

08/19/09 Town Board Minutes

A regular meeting of the Elma Town Board was held on Wednesday, August 19, 2009, at 8:00 PM, Elma Town Hall, 1600 Bowen Road, Elma, New York, with the following members present:

Supervisor Michael Nolan
Councilwoman Susan Glownia
Councilman David Polak
Councilman Dennis Powers
Councilman Dean Puleo

Also: Town Attorney Phyllis Todoro
Building Inspector Joseph Colern
Highway Superintendent Wayne Clerk
Water Superintendent Eugene Stevenson
Town Engineer James Wzykiewicz

Approximately 25 people attended the meeting.

The meeting was opened with the reciting of the Pledge of Allegiance.

Making the Legal Notice for the Public Hearing to rezone 2989 Transit Road from the property beyond the first 300 feet from Residential C to C 3 for Online Auto Connection part of the minutes Supervisor Nolan opened the public hearing at 8:01PM. Speaking for the rezone was Michael Bevilacqua representing Online Auto Connection. No one spoke against. Supervisor Nolan closed the public hearing at 8:06PM.

Councilman Powers made the motion and Councilwoman Glownia seconded the motion to approve the rezoning of 2989 Transit Road, beyond the first 300 feet from Residential C to C3 for Online Auto Connection. Ayes-5. Noes-0. Carried.

Councilman Powers made the motion and Councilwoman Glownia seconded the motion to approve the minutes from the July 15, 2009 meeting. Ayes-5. Noes-0. Carried.

Department Reports

Town Engineer James Wyzykiewicz informed the Town Board that the drainage work in Elma Meadows has stopped due to wet ground. The work will continue when the ground dries. Mr. Wyzykiewicz met with the County and Railroad representative regarding the drainage problem on Pound Road to clean out the sewer.

Building Inspector Joseph Colern presented the monthly report for July 2009 with 26 permits issued; fees collected of \$5,984.71 with an estimated value of construction of \$1,164,883. Mr. Colern was advised to proceed with any code violations regarding the gravel pit on Jamison Road.

Water Superintendent Eugene Stevenson informed the Board that pump #3 has been repaired at the Transit Road shop. Also a hydrant was hit on Girdle Road near Summerdale and has been repaired. Mr. Stevenson thanked the Board for the support of the Elma Nite Out event. Mr. Stevenson was advised to get RFP'S from engineering firms to review the 2008 inspection report for the Billington Road tank and this will be discussed at the next Work Session.

Highway Superintendent Wayne Clark informed the Board that the work on Northrup, Kinsley, Boll and Ostrander has been completed. They will be working on the drainage pipe in Briggswood.

Councilwoman Glownia made the motion and Councilman Puleo seconded the motion to approve a negative declaration on a short form SEQR for SouthTowns Auto Sales & Service Inc at 5710 Seneca Street. Ayes-5. Noes-0. Carried.

Councilman Powers made the motion and Councilman Polak seconded the motion to approve the Business Use Permit for SouthTowns Auto Sales & Service Inc at 5710 Seneca St. Restrictions in "Use" no more than 52 cars total on lot. No junk autos or auto parts on site. Building Inspector notes fire inspection required within 30 days of occupancy. Also a permit is required for any advertising signs. Ayes-5. Noes-0. Carried.

Councilman Polak made the motion and Councilwoman Glownia seconded the motion to rescind the Business Use Permit for Elma Pizza Shoppe at 2510 Bowen Road. Ayes-5. Noes-0. Carried.

Councilman Powers made the motion and Councilman Polak seconded the motion to approve a negative declaration on a short form SEQR for Nocchino's Pizzeria at 2510 Bowen Road. Ayes-4. Noes-0. Abstain-1. (Supervisor Nolan abstained) Carried.

Councilman Powers made the motion and Councilman Polak seconded the motion to approve the Business Use Permit for Nocchino's Pizzeria at 2510 Bowen Road. Building Inspector notes fire inspection required within 30 days of occupancy. Also a permit is required for any advertising signs. Ayes-4. Noes-0. Abstain-1. (Supervisor Nolan abstained) Carried.

Councilman Puleo made the motion and Councilman Powers seconded the motion to an additional 500 cubic yards for a total of 1000 yards under the new fill permit for Mr. Konesky at 110 Stolle Road. Ayes-5. Noes-0. Carried.

Councilwoman Glownia made the motion and Councilman Polak seconded the motion to approve the negative declaration on a short form SEQR for the Creek Road Park Walking Path. Ayes-5. Noes-0. Carried.

Councilman Polak made the motion and Councilwoman Glownia seconded the motion to approve the negative declaration on a short form SEQR for the proposed Elma Library Addition. Ayes-5. Noes-0. Carried.

Councilman Polak made the motion and Councilman Puleo seconded the motion to add two (2) items to the Agenda for the Elma Library. Ayes-5. Noes-0. Carried.

Councilman Powers made the motion and Councilman Polak seconded the motion to

approve Meyer Septic Service at the cost of \$9250 for the septic work at the Elma Library. Quotes from G & K Sewer Construction Co Inc \$15,500 and Pat Roberts & Sons Inc \$15,800 were reviewed. Ayes-5. Noes-0. Carried.

Councilman Polak made the motion and Councilwoman Glownia seconded the motion to approve the following resolution for the proposed Library Construction Grant Application for the Elma Public Library as follows: Whereas the New York State Department of Education, Division of Library Development, under the Public Library Construction Grant Program (“State Grant”) is offering funds up to 50% of approved costs for renovation or rehabilitation of public libraries in New York State, and Whereas the Buffalo and Erie County Public Library is offering contributions (“County Grant”) to provide funding to cover a portion of the local match for the cost of the library renovation/rehabilitation under the State Grant, and Whereas the Town of Elma is the owner of the building that houses the Elma Public Library, located at 1860 Bowen Road, in the Town of Elma, and maintains the building under an agreement with the Buffalo and Erie County Public Library System, and Whereas the Elma Public Library is in need of an addition to the meeting room and the RFID System; and Whereas the Elma Public Library is in charge with of its library operations in cooperation with the Buffalo and Erie County Public Library System, and per the guidelines for the State Grant and County Grant, must be the applicant for such grants, and Whereas the Town of Elma, as owner of the Elma Public Library building and grounds, would benefit from the aforementioned grants since renovation/rehabilitation to the Town-owned library building will be made, and the Town of Elma will be providing matching funds in an amount not to exceed \$125,000 to complete the required building addition; Now Therefore Be It Resolved that the Elma Town Board agrees and covenants that the Library building at 1860 Bowen Road in the Town of Elma shall be legally available for use as a public library building for at least 10 (ten) years from the anticipated date of the completion of the aforementioned renovation/rehabilitation project. Ayes–5. Noes–0. Carried.

Councilman Powers made the motion and Councilman Puleo seconded the motion to approve the agreement with Eastern States Sentinel Alarm Services, Inc for the monitoring of the recreation building on creek road, senior center, historical society and town hall all on Bowen Road to be billed annually.

Ayes-5. Noes-0. Carried.

Councilman Powers made the motion and Councilwoman Glownia seconded the motion to approve the agreement for CODRED Services Agreement to be used by the Town Supervisor's Office, Water and Emergency Management beginning August 27, 2009 at the cost of \$5000 per year and maybe extended for additional one-year periods. Ayes-5. Noes-0. Carried.

Councilwoman Glownia made the motion and Councilman Puleo seconded the motion to approve the four (4) Welcome to The Town of Elma signs from Garland Graphics Signs at the cost of \$9,600 to be placed on Transit Road at Seneca St, Clinton St and Bullis Rd, also on Route 400. Quote from Visual Impact Signs \$11,736 was reviewed. Ayes-5. Noes-0. Carried.

Councilman Powers made the motion and Councilman Puleo seconded the motion to approve the resolution for amending the 2009 adopted budget for budget transfers as follows: WHEREAS, as the year has progressed the Town's actual spending has exceeded the 2009 adopted budget in certain line items, and WHEREAS, while these lines have no effect on the total General Fund 2009 adopted budget, it is necessary to transfer budgetary appropriations between certain appropriation codes, NOW, THEREFORE, be it RESOLVED, that the Town Board hereby authorizes the following transfers within the 2009 budget:

Decrease Appropriations: A3510.100-Dog Control Officer P/T-\$2,862.00. A3620.103-Asst. Inspector P/T-\$10,000.00. A1450.100-Elections-Comp. & Mileage-\$1,400.00. Total of\$14,262.00.

Increase Appropriations: A1990.400-Contingency-\$8,762.00. A1010.410-Councilman Other Expenses-\$1,300.00. A1440.410-Engineer Other Expenses-\$100.00. A1220.400-Supervisor Other Expenses-\$500.00. A3120.401-Other Expenses-Crossing Guard-\$2,100.00. A7510.410-Historical Building-\$1,500.00. Totalling-\$14,262.00.

Ayes-5. Noes-0. Carried.

Supervisor Nolan opened the bids for the Pondbrook Wastewater Roof as follows: A-1 Construction & Painting Inc \$34,000 and Sturm Roofing \$24,700 to be reviewed at

the next Work Session.

Councilman Polak made the motion and Councilwoman Glownia seconded the motion to approve the following resolution for authorizing a loan from the General Fund to Drainage District #28(Highland)and proceed with the cleaning the storm sewer pipe. WHEREAS, the Town wishes to proceed with the cleaning of the storm sewer pipe within Drainage District No. 28, and WHEREAS, the Town has estimated the total cost of this improvement to be \$585, and WHEREAS, the Town does not currently have such an improvement budgeted in Drainage District No. 28, but does having funding available through a loan from the General Fund, NOW, THEREFORE, be it RESOLVED, that the Town Board hereby authorizes the amending of the 2009 adopted budget for Drainage District No. 28 to authorize appropriations of \$585 for various drainage improvements. BE IT FURTHER RESOLVED that the Town Board authorizes a loan from the General Fund to Drainage District No. 28 in the amount of \$585, with the loan to be repaid over a two year period. The cost to the seven properties will be 41.786 per year for two years. Ayes-5. Noes-0. Carried.

Councilman Powers made the motion and Councilman Puleo seconded the motion to approve the Town of Elma Workplace Violence Prevention Policy as follows:
It is the policy of the Town of Elma to ensure a safe workplace and to reduce the risk of violence to our employees and citizens. It is a shared obligation of all employees and citizens, individually and collectively, to prevent and/or defuse actual or implied violent behavior (verbal or physical) at work.
Any person who engages in a violent or threatening manner, either verbal or physical in nature, will be removed from the premises as quickly as safety permits. At the Town's discretion, employees and/or the public may be barred from the Town's premises pending the outcome of an investigation. Any employee who engages in such behavior may be subject to disciplinary action up to and including termination, criminal penalties, or both.
DEFINITION Violent behavior on the job includes, but is not limited to:

1. Causing or attempting to cause physical injury to another person;
2. Intentional destruction or threat of destruction of Town property or another person's personal property;
3. Expressing intent to cause physical harm or emotional duress;
4. Acting in a hostile manner through unwelcome words, actions or physical contact not

resulting in physical harm to another person.

5. Surveillance or stalking
6. Possession of a weapon while on Town property or while on Town business without proper authorization;
7. Veiled threats of physical harm or intimidation
8. Expression of suicidal or homicidal intent or thoughts; and
9. Unusual agitation or excitement, which may be accompanied by incoherent and/or irrational behavior or harassment.

PROCEDURES Reporting

A. Law enforcement officials will be notified as soon as possible of any situation that has the potential for immediate danger to the safety of an employee or any other person.

B. All employees are responsible to inform their immediate Dept. Head of any condition or behavior that the employee experiences or witnesses and believes places the employee and/or others at risk of injury. Such actions may include but are not limited to any of the violent behavior definitions referenced above.

C. Once notified a Dept. Head will report all employee concerns to the Town Supervisor. The Town Supervisor will:

- i. Take immediate action to end the dangerous or harassing behavior;
- ii. Notify the Personnel Committee;
- iii. If appropriate, take appropriate disciplinary action.

D. The Personnel Committee will assure that a full investigation is made and will assist the Town Supervisor in resolving the issue.

Reports should be made regardless of whether the potentially dangerous person is a co-worker or a non-employee. Reports or incidents warranting confidentiality will be handled appropriately, and information will be disclosed to others on a “need to know” basis. This policy does not prevent employees from directly notifying law enforcement officials of the problems.

E. Emergency Situation – It is recommended that employees who are confronted by or who encounter an armed or dangerous person not attempt to challenge or disarm the individual. The employee should use his/her best judgment under the circumstances to avoid injury to him/her or others. If the employee is able to contact the Police Department or emergency assistance safely, then the employee should do so immediately or as soon as possible.

F. Enforcement – Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have

committed such acts will be subject to disciplinary action, up to and including termination. Reports to law enforcement officials will be made as appropriate. Non-employees engaged in violent acts in or affecting the workplace will also be reported to the proper authorities. The Town will cooperate fully with law enforcement authorities during any investigation.

G. Eligibility for Rehire – Employees terminated for violating a provision of this policy shall not be eligible for rehire with the Town in any capacity.

Ayes-5. Noes-0. Carried.

Councilman Powers made the motion and Councilwoman Glowonia seconded the motion to approve the following resolution form winter road salt purchases:

WHEREAS, New York State mandates where municipalities can purchase their winter road salt, and WHEREAS, the Town of Elma and many other small municipalities must contract with the State of New York to purchase road salt from the state bid contract before knowing the price charged by the State for that winter season, and WHEREAS, the budgets of smaller municipalities can be effected greatly by the price of road salt, and WHEREAS, larger government entities (such as Erie County) bid their winter road salt needs on a yearly basis and sometimes get a lower price from the State than do the smaller municipalities, and WHEREAS, the smaller municipalities are currently locked into a higher road salt price with the State than larger municipalities are. The State is charging the Town of Elma more for road salt at \$40.12/ton than it is charging the County of Erie at \$37.22/ton, and WHEREAS, it is patently unfair for the State to require municipalities to buy road salt from the State without disclosing the price then charge different prices for the same road salt to different municipalities; NOW THEREFORE BE IT RESOLVED that the Town of Elma believes that the State Senate and Assembly should make a law to allow smaller government agencies to chose the lowest road salt price when contracts are presented to them by the State, and be it further RESOLVED, that the Town of Elma believes that the price of road salt should be given by the State before contracts are sent out to small municipalities; and be it further RESOLVED, that the Elma Town Clerk is directed to send copies of this resolution to: Assemblywoman Jane Corwin; Senator Dale Volker; Governor David Paterson; Legislator Kathy Konst; County Executive Chris Collins and to the Towns and Villages in Erie County; and This resolution shall take effect immediately.

Ayes-5. Noes-0. Carried.

Councilman Powers made the motion and Councilwoman Glowina seconded the motion to approve Warrant #8 with no exceptions: Claim #2509 thru #2640 General Fund \$87,418.17, Highway Fund \$53,612.47, Water District \$135,997.47, Special District \$8,752.35 and Capital Project \$6,422.77. Councilman Polak noted one exception. Ayes-5. Noes-0. Carried.

Councilman Puleo made the motion and Councilwoman Glowina seconded the motion to add an item to the Agenda for New Bullis. Ayes-5. Noes-0. Carried.

Councilman Puleo made the motion and Councilwoman Glowina seconded the motion to approve the New Bullis Road storm sewer improvements and road reconstruction engineering project to TVGA at the cost of \$22,300. Quotes from Nussbaumer & Clarke Inc \$63,300 and Wm Schutt & Associates Engineering & Land Surveying P C \$22,000 were also reviewed. Ayes-5. Noes-0. Carried.

Supervisor Nolan announced that the next Work Session will be September 9, 2009 at 6:00PM with the Town Board meeting on September 2, 2009 at 8:00PM.

Supervisor Nolan set a Public Hearing date of September 16, 2009 at 8PM for Drainage District #184 for Online Auto Connection 2989 Transit Road.

All have received the Planning, Zoning and Conservation Board, Design Guidelines Committee minutes that apply.

Meeting adjourned at 8:55PM.

Respectfully submitted,

Patricia King
Town Clerk