all over the place. The dog and I go over this little thing slip and fall. There are jagged edges everywhere and it is extremely dangerous. We go about it with the same thing with the fire trucks and ambulances and supposedly they don't know which side of the road to go on. We had an incident two months ago when they couldn't get through so how are you going to rectify the situation?

Resident – You say the Town doesn't have an interest. It does have an interest for a fire truck to go over that bridge, emergency services does have an interest getting to that call.

Supervisor Sweeton - We can have this argument till the end of time.

Christine Kick - How long are we going to continue to wait?

Supervisor Sweeton – We will notify the attorney tomorrow and give him seven to ten days to put the barricades up.

Christine Kick – The children go around the barricades.

Supervisor Sweeton – That is an issue of trespassing.

Christine Kick – You have small children in the area that need to be able to get through the area.

Resident – If the Town has an interest they should stand behind us, its safe passage with limited access due to weather; it's been like this for years now. There have been accidents you're waiting for a loss of life, you've already caused damage to Town vehicles by not making safe passage. You have utilities back there that need safe passage, you collect revenue on that, come on it doesn't have to be \$100,000. You could put an emergency fix in like you've done all over Town. Someone is going to get hurt if you ignore the problem.

Supervisor Sweeton – I am sorry, I am sorry, I am sorry, hang on there is no more public comment. Hold on a second, hold on a second, excuse me, hold on a second OK. It is private property owned by one individual and the Town of Warwick can not expend taxpayer's dollars fixing private property. It is as if my driveway at my business washed out and I asked the Town of Warwick to come in and fix it for me. It is illegal and we can say it is right or wrong it is illegal. We've been trying to help...

Christine Kick – What does the deed have to do with it?

Supervisor Sweeton – Because if you do in fact, I'm not a lawyer, if you do in fact have a deed.

Christine Kick – Aren't you the Town; don't you have the right to pull this stuff?

Supervisor Sweeton – Thank you for your comments.

Christine Kick – After all of these years hasn't the Town Board been able to pull this information from their own record files over there and have it to see all the different deeds and save this, I say it's a serious problem and an insufficiency of the Town.

Supervisor Sweeton – We don't have your deeds. Your deeds are on file in the county.

Christine Kick – So you guys can't find this.

Supervisor Sweeton – We are not providing representation for you to fight with this gentleman for your right to travel over his property.

Christine Kick – However when I built my house I had to stand here in front of this Board over and over again in regards to my rights of passage and how much footage you guys need to take from my property in order to have that, so why is that?

Supervisor Sweeton – That's part of the planning process.

Resident – Is that what you're telling us if we don't have access no emergency vehicles are going to be able to get to our homes.

Supervisor Sweeton – That’s not true, that’s not true.

Resident – Well then you need the bridge to do it because you lost a fire truck and spilt diesel into there. You need to do it.

Resident - I have emails from you that it’s a hazard in certain spots. You can’t deny the access.

Christine Kick – A couple of months ago if the whole thing washed out how would you have gotten an emergency truck in? How? The Town came in and paid for their repairs on the other side of the road.

Supervisor Sweeton – They didn’t pay for any repairs. They came in and made an emergency repair to that side of the road for the express purpose to get an emergency vehicle.

Christine Kick - So who paid for that?

Supervisor Sweeton – Under a state of emergency declared in the Town of Warwick. That is a permissible legal use.

Resident – Understood.

Christine Kick – OK.

Supervisor Sweeton – We in fact did take action to secure your health and safety in a declared emergency.

Christine Kick – So why didn’t you secure the rest of it?

Supervisor Sweeton – Because it’s not within our rights to do so.

Resident – If your going to send a fire truck, an ambulance or utility truck you do have to provide safe access. You’ve already lost a fire truck.

Supervisor Sweeton – You have access.

Christine Kick – No we don’t.

Supervisor Sweeton – Yes you do.

Resident - When you put in that other side the road washed out.

Supervisor Sweeton – OK it’s the end of the discussion.

Carol Testa – Resident, Buttermilk Falls Road - Why does the Town knowing the situation back there give out building permits on that road if it's so bad the way it is? They just keep giving out the building permits. It doesn't make any sense. We're residents of this Town and we support the Town fully. We're taxpayers too and you should stand behind us.

Supervisor Sweeton – We've been trying to within the legal rights that we have.

Resident – The new deed that we saw is chopped. All the information that was in the deed for all these years is gone. I asked the secretary for copies over and over.

Supervisor Sweeton – You did and I shared those. It doesn't mean the information was taken out of the deed.

Resident – We saw it when he transferred the deed; it was out of it. It wasn't on there we looked at it again.

Supervisor Sweeton – It's still in the deeds.

Resident – You have a copy with it still on there.

Supervisor Sweeton – Right.

Christine Kick – If we supply you with proof of our deeds that say you have to have safe passage through will that be sufficient?

Supervisor Sweeton – We'll be happy to review your deed and pass them onto their attorney with our interpretation of them and if it does in fact say you have the right to go across his property and across a bridge and he needs to provide you with that bridge we're happy to support that. I just don't know that's the case.

Resident – What about utilities?

Attorney John Hicks – One other thing here even if you can provide us the deeds or easements or rights-of-way that are recorded that give you the right to pass over Mr. Silverman's property for access to the lower part of Cascade Road that is a private issue between you and Mr. Silverman.

Resident - So why didn't you tell him that when he told you the bullshit about the deeds?

Attorney John Hicks – I told him that.

Resident – So why are we even having this conversation I don't understand?

Resident – Does the Town Board feel that there should be a reasonable emergency repair of access for at least emergency vehicles and kids to get to school properly? I mean do you at

least agree on that? It's always been the other bridge and now it's not there. Let's say we didn't replace the bridge on Cascade because we didn't want it there anymore.

Rocco Testa – The Town Board has said they have the right to charge the homeowner to repair that.

Resident – At least make it safe in the meantime until the situation is resolved. For the cost to put up these barriers we could throw in a sufficient size culvert like we talked about and shale it like this whole Town has been informed over the years for the emergency passage through there for the safety instead of wasting time just putting up barriers. A kid is going to get hurt and a kid is a kid they are going to go through there. The road did get washed out and you did have access. You didn't have access on both sides.

Rocco Testa – We had a tree come down and we can't get out.

Resident - To put those culverts in with the shale it will be under \$10,000. I would even throw some in I've told you several times and I even tried contacting Mr. Silverman at least a true emergency repair.

Supervisor Sweeton – We suggested Mr. Silverman talk to his neighbors. We don't have any right to go there and do that repair. We have no right to do that whatsoever.

Christine Kick – You have eminent domain.

Resident - But you do have the right to enforce the law.

Christine Kick – You talk about all these unsafe properties and how much money you are going to spend what about this unsafe situation?

Supervisor Sweeton – We are going to proceed under the unsafe building statute that we have to the best of our ability.

Rocco Testa – You have eminent domain and the transportation department told you to get the grant money to repair the bridge.

Supervisor Sweeton - Hold on, hold on, hold on there's no more discussion of this, this evening.

Christine Kick – Why?

Supervisor Sweeton – Because we are not having any more we need to get on with our regular meeting.

Christine Kick – We're not finished.

Supervisor Sweeton - It is finished.

Resident – Can we at least have the Town agree on an emergency repair that’s fairly inexpensive at the same cost of the barriers?

Supervisor Sweeton – We can not under the law do that.

Resident – It’s an emergency repair.

Supervisor Sweeton – Its private property and we can not do it.

Christine Kick – Where does it say that? Can you show us where it says due that it’s a private road you do not have eminent domain?

Supervisor Sweeton – I didn’t say that; you have different issues going on. That’s not what he asked me.

Christine Kick – What was the attorney saying in regards to a private road; does it have anything to do with the fact of eminent domain and whether safety vehicles should get through?

Attorney John Hicks – Eminent domain doesn’t have anything to do with safety vehicles getting through. Eminent domain is a procedure that a municipality or a government agency takes to acquire title to private property for a public purpose. I’m not sure that repairing a bridge on a private road meets the qualifications that would be required to meet for eminent domain proceeding.

Christine Kick - How will we be sure? You’re not sure what research do you have?

Resident – They’re liars, I thought Mr. Silverman’s attorney was supposed to be here today?

Attorney John Hicks – Mr. Silverman’s attorney was requested by me to do a title search.

Resident - At the last meeting we were told he was going to be here. There was nothing about title searches.

Attorney John Hicks – At the last meeting I indicated what ever he found he should try to be here at the meeting if we continue the public hearing. Based on what I heard from him today they’re willing to comply with what ever we ask them to comply with to make that bridge safe.

Resident - You just said it all in a nut shell.

Attorney John Hicks - He has agreed that they will make it safe. Not the passage across the bridge.

Christine Kick – If it's not a bridge what is it?

Resident – What's the definition of a bridge.

Attorney John Hicks – I just made my point. He has an unsafe structure there and he has to make it safe so that the public is not going to be hurt either by passing over it by vehicular or by individual person. He doesn't have to repair the bridge to do that.

Christine Kick – Putting barriers up, is it going to make it safe for kids?

Resident – Unless you fence up the length of the stream you're not going to prevent the kids from getting across. I'm talking a 10' fence all the way around and were talking about people going back there fishing; the Town recognizes it as one of the number one fishing holes in Warwick. Do you know how many people we get back there?

Attorney John Hicks - The Town is not responsible for somebody trespassing on private property.

Resident – You formed that community for the tax basis based on that bridge being there with all the homes that have been built there.

Supervisor Sweeton - You're not going to solve that discussion. There are private roads all over this Town with communities so the fact that a community was created in the 1950's on a private road is irrelevant. It is a private road and private property. Would we do it again today, no we wouldn't.

Christine Kick – Is there ever an instance within Warwick where the Town has come in to do something on a private road that was unsafe ever?

Supervisor Sweeton – Not to my knowledge. Unless under a state of emergency which we did.

Councilman DeBuck – There was a road in Florida going to some condominium complex that was private and washed out that was barricaded for three or four years and if I'm not mistaking federal officials came in to make that repair.

Councilman Shuback – Until they made a bond resolution and the homeowners had to pay for it.

Christine Kick – We already have this. There's a grant for this bridge what happened to that?

Resident – Mr. Sweeton will tell you right now that he's told us many times before its federal money that can't be spent on a private road.

Supervisor Sweeton – We are going to take a five minute break before we start the regular meeting. Thank you.

Christine Kick – There has been no resolution. What's the next step?

Supervisor Sweeton – The resolution is the owner will be told by the attorney to secure access to the property under the code as it allows us to do.

Attorney John Hicks – I didn't hear you.

Resident – And provide the proper deed information that we've already furnished to the Town

Supervisor Sweeton – I'll give you what Rocco gave me but if you have other individual copies of deeds we will be happy to...

Rocco Testa – Mike you have them in your files.

Supervisor Sweeton - I have what you gave me Rocco.

Councilman Shuback – Besides the deed you need title search.

Rocco Testa – You have them in your file.

Councilman DeAngelo – If I were you and I'm not an attorney but I would go to Goshen and get a certified copy of my deed and hire an attorney and fight your neighbor. We can not fight your neighbor for you. Get a certified copy of your deed and then hire your own attorney and take on your neighbor. That's what's going to solve your problem. Coming here and screaming at us is not going to solve your problem. Start the circular reasoning get a certified copy of your deeds and hire your own attorney and I would recommend somebody that's well versed in land use in the County.

Christine Kick - What do we have the Town for?

Councilman DeAngelo – We're going back in the circle of private roads.

Resident – You can't make in your own term of the word bridge make it safe in your own words that a barrier will make it safe.

Carol Testa – It doesn't make a difference if he can't be sued or not because I'm actually in insurance and I've seen claims that have gotten paid where kids aren't supposed to trespass on properties and they get injured. He is still going to get sued and he can post his property, but he should know that too.

Supervisor Sweeton – His attorney has been advised that he may have liabilities.

Carol Testa - Serious liabilities.

Supervisor Sweeton – Absolutely.

Carol Testa – And the Town too with response time with the fire and ambulance.

Resident – Is the Town really OK with that there really isn't good access for emergency services or for utility for the poles and everything and is the Town OK with that? We've already had a few accidents and ambulance calls that couldn't go back there are you honestly OK with that? I know your not.

Supervisor Sweeton – The emergency service people have not advised us they can not get to the problem.

Resident – The ambulance Corp people as well as the police department who have had to take people out to the ambulance on the other side along the way they had two stuck ambulances as well as police cars and also had to be assisted from people with four wheel drive vehicles. I know you know.

Supervisor Sweeton – OK duly noted. We'll take five minutes.

Christine Kick – What are you going to do?

Supervisor Sweeton – We'll take five minutes. Thank you.

PRESENTATION by Councilman Leonard DeBuck – I would like to recognize along with the Supervisor and Town Board the people who have volunteered some of their services toward the improvements of our parks with a Certificate of Appreciation. The most important words to be able to recite is thank you and I would like to call the following people forward and recognize them for their service to our community: Emily Cozzi with the help from the students from New York City College of Technology to design an architectural design of what the Thomas P. Morahan Waterfront Park could become, Roger and Anita Kopet for designing the pergola at the Thomas P. Morahan Waterfront Park, Mike Rega, Michael Reya, Bob LaBench for assisting the Town with trail markers and creating the Cascade Park Trail Map for the park, Tom Keane designed, built and installed the kiosk at the Cascade Lake Park and Daniel Decker designed, built and installed several park benches at the Cascade Lake Park, William Brown and Andy Field donated to the Town of Warwick Pine Island Park a beautiful three tier gazebo to be used as a focal point in the Pine Island Park. Their donation has saved the Pine Island Chamber of Commerce and Town of Warwick about \$7,000, Percy Carabello along with his landscaping firm Cutting Edge provided their time and talent preparing the site and installing a walkway and paver blocks for the installation of the gazebo in the Pine Island Park. Percy also volunteered his time preparing the Village of Warwick Peewee football fields, Peter and Sandra Hall from the Pine Island Chamber of Commerce with the help from the proceeds from the Black Dirt Feast

were able to install the gazebo as mentioned earlier, a swing set for handicapped children and we want to thank you for chairing the Black Dirt Feast, Mary Pohlman a member and committee chairperson of the Warwick Valley Gardeners had a butterfly garden built in the Pine Island Park and the Warwick Valley Gardeners has consistently donated a tree each in honor of Arbor Day to be placed in one of the parks in the Town. They placed one at Thomas P. Morahan Waterfront Park and Pine Island Park just to name the most recent two, Paulette Wilk-Rudy, Chairperson of the Pine Island Recreation Committee, has held chicken barbeques as fundraisers, spaghetti dinners as fundraisers, selling raffles as fundraisers for the installation of an ice rink, extension of the pavilion, swing sets and an ark just to name a few of the things they have helped us with. Jan Jansen, the proprietor of EP Jansen's Nursery in Florida, New York, for supplying the Town of Warwick with many, many beautiful hand selected nursery grown trees, Deputy DPW Commissioner Bill Roe for a job well done overseeing maintenance and improvements in our Town of Warwick Parks, Dave Rudy and Mike Holt both work with Bill under his leadership in the parks and they take great pride in their work and with the equipment that they operate. It is true when really good things come around really good things go around and it is a we thing and I truly would like to thank all of you that have participated in not only making our parks but our greater community a better place. Thank you very much.

ACCEPTANCE OF MINUTES:

1. Public Hearing, 2012 Preliminary Budget, 11/10/11
2. Public Hearing, Local Law to Override the Tax Levy Limit, 11/10/11
3. Public Hearing, Special Districts, 11/10/11
4. Regular Meeting, 11/10/11
5. Regular Meeting, 11/17/11

Motion Councilman DeAngelo, seconded Councilman Gerstner to accept the minutes as written from the Public Hearing for the 2012 Preliminary Budget held on November 10, 2011, the Public Hearing on a Local Law to Override the Tax Levy Limit held on November 10, 2011, the Public Hearing for Special Districts held on November 10, 2011, the Regular Meeting held on November 10, 2011 and the Regular Meeting held on November 17, 2011. Motion Carried (5 ayes, 0 nays)

CORRESPONDENCE:

FRANK J. GRAESSLE – President, Clearview Vineyard, 35 Clearview Lane, Warwick, NY 10990 – Letter to the Town Board requesting to be added to the Town of Warwick Agricultural Protection Overlay District.

BENITO MUTO – Benito's Pizzeria & Italian Restaurant Inc., 32 Ronald Reagan Blvd., Warwick, NY 10990 – Notice to the Town of Warwick of the renewal of their liquor license.

KURT EMMERICH – Resident, Town of Warwick, NY 10990 – Letter to the Supervisor requesting the resolution be rescinded for the MGF parcel being zoned OIP, that PDR is not at all appropriate.

THOMAS SALAMONE – Sustainable Greenville – Letter to the Supervisor and Town Board regarding unprecedented challenges as the Marcellus shale gas rush spreads throughout New York State and invites them to a free special screening of the Academy Award winning documentary, Gasland, by Josh Fox on Thursday, December 8 at 9:30 p.m. at the VFW Hall, Route 6, in the Town of Greenville, N.Y.

CONNIE SARDO – Secretary, Town of Warwick Planning Department – Letter to the Town Board requesting Planning Board applicant, James Sorrentinno be refunded the balance of his escrow in the amount of \$133.45.

CONNIE SARDO – Secretary, Town of Warwick Planning Department – Letter to the Town Board requesting Planning Board applicant, Marianne Manzolillo be refunded the balance of her escrow in the amount of \$1,255.00.

BENJAMIN ASTORINO – 23 Main Street, Warwick, NY 10990 – Letter to the Supervisor requesting to be reappointed as Chairman to the Town of Warwick Planning Board.

DENNIS P. MCCONNELL – 115 Sanfordville Road, Warwick, NY 10990 – Letter to the Supervisor requesting to be reappointed to the Town of Warwick Planning Board.

WAYNE STEVENS – Building Inspector, Town of Warwick Building Department – Letter to the Supervisor and Town Board requesting a refund in the amount of \$25.00 for a building permit to Scott Roberts.

JOANNE WILCOX – Town of Warwick Bookkeeper – Letter requesting a budget transfer in the amount of \$550.00 from budget code A00.2001.009 Park Fees-Special Events to budget code A00.7550.472 Celebrations for a wedding celebration at the Greenwood Lake Beach.

JOANNE WILCOX – Town of Warwick Bookkeeper – Letter requesting a budget transfer in the amount of \$11,910.00 from budget code A00.4089.001 Federal Aid-Town Hall Grant to budget code A00.1620.225 Town Hall Grant Expenses for reimbursement of expense account.

JOHN E. ZIOBRO, ESQ. – Stage, Nathans & Ziobro LLP., Attorney for Petitioner, 23 West Street, Warwick, NY 10990 – Notice of petition to abandon public highway. Please take notice that on the annexed petition of Fray Fuller, verified on December 1, 2011, a hearing will be had at the Town of Warwick, Town Hall, 132 Kings Highway, Warwick, New York, on December 29, 2011 at 7:30 p.m. granting relief prayed upon in the annexed petition.

JACLYN A. BRILLING – Secretary of the New York State Department of Public Service, Three Empire State Plaza, Albany, NY 12223-1350 – At a session of the Public Service Commission held in the City of Albany on November 17, 2011 regarding Case 10-E-0362 proceeding on motion of the Commission as to the rates, charges, rules and regulations of Orange and Rockland Utilities, Inc., for electric service. Order denying petitions for rehearing and/or clarification issued and effective November 21, 2011.

MICHAEL J. RIEDER – Utility Engineer 3 & ROSEANNE E. MAIELLO – Utility Analyst 3 - New York State Department of Public Service, Three Empire State Plaza, Albany, NY 12223-1350 – Regarding case 10-E-0362 proceeding on Motion of the Commissioner as to the rates, charges, rules and regulations of Orange and Rockland Utilities Inc. for electric service. Orange and Rockland Utilities, Inc. tariff filing to revise its electric rates, charges, rules and regulations in compliance with the Commission order issued June 17, 2011 in case 10-E-0362. The tariff amendments listed in the appendix should be allowed to become effective on a permanent basis as of the date of issuance of the order in this matter.

COMMITTEE REPORTS

DEPARTMENT OF PUBLIC WORKS REPORT

<u>WORK BEING DONE</u>	<u>LOCATION</u>	<u>REASON FOR WORK</u>
CATCH BASINS	Hunt Dr.	Repair basin
DITCH WORK	Mt. Eve Rd. Iron Mountain Rd.	Clean ditches Clean ditches
TREE WORK	Mountainside Rd.	Assist Nelson Tree
BRUSH PICK UP	Town wide	As needed
ROAD REPAIR	Wawayanda Rd.	Repair road edge
ROAD SIGNS	Town wide	As needed

ENVIRONMENTAL CONSULTANTS REPORT

Town Of Warwick - Water and Wastewater Operations Report - November, 2011

Wickham Water District

Well #11 monthly production	1,721,300 gal
Average daily use	57,400 gal
Sodium Hypochlorite used	140 qt
Orthophosphate used	20 qt
Soda Ash used	600 lbs.

Bellvale Park Water District

Total monthly production	142,000 gal
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Average daily use 4,700 gal
Sodium Hypochlorite used 8 qt

Eurich Heights Water District

Total monthly production 78,600 gal
Average daily use 6,000 gal
Sodium Hypochlorite used 4 qt
Orthophosphate used 12 qt

Pine Island Water District

Total monthly production 233,900 gal
Average daily use 7,800 gal
Sodium Hypochlorite used 32 qt

Westside #1 Water District

Total monthly production 1,362,800 gal
Average daily use 45,400 gal
Sodium Hypochlorite used 80 qt
Orthophosphate used 64 qt
Caustic Soda 60 gal

The Fairgrounds

Total monthly production 287,100 gal
Average daily use 9,600 gal
Sodium Hypochlorite used 5 qt

Sewer District #1 Wastewater Treatment Facility

Mid-Orange Correctional District	719,640 gal	12%
Wickham Village District	3,363,668 gal	55%
Kings Estates District	2,020,022 gal	33%
<u>Total District Flow</u>	6,103,330 gal	100%
<u>Average Daily Flow</u>	203,444 gal	

All facility maintenance has been done for the month. (Oil grease, filters)

The belt press ran for 8 hrs. and .25 gal of polymer was used.

There was 4.4" of precipitation for the month.

Sewer District #2 Wastewater Treatment Facility – The Fairgrounds

<u>Total District Flow</u>	93,831 gal
<u>Average Daily Flow</u>	3,128 gal

COUNCILMAN DE ANGELO REPORT

1. In the spirit of Christmas and giving for the holidays I have a wish list from the Warwick Valley Humane Society as we give to our food pantries I think we should think of our Humane Society and the dogs, cats and animals that they take care of. They are always in need of Feline Pine or Equine Pine for cat litter, bleach, Simple Green cleaner, laundry and dish detergent, heavy duty garbage bags, paper towels, Friskies Pate or any ground can food, large dog bones, Hill Science Diet or dry cat food. I encourage you to donate to the humane Society because they do a lot of work with very little money.

2. I want to wish everyone a Merry Christmas and a Happy New Year.

COUNCILMAN DE BUCK REPORT

1. I would like to wish everyone a Merry Christmas and a blessed Holiday Season.

COUNCILMAN GERSTNER REPORT

1. Last night I was able to attend a hearing in the Village of Florida on Glenmere Lake for their water supply. There was a presentation by the County and the firm who did the survey. It went very well and they are taking public comments from last night and releasing their report hopefully by the end of the year.

2. I would also like to wish everybody a very Merry Christmas and a Happy Holiday Season.

COUNCILMAN SHUBACK REPORT

1. You can see in the bid specs from the Ford dealer in Rochester a bid of \$41,000 on a dump truck and that was only for the cab and chassis. That didn't include the snowplow, dump body and sander and that is why there is a difference on the two bids of \$28,000.

Supervisor Sweeton – The Robert Green bid was a State bid and that is for the complete unit.

ATTORNEY'S REPORT

1. I would like to wish everybody a Merry Christmas and a Happy Holiday Season.

TOWN CLERK'S REPORT

1. Fees Collected – Month of November, 2011 – Film & Video Production Fee, \$250.00; Copies of Maps, \$10.00, Certified Marriages, \$30.00; Photocopies, \$111.50; Use of Kitchen Fee, \$50.00; Interest in Checking Account for Month of October, \$1.39; Dog Enumerations, \$10.00; Dog Impoundments, \$420.00; Marriage License Fees, \$140.00; Road Maps, \$12.00; Conservation Licenses, \$181.40; Dog Licenses Issued/Renewed, \$1,881.00; Use of Room Fees, \$160.00; Registrar Fees, \$260.00; Sale of Used Police Vehicle, \$2,128.42. Total Fees Collected, \$13,776.31

2. **Fees Paid – Month of November, 2011** – NYS Dept. of Health for Marriage Licenses, \$180.00; NYS Dept. of Ag & Markets for Spay/Neuter Program, \$239.00; NYS Dept. of Environmental Conservation, \$5,851.60; Village of Florida for Registrar Fees, \$100.00; Village of Greenwood Lake for Registrar Fees, \$170.00; Village of Warwick for Registrar Fees, \$1,590.00. **Total Fees Paid to the Supervisor, \$5,645.71**
3. **Bid opening on December 7, 2011 for a F550 Mason Dump. Bids received from:**

**Robert Green Truck Division
Route 17 East
P.O. Box 8002
Rock Hill, NY 12775
Tel: (845) 794-0300**

Bid Amount: \$69,776.51

**Vision Ford
4545 Ridge Rd. W.
Rochester, NY 14626
Tel: (585) 352-1200**

**Bid Amount: \$41,014.00 +
(Bid does not meet the required
specifications)**

SUPERVISOR'S REPORT

1. Last night was the public session for the Mid Orange Correctional Facility Property. They tried to garner public input as to what they would like to see happen with the site. For update purposes the site which is still owned by the State of New York is still under the control of the Department of Corrections. They're in the process of surplus and shutting the facility down and it's almost complete. When that process is complete they will turn it over to the office of General Services which essentially is in charge with selling it, getting rid of it, disposing of it, whatever they are going to do with it. We've been working with Empire State Development which is the other state agency involved which would be the marketers of the site. We've been working with them to make sure they understand that we have preferences that we would like to see the site developed under. We want it to be something that can create some jobs and pay some tax revenues. We focused on various concepts for the site which we've transmitted to them. We've taken the public input that we had last night from this committee of citizens that were put together by the Town Board to advise us. They are going to take all those ideas and coalesce them into further suggestions and hopefully we can convince the State to work with us to put users into the site as quickly as possible. We had about 90 people there last night and a lot of great ideas, a lot of enthusiasm and we're optimistic that what ever ultimately happens on the site will be something that will work and benefit the taxpayers in the Town of Warwick for many years. That is the status of it and we'll keep you informed as it goes along.

2. I attended as a member of the Orange County Planning Board a meeting this week of which the County is pursuing becoming a Greenway Compact which is somewhat different then a Greenway Community which we are one of. We joined it under Leonard's urging a bunch of years ago. The compact is a little higher level done on a County basis and they're pursuing that. Part of their analysis is and I

wanted to inform the Board about is that they looked at all of the comprehensive plans of all of the municipalities in Orange County and there were only two municipalities who met all of the criteria of a Greenway Community. One was the Town of Warwick and the other was the County of Orange. It was pretty nice to hear and see visually on the board from their consultants.

2. I did attend today the Executive Committee meeting of the Orange County Transportation Counsel. That is the entity in the County that's charged with programming and monitoring federal aid projects in conjunction with the New York State DOT. They had much discussion of a letter issued by the Commissioner of the Department of Transportation for New York State indicating due to budget constraints the five year plan has been reduced by 23% which means all of the communities in the MPO have to go back through and look at the five year plan and all the projects and see how they are all going to fit with 23% less funding. Although they did announce today that the Governor has pledged another billion dollars for highway infrastructure in New York State, so I really didn't know what that meant. On one hand they're telling us there are cuts to be programmed and on the other hand they are saying they are adding another billion. I guess stay tuned is the story with that.

3. The Orange County Partnership had their 25th year anniversary dinner the other night that is the Economic Development Agency here in the County. The reason I wanted to mention it tonight was they did honor a citizen of the Town of Warwick, Mr. Lou Heimbach who is a former County Executive and lives here in the Town of Warwick, and they honored him for his service to the County over the years and for promoting economic development. Congratulations to Lou on that.

4. I did review all of the journal transfers that were done this month and they were all in order and accounted for.

5. I too would like to wish everyone a Merry Christmas a Happy Holiday and a safe holiday season.

6. 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:

#R2011-279 RE- APPOINTMENT TO PLANNING BOARD – DENNIS MCCONNELL

Motion Councilman Gerstner, seconded Councilman Shuback to adopt a resolution to re-appoint Dennis McConnell to the Planning Board for a five year term expiring December 31, 2016.

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

Discussion: Supervisor Sweeton stated that Dennis has served really well and works really well with the Board and I'm glad that he is willing to serve again.

#R2011-280 AUTHORIZATION OF ESCROW REFUND – MANZOLILLO

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to authorize a refund in the amount of \$1,255.00, the balance of the escrow for SBL #73-5-5, to Planning Board applicant Marianne Manzollilo as per the recommendation of the Planning Board Secretary; letter dated December 1, 2011. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2011-281 AUTHORIZATION OF ESCROW REFUND – SORRENTINO

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to authorize a refund in the amount of \$133.45, the balance of the escrow for SBL #73-10-23.21, to Planning Board applicant James Sorrentino as per the recommendation of the Planning Board Secretary; letter dated December 1, 2011. Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2011-282 BUDGET TRANSFER – BOOKKEEPER

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to approve the following Bookkeeper budget transfer:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Federal Aid – Town Hall Grant (A00-4089.001)	Town Hall Grant Expenses (A00-1620.225)	\$11,910.00

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

#R2011-283 BUDGET TRANSFER – BOOKKEEPER

Motion Councilman Gerstner seconded Councilman DeAngelo to adopt a resolution to approve the following Bookkeeper budget transfer:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Park Fees – Special Events (A00.2001.009)	Celebrations (A00.7550.472)	\$550.00

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

Discussion: Supervisor Sweeton stated that this was fees generated from an event at the beach which we had pledged to give to the Village of Greenwood Lake to offset some costs of the fireworks.

#R2011-284 AUTHORIZATION OF BUILDING PERMIT FEE REFUND – SCOTT ROBERTS

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to authorize a refund in the amount of \$25.00 to Scott Roberts for a building permit fee for SBL# 65-1-52.1 as per the recommendation of the Building Inspector; letter dated November 29, 2011.

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

#R2011-285 SETTLING OF TAX CERTIORARI CLAIM

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

WHEREAS, Stelvio Holding, LLC, has commenced a tax certiorari proceeding against the Town of Warwick in the Supreme Court, State of New York, County of Orange for the 2011-12, tax assessment year bearing Orange County Index #7222/11; and

WHEREAS, it appears from the recommendation of the Town Assessor, and John H. Thomas, Jr., Esq., of Jacobowitz and Gubits, counsel for the Town of Warwick in the aforesaid proceedings, upon a thorough investigation of the claims that further proceedings and litigation by the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth below is reasonable and in the best interests of the Town; and

WHEREAS, Stelvio Holdings, LLC are willing to settle these proceedings without interest, costs or disbursement, in the following manner;

- (1) That the proceeding for the 2011-12 tax year be compromised and settled by the assessment being reduced from \$21,000 to total amount of \$14,840 for tax map no. 55-1-70.1;
- (2) That the proceeding for the 2011-12 tax year be compromised and settled by the assessment being reduced from \$15,800 to total amount of \$10,640 for tax map no. 55-1-70.2;
- (3) That the proceeding for the 2011-12 tax year be comprised and settled by the assessment being reduced from \$15,700 to total amount of \$10,640 for tax map no. 55-1-70.3;
- (4) That petitioner(s) real property taxes for the 2011-12 School taxes and for the 2012 State, County and Town tax bills be adjusted accordingly and that petitioner(s) be reimbursed for any overpayment without interest, if paid within sixty (60) days of notice of entry, or be credited with the corresponding decrease in taxes, as the case may be; and

NOW, BE IT THEREFORE RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to §68 of the Town Law, and it is further;

RESOLVED, that Deborah Eurich, Assessor of the Town of Warwick and John H. Thomas, Jr., Esq. on behalf of Jacobowitz and Gubits, LLP be and they hereby are designated as the officers of the Town who shall apply for such approval pursuant to

the aforesaid section and law.

Upon Roll Call Vote:

Supervisor Sweeton Aye
Councilman DeBuck Aye
Councilman Shuback Aye

Councilman Gerstner Aye
Councilman DeAngelo Aye

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

#R2011-286 AUTHORIZATION TO SIGN AGREEMENT TO JOIN OTHER MUNICIPALITIES (MUNICIPAL CONSORTIUM) TO OPPOSE ORANGE AND ROCKLAND'S PROPOSED 2011 RATE INCREASE

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to authorize the Supervisor to sign an agreement with other municipalities (Municipal Consortium) to oppose the proposed rate increase submitted by Orange and Rockland Utilities, Inc. and to retain appropriate legal representation at a cost not to exceed \$4,000.00.

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

Discussion: Supervisor Sweeton stated that we fought the rate increase package that O&R had submitted a year ago. They had submitted a three year package and we got the amount reduced in our union with 15 other municipalities in Orange County before the PSC substantially reduced and limited to a one year. O&R has appealed that unsuccessfully to this point but they have then walked in with a new rate case before the PSC. This is an authorization to join that municipal consortium once again on behalf of our taxpayers to fight what we feel is an unjustified increase in O&R's rates.

#R2011-287 AMEND RESOLUTION #R2011-277 – APPOINTMENT OF PART TIME SEASONAL DPW LABORER – TIMOTHY FEAGLES

Motion Councilman DeAngelo, seconded Councilman Shuback to adopt a resolution to amend resolution #R2011-277 by changing the job title from part time seasonal DPW laborer to part time DPW laborer.

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

#R2011-288 SEQR STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) – BOND RESOLUTION FOR PURCHASE OF PUBLIC WORKS EQUIPMENT

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

WHEREAS, the Town Board of the Town of Warwick has proposed a Bond Resolution, needed for the purchase of equipment required for maintenance of the Town's highway infrastructure by the Town Public Works Department, Town of Warwick, Orange County, New York, and

WHEREAS, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Town Board has determined that the proposed action is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(20) and, therefore, SEQR does not apply.

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby declares that no further review under SEQR is required.

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

#R2011-289 BOND RESOLUTION – TWO TRUCKS AND RIDING MOWER

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a bond resolution of the Town of Warwick, to fund the acquisition of two trucks and a riding mower, stating that the estimated maximum cost thereof is \$282,000.00, appropriating said amount therefor, and authorizing the issuance of \$282,000.00 serial bonds to finance said appropriation, and

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, it is now desired to authorize the financing of such capital project;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF WARWICK IN THE COUNTY OF ORANGE, NEW YORK, (by the favorable vote of not less than two-thirds of all the members of said Board) AS FOLLOWS:

Section 1. The Town is hereby authorized to purchase two (2) dump trucks, and one (1) riding mower. The estimated maximum cost of class of objects or purposes, including preliminary costs, legal documents and costs incidental hereto and the financing thereof are as follows: one mason dump truck, chassis, body, accessories, and equipment for \$70,000; one large dump truck, International chassis model 7500 SFA 4 x 4 with four season dump body, accessories, and equipment for \$200,000; and one riding mower with accessories and equipment for \$12,000; for a total of \$282,000.00 and the said amount is hereby appropriated therefor. The plan of financing is the issuance of \$282,000.00 serial bonds to finance said appropriation and the levy of a tax on all the taxable real property within the Town to pay the principal of said bonds and interest thereon as the same shall become due and payable.

Section 2. Serial bonds in the principal amount of \$282,000.00 are hereby authorized to be issued pursuant to the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and stated:

a) The period of probable usefulness applicable to the purpose for which said serial bonds herein authorized are to be issued, within the limitations of Section 11.00a.28 of the Law, is fifteen (15) years for the dump trucks and Section 11.00a.28 of the Law is five (5) years for the riding mower.

b) The proposed maturity of the bonds authorized by this resolution will not exceed five (5) years.

c) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to

reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

Section 4. The bonds authorized by this resolution and any bond anticipation notes in anticipation of the sale of said bonds, shall contain the recital of validity prescribed by Sec. 52.00 of the Law and said bonds and any notes issued in anticipation of such bonds, shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the taxable real property within the Town without limitation of rate or amount. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal of and interest of said bonds and any notes issued in anticipation of said bonds, and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and notes to mature in each year and (b) the payment of interest to be due and payable in each year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Sec. 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, and of Sec.30.00 relative to the authorization of the issuance of bond anticipation notes and of Sec. 50.00 and Sec. 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to providing for substantially level or declining annual debt service, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

Section 6. The validity of the bonds authorized by this resolution and of any notes issued in anticipation of said bonds, may be contested only if:

- a) such obligations are authorized for an object or purpose of which the Town is not authorized to expend money, or
- b) the provisions of the law which should be complied with at the date of the publication of such resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication or
- c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This resolution shall take effect immediately.

Section 8. The object or purpose described in Section 1 hereof has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act.

RESOLVED BY THE TOWN BOARD OF THE TOWN OF WARWICK IN THE COUNTY OF ORANGE, NEW YORK, AS FOLLOWS:

Section 1. The Town Clerk is hereby authorized and directed to publish the foregoing bond resolution, in summary, in WARWICK VALLEY DISPATCH, a newspaper published in Warwick, New York, the official newspaper of said Town and having a general circulation therein, together with Notice attached in substantially the form as prescribed by Sec. 81.00 of the Local Finance Law of the State of New York.

Section 2. This resolution shall take effect immediately.

* * * * *

ROLL CALL VOTE:

Supervisor Sweeton	Aye	Councilman Gerstner	Aye
Councilman DeAngelo	Aye	Councilman Shuback	Aye
Councilman DeBuck	Aye		

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

#R2011-290 ACCEPT BID – F550 MASON DUMP

Motion Councilman Shuback, seconded Councilman Gerstner to adopt a resolution to accept the bid for the purchase of a F550 Mason Dump at a cost not to exceed \$69,776.51 from Robert Green Truck Division, Route 17 East, P.O. Box 8002, Rock Hill, NY 12775.

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

#R2011-291 ADOPT LOCAL LAW #8 OF 2011 – ADDING CHAPTER 6, “ASSESSMENTS OTHER THAN FOR SPECIAL, DISTRICT, OR LOCAL IMPROVEMENTS” TO THE CODE OF THE TOWN OF WARWICK

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

WHEREAS, a Local Law adding Chapter 6 to the Code of the Town of Warwick entitled, “Assessments other than for Special, District, or Local Improvements”, was introduced on June 11, 2009, and

WHEREAS, a public hearing was held on December 8, 2011, and

WHEREAS, the Town Board has considered all comments received and has determined that the adoption of the said local law is in the public interest,

NOW THEREFORE BE IT RESOLVED that the said local law adding Chapter 6 to the Code of the Town of Warwick is hereby adopted and same shall go into effect as provided by law.

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

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

PRIVILEGE OF THE FLOOR (GENERAL)

Rocco Testa – Resident, Buttermilk Falls Road – Why did you schedule a public hearing on the same day that you had a Town Board meeting, isn't it supposed to be separate?

Supervisor Sweeton – Let me just clarify that what's happening with the unsafe building is it's not a public hearing. It's not a hearing for the public it's considered a hearing on an unsafe structure under the code. I will just refer you back to the code if you want to clarify that. It is not a public hearing and we normally do those prior to a board meeting. We've always done it that way and we can argue if that's good or bad but that's the way we've always done it. These were just continuations that were never closed because we haven't resolved them, so that is why and we want to keep it current because we did not want the gentleman to keep stonewalling. He did a half baked fix the first time and it wasn't acceptable.

Rocco Testa – But you have let him stonewall.

Supervisor Sweeton – No we haven't. We have the time between meetings and we did leave messages in his office and he did call back this afternoon. Maybe that's his ploy, maybe that's his legal ploy. I don't know, but he did call back and say absolutely I'll do what ever you want to do. He did call our engineering office earlier in the week. The unsafe structure code says he either has to repair and/or remove and we discussed this. I just reviewed the minutes from the last meeting. We did discuss it under the unsafe structure section of the law. We didn't believe we had the right to make him repair the bridge because the code says he can repair or remove it and he clearly looked at the cost and he said he's going to remove it. That's what he said. Fair, unfair I don't know but that's what the statute allows us to go after him.

Rocco Testa – If you're not happy with the resolution you have the right as the Town to go there and do the repair it says it in your own Town Code and charge him for it.

Supervisor Sweeton – Not if he removes it. You have to read the statutes.

Rocco Testa – The Town still has the right to tell him no, there was a bridge there before if you want the right-of-way on it we deem you to put the bridge back the way it was.

Christine Kick – Resident, Buttermilk Falls Road – Because emergency vehicles still have to go back there.

Rocco Testa – Because it probably fell into his hands.

Supervisor Sweeton – We need one at a time because it is recording and it makes it harder later on to do the official minutes.

Rocco Testa – You do have the right to be able to do that and tell him to put back what was there. A working bridge so emergency vehicles can get back there, utility vehicles can get back there in case of emergencies so we don't leave our residents stranded. You don't do that unless we do it ourselves and charge him.

Supervisor Sweeton – Unfortunately that's not what the unsafe structure code says. We can argue whether it was written right or wrong or however they intended it to be but it doesn't say that. It says the Town has the right to make him either repair and/or remove so it is his option to either repair or remove it and make it safe.

Rocco Testa – How can you make it safe if it's not there?

Supervisor Sweeton – We can argue whether that’s good or bad but that’s what the statute says.

Rocco Testa – On October 28th we came here to a Town Board meeting we brought up the bridge on Buttermilk Falls Road. You said you were going to have a hearing with Silverman and his attorney and you set the date correct. That date came and he didn’t come. You also told us you would have a meeting with the residents in November.

Supervisor Sweeton – Correct.

Rocco Testa – November is way gone and we haven’t heard.

Supervisor Sweeton – I do apologize for that.

Rocco Testa – You also told the transportation council the same thing we just talked about, the Orange County Transportation Council a year and a half ago that you already had the meeting with us and that’s on public record on the internet about a bond. You had a meeting with the residents of Buttermilk Falls Road and they agreed to get a bond to have that bridge replaced. That public record can be brought up on the internet under the Orange County Councils minutes. You said it and it’s in there; was it true?

Supervisor Sweeton – I’ll have to check it because I don’t have any recollection of that.

Rocco Testa – Now were taking this down the road again. We’re taking this thing down the road like you said until those funds run out and then you don’t have any obligation to do anything.

Supervisor Sweeton – No we’re not.

Rocco Testa – You haven’t done anything in ten years.

Supervisor Sweeton – The funds are programmed in the five year plan.

Christine Kick – When is the five years up?

Supervisor Sweeton – It’s a rolling plan so this year the plan goes from 2010 to 2014.

Christine Kick - So the funds are still there.

Supervisor Sweeton – Oh yes.

Christine Kick – So when would they expire? We are trying to get this done, I mean this is ridiculous. It’s not going to go away it just gets worse and worse. This has

been going on since Tony Houston was in office. I know you inherited the problem but we're not going away.

Supervisor Sweeton – Nobody is asking you to go away. I have given you a solution which you had some neighbors here the last meeting who clearly expressed opposition to that solution.

Rocco Testa – One family paying taxes.

Resident – And they should not speak for the rest of the community.

Supervisor Sweeton – That's right and that's the purpose of getting here, so again let's try one at a time so we can get you on the record. I will address Mr. Testa's comment. I did say I would have a meeting sometime late in November and I apologize I did not. The letters for that meeting will go out tomorrow to every resident on Buttermilk Falls and we will have that meeting.

Rocco Testa - What type of meeting is it going to be?

Supervisor Sweeton – I will tell you what I will discuss at that meeting the topic. The topic is under Town Law 200 a procedure by which that bridge can be repaired and the cost of the repair can be put back on the people who are benefiting from it, which will be the people on the road. The Town Board could initiate that on its own subject to a permissive referendum of the landowners. Before this Board takes that action the second option is for 51% of the residents to agree to it. That's the purpose of the meeting. If 51% of the resident landowners raise their hand and say yes let's do that then this Board will proceed. If 51% don't, the Board will have a decision to make. Do they want to do it and risk a referendum of the people on the road that don't want to do it; that will be our choice to decide. That choice is ours alone.

Christine Kick - You mean it's going to cost...

Supervisor Sweeton – We have an estimated cost using the federal dollars. We have some hearsay costs by the attorney for Mr. Silverman. I'm sure we can get a couple of contractors to give us an estimate of a cost.

Rocco Testa - I understand that.

Supervisor Sweeton – But understand one thing.

Rocco Testa – Is that going to be used in conjunction with the federal dollars or is the road going to pickup the whole cost?

Supervisor Sweeton – That’s all to be discussed. Let me explain again the procedure. Let’s just say the room fills up with Buttermilk Falls Residents and everybody’s in a good mood and they all decide, yeah let’s move forward on this.

Christine Kick - Never happen.

Supervisor Sweeton – Before that happens, the Town will have to present a cost estimate to be bonded. Then again it doesn’t obligate anybody to anything until we move forward.

Rocco Testa - You have the cost estimate from Lochner Engineering.

Supervisor Sweeton – Correct.

Rocco Testa - Which was like \$184,000.

Supervisor Sweeton – It was more than that I think.

Rocco Testa – No, it was \$184,000. He said he could put it in for about \$184,000 to \$189,000 if the Town used some of their own backhoes to move equipment. Now some of that cost has been reduced because the bridge is no longer there, so you don’t have to pay to have the bridge removed.

Councilman DeAngelo – How long ago was that?

Rocco Testa – What, two years ago?

Supervisor Sweeton – A couple of years.

Rocco Testa – It was fine...

Supervisor Sweeton – The point is before the Town would take the action to actually create what essentially is a maintenance district. The actual cost to be bonded would have to be known by the residents and they would again have an opportunity to a vote, a referendum vote to approve or disapprove of it before it moves forward before anybody borrows anything.

Rocco Testa - The bond lasts for how long?

Supervisor Sweeton – It depends the Councilor will have to tell us the usefulness it’s probably a 20 year note I’m guessing, if I had to guess off the top of my head.

Rocco Testa – Spread over everybody on the road right.

Supervisor Sweeton - It’s assessed on your property tax and it’s assessed on every property that benefit from it so it would be any property touching the road.

Rocco Testa – Wouldn't it benefit Mr. Silverman that all the residents pay for his property. Why couldn't the Town float a bond, use the grant money and float the bond at Silverman to pay for the rest of the bridge so it might not cost him \$100,000 it might cost him \$60,000.

Supervisor Sweeton – We can't just float a bond for one person. That's the problem.

Jerry Tafuro – Resident, Buttermilk Falls Road – Define that law again.

Supervisor Sweeton – Town Law Section 200.

Jerry Tafuro – Define it as it says this unsafe structure.

Supervisor Sweeton – It's a different thing. In the Town Code there is a section of code and I don't know the chapter number, but it's an unsafe building.

Councilman Gerstner – Chapter 63.

Supervisor Sweeton – Chapter 63 it says Buildings Unsafe.

Jerry Tafuro - Yes.

Supervisor Sweeton – If you go onto our website you can read it.

Jerry Tafuro – I understand we all agree on what the wording is I'm familiar with it, but you're saying an unsafe structure. How do we define unsafe structure? Is that open for discussion?

Supervisor Sweeton – No, it's defined in the code.

Jerry Tafuro – How is it defined?

Supervisor Sweeton – I don't have the definition.

Jerry Tafuro – Is a structure a building on somebody's property somebody could walk into or is a structure that is used constantly for passage? Its two different things and now when they go back to Mr. Silverman's attorney, I mean you have to go back to it in one form or the other and it's open ended and if we stick together on this we could achieve something. The repair that you're requiring him to do is not good because you can get around it. You're going to have to go a half mile each way with a 10 foot fence. The barricade you're talking about is totally insufficient with kids in that area. Why not put a safe temporary structure until we can resolve it which is not a large cost if we define this clearly as to what it is not a structure on somebody's property but a structure that's been in use a safe structure for

emergency access and utility access. You collect revenue back there on taxes and utilities, I mean you have to have an entrance. I would bring this to Mr. Silverman and it doesn't have to be \$100,000 instead of evading from it lets accomplish something because that wording is open ended on safe structure. It's not a building or a shed that somebody could walk into or a dilapidated house. This was a structure in safe use.

Supervisor Sweeton – It doesn't matter.

Jerry Tafuro – It was a community created by the Town which is interested in tax revenues.

Supervisor Sweeton – It doesn't matter how you define it. It's defined in the code. The issue with it is it says repair and/or remove and Mr. Silverman has hired an attorney who clearly advised him to remove it. The advice that we've gotten is that is an option for him to remove it.

Jerry Tafuro – But what kind of structure? The structure is not defined. You are not defining your structure which is very important.

Attorney John Hicks – Everybody knows what the structure is; it's the bridge.

Jerry Tafuro – A structure that's always used as an unsafe structure on a piece of property a burnt down home or something falling down or dilapidated. This is a transportation structure. You've got something before you here. This was one used by a Town vehicle, it's used to form a community, and it's used to generate tax revenue for this. You're forgetting about your neighbors and the people who form this community asking for your backing. This bridge was there before the house was on the property. We've given you all the information and you're going back to Mr. Silverman they should have the information we already gave the Town with those deeds. When you go back to them you should give that to them. Let's really do something and fix something here. We are going to have problems with the barricades because they are not going to be sufficient; kids are going to be hurt. There is a simpler solution and we do need better backing from you; you're really not showing support.

Supervisor Sweeton – OK I appreciate your comment. Thank you.

Christine Kick – I have a few questions. I've stood before this Board many times when we were building our house on Buttermilk Falls Road. Our house we own to the middle of the road and it's deeded that I have to allow my neighbors through my own property to get from point a to b. In addition to that on my piece of property there was a stream that back in the 1920's the people that lived across the street from us made their well run dry. It was a 6' by 100' piece of property that was deeded as a thoroughfare to walk down the stream with a bucket to get water. Because of these different thoroughfare deeded properties we had to have 25 people

sign that property as well as from the road I think it was 50' we had a box and within the box we could put the house. According to the Town's specifications we had to put an emergency fire truck turnaround in our driveway to make sure there was a place where the fire truck could turn around. We also had to make sure we are responsible and maintain and re-gravel and pave our side of the road the entire length of our property because as an owner of our property due to our deed I am responsible for the footage in front of my property for a thoroughfare for my neighbors, just as Mr. Silverman is responsible in his deed for the same all of us are on that road. In addition to that with our driveway there is a Town law where you have to pave the first 25' from your driveway where the curb is and regardless even though it's a private road and the Town is supposed to have zero ruling over a private road I had to pay for that and put up a bond for that even though it was a private road. My question to you guys is if I have to abide by all of these different things that the Town specifies even though it's a private road I feel that I'm thinking I'm held up to a certain level that I need to achieve in order to clear the board. Why is it that Mr. Silverman isn't?

Supervisor Sweeton – Because you're mixing a couple things up. Did you build your house?

Christine Kick - I did.

Supervisor Sweeton – OK, in order for you to build a house in New York State on a private road you need a 280a variance granted by the ZBA and for the ZBA granting that variance they can ask and require of you to do certain things. It's been history in an effort to improve older subdivisions that were built prior to some of these zoning regulations to try and make them better, to improve them and add value to your house that you are building to do certain improvements. That is why I believe you were required to do that. Mr. Silverman is not before the Planning Board and it's not before the Town Board it's before either the Planning Board or the ZBA. Which are two separate Boards constituted under New York State Law and they have certain things they can compel an applicant to abide by and those are some of the things you mentioned. Mr. Silverman doesn't have an application before any of those Boards. If he were to come before as Mr. Savarese did to subdivide his property there was an effort at that time to make him repair the bridge on his property. Mr. Savarese abandoned his application and sold the property to Mr. Silverman, so if Mr. Silverman decides in the future to develop the property I would venture to say that the authority of boards, either the Planning Board and/or the ZBA would require him to make improvements to that property.

Christine Kick – If I were to dig a hole in front of my house so nobody else could get past right on the right-of-way that's OK by the Town Board if I do that?

Supervisor Sweeton – Yes, it's as if I dug a hole in my backyard and your neighbor who has a right in his easement to go through that hole or over that hole could sue

you. You could sue Mr. Silverman if you feel you have that legal right; again I would say you should talk to an attorney on that.

Christine Kick – Right but wouldn't the Town in general have a problem with me doing such a thing?

Supervisor Sweeton – It's not a matter of whether we are in favor of it or not in favor of it. It's just not in our purview to have jurisdiction over it. I mean we could say that's wrong but it's just not, it's not within our purview to be able to control it.

Councilman DeBuck – Does Mr. Silverman or the association of homeowners that live in that area plow the snow?

Christine Kick – There's a few of us that plow the road.

Councilman DeBuck – So you kind of do it on your own.

Rocco Testa – We have an agreement with each other.

Christine Kick – We go up to a certain house and those of us who are able to have plows do that.

Councilman DeBuck – If you don't plow to a neighbors standards he might call and say, gee you did a lousy job plowing the road.

Christine Kick – There are a lot of small children. I moved to this area and to this road so I could be in a spot where I wouldn't be afraid to have my kids ride their bikes up and down the road. I am now afraid. They play back there and it is dangerous and I will not allow them back there. Like I said earlier I fell with my dog and I have a right based upon my deed to go through that property and access. The same issue putting up a barricade across the road you don't need one you already put a barricade, they go around it.

Jerry Tafuro – It won't be sufficient unless it's fenced in like 8'.

Councilman DeBuck – This bridge is a suspension bridge I'm assuming and it broke and fell in.

Christine Kick – Why don't you just come down the road and take a look.

Councilman DeBuck – You've got culverts under it that clear the water.

Jerry Tafuro – It's like the one on Cascade and Brady Mountain Road.

Rocco Testa – You have significant water running through there.

Supervisor Sweeton – It's a big stream.

Rocco Testa – The last couple of years it's been unbelievable.

Christine Kick – It's Longhouse Creek.

Supervisor Sweeton – It's also a DEC classified stream which means that anybody that does anything in it needs to go to the DEC and get a permit by the way.

Christine Kick – Speaking of when they brought in all those bulldozers and stuff and they were knocking all that concrete around did they go to the DEC?

Supervisor Sweeton – That's a good question.

Christine Kick – I could call the DEC.

Supervisor Sweeton – Absolutely you could call the DEC.

Christine Kick – You're in favor of them doing this. This Town Board has just said OK they can put up barricades and you saw that they knocked the rest of it down.

Supervisor Sweeton – We didn't, we have pictures of the damage to the bridge and the inadequate barricades. That's what we have pictures of. We're not aware that he did anything in the stream.

Christine Kick - When the bridge fell in there were pictures on Channel 12 News. It was public information and Rocco had pictures that he sent to you. Then one day all of this machinery showed up and there is concrete and stuff everywhere in this stream that you just told me...

Jerry Tafuro – They knocked the rest of the debris down the stream.

Supervisor Sweeton – Then I suggest you file a complaint with the DEC and maybe they'll fine Mr. Silverman for being in the stream.

Jerry Tafuro – That's what we keep doing here and we're not getting anywhere. I feel bad for the guy, but he should have realized when he bought the property and the Town shouldn't have let the sale of the property go through. This was known, come on don't laugh, it's like you selling me a mint car and allowing me to insure it. It's a past owner problem and we have an obligation and we can't make this issue go away.

Councilman DeBuck – Was Michael's explanation on meeting with the residents and talking about the procedures that need to take place of whatever it was the section 200, is that feasible?

Christine Kick – I'm one of the few people that actually get along with the majority of the people on the road. You have two different situations where you now have a barricade so you have two dead ends. One is a very long one and one is a short one. The people on the shorter side like that because they don't have to travel through the dust because it's a dirt road during the day, summer time and stuff like that, so therefore naturally that side of the road would not necessarily want the bridge to be fixed or repaired nor do they want to pay for a bond or additional taxes to have it done. Where as the other longer side of the road says we'll wait a second if there's an emergency this is where the majority of the houses are. There could be problems which there have been in the past with emergency vehicles getting down there. The children can no longer get the bus stop where they used to; they have to walk up the long road which is quite long to the bus stop and they want the bridge. You kind of have a situation going on where different portions of the road want different things that will benefit them in different ways. At our last meeting there was one family here causing an uproar that they don't care about kids falling in the stream, taxes and all that kind of stuff. There is various differences of opinions and I will tell you at the next meeting it's just going to be a lot of screaming with people going back and forth with differences of opinions. We have tried to get together and we have a Buttermilk Falls account where people put in different amounts where we try to fix the road at different occasions. Unless we have Town influence that can help us I don't foresee this being rectified because it hasn't for all these years that we've had this problem no one has stepped forward and truly I'm beginning to believe until we have a major problem that's when something is going to change and it's unfortunate.

Jerry Tafuro - We did make do with the bridge all this time being the way it was but in the wintertime the people on this side that didn't have access came to me to plow it through over the bridge and come out our way. That's the way oil trucks go down there, that's the way electrical trucks go to the lines, that's the way rescue vehicle trucks go in and no matter what you do it's a sheet of ice in the winter and it's unfortunate. What she said this is true to a point.

Rocco Testa – Not to have children that live on the far end of the road get over that bridge. They have to walk almost 2.5 miles if their parents can't take them. The Town's function is still to take care of the residents whether it's a private road or not. Your job in government is to see and provide safe welfare for our residents and it seems like you don't want to do that.

Supervisor Sweeton – I respectfully disagree with that and I resent your comments that we don't care. I have worked for 10 years to try to resolve this issue and I am sorry I am not going to listen to you say that to me again. Are there any other comments? Hold on a second, hold on a second you have privilege of the floor because we give it to you. Now do you have another comment that you'd like to make that's different then what you've made already?

Resident - Do you know if Mr. Silverman put in for a FEMA grant or anything to fix the bridge? Can we request him to do that if he doesn't have the funds available?

Attorney John Hicks – I advised Mr. Silverman's attorney that there may be a provision under FEMA.

Resident - Could you please ask him if he could put in for that.

Jerry Tafuro – It's too late for that.

Attorney John Hicks – It's not too late I think its December 15th.

Resident – If you could do that it would appreciated anything that would help.

Jerry Tafuro – It seems like he's evading it.

Attorney John Hicks – I advised him of what I understood was the new deadline with the FEMA Program as a result of Hurricane Irene and Tropical Storm Lee that the deadline was extended to December 15th and if he wanted his client to apply for that he certainly should address that.

Resident - Can you give us the name of the attorney? Maybe we should all start calling up his attorney.

Attorney John Hicks – Beg your pardon.

Resident – We would like to have Mr. Silverman's attorney's name and phone number or email do I have to cc the White House?

Attorney John Hicks – His name is Jonathan Hornik but whether or not he applies for that...

Resident – That's why I want to talk to him it's just a suggestion. Now if we call the DEC won't the Town get in trouble knowing that this bridge there's debris in there and they didn't do anything.

Supervisor Sweeton – You have the right to do whatever you like. You can call the DEC. We feel competent in the position we've taken here. You have a right to do what you need to do. I don't think we have done anything incorrect in any of these proceedings.

Jerry Tafuro – You said you want to resolve the situation. There is no reason and I appreciate all the help but there is no reason the Town could not have requested a temporary repair that should have got down by now with the culvert pipes until the situation was resolved. For the use of emergency vehicles and there's no reason you

could have had it done. You've done it all over Town in this last emergency situation whether it's a private road or not it's the people that live in this community for the young people that live in this community, for the emergency services. Forget about the private road and if it's a private road why do you have to pay taxes on it?

Supervisor Sweeton – We run into a little thing called the law and I'm sorry about that. I do apologize for that.

Resident - That is your responsibility and that's why we are here.

Supervisor Sweeton – Are there any other last comments?

Christine Kick – The 2.5 miles that we have such small children, kindergarteners walking to get to the bus stop what is the Town guidelines as to how far a child is suppose to walk to get to the bus?

Supervisor Sweeton – We don't have any jurisdiction over that issue at all. That's a school district issue; they're an entity unto themselves just as if they are a municipal government. That should be addressed to the school board if you have that issue.

Christine Kick – Well we do because we no longer have the bridge and the children unfortunately that live by the bridge have to walk all the way to the top of Buttermilk Falls which is about 2.5 miles. There is snow and ice and the fact of the matter is we have as a Town we have responsibility to make sure the children are safe and that they are conduct with adequate measures.

Supervisor Sweeton - The question should be addressed to the school board.

Councilman Gerstner – That is the school Boards responsibility.

Christine Kick – On a private road is a bus allowed on a private road?

Supervisor Sweeton – That's a School Board issue.

Christine Kick – Maybe you and the school board need to communicate a little bit.

Councilman Gerstner – You talk about fire service I've been a volunteer here for 35 years and if you have an issue with your fire service you go to the Board of Fire Commissioners. It is elected by the residents of the Warwick Fire District. If you have a problem they meet the third Tuesday of every month. You go to Station 1 in Warwick and tell them that you feel you're not getting proper fire service and then it's up to them to address their Chiefs and get a resolution and find out what's going on if they're not doing their job. Fortunately or unfortunately we have no say. Again I'm not pushing this off we're the Town Board OK, they're a school board and they are responsible for the teaching of your children and the transport. We're

not responsible. This Board alone is not responsible to transport your children to school that's why you have a school board. Right, wrong or indifferent that's just the way it is I'm not saying it's good or bad. I understand the issues and I understand the problems, I understand all that.

Christine Kick – You have different boards and then that boards going to come back and say well it's a private road we're not allowed on a private road you need to go back to the Town Board. Then you're going to get sent all over the place.

Councilman Gerstner – Then they don't know the law because being the Town Board we don't have a law on that.

Christine Kick – Is it possible for us to request a meeting of the minds with all the boards. We can all get together in the same room and iron this out instead of everybody going to this meeting and that meeting.

Councilman DeAngelo – We can't tell the school board what to do.

Councilman Gerstner – No we can't tell the school board.

Christine Kick – No I'm asking if we can have a meeting of the minds with all the boards so we can all actively take part.

Resident – We have letters from the fire departments and we have letters from the police department.

Councilman Gerstner – We're the police.

Jerry Tafuro – And the ambulance I've had major problems.

Councilman Gerstner – We're the police and the fire is the Board of Fire Commissioners.

Rocco Testa – I have letters. Mike has letters in his files. Mike has his own email that says it's an unsafe situation that you need to get emergency vehicles back there. Right now he's forgetting about these letters that he has. I have copies of them. I have one from Tom McGovern, the Chief about the road that it needs to have a bridge put in. I have one from the ambulance department; I have one from the fire department...

Christine Kick - Here we have all these boards and nobody is doing anything about it.

Rocco Testa – We've had these letters for years and everybody is saying yeah we're trying to so something about it.

Councilman Gerstner – You should pass that all onto the attorney.

Christine Kick – We have Mike and the Town.

Councilman Gerstner – Silverman’s attorney. Pass all that stuff on to him. That is all in my opinion.

Supervisor Sweeton – Are there any other opinions?

Christine Kick – We haven’t resolved anything.

Councilman DeAngelo – You’re not going to resolve it.

Councilman Gerstner – We will have a meeting with all the residents. We will set that up. We are not going to resolve the bridge right here.

Christine Kick – Here is what I am requesting to make sure we have all the different parties involved whether we have the fire board, the police board, the school board. You can invite everybody in the same room to understand what all the issues and see if we can come to a conclusion to how we are going to make these individuals who live on this road are safe and their children are safe. Because you are referring us to a different board and they will refer us to a different board.

Councilman Gerstner – I’m just referring to the board that has responsibility for that. The board of fire commissioners is elected to protect the fire district and we can not tell the fire district what to do.

Christine Kick – I’m just saying can’t we all be in the same room.

Jerry Tafuro – What is Mr. Hicks going to put in his letter?

Councilman Shuback – You people have to start with yourselves. You have to form an association and bring that road up to specs so the Town can take it over and then go from there.

Christine Kick – How do you do such a thing when you have multiple people on the road that can’t agree?

Rocco Testa – Buttermilk Falls homeowners and I have the records and they’ve tried to do that five times since 1953 and every time we were knocked down. Once because we were short \$300 and then they changed the specifications five times since 1953.

Councilman Shuback – You know what the real problem is; it’s not what the Town Board or the School Board or Fire Commissioners are going to do; it’s a private road.

Rocco Testa – If a contractor comes in here you take the road over right away. There's a road off of Brady Road that has fire hydrant sticking out of the ground and that was an issue and you took that road over.

Jerry Tafuro – Right now we stand where he's going to put in a letter to make a safe structure that's where the Board is going.

Supervisor Sweeton – Correct.

Jerry Tafuro – After that you're looking for response and you're looking for something to be done and then what happens after that? Are you going to put in more than just saying put a barricade up? Are you going to suggest a fence? Are you going to suggest resolution to the problem?

Rocco Testa – Get the rest of the debris out.

Councilman Shuback – You've got to start with yourselves.

Supervisor Sweeton – We'll discuss that with our Building...

Jerry Tafuro – The paperwork that you have in the deed will it be passed on now?

Supervisor Sweeton – I have what Rocco gave me and if that's all you want me to pass on I'm happy to do that. I would suggest that if any of you have copies of title policies. You have a relatively new home if you have copies of your title policies I would love to have a copy of that to put the whole packet together to give to Mr. Hornik, that would be great.

Christine Kick – Is there going to be another hearing?

Supervisor Sweeton – We haven't closed this hearing yet until the issue is resolved in the context of Chapter 63.

Christine Kick – But it's agreed so far that the barricades that you're going to allow them to put up they are going to have to remove all of the debris and unsafe nails and plywood and all of the rebar that's in stream.

Supervisor Sweeton – I would say that it's a reasonable request from us to remove the debris.

Jerry Tafuro - To start.

Supervisor Sweeton – Yes.

Christine Kick – OK.

Jerry Tafuro – And if he doesn't comply with your request?

Supervisor Sweeton – We'll take him to justice court and he will get fined for everyday that he doesn't do it.

Rocco Testa – Who pays for that?

Supervisor Sweeton – He does.

Councilman Gerstner – He pays for that.

Rocco Testa – How?

Supervisor Sweeton – By a judge awarding it.

Christine Kick - How long does this process take?

Supervisor Sweeton – He has to get an accusatory. We have to issue an accusatory and then it gets scheduled for the court and then however long it takes the court to schedule that appearance.

Christine Kick - In the meantime any child can go in there and get hurt.

Supervisor Sweeton – Right now we have notified and officially served Mr. Silverman and his attorney the notice that he has an unsafe structure on his property. If someone gets hurt tomorrow I suspect they have legal recourse against Mr. Silverman. I am not an attorney but I would say that's the case.

**ADJOURN: Motion Councilman DeAngelo, seconded Councilman Gerstner that the regular meeting be adjourned. Motion Carried (5 ayes, 0 nays) 9:23 p.m.
12-08-11cp.**

Marjorie Quackenbush Town Clerk