

REGULAR MEETING, WARRENSBURG TOWN BOARD, AUGUST 11, 2010

The regular meeting of the Warrensburg Town Board was held on Wednesday, August 11, 2010 at the Albert Emerson Town Hall at 7:00 p.m. with the following members present:

PRESENT:	Supervisor	Kevin Geraghty
	Councilman	John Alexander
	Councilman	Bryan Rounds
	Councilman	Austin Markey
	Councilman	Dean Ackley

OTHERS PRESENT: Kathy Rounds, Deputy Town Clerk; Ed Pennock, Highway Superintendent; Richard Galusha, Sewer Superintendent; Sandra Parisi, Historian; Steve Parisi, Warrensburg Museum; Mark Schachner, Attorney for the Tow; Eric Johnson of Chazen Companies; Jason Denno, Bill Wasilauski and numerous Town residents.

RESOLUTION #146-10

MOVE TO SCHEDULED PUBLIC HEARING

On motion of Councilman Alexander, seconded by Councilman Ackley, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

IT IS RESOLVED, that this meeting be interrupted to hold a Public Hearing advertised and scheduled for this evening at 7:00 P.M.

PUBLIC HEARING – IMPROVEMENTS TO WASTEWATER TREATMENT PLANT EFFLUENT DISINFECTION PROJECT

Public Hearing was called to order at 7:00 P.M.

A legal notice was printed on August 4, 2010 in the Glens Falls Post Star with a copy of said notice posted on the Town Hall bulletin board on August 2, 2010. The contents of the legal notice was read into the record.

Eric Johnson, Chazen Companies-told the Town Board he had given a presentation last month on this, the project is stemming from a 2006 mandate to add seasonal effluent disinfection, Chazen Companies have prepared bid documents for that work, it is ultraviolet disinfection, it is about a \$515,000.00 project, the NY State Environmental Facilities Corporation has funding packets for the town for this project, a 0% loan for thirty years. Mr. Johnson said they are pretty well ready to bid the project which is why they are here today, at this point we are operating outside of the SPDES permit, the Board requested that DEC be present at their last meeting so the Board can have an opportunity to ask DEC questions.

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Jason Denno-said that on August 4, 2009 the Town of Warrensburg received a hardship determination from EFC with approximate terms of financing being 30 years at 0% financing. Mr. Denno said this is being looked at as a cold funding project, they also applied under the Round 10 WTIP DEC grant opportunity and hopefully we will hear something in September to October in the form of a grant, again going back to that hardship confirmation letter that was issued on 8/4/09, that confirmation letter will end on 8/4/2011 so we must take advantage of that, the town proceeds with this project prior to that date a few months, at least by May of next year, they should have the full application in the SRF program for financing. Mr. Denno said he did not think there was any better time at this time from a cold point picture, that is his position at EFC, he works with communities in planning and designing construction to start up both Water and Wastewater systems. Mr. Denno told the Town Board they have looked in detail at all of the funding opportunities, knowing that we are under pressure, we are currently in violation of our permit so this opportunity of being able to take advantage of short term financing with EFC and come September or October to form a grant which would mean you are borrowing less money through the Hardship Program at this time.

Supervisor Geraghty – said just to clarify one thing, we have to have this paperwork filed by this September in order to apply for this EFC zero interest money, we did get a packet sent to the Town Attorney stating that.

Mr. Denno told the Supervisor his files were issued on 8/4/09, the hardship confirmation letter, traditionally that is two years so you have two years to the date of that letter to move forward or take advantage of the zero percent, that means short term financing to have access to full IP amount, it would currently be listed at \$550,000.00 currently but again with today they are seeing these co-funding agencies very limited, not so much with the SRF Program but the USDA Rural Development has pulled several PED's back recently, millions of dollars due to availability of the funds which means of course some of these projects will not move forward if the money is not there. Mr. Denno said he has been assisting the Supervisor and Eric (Johnson) trying to position us (the Town) for all opportunities, the best opportunity will come in October, the Town has positioned itself well, and, it will put us back in compliance with DEC which is what the goal is.

Councilman Markey-asked how the Town got out of compliance with DEC.

Bill Wasilauski, Regional Engineer for DEC- told the Town Board the item they were talking about was the disinfection of the wastewater from the treatment plant which is authorized under SPEDES permit, pollutant discharge elimination system department of DEC, back in 2004 Governor George Pataki passed a plan of action for the Hudson River to make it swimmable all the way from the battery to the source and there are hundreds of treatment plants along that river that were identified as not having disinfection facilities, Warrensburg was one of them and that they would need it. Mr. Wasilauski said a letter was sent out from the DEC on June 28, 2006 to the Town of Warrensburg letting them know that this plan had been enacted and that there would be a modification of the

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Warrensburg SPEDES permit to include a requirement for seasonal disinfection and the letter came from central office, a form letter that went to all of the towns, it offered an opportunity to meet with representatives from DEC, subsequently the SPEDES permit was modified by the Department through the typical process and the requirement for disinfection, immediately beginning on May 1st of 2009, it was put in the permit. Mr. Wasilauski said the Town was a little bit behind in requesting an extension, the Department granted one extension to May 1st of this year, 2010.

Supervisor Geraghty said it started in 2007 when the Town realized in 2007 they had to do it and we contacted Chazen for other sewer work and then we started getting into what this was going to cost. Supervisor Geraghty said the contentious issue with the Town Board is it was a state mandated thing the Town needed to do and we have kept bantering back and forth trying to get grant funding which we cannot get.

Councilman Markey asked if there was anyway the Town could have fought the mandate. Councilman Markey told Mr. Wasilauski that he had said the SPEDES permit had changed, it sounded like the Town did nothing with this notification. Councilman Markey asked if that was correct and asked what the Town's next step should have been once the Town had received the notification, should the Town have come back and said the State was wrong and the Town was going to fight the SPEDES permit because when the Town built the Sewer plant it was built for a thirty percent expansion and the town is still well below the expansion level. Councilman Markey asked if the SPEDES permit measured just what goes into the plant.

Mr. Wasilauski said it was a little bit different from that, he understood what the Councilman was saying in this situation; water quality standards are revised from time to time and in this particular situation, again, the Governor at that time required that there be disinfection of the discharges to the Hudson River basin, the direct discharges or within ten miles and that included the Towns on the Schroon River and so when a new standard like that comes about, it was put in these permits with a public notice and a chance to comment, there were several communities down state that challenged it in their permit, they did not loose the challenges, but it was held up. Mr. Wasilauski said there were some other issues some of the communities down state have combined, some over flow issues they have to work out along with the requirement for disinfection so there were several communities who originally challenged it but it is his belief they were negotiated short of hearings and those communities are proceeding with disinfection projects.

Councilman Ackley- said what bothered him was when the Town put the sewer project together, DEC said this is what they wanted and the Town did it, then the Governor came along and said it is not good enough. Councilman Ackley said if the Town jumps on the bandwagon right now and get this \$500,000.00 and before January our glorious Governor that we have now says this is not good enough, are we going to change it again? Councilman Ackley told Mr. Wasilasuki he obviously was not in a position to make a decision here, tonight.

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Councilman Markey-replied that as Dean had said, they made the changes in 2004 and the notification in 2006, what is not to say they will not make another change five years from now and tell the Town they have to spend another \$500,000.00. Councilman Markey said he did not care if it was a zero percent loan or not, the State is mandating that the Town make these changes, let the State come up with some money to help make these changes.

Mr. Wasilauski – said that he understood the position, and, said one thing they needed to understand was that changes in water quality and that kind of thing go through a public hearing process, permit modifications like this one went through a public notice process and there is an opportunity to comment on them, in this particular situation there is a section of the ECL, Environmental Conservation Law, that does govern requirements on treatment plants and on a water quality passed effluent standard, the Towns treatment plant is roughly twenty years old, basically there is a requirement written into a SPEDES permit that typically will not be made more stringent for ten years and that is the situation here. Mr. Wasilauski said he believed the effluent limits on the Towns treatment plant has essentially been the same since it was constructed, however this change from 2004 was announced prior to the permit change to the communities by letter, they were given the opportunity to comment and the bottom line is, it has gone through, its been upheld in all of the communities along the Hudson River and they are complying with it, some have already done it, some have done it without funding and some have done it with funding. Mr. Wasilauski said regarding the funding question, initially when it was purposed in this Upper Hudson segment there were seven communities that received funding of all of the ones that applied, four of them were close to full funding, ninety percent and the other ones were significantly less, there was money available at that time, those grants were made in 2007.

Councilman Ackley asked Mr. Wasilauski how the communities who did this without the funding did it, and how they did it. Mr. Wasilauski said much like the Town of Warrensburg's situation, they applied through EFC or other mechanisms to get loans; when he said funding the ones' he was referring to were actual out right grants for disinfection projects.

Councilman Markey asked Mr. Wasilauski if he was familiar with the Town's SPEDES permit and what has changed with the permit from 1995 to 2006.

Mr. Wasilauski said what changed was the requirement to disinfect the effluent prior to discharge to the Schroon River on a seasonal basis, all effluent standards are based on water quality uses and protection of public health and the environment; in this situation they looked at passage and levels in the Hudson River, they have looked at situations and they established, basically, that to further clean the River and make it suitable for recreation we should have these facilities disinfecting and basically, along those thought processes this came about, that is what the change is. Mr. Wasilauski said the quantity,

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the gallons of wastewater the town is discharging is still the same, it is just that it is going to be disinfected so that the all of the different bacteria in that water are removed.

Councilman Ackley asked if there were any guarantees that five to ten years from now they won't change their minds and make it more restrictive again and Mr. Wasilauski told him no, not really, there is some discussion at State level of further requiring disinfection of other municipalities, they are not just talking Hudson River but there are a lot of communities that discharge, based on water classification, some communities currently discharge to C class waters which are considered not suitable for swimming or drinking, they are not required in their permit to practice disinfection, the discussion is that is not good enough and they should be made to disinfect also.

Discussion ensued on the proximity from the Schroon to the Hudson, shovel ready projects through federal stimulus programs and water treatment, what might happen in five to ten years if the Town does this.

Mr. Wasilauski told the Town Board the only thing that could always happen is if the water quality standard were to change, there is potential for a change.

Discussion ensued on support of clean water, keeping the environment clean and concerns for the taxpayers in the town who cannot afford this, and the state mandates.

Mr. Wasilauski told the Town Board he understood the economic impact and asked Jason if he wished to comment more on this. Mr. Wasilauski said money is getting very tight, it is good that the Town already has an application in the water quality improvement project application in Round 10, he would cross his fingers and hope that it is funded but he would not expect money to get any easier in the future.

Supervisor Geraghty-said the Town also intends to file an application with NYSERDA to try to get some funding for this project.

Councilman Alexander asked what the worst case scenario would be if the Town Board decides to play the waiting game.

Mr. Wasilauski –replied that the Town is in violation of the requirements in the Towns permit that was modified to May 1st of 2010 so the Town is in violation of that and if there is no progress their job at the Department is to bring those situations forward to compliance and the enforcement process, that could result in possible fines, fines under the clean water act are possible for non-compliance with the SPEDES permit.

Councilman Alexander asked if there were history of communities who have tried that.

Mr. Wasilauski said there has been history of the enforcement since the Clean Water Act was in place, this Community was subject to enforcement to get that treatment plant.

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Councilman Rounds said the Town has this window where they can take a thirty year interest free loan that buys the Town maybe ten years of grace period, is there still a possibility there may be some grant money.

Councilman Markey said from what he was hearing the Town has until August 4, 2011.

Jason Denno said that was correct, the Town has two years based on the record issued at that time, August 4, 2009 issued by the then acting President Matt Bolee and at that time the total project cost of this project was about \$519,000.00, there was a target annual service charge of \$338, that target service charge is what they used to make a comparison against a next door neighbor on what their current user fair value rate is based on first year owed on debt service for first year operation and maintenance, that is how they calculate that passed on a medium household income.

Someone said the town is currently paying \$320.00. Mr. Denno said that brought up a good point, the project is a project D which means the Town is a hardship project, that is what was determined back in 2009, for this year, two or three months ago, they had what they call principal forgiveness, where they would forget debt payment, the reason we did not receive debt payment forgiveness is because zero percent brings the Town at their target service charge, so if the Town is still above that target service charge there would be a formal grant component where EFC would have given us some additional dollars in the form of debt forgiveness that would have alleviated this since the Town is at a target service charge they are close to \$329.00, this project is bringing us at \$338.00, with a medium household income of \$30,873.00 the annual operation and maintenance cost are estimated to be \$263,775.00, our projected new operation and maintenance cost is roughly \$7,000.00 and the existing annual debt service is around \$83,000.00 so what this is telling him is the proposed project service charge that is \$348.00 per EDU for 20 year financing and \$338.00 per EDU for 30 year financing, those are the two numbers – \$348 for 20 year or \$338.00 for 30 year financing at zero percent. Mr. Denno said he understood as a taxpayer and constituents what they are facing, that is why he was aiming for EFC Albany to get that principal forgiveness, we are close but we are already right at the target service charge. Mr. Denno said we need to move forward with the application, process the application, advertise for bids, it is his understanding the bid documents have been prepared and we are waiting for approval, Randy Galusha has them in their office at DEC. Mr. Denno said the Town has passed the bond resolution, gone through SEQRA, engineer reports are approved, plans are basically approved and bid documents are ready to go so we cannot be anymore shovel ready than we are, even if we move forward with financing with EFC and end up getting Round 10, it is a benefit to the community in the end. Mr. Denno said we are under mandate and he does not want to see the community in any penalties, or possible penalties, he thinks this is an opportunity that we can move forward, that is the last thing we want to get the community back into, we need to move forward, administratively this is the time, allowing the engineer to move forward on his documentations.

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Tape inaudible.

Discussion ensued on what other options had been available besides the effluent disinfection, the fact that the lagoon was built 17 years ago and it was built for thirty percent expansion.

Councilman Markey asked about the hardship confirmation that the town received in August for 2011, if the town is looking for possible grant monies in October of 2010, why should the town proceed now.

Jason Denno- told Councilman Markey the reason was because the town is out of compliance, and, he is looking at protecting the community for any possibilities of any penalties, he is doing his job leading the project forward administratively with the current co-funding the Town has on the table, then when other additional opportunities become available take advantage of them.

Councilman Ackley – asked if DEC had not given the Town until August of next year before the Town is totally out of compliance.

Jason Denno – said no, ideally DEC would want to see that the Town be on line with the disinfection system by April because you are looking at April to October in disinfection.

Bill Wasilauski -said he did not wish to get into the legal negotiations that would take place, the bottom line is that the schedule called for it to be installed by May 1st of 2010, so the sooner it is resolved it will be better for the community in the stand point of moving the project forward, that is a better situation than not doing it or waiting for money, waiting for money these days is not necessarily a good strategy, waiting until February or March could cause additional costs for the project by trying to do it in February and March.

Supervisor Geraghty asked if anyone else wished to comment.
No one else wished to comment.

Supervisor Geraghty asked what the pleasure of the Board was.

Councilman Alexander said he felt they should move forward with a resolution, that being a charter member in the Sewer District he owns three units, not looking to add more cost either, he wished back in 1997 they would have increased the fee so they would have had that 600 K sitting in an account somewhere, they would not be here talking about it right now, it did not happen so now it is here to stay, this ultra violet seems like the way to go. Councilman Alexander said the town really wants to expand its sewer district.

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Jason Denno – said the town first has to solve its issues currently with DEC and then the Town can move forward with their plans.

Discussion ensued on increasing sewer user units, the number of users in the district, the amount of the monthly estimated payment for a \$550,000.00 loan for 30 years, a possible increase in Out of District User fees that should be more than \$1.00, the unfairness of people who have been paying for seventeen years hooking onto the system and paying the same rate as someone who has been there for seventeen years.

**RESOLUTION #147-10
CLOSE PUBLIC HEARING**

On motion of Councilman Alexander, seconded by Councilman Rounds, the following resolution was ADOPTED – VOT E- AYES 5 NAYS 0

IT IS RESOLVED, to close this public hearing. Time 7:37 p.m.

**RESOLUTION #148-10
AUTHORIZE BID ADVERTISEMENT FOR WASTEWATER TREATMENT
PLANT EFFLUENT DISINFECTION PROJECT**

On motion of Councilman Alexander, seconded by Supervisor Geraghty, the following resolution was ADOPTED by role call vote:

AYES: Supervisor Geraghty, Councilman Ackley, Councilman Rounds, Councilman Alexander

NAYS: Councilman Markey

IT IS RESOLVED, to authorize the Town Clerk to advertise for bids for the effluent disinfection project for the Wastewater Treatment Plant.

**RESOLUTION #149-10
MINUTES**

On motion of Councilman Alexander, seconded by Councilman Rounds, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

IT IS RESOLVED, to accept the minutes as presented.

Committee and Officers reports were waived.

**RESOLUTION #150-10
SCHEDULE PUBLIC HEARING FOR SEWER EXPANSION**

On motion of Councilman Markey, seconded by Councilman Ackley, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

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IT IS RESOLVED, to schedule a public hearing for September 8th, 2010 at 7:00 p.m. for Sewer District Expansion to Thompson Street, Third Avenue, Fourth Avenue, Raymond Land and Library Avenue.

RESOLUTION #151-10

RESOLUTION AWARDING OCCUPANCY TAX REQUESTS TO WARRENSBURGH HISTORICAL SOCIETY AND WARRENSBURG VOLUNTEER FIRE COMPANY

On motion of Councilman Alexander, seconded by Councilman Ackley the following resolution was ADOPTED – VOTE – AYES 4 NAYS 0 ABSTENTION 1 (Supervisor Geraghty abstained from voting)

IT IS RESOLVED, to award Occupancy Tax money to the Warrensburgh Historical Society for \$50.00 for the Stickey Wicket event and it is further

RESOLVED, to award \$3729.00 to the Warrensburg Volunteer Fire Company for advertising expenses for the Smoke Eaters Jamboree.

DISCUSSION – SURPLUS ITEMS

Supervisor Geraghty announced the Town of Warrensburg received a check in the amount of \$4,670.00 for surplus items sold in the auction at the Smoke Eaters Jamboree from the Warrensburg Volunteer Fire Company.

RESOLUTION #152-10

BUDGET TRANSFERS

On motion of Councilman Markey, seconded by Councilman Rounds, the attached resolution was ADOPTED – VOTE – AYES 5 NAYS 0

RESOLUTION #153-10

PAY BILLS

On motion of Councilman Alexander, seconded by Councilman Markey, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

IT IS RESOLVED, to pay the bills as outlined on Abstract #8-10.

RESOLUTION #154-10

EXECUTIVE SESSION

On motion of Councilman Markey, seconded by Councilman Ackley, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

IT IS RESOLVED, that this Board move into an executive session to discuss items concerning pending litigation. Time 7:43 P.M.

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RESOLUTION #155-10

CLOSE EXECUTIVE SESSION

On motion of Councilman Ackley, seconded by Councilman Markey, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

RESOLVED, that the executive session be closed and that this Board return to the regular meeting. Time 7:52 P.M.

DISCUSSION – PENDING LITIGATION

Supervisor Geraghty opened discussion stating that there was no action taken.

RESOLUTION #156-10

PERMISSION FOR CONFERENCE ATTENDANCE

On motion of Councilman Markey, seconded by Councilman Ackley, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

IT IS RESOLVED, to give permission to Laura Moore and Chris Belden to attend the Planning Conference in Lake Placid.

On motion of Councilman Markey, seconded by Councilman Ackley, the meeting was adjourned at 7:54 P.M.

Respectfully submitted,

Donna A. Combs, Town Clerk