

The April 26, 2012 Town Board special meeting was called to order by Supervisor Daniel Sturm at 7:30 p.m. at the Dr. Duggan Community Center Gymnasium.

Council members present: Denise Frangipane
 Bernard Cohen
 Vicky Simpson
 Richard Crumley

Others Present: Robert S. McEwan, Jr.
 Attorney for the Town

Pledge of Allegiance

The meeting was opened with the Pledge of Allegiance.

Presentation: David Bodenstein, 2012-2013 Insurance Renewal

David Bodenstein, Mike Preis, Inc., reviewed the changes to the Town policy. H explained the \$2,000 increase was attributable to Public Officials law suits.

2011-2012	\$92,128.68
2012-2013	\$95,516.26

Motion by Mrs. Simpson to approve 2012-2013 Insurance Renewal with Mike Preis, Inc., seconded by Mr. Cohen, put to a vote and carried 5-0.

Building Department Monthly Report – March

Total Fees March 2012	\$2,040.	Total Fees March 2011	\$4,650.
Cost of Construction March 2012	\$504,000		
Cost of Construction February 2011	\$392,000		

Motion by Ms. Frangipane to receive and file Building Department monthly report, seconded by Mr. Cohen, put to a vote and carried 5-0.

Correspondence from NY State Town Clerks Assoc.

Correspondence received from NY State Town Clerks Association announcing the re-certification of Rita Sheehan Town Clerk as a Registered Municipal Clerk. This designation is based upon education and experience points. The re-certification is for 5 years. Motion by Ms. Frangipane to receive and file, seconded by Mrs. Simpson, put to a vote carried 5-0.

Approve change order for Sewer Rehab project

Gravity Sewer main 15” PVC	\$108,302.79
Installation of six new Sanitary sewer manholes	\$ 33,901.74
Stream bypass	\$ 13,875.29
Laterals on 17B open cut	\$ 31,188.34
Bin sdr 35	<u>\$ 12,140.63</u>
Total	\$199,408.79

Motion by Mrs. Simpson to approve change order for Sewer Rehab for \$199,408.79, seconded by Mr. Crumley, put to a vote and carried 5-0.

Approve seeking sealed bids for removal of bio solids

Request has been received from Jim McBride, Sewer Superintendent, to seek sealed bids for removal of bio solids. Motion by Ms. Frangipane to seek sealed bids for removal of bio solids, seconded by Mr. Cohen, put to a vote and carried 5-0.

Correspondence Smallwood-Mongaup Valley Fire Co. 5K

Correspondence received from the Smallwood-Mongaup Valley Fire Co. regarding the annual ATV Run. Motion by Ms. Frangipane to receive and file, seconded by Mr. Cohen, put to a vote and carried 5-0. Motion by Ms. Frangipane to send to copy of letter to the BLDC, seconded by Mr. Cohen, put to a vote and carried 5-0.

Propane Bid Results

Sealed bids were received and publicly open and read at the Town Clerk's office on April 20, 2012 at 11:00 a.m. with Marge Brown and Donna Stackhouse present. The bids were received as follows:

<u>Company</u>	<u>Price Per Gallon over the Selkirk posted price</u>
CES	\$.68
Burnwell	\$.60
Fallsburg Gas	\$.48*
Mirabito	\$.48 *

Fallsburg Gas and Mirabito tied at \$.48 per gallon.

Motion by Ms. Frangipane to table until an opinion from the Attorney can be given, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Correspondence from DEC re: landfill closure well-monitoring

Correspondence received from the DEC regarding landfill closure well mounting. The DEC has reviewed our letter of December 7, 2011 and February 27, 2012. The DEC have indicated that the Town has shown the standard conditions for granting the well-monitoring variance have been met. The Town's request to reduce the monitoring frequency from quarterly to annual is therefore approved subject to certain terms and conditions in their correspondence. Motion by Mrs. Simpson to receive and file, seconded by Mr. Crumley, put to a vote and carried 5-0.

Memo from Glenn Smith – retaining wall at White Lake outlet

Memo received from Glen Smith regarding fieldstone retaining wall collapse at White Lake outlet on the Kenkel/Irwin property. Mr. Smith has determined it is the Town's responsibility to make the repairs. Motion by Mr. Cohen to receive and file, seconded by Mrs. Simpson, put to a vote and carried 5-0. Mr. Sturm prefers the Highway Department to do the work. Motion by Mrs. Frangipane to have Glen Smith prepare plans and specification to go out to bid, seconded by Mrs. Simpson, put to a vote and carried 5-0.

Proposed Local Law #1-2012 Discussion

Mr. Sturm reviewed what the Town Board has done since July 2011. Mrs. Simpson read a statement about air and water quality. Ms. Frangipane thanked the residents for volunteering to advocate for both sides of the issue. Mr. Crumley the Town needs to air on side of caution.

Resolution to Adopt Local Proposed Local Law #1-2012

Mr. Sturm read the resolution.

**RESOLUTION OF TOWN BOARD OF THE TOWN OF BETHEL
ADOPTING A LOCAL LAW TO AMEND CHAPTER 345 "ZONING"
OF THE TOWN CODE OF THE TOWN OF BETHEL**

WHEREAS, the Town Board of the Town of Bethel (“Town Board”) heretofore adopted a zoning code, which appears as Chapter 345 of the Town Code of the Town of Bethel (the “Zoning Code”); and

WHEREAS, in December 2006 the Town of Bethel adopted a Comprehensive Plan and Local Law No. 5 of 2006, which Local Law implemented certain revisions to the Zoning Code, but did not fully implement the aims, intents and plans embodied in the Comprehensive Plan for certain zoning districts in the Town; and

WHEREAS, the Town subsequently conducted a lengthy review to determine all necessary and appropriate amendments and revisions to the Zoning Code for certain zoning districts; and

WHEREAS, the Town Board then introduced Local Law No. 1 of 2009 to amend the Town’s Zoning Code, and on January 28, 2009 determined that the proposed action was a type I action under the State Environmental Quality Review Act (“SEQRA”), and established itself as lead agency for SEQRA review purposes; and

WHEREAS, the Town Board, acting as lead agency under SEQRA, completed all of its obligations under SEQRA and adopted a Final Generic Environmental Impact Statement on June 9, 2009; and

WHEREAS, Local Law No. 1 of 2009, adopting the amendments to the Zoning Code, was enacted on June 24, 2009; and

WHEREAS, the Town Board subsequently adopted local laws making minor amendments to the Zoning Code as part of its continuing evaluation process of the Zoning Code; and

WHEREAS, in conformance with the Comprehensive Plan the Town seeks to address through its land use laws the impacts of (i) the exploration and extraction of natural gas and oil and (ii) other industrial and manufacturing uses that have potentially negative health and environmental impacts upon the citizens of the Town of Bethel and potentially negative environmental impacts upon the natural resources of the Town; and

WHEREAS, attached hereto is a copy of Local Law No. 1 of 2012, which was introduced on January 25, 2012 and when enacted will amend the Zoning Code; and

WHEREAS, on February 22, 2012, the Town Board conducted a public information session regarding proposed Local Law No. 1 of 2012; and

WHEREAS, the Town Board provided due notice of a public hearing for Local Law No. 1 of 2012 by publishing timely notice of the public hearing in a newspaper of general circulation in the Town of Bethel, and by providing timely written notice to the Palisades Park Interstate Park Commission and the respective Town Clerks for the Towns of Callicoon, Highland, Tusten, Lumberland, Liberty, Delaware and Cohecton in accordance with Town Code § 345-66; and

WHEREAS, by correspondence dated February 2, 2012 the Town Board forwarded a copy of proposed Local Law No. 1 of 2012 to the County of Sullivan Division of Planning and Environmental Management (“Division of Planning”) in accordance with General Municipal Law § 239-m; and

WHEREAS, by correspondence dated February 28, 2012, the Division of Planning stated its opinion that the proposed action would have some positive inter-community impacts and that it recommended approval of the proposed action; and

WHEREAS, by correspondence dated January 30, 2012 the Town Board forwarded a copy of proposed Local Law No. 1 of 2012 to the Town of Bethel Planning Board for its review and recommendatory report in accordance with Town Code § 345-65; and

WHEREAS, by memorandum dated March 14, 2012, the Town of Bethel Planning Board provided that it voted not to recommend the adoption of Local Law No. 1 of 2012 but did not prepare and serve a report as required by Town Code § 345-65(A) or provide any rationale for its determination; and

WHEREAS, by correspondence dated February 3, 2012 the Town Board forwarded a copy of proposed Local Law No. 1 of 2012 to the Sullivan County Farmland Protection Board; and

WHEREAS, by correspondence dated March 13, 2012, the Sullivan County Farmland Protection Board provided that the proposed local law would not be prohibitive of agricultural uses and practices; and

WHEREAS, on March 15, 2012, the Town Board conducted a public hearing during which comments were presented and received in connection with the proposed amendment of the Zoning Code as set forth in Local Law No. 1 of 2012; and

WHEREAS, on April 11, 2012, the Town Board adopted an Amended Findings Statement in accordance with the requirements of 6 NYCRR § 617.10(d).

NOW THEREFORE, BE IT RESOLVED, that Local Law No. 1 of 2012, amending the Zoning Code of the Town Code of the Town of Bethel is hereby adopted; and be it

FURTHER RESOLVED, within thirty days of the effective date of this Resolution , the Town shall file a report of the final action it has taken with the Division of Planning; and be it

FURTHER RESOLVED, this Resolution shall become effective when adopted.

Motion by Town Board member Victoria Simpson, seconded by Town Board member Denise Frangipane, and adopted upon a roll call vote as follows:

	AYE	NAY
Richard Crumley	X	
Bernard Cohen	X	
Denise Frangipane	X	
Victoria Simpson	X	
Daniel Sturm	X	

Duly adopted by 5 ayes, 0 nays the 26th day of April, 2012.

Resolution to Appoint Special Counsel

Mr. Sturm read the resolution.

**RESOLUTION OF TOWN BOARD OF THE TOWN OF BETHEL
AUTHORIZING THE RETENTION OF SPECIAL COUNSEL**

WHEREAS, ON April 26,2012, the Town Board of the Town of Bethel enacted Local Law No. 1 of 2012, which amends the Zoning Code of the Town of Bethel to address the impacts of (i) the exploration and extraction of natural gas and oil, and (ii) other industrial and manufacturing uses, and

WHEREAS, THE Town Board has received, and by letter and written comment, threats of litigation with respect to the enactment of the Local Law No. 1 of 2012, and

WHEREAS, the national environmental law firm, Earthjustice, may be able to offer *rpro bono* legal assistance to the Town of Bethel in the event that litigation is commenced against the Town in connection with the enactment of Local Law No. 1 of 2012, and

WHEREAS, Deborah Goldberg, Managing Attorney of Earthjustice’s Northeast office, would lead Earthjustice’s legal team, should Earthjustice be retained to provide assistance in connection with such litigation, and

WHEREAS, the Town Board of the Town of Bethel approves the retention of Ms. Goldberg and Earthjustice as special counsel to the Town in the event that the Town requires litigation counsel in connection with the enactment of Local Law No. 1 of 2012, and be it

FURTHER RESOLVED, that the Supervisor of the Town of Bethel is hereby authorized to sign all necessary documents and agreements on behalf of the Town of Bethel to complete the engagement of special counsel and to take any other appropriate actions necessary to defend the Town in the event that litigation is commenced against it.

Motion by Town Board member Denise Frangipane, seconded by Town Board member Bernard Cohen, and adopted upon a roll call vote as follows:

	AYE	NAY
Richard Crumley	x	
Bernard Cohen	x	
Denise Frangipane	x	
Victoria Simpson	x	
Daniel Sturm	x	

Duly adopted by 5 ayes, 0 nays the 26th day of April 2012

Seasonal Community Outreach Update

Ms. Frangipane distributed copies of the rack card and letter that is being sent out to the seasonal communities. Other towns are using our outreach as a model.

Unauthorized Use of Town Equipment

Mrs. Simpson mentioned that it has been brought to her attention that the Highway Superintendent is using personal truck for town business. Motion by Mrs. Simpson to not allow use of town gas in personal vehicles, seconded by Mr. Cohen, put to a vote and carried 5-0.

Comments

Mr. Crumley indicated that there have been thefts of radiators, metal posts signs and are being scrapped. The fuel has got to be kept track of. Mr. Sturm won’t comment on any investigation. Mr. Cohen suggested taking readings first thing in the morning and last thing at night.

Ms. Frangipane mentioned the Bethel Guide is taking ads and if anyone wanted to be a part to get in touch with Carol Malek or Sue White.

Mr. Larson-no animosity against any Town Board member or anyone else with a different opinion.

Adjournment

Motion by Mrs. Simpson to adjourn, seconded by Mr. Crumley, put to a vote and carried 5-0.

Respectfully submitted,

Rita J. Sheehan, Town Clerk