

REGULAR MEETING
TOWN OF SHELBY
April 11, 2017 7:00PM

Present: Merle Draper, Supervisor
Dale Stalker, Councilman
William Bacon, Councilman
Darlene Rich, Town Clerk
Bethany Centrone, Council for Bond, Schoeneck & King
Michael Fuller, Highway Superintendent
Kirk Myhill, Planning Board Chairman
Dan Wolfe, Codes & Zoning Officer
Traci Culver, Bookkeeper
Paul Gray, Constable
Claude Grimes, Constable

Excused: Kenneth Schaal, Councilman
Trisha Laszewski, Assessor

Absent: Stephen Seitz, Jr., Councilman

Others: Jerry Velesko Jacob Velesko
Dave Mahar Joan Mahar
Alan Bushover Brian Murray Sr.
Steve Seitz Sr. Les Quackenbush
Sue Fuller Don Marchner
Wendi Pencille

April Meeting was called to order at 7:00 PM

Pledge to the flag

The public hearing on zoning that was scheduled for tonight is cancelled. It will be scheduled in a few weeks.

Public forum regarding agenda items only – Brian Murray wanted to know if there were any agenda items not on the agenda. Supervisor Draper said there were none however he was going to make an announcement at the end of the meeting.

Highway Report – (Mike Fuller) Plowed State Roads twenty two times, salted state roads twenty one times, plowed town and county roads eighteen times, sanded town and county roads fourteen times. Cold patch pot holes. Did water stake outs for utilities. Picked up brush and trees from storm. Read meter pits. Read residential meters. Used leak detector helping Town of Ridgeway with water leak. General repairs and maintenance on equipment.

Assessor Report – (Trisha Laszewski) – Excused

Planning Board Report – (Kirk Myhill) – Held public hearing for Special Use Permit Site plan review on West Shelby Road. No comments. Held meeting after public hearing. Handed over to Dan Wolfe. Looking at mobile food vehicles. Received input from Dan regarding this and gave to Bethany. Five of the six planning board members signed up for training.

Zoning Board Report – (Dan Wolfe) –Eight on site inspections. Went to one Planning Board and one County Planning Board meeting. Issued two permits and one variance application. Sent five property maintenance letters, property maintenance , sanitation and vehicles. Worked forty eight office hours. Had four days vacation. Logged one hundred eighteen miles.

RESOLUTION 47-17

RESOLUTION TO APPROVE PREVIOUS MEETINGS MINUTES

Motion, Bacon; second, Stalker

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

RESOLUTION 48-17

RESOLUTION TO APPROVE THE TOWN CLERK'S REPORT

Motion, Stalker; second, Bacon

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

RESOLUTION 49-17

RESOLUTION TO APPROVE THE SUPERVISOR'S REPORT

Motion, Bacon, seconded, Stalker

Ayes-3, Opposed-0, Absent- Schaal, Seitz Jr. Carried

RESOLUTION 50-17

RESOLUTION TO APPROVE PAYMENT OF BILLS

Motion, Stalker; second, Bacon

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

General	\$ 167,674.68	Highway	\$ 18,315.79
Water No. 1	\$ 9,537.50	Water No. 2	\$ 5,811.81
Water No. 3	\$ 8,668.23	Water No. 4	\$ 9,394.14
Water No. 4B	\$ 5,132.64	Water No. 5	\$ 724.15
Water No. 6	\$ 8,964.87	Water No. 7	\$ 9,952.37
Water No. 8	\$ 3,151.98	Water No. 9	\$ 2,773.97
Water No. 10	\$ 3,701.04	Water No. 11	\$ 2,000.44

RESOLUTION 51-17

RESOLUTION AUTHORIZING SUPERVISOR TO SIGN TOSHIBA CONTRACT FOR RENEWAL OF COPIER LEASE

Motion, Bacon; second, Stalker

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

Copier lease is up. Received proposal from Toshiba

RESOLUTION 52-17

RESOLUTION APPOINTING JOHN W. BRABON III AS DOG ENUMERATOR & SUBSTITUTE TOWN CONSTABLE

Motion, Stalker; second, Bacon

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

RESOLUTION 53-17

RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 1 OF 2017 AND SETTING PUBLIC HEARING FOR APRIL 25, 2017 AT 5:00 PM FOR CHANGE IN DATE FOR GRIEVANCE DAY

WHEREAS Supervisor Draper has introduced for consideration pursuant to the provisions of the New York Municipal Home Rule Law and the New York Real Property Tax Law Town of Shelby Local Law No. 1 of 2017 entitled A LOCAL LAW TO CHANGE THE DATE FOR THE TOWN OF SHELBY BOARD OF ASSESSMENT REVIEW TO HEAR COMPLAINTS IN RELATION TO TAX ASSESSMENTS; be it therefore

RESOLVED that the Shelby Town Board shall conduct a public hearing at a special meeting of the Shelby Town Board on April 25, 2017 at 5:00 p.m. to consider the adoption of said introduced Local Law No. 1 of 2017, said Local Law to read as follows:

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF SHELBY AS FOLLOWS:

SECTION 1. Intent. The intent of this Local Law is to change the date on which the Board of Assessment Review of the Town of Shelby shall first meet to hear complaints in relation to tax assessments.

SECTION 2. Authority. Because the Town of Shelby Assessor also serves as the Assessor for the Towns of Ridgeway and Yates, with the date for hearing tax assessment complaints by both the Town of Ridgeway Board of Assessment Review and the Town of Shelby Board of Assessment Review being currently set for the fourth Tuesday of May in each year, thereby creating a conflict for the Assessor to appear at the hearings of both such Boards, Real Property Tax Law §512 (1-a) authorizes the governing body of such an assessing unit to adopt a local law establishing a different date for the meetings of the Board of Assessment Review other than the fourth Tuesday in May.

SECTION. Change in Date. By reasoning of the foregoing, the Town of Shelby Board of Assessment Review shall no longer initially hear complaints in relation to tax assessments on the fourth Tuesday in May of each year, but shall instead initially hear complaints in relation to tax assessments on the first Wednesday following the fourth Tuesday in May of each year.

SECTION 3. Filing. This Local Law shall be filed as required by Real Property Tax Law §512 (1-a).

SECTION 4. Severability. The adoption of this Local Law shall in no way otherwise affect the duties and responsibilities of the Assessor or the Board of Assessment Review of the Town of Shelby under any applicable law or regulation.

SECTION 5. Effective Date. This local law shall take effect immediately upon the completion of all filing required by the Municipal Home Rule Law or by Real Property Tax Law §512 (1-a).
and it is further

RESOLVED that the Shelby Town Clerk shall cause notice of such public hearing to be published at least once in the official Town newspaper in accordance with all legal requirements.

Motion, Stalker; second, Bacon

Ayes-3, Opposed-0, Absent-Shaal, Seitz Jr. Carried

RESOLUTION 54-17

RESOLUTION SETTING SPECIAL MEETING IMMEDIATELY FOLLOWING PUBLIC HEARING ON APRIL 25, 2017 FOR ADOPTION OF PROPOSED LOCAL LAW NO. 1 OF 2017 TO CHANGE THE DATE OF GREIVANCE DAY IN THE TOWN OF SHELBY

Motion, Stalker, second, Bacon

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

RESOLUTION 55-17

RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 2 OF 2017 REGARDING PROPOSED ZONING CHANGE FROM HAMLET TO GENERAL BUSINESS AT WEST AVE EXT. AND ROUTE 63 AND SETTING PUBLIC HEARING ON MAY 9 AT 7:00 PM

Motion, Stalker; second, Bacon

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

(Town Board meeting will start immediately after public hearing)

WHEREAS Supervisor Draper has introduced for consideration pursuant to the provisions of the New York Municipal Home Rule Law Town of Shelby Local Law No. 2 of 2017 entitled A LOCAL LAW TO AMEND THE TOWN OF SHELBY LOCAL LAW AND ZONING MAP; be it therefore

RESOLVED that the Shelby Town Board shall conduct a public hearing at a regular meeting of the Shelby Town Board on May 9, 2017 at 7:00 p.m. to consider the adoption of said introduced Local Law No. 2 of 2017, said Local Law to read as follows:

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF SHELBY AS FOLLOWS:

SECTION 1. Intent. The intent of this Local Law is to amend the Zoning Map of the Town of Shelby, as established by Section 401 of the Town of Shelby Zoning Code, pursuant to Section 112 of the Town of Shelby Zoning Code, to rezone 25 parcels identified as Tax Map parcels 90.8-1-3.1, 90.8-1-4, 90.8-1-7.1, 90.8-1-8.1, 90.8-1-9, 90.8-1-10, 90.8-1-11, 90.8-1-12, 90.8-1-14, 90.8-1-15.1, 90.8-1-15.2, 90.8-1-16, 90.8-1-17, 90.8-1-19, 90.-1-22.1, 90.8-1-18, 90.8-1-20.1, 90.8-1-21, 91.-1-65, 91.-1-4.2, 91.-1-2, 91.-1-67, 91.-1-1.1, 91.-1-66, 91.-1-64 from the Hamlet (H) District to General Business (GB) District near the intersection of Maple Ridge Rd, the West Ave. Ext., and South Gravel Rd. (Route 63). The area to be rezoned amounts to 17.43 acres. The northern boundary of the proposed rezoning is the Maple Ridge Corridor which is also the municipal boundary between the Village of Medina and the Town. Zoning districts on the Village side of the boundary are also General Business. This rezoning will bring an area of largely commercial use into compliance with the purpose and intent of the Zoning Ordinance of the Town of Shelby.

SECTION 2. Rezoning. The Town of Shelby Zoning Local Law and Zoning Map are hereby amended so as to revise the classification of the above described properties from Hamlet (H) District at Maple Ridge Rd., West Ave. Ext., and South Gravel Rd. to General Business (GB) District.

SECTION 3. General Effect. All of the other provisions of the Town of Shelby Local Law and Zoning Map shall remain the same. All local laws, ordinances rules or regulations, or parts or portions thereof that conflict or are contrary to any provision of this local law are hereby repealed.

SECTION 4. Severability. If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in it separation to the clause, sentence, paragraph,

subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5. Effective Date. This local law shall take effect immediately upon filing with the Secretary of State.
and it is further

RESOLVED that the Shelby Town Clerk shall cause notice of such public hearing to be published at least once in the official Town newspaper in accordance with all legal requirements.

Motion, Stalker; second, Bacon

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

RESOLUTION 56-17

RESOLUTION SUPPORTING COUNTY RESOLUTION NO. 89-317 CALLING ON GOVERNOR CUOMO AND STATE LAWMAKERS TO INVEST AND IMPLEMENT FUNDING FOR STATEWIDE WORKFORCE STRATEGY THAT ASSISTS LOCALLY-DRIVEN WORKFORCE DEVELOPMENT PROGRAMS

WHEREAS, New York's workforce system engages nearly a dozen agencies that receive funding from the federal and state level; and

WHEREAS, it operates in ten economic development regions, 33 designated workforce investment areas, and 62 counties; and

WHEREAS, New York State has added over 500,000 private sector jobs since 2011; and

WHEREAS, while the growth in private sector jobs is positive many jobs remain unfilled because support and funding for workforce development programs has not followed suit; and

WHEREAS, with the development of these private sector jobs, the jobseekers who do not have strong education, training or professional networks are not able take advantage of these new opportunities; and

WHEREAS, The New York Association of Training and Employment Professionals (NYATEP) performed a study that analyzed spending on a broad range of workforce services including adult education, job training, and employment programs and discovered that spending has fallen by five percent since 2011; and

WHEREAS, developing a statewide workforce strategy that effectively serves employers and jobseekers must be able to:

- Connect workforce investments to the initiatives and priorities of statewide, regional, and local economic development needs,
- Focus policy and emphasis on a full pipeline of workers through community colleges, adult basic education and worker training,
- Aggressively pursue a wide array of funding sources including targeted state resources and funding that could be provided through the Regional Economic Development Councils (REDCs); now, therefore, be it

RESOLVED, The Orleans County Legislature calls on Governor Cuomo and State lawmakers to make a strong commitment to helping New York's workers and businesses add the skills they need with a fully defined strategy and robust financial support; and be it

FURTHER RESOLVED, that certified copies of this resolution be sent by the Clerk of the Legislature to Governor Andrew Cuomo, Senate Majority Leader John Flanagan, Assembly Speaker Carl Heastie, Assembly Minority Leader Brian Kolb, Senator Robert Ort and Assemblymen Stephen Hawley and Michael Norris, and the New York State Association of Counties.

FURTHER RESOLVED, that certified copies of this resolution be sent by the Clerk of the Shelby Town Board to Governor Andrew Cuomo, Senate Majority Leader John Flanagan, Assembly Speaker Carl Heastie, Assembly Minority Leader Brian Kolb, Senator Robert Ort and Assemblyman Michael Norris, and the New York State Association of Towns.

Motion, Stalker, second, Bacon

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

RESOLUTION 57-17

RESOLUTION SUPPORTING COUNTY RESOLUTION NO.106-317 CALLING ON THE STATE OF NEW YORK TO FULLY REIMBURSE MUNICIPAL SELF INSURED WORKERS' COMPENSATION PLANS

WHEREAS, the New York State Association of Self-Insured Counties (NYSASIC) has become aware of Senate Bill S01411 and Assembly Bill A00711; and

WHEREAS, NYSASIC, as the professional organization representing the majority of self insured counties and many other municipalities in the State of New York, strongly oppose this legislation; and

WHEREAS, the proposed legislation seeks to amend the Volunteer Firefighters' Benefit Law to add a new section (11-d) to read as following:

“§ 11-d – Volunteer firefighters; presumption in certain cancers.

1. Notwithstanding any other provision of this chapter to the contrary, a condition of impairment of health of a volunteer firefighter with (a) five or more years of faithful and actual service in the protection of life and property from fire in the interior of buildings caused by cancer affecting the lymphatic or hematological systems or (b) ten or more years of faithful and actual service in the protection of life and property from fire in the interior of buildings caused by cancer affecting the digestive, urinary, prostate, neurological, breast or reproductive systems or melanoma, resulting in total or partial disability or death to such volunteer firefighter, who successfully passed a physical examination on entry into firefighter service, which examination failed to reveal any evidence of such cancers, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence. Claims for benefits pursuant to this section must be filed within twelve years of separation from actual service in protecting life and property from fire in the interior of buildings.
2. This section shall not apply to volunteer firefighters serving in a fire company or fire department where the legislative body of the city or the village, the board of fire commissioners or other governing board of the fire district, or the town board of the town in relation to (a) the fire company serving territory outside the villages and fire districts or (b) a town fire department, has adopted a local law or resolution to elect not to provide this presumption.

This act shall take effect immediately and shall expire and be deemed repealed June 30, 2021.”

WHEREAS, this legislation is problematic for several reasons: First the physical examination required for entry into a volunteer fire department is typically quite limited in scope. Such physical examinations do not include the detail or diagnostic testing typically associated with diagnosing cancer or ruling out the presence of cancer. For example, such physical examinations do not include comprehensive blood testing, PET scans, CT scans, MRI's, colonoscopies, mammograms, pap smears, prostate examinations, etc., as the physical examinations are typically quite limited and cursory in nature. Many of the cancers referenced in the proposed legislation may be present and remain undiagnosed even though an individual may still pass the physical examination associated with entry into volunteer firefighter service; and

WHEREAS, many of the conditions identified in the proposed legislation often develop with age and/or are either genetic or hereditary in nature. Thus, even if a comprehensive physical examination with diagnostic testing is performed when an individual first enters firefighter service, it would be both disingenuous and unwise to presume that in the event that such an individual eventually is diagnosed with cancer, such as prostate cancer or breast cancer many years later, that the development or cause of that cancer is in any way connected to the individual's firefighter service; and

WHEREAS, a Second reason this proposed legislation is also problematic as it does not define what is meant by “faithful and actual service in the protection of life and property from fire in the interior of buildings”; and

WHEREAS, a Third reason this proposed legislation is also problematic as the time frames used of five or ten years of faithful and actual service in the protection of life and property from fire in the interior of buildings does not define how a volunteer firefighter's time is tracked as the individual transfers from one department or company to another and which department or company is ultimately responsible for the costs associated with this presumptive coverage; and

WHEREAS, such legislation would essentially place counties in the position of insuring that in the event that a volunteer firefighter contracts lymphatic or hematological systems or cancer affecting the digestive, urinary, prostate, neurological, breast or reproductive systems or melanoma cancers that counties will need to provide indemnity, medical and, potentially death benefits, unless they can prove that the volunteer firefighter does not have five or ten years of faithful and actual service in the protection of life and property from fire in the interior of buildings. Providing such a presumption and placing the cost of rebutting such a presumption on county taxpayers would pose an undue financial burden and hardship. In addition, such a presumption would likely force counties and volunteer fire departments to change their procedures relating to physical examinations for volunteer firefighters in order to ensure that applicants are cancer free. Such comprehensive physical examinations would prove costly and could have a chilling effect on recruitment and the membership of volunteer fire departments; and

WHEREAS, the proposed legislation is unnecessary as the Volunteer Firefighters' Benefits Law already provides such benefits in the event that a volunteer firefighter (or his or her dependents in connection with a death claim) can prove that the cancer condition arose in the line of duty Shifting the burden of proof from the volunteer firefighter to the local municipality based upon flawed presumptions which lack sound medical foundation would be ill advised; now be it

RESOLVED, that the Orleans County Legislature urges the State of New York not to pass Senate Bill S01411 and Assembly Bill A00711 in its current language; and be it

FURTHER RESOLVED, that in the event that there is a desire that the aforementioned legislation be passed, the Orleans County Legislature urges Senate Bill S01411 and Assembly Bill A00711 to be modified so that municipal self-insured workers' compensation plans shall be reimbursed the costs of claims which are associated with Senate Bill S01411 and Assembly Bill A00711 by the State of New York. This will facilitate the continued operation and existence of the very volunteer fire departments and volunteer fire companies whose members would be assisted by the bills, since the taxing authorities which support these volunteer fire departments and volunteer fire companies will otherwise be financially stressed by the claims precipitated by these bills; and be it

FURTHER RESOLVED, that certified copies of this Resolution be forwarded to the Governor of the State of New York Andrew Cuomo, NYS Senate Majority and Minority Leaders, Senator Robert Ort, Speaker of the New York State Assembly Carl Heastie, Assemblyman Stephen Hawley, Assemblyman Michael Norris, NYSAC, NYSASIC, InterCounty of Western New York, all Orleans County Towns and Villages, Orleans County Emergency Management to distribute to all county Fire Districts and Departments; and all others deemed necessary and proper.

FURTHER RESOLVED, that certified copies of this resolution be sent by the Clerk of the Shelby Town Board to Governor Andrew Cuomo, Senate Majority Leader John Flanagan, Assembly Speaker Carl Heastie, Assembly Minority Leader Brian Kolb, Senator Robert Ort and Assemblyman Michael Norris, and the New York State Association of Towns.

Motion, Stalker, second, Bacon

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

RESOLUTION 58-17

RESOLUTION APPOINTING VERNON AUSTIN AS CEMETERY ADMINISTRATOR OF MT. PLEASEANT CEMETERY REVIEWED ANNUALLY WITH A \$1500 ANNUAL STIPEND.

Motion, Stalker, second, Bacon

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

Request from NYSDEC for water service- NYSDEC submitted a request for water connection into Town of Shelby Water District 10 meter pit on their property. DEC would incur cost of materials and the Town would supply the labor to connect to and situate the meter pit located on the property. Councilman Stalker asked if people on Podunk Road could tap in. Mike Fuller said not unless they could change some things. Mike will talk to Paul Chatfield regarding the legality into extending water line. NYSDEC was notified recently that Albany has designated funding for this project. Will table until the April 25th Special Meeting.

Announcement- The Supervisor received a letter of resignation from Stephen Seitz Jr. A letter recommending Stephen Seitz Sr. was received to finish out the term of Stephen Seitz Jr.

RESOLUTION 59-17

RESOLUTION APPOINTING STEPHEN SEITZ SR. TO FINISH OUT THE TERM OF STEPHEN SEITZ SR. AS COUNCILMAN

Motion, Bacon, second, Stalker

Ayes-3, Opposed-0, Absent-Schaal, Seitz Jr. Carried

Board Comments –Councilmen Stalker asked Mike Fuller Highway Supt. if MEO's are going to training.
Highway Supt said yes.
Darlene Rich, Town Clerk wished everyone a Happy Easter.

Public Comments –none

Motion,Bacon, second, Stalker to adjourn the meeting at 7:21 PM

Respectfully submitted,

Darlene A. Rich, MMC, RMC
Town Clerk