

**WALWORTH TOWN BOARD – REGULAR MEETING  
7 FEBRUARY 2008**

Presiding Supervisor Plant called the regularly scheduled Town Board meeting, held at the Walworth Town Hall, 3600 Lorraine Drive, to order at 7:30 PM.

Present:	Thomas Yale	Councilman
	Frank Maciuska	Councilman
	Patricia Marini	Councilwoman
	Suzi Hawkins-Mance	Councilwoman
	Susie Jacobs	Town Clerk
	Art Williams	Attorney for the Town
	Mike Frederes	Highway Superintendent
	Jacqueline Van Lare	Recreation Director
	Karen Ambroz	Assessor
	Carl Hewings	Parrone Engineering

**MINUTES:**

Motion by Councilwoman Hawkins-Mance to approve the Minutes of December 20, 2007, as presented.

Seconded by Councilman Yale.

Adopted: Vote Ayes 5 Nays 0

Motion by Councilwoman Hawkins-Mance to approve the Minutes of December 27, 2007, Special meeting as presented.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 5 Nays 0

Motion by Councilwoman Hawkins-Mance to approve the Minutes of January 3, 2008, Organizational meeting as presented.

Seconded by Councilman Yale.

Adopted: Vote Ayes 5 Nays 0

Motion by Councilwoman Hawkins-Mance to approve the Minutes of January 10, 2008, Special meeting as presented.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 5 Nays 0

Motion by Councilwoman Hawkins-Mance to approve the Minutes of January 17, 2008, as presented.

Seconded by Councilman Yale.

Adopted: Vote Ayes 5 Nays 0

Motion by Councilwoman Marini to approve the Minutes of January 24, 2008, Special meeting as presented.

Seconded by Councilman Maciuska.

Adopted: Vote Ayes 5 Nays 0

**CORRESPONDENCE:**

Susie Jacobs, Town Clerk, had nothing to enter into record.

**RECOGNITION OF RED APPLE:**

Supervisor Plant stated that Red Apple Kwik Fill would be presented with a certificate of recognition from Wayne County PROUD (Promoting the Reduction of Underage Drinking) Partnership, recognizing them for their commitment to refuse the sale of alcohol to minors for November, 2007.

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**PUBLIC PARTICIPATION:**

**SHERBURNE ROAD RESIDENTS SPEED REQUEST DISCUSSION**

A resident on Sherburne Road spoke on the speed limit reduction from 45 mph to 30 mph. He stated that it had been quite a while to wait for a determination by the DOT on this matter. When the determination came in he didn't understand it, ~~so he explained that and~~ he wanted to know what they did as far as the investigation was concerned and what points were covered during the investigation. He read the "points of investigating" from the ~~i~~Internet regarding what was done in this investigation ~~as follows:~~

1. Road surface characteristics, shoulder conditions, grade, site distance, and alignment.
2. The 85% speed and pace speed.
3. Roadside development and culture and roadside friction, safe speed for curves or hazardous locations within the zone, parking practices and pedestrian activity, reported accident experience for a recent 12--month period.

He commented that he did not know what most of this had to do with lowering the speed limit so that the safety of the road would be better. He visited Trooper Vince Corona on February 1, 2008, and February 4, 2008, to see what his involvement in the investigation was, which ~~was had been~~ to drive the length of Sherburne Road at 45 mph. He was told by Trooper Corona that he thought the 45 mph speed limit was "OK." This resident said this was a good observance because in November all of the activities in the park had stopped and Town business at the municipal complex and library would have slowed down. And with this one drive by ~~done by~~ Trooper Corona, he might not have seen or noticed any of the 7 residents with site distance problems existing with their driveways ~~s. -- o~~ Or the 4 daily bus stops picking up and dropping off ~~the~~ school kids. There was no written report from Trooper Corona. On February 4, 2008, the resident visited the ~~New York State~~ Department of Transportation and spoke with Ernie Dietz, who ~~made conducted~~ the investigation. The investigation amounted to about 3 hours, sitting just ~~West west~~ of the cemetery on Sherburne Road, and checking the speed of vehicles ~~;~~ which averaged about 53 mph, as well other road characteristics. The resident asked him how he could make a proper determination at that time of year. ~~He The trooper~~ said he could and was going to do it again on ~~the~~ February 12, 2008, along with 2 road engineers. In the end, he said lowering the speed limit sign would not make the road any safer because ~~the~~ motorists would still drive the same speed as they did before. The resident said he discussed one point with him ~~;~~ ~~and that was~~ when coming off of Route 350 on ~~to~~ Sherburne Road, there is a 45 mph speed sign just before the hill crest ~~;~~ and if that hill crest is placed in a hazardous location within the zone that is mentioned in the engineering policy guide, why would you be accelerating and shouldn't you be driving a safe uniform speed of 30 mph or 35 mph and carrying that speed through the rest of 1 mile length of road? He didn't get too much of an answer on this question, just sort of "that's the way it was." Mr. Dietz had a few notes, but no formal written report of ~~the February 4<sup>th</sup>~~. The resident thought his neighbors would want to know about this determination ~~;~~ No one was talked with as far as anyone on ~~this~~ road. ~~No one had talked with the Fire Department.~~ And from what he got from the Town Board, no one had talked with them. ~~No one had talked with the Fire Department in this regard.~~ This resident wondered, "When the ~~state State~~ determined that they should take the jurisdiction away from the Town Fathers to figure out what a safe speed limit should be ~~;~~ how ~~canould~~ they do that?" He stated ~~that~~ we have an ordinance. The ~~state State~~, back whenever, mandated that ~~Town's towns~~ across the ~~state State~~ come up with an ordinance ~~and in that ordinance it says the purpose of the ordinance in which the purpose~~ is to promote and protect the health, safety and general welfare of our community. He commented that he didn't know where all of the information the DOT compiled across the ~~state State that~~ would really have anything to do with the safety factor of our Sherburne Road. He ~~i~~was looking to the Town Board, our "Town Fathers," ~~to~~

~~clarify how the State could have taken jurisdiction away from them on this matter if the jurisdiction that should be yours is turned over to the state, the resident does not follow the procedure.~~ He thanked Council members.

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Supervisor Plant asked if anyone else from Sherburne Road would like to speak. The Supervisor stated that Senator Nozzolio had contacted him to let him know that ~~another~~ request had gone in to the State DOT for re-examination. Supervisor Plant stated that all ~~the~~ rules and powers are given to the State; the State then decides what ~~the Towns towns~~ and ~~v~~illages ~~will beare~~ allowed to do under ~~the~~ State guidelines. So there are certain powers the State ~~had~~ kept for itself. In ~~T~~owns under a population of 10,000, the State ~~had~~ kept the right to set speed limits.

Discussion ensued ~~with regarding~~ the process required for speed reduction requests. Councilman Maciuska concurred with the Supervisor and advised the resident that the Town Board has to endorse the concept of lowering the speed limit before it can go to the State DOT. Another resident asked when and what time of year the DOT would take another look at Sherburne Road. Councilman Maciuska stated that the Town Board had no control ~~with over~~ the DOT.; ~~T~~he Town cannot lower the speed limit and we would have to work through the system. Supervisor Plant assured the resident that any correspondence regarding a Sherburne Road speed limit reduction request would be read at ~~the~~ Town Board meetings.

Another Sherburne Road resident asked the Supervisor if the situation had been approached at all from the standpoint of in-working with our local Troopers, ~~have we approached it from that at all; is there was something could~~ the Supervisor ~~could do to~~ speak with ~~our local~~ State Troopers ~~and~~ could he also talk to the Troopers that ~~the~~ DOT would work with? Discussion ensued with a determination by Councilman Maciuska that the Town would have better luck when the weather getsot a little better, and they would ask the Troopers to take a look on a busy night when ~~we have anthere was~~ activity in the park, and request them to ~~and~~ give the Town Board their opinion.

### BRUCE CAREY FIREWORKS DISCUSSION

Bruce Carey, from Carey Lake Restaurant, presented a written statement to the Town that read as follows:

“Dear Board members, I thought it would be much easier to write my case. As you know, I have had fireworks at my home and then at Carey Lake. Up until the new administration took over I simply went to the Town Clerk, filled out the form and then Young Explosives would send it back to the Town with their proper insurance requirements and that was the end of it. But then for some unknown reason every application had to go before the Board for their approval. Must be a control thing or a way to hurt my business. I would like the full Board to know that the State law concerning fireworks is the same one that’s been on the books since the end of World War II. It is to stop the private manufacture and use by unlicensed individuals. The Attorney General’s opinion on this law was given in reference to a private residence trying to do their own fireworks. Carey Lake is a commercial public facility and of course only uses a licensed company. When you are out here trying to lure parties you need all the attractions you can get. I sincerely would appreciate the Board’s consideration to this matter. If the Board is not going to do anything to promote further commercial growth in Walworth perhaps it might consider not hurting the ones that are here.” Bruce H. Carey

Supervisor Plant asked Mr. Carey if he would like to make his request verbally, for the record? Mr. Carey stated that he had put it in writing because he felt it would be simpler. Mr. Carey began by saying he was in the same business, although not in the same location, as the Convention Center, Crown Plaza ~~ander~~ the Hyatt Hotel. And ~~they are in the same state as we are. And~~ you can go there today, book your

party and have a fireworks display, right over the river; but not where I am - where I own all of the land. And I am trying to get bigger functions out here. Mr. Carey stated that he does not open the fireworks displays to the general public because of safety concerns. Supervisor Plant said that it was not the Board's intent to stop issuing permits was-or to stop Carey Lake from having fireworks; it was simply to go by the State Comptroller's opinion, so Carey Lake would not have to get a permit. Mr. Carey said that as he explained, the people that

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do the fireworks are licensed and need a permit as part of their regulations from the State. Art Williams, Attorney for the Town reiterated that it is not uncommon for

~~their regulations from the state.~~ Art Williams, Attorney for the Town reiterated that it is not uncommon for municipalities, be they my Townstowns, Villages-villages or Citiescities, to find that even after 50 years they have been doing it wrong. This came to light by the Attorney General's opinion titled "Fireworks Display Permits for Private Parties – Inf. Opn. 2007-3," printed in one of the Association of Towns publications. Art Williams, Attorney for the Town, stated that Mr. Carey's statement that ~~that~~ the Attorney General's opinion on this is just that, it's an opinion and it's not law; ~~that~~ is correct. The way Art Williams advises municipalities is that it's an opinion, but it is as close to the law as you're going to get, when you have an area where one section of the law like the Penal Law might conflict with ~~the~~ Town Law that says you can issue permits. And is it law? ~~no~~, it's an opinion by legal counsel that works s for the Association of Towns or the Conference of Mayors that addresses issues s that are not easily deciphered if you look at the section of Penal Law and the section of ~~the~~ Town Law that may conflict. ~~The opinion is only an opinion but~~ I have to advise the Boards that I represent, based on what my interpretation of the statute is; and if the statute is not clear then I will often go to the Attorney General's opinions or the Comptroller's opinions to advise a municipality. ~~And in~~ this instance the way the Penal Law is written, it is improper for the Town to issue those permits for anything other than the public display of fireworks. Discussion ensued between Mr. Carey and the ~~attorney~~ Attorney. The ~~attorney~~ Attorney mentioned the possibility that under the Municipal Home Rule Law, you ~~can~~ could make application to the State to be Town-exempt. ~~It~~ This is a couple-year's long process.

Councilman Yale stated that ~~the~~ fireworks awere a part of ~~the success of what made~~ Mr. Carey's business successful, and the Town needed to find a way to do this, whatever that means. Discussion ensued, with Mr. Carey asking why the change in procedures under the new administration, and Councilman Yale stating that ~~what~~ changed is nothing had changed except that they started obeying their own law, which said that it had to come before the Town Board. Discussion ~~ensued~~ continued among Mr. Carey, Council members and the ~~attorney~~ Attorney, brainstorming ways of allowing fireworks. A committee consisting of Councilman Yale and Councilwoman Marini was formed to research ~~the~~ alternatives; ~~they and~~ will report out in March, 2008.

### DEPARTMENT HEAD REPORTS:

#### HIGHWAY DEPARTMENT – STREET SWEEPER BID REQUEST

Motion by Councilman Yale authorizing Mike Frederes, Highway Superintendent, to prepare the specifications and advertise for bids for a new street sweeper, budgeted item, in 2008.

Seconded by Councilwoman Hawkins-Mance.

Adopted: Vote Ayes 5 Nays 0

#### HIGHWAY DEPARTMENT – ADVOCACY DAY ATTENDANCE REQUEST

Motion by Councilman Yale authorizing Mike Frederes, Highway Superintendent, to attend Advocacy Days in Albany, New York, ~~on~~ March 4<sup>th</sup> ~~and~~ 5<sup>th</sup>, 2008, for an amount of associated costs therein, monies to be expended from line A5010.41.

Seconded by Councilwoman Hawkins-Mance.

Adopted: Vote Ayes 5 Nays 0

RECREATION – ~~NEW YORK STATE~~ RECREATION & PARKS SOCIETY AUTHORIZATION

Motion by Councilwoman Marini authorizing Jacqueline Van Lare, Recreation Director, and Erin Thomas to attend the NYSRPS ~~conference~~ Conference in Saratoga Springs, New York, ~~on March 30<sup>th</sup> through~~ April 1<sup>st</sup>, 2008, for an amount not to exceed \$1,100.00, from budgeted line A7310.49.

Seconded by Councilwoman Hawkins-Mance.

Adopted: Vote Ayes 5 Nays 0

ALCOHOL USE LARRY LEBERTH – GINEGAW PARK:

Motion by Councilwoman Marini authorizing the issuance of an Alcohol Use Permit for beer and wine to Larry LeBerth on June 28, 2008.

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Seconded by Councilman Maciuska.

Adopted: Vote Ayes 5 Nays 0

ALCOHOL USE LISA LEBERTH – GINEGAW PARK:

Motion by Councilwoman Marini authorizing the issuance of an Alcohol Use Permit for beer and wine to Lisa LeBerth on June 14, 2008.

Seconded by Councilman Maciuska.

Adopted: Vote Ayes 5 Nays 0

ALCOHOL USE WALWORTH LIONS CLUB – GINEGAW PARK:

Motion by Councilwoman Marini authorizing the issuance of an Alcohol Use Permit for beer and wine to Walworth Lions Club on June 17, 2008.

Seconded by Councilman Maciuska.

Adopted: Vote Ayes 5 Nays 0

RECREATION WEB PAGE COMMENTS:

Jacqueline Van Lare, Recreation Director, invited Council members to visit the Recreation Web Page. Erin Thomas has made some changes and done an awesome job.

ASSESSOR – CONFERENCE ATTENDANCE AUTHORIZATION

Motion by Councilman Yale authorizing Karen Ambroz, Assessor, and Patty Anselm to attend a conference in Rochester, New York, on April 11, 2008, for an amount not to exceed \$99.00 per person, from budgeted line A1355.43.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 5 Nays 0

ENGINEER – MS4 MEETING

Carl Hewings, Parrone Engineering, gave an update on the MS4 coalition meeting scheduled for Tuesday, March 4, 2008. This is the elected official's meeting at Victor's Village Hall. It will be a discussion on the next phase of the new general permits, ~~which is~~ implementation.

ENGINEER – DESIGN CRITERIA GUIDELINES

Carl Hewings, Parrone Engineering, stated that he had received comments from Mike Frederes, Highway Superintendent, Phil Williamson, Code Enforcement Officer, and Norm Druschel, Building Inspector, regarding the design criteria guidelines and construction specifications. These changes will be implemented within the next couple of weeks.

TOWN CLERK – LETTERS TO STATE TROOPERS FOR ALCOHOL PERMITS

Susie Jacobs, Town Clerk, advised that she would be sending letters to the State Trooper's office regarding the alcohol use permits issued in Ginegaw Park.

**COMMITTEE REPORTS:****LIBRARY TRUSTEE MEMBER**

Motion by Councilman Maciuska to appoint Christine LoTempio as a Library Board ~~of~~ Trustee for a five (5) year term, to expire December 31, 2012.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 5 Nays 0

**SEWER COMMITTEE**

Councilman Maciuska reported that the ~~committee~~ Committee had received three (3) proposals for their review and one (1) thank-you. The ~~committee~~ Committee will take some time to review the proposals and make a decision.

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**ASSOCIATION OF TOWN'S MEETING**

Councilman Maciuska stated that he would be attending the Association of Town's meeting. He requested that the Supervisor look at the agenda; ~~if~~ there was something that the Supervisor would like for Councilman Maciuska to attend, as long as it did not conflict with Councilman Maciuska's attendance schedule, he would be happy to do so.

**TOWN COMPLEX STUDY GROUP**

Councilwoman Hawkins-Mance stated that the Town Complex Study Group would have a presentation at the Town Board meeting on March 6, 2008.

**HARRIS BEACH BILLS DISCUSSION:**

Supervisor Plant informed Council members that the Macedon Land Development Inc. Lawsuit has sd some significant bills just under \$40,000.00 that had been paid, and ~~we will have~~ there would be a couple more large ones due to depositions being taken. Supervisor Plant hopes sd to have some resolution to this within the next six months. Councilman Yale stated, "it is important for the public to realize that the Town is carrying these bills due to another municipality suing the Town for something they contractually allowed the Town to do." Councilman Maciuska concurred with Councilman Yale and added, "it appears sometimes that the Town Board is very cautious and we have to be, because we have to think about the impact and how it is going to impact in the future. Certainly for the previous Boards that entered into that contractual arrangement, it was common business at the time. We have a couple of requests tonight that we have to really consider ~~on~~ how we are going to vote, because we don't want to set the Town up for something similar in the future. We have a legal responsibility to not put the Town in jeopardy."

**CHAPTER 166 ENTITLED "SNOWMOBILES, ALL-TERRAIN VEHICLES AND OFF-ROAD MOTORCYCLES" LAW:**

Councilwoman Marini stated that she had presented ~~to~~ Council members with a copy of the revised ordinance, which had been reviewed by Art Williams, Attorney for the Town. The areas that had changed ~~are~~ were as follows:

DEFINITION - MARKED TRAIL – a trail established by covenant or agreement with a property owner that is maintained by a club affiliated with the New York State Snowmobile Association (NYSSA).

§166-4 ~~\_\_\_\_\_~~ D. The words "marked trails" added.

§166-4 E. Submission of a map of the designated marked trails to the Town of Walworth by the club(s) associated with NYSSA before December 26<sup>th</sup> of each year. If modifications

occur on the marked trails, the club(s) associated with NYSSA will submit a revised copy to the Town of Walworth.

Councilwoman Marini stated that a copy needed to be available ~~between~~within 5 ~~and to~~ 10 days so the Town Board ~~can~~could act on it at the next Town Board meeting. Councilman Yale confirmed that "the clubs" had indicated that this ~~is~~was no problem for them. ~~Councilwoman Marini stated "the clubs" said this was something that was doable for them.~~

Supervisor Plant stated that he thought Council members had discussed something regarding any new marked trails. Councilwoman Marini interjected that was on the second draft, which was not supported by the majority of the ~~committee~~Committee. She informed him that what was in front of him ~~is~~was what was supported by the majority of the ~~committee~~Committee. Councilman Yale commented if modification occurred on a marked trail, the club would submit a copy. Supervisor Plant further ~~commented~~said he thought it had also been discussed that if a trail was moved or a new trail was made.

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~~made~~, residents within 200 feet would ~~be~~ at least be notified. Councilwoman Marini advised this was something one of the members came to the Town Board requesting, but that was not part of ~~what the recommendations that~~ came ~~out of~~from the majority of the Snowmobile Committee. Councilwoman Marini said if the Board ~~so chooses~~chose to make another modification, there would have to be a motion to that ~~affect~~effect. Supervisor Plant asked Art Williams, Attorney for the Town, if we had to advertise for another public hearing? Discussion ensued with ~~determination of~~regarding how to proceed with the adoption of the local law. Supervisor Plant expressed his concern for wanting the 200 feet notification and moved ~~his first motion as such~~accordingly.

Motion by Supervisor Plant to add that any new marked trails would be 200 feet from an occupied dwelling, or have permission from the residenets.  
Seconded by Councilman Maciuska for discussion.

Discussion: Councilman Maciuska stated the ~~committee~~Committee came to ~~the a~~ consensus of the group of individuals that took their time to do all the research, and this ~~was~~ their recommendation. He further stated if you have a committee ~~to~~ do all the work, and they come up with a consensus and make a presentation, then he is willing to live with what the committee says. They did more research than he did. Councilwoman Marini was concerned with the enforceability of the local law based on the change in property owners and obtaining their permission. She did not believe it was feasible. Councilman Yale concurred with Councilman Maciuska and Councilwoman Marini. He stated if ~~this needs it needed~~ changing further tuning or further tuning down the road, then ~~we do it~~ it be changed. Councilman Yale said there was a lot of hard work done by people on this committee, and this committee was made up of individuals that were both pro-snowmobiling and not so pro-snowmobiling, as well as and people that who were tight with the organizations. The snowmobile organizations, from what he had observed so far, are ~~were~~ responsible and wanted to do the right thing. Councilman Yale stated that for now, he wanted to move this local law forward as it stands ~~stood~~ and ~~we can reevaluate it~~ it could be re-evaluated down the road if it needed to be. Councilwoman Hawkins-Mance agreed with the other 3 speakers. She stated that snowmobiling ~~is~~was a recreation this Town has participated in for years. Furthermore, Sshe stated the enforceability of 200 feet was extreme.

Roll call vote:	Councilman Maciuska	Nay
	Councilwoman Marini	Nay
	Councilwoman Hawkins-Mance	Nay
	Councilman Yale	Nay
	Supervisor Plant	Aye

Motion failed.

**NON-MATERIAL CHANGES TO CHAPTER 166:**

Councilman Yale offered the following Resolution **10-08** and moved its adoption. Seconded by Councilwoman Marini to wit:

**WHEREAS**, the Town Board of the Town of Walworth adopt non-material changes to Draft #1 of Chapter 166 entitled “Snowmobiles, All-Terrain Vehicles and Off-Road Motorcycles;

**BE IT RESOLVED**, that the Town Board of the Town of Walworth is requesting that the DEFINITION - MARKED TRAIL – a trail established by covenant or agreement with a property owner that is maintained by a club affiliated with the New York State Snowmobile Association (NYSSA) be added;

**BE IT RESOLVED**, that the Town Board of the Town of Walworth is requesting that §166-4 D. The words “marked trails” be added;

**BE IT RESOLVED**, that the Town Board of the Town of Walworth is requesting that §166-4 E. Submission of a map of the designated marked trails to the Town of Walworth by the club(s) associated with NYSSA before December 26<sup>th</sup> of each year. If modifications occur on the marked trails, the club(s) associated with NYSSA will submit a revised copy to the Town of Walworth, be added in its entirety.

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**NOW, BE IT FURTHER RESOLVED**, that the Town Council of the Town of Walworth adopt Resolution **10-08**.

Roll call vote:	Councilman Maciuska	Aye
	Councilwoman Marini	Aye
	Councilwoman Hawkins-Mance	Aye
	Councilman Yale	Aye
	Supervisor Plant	Aye

Resolution carried.

**PROPOSED LOCAL LAW NO. 1 OF THE YEAR 2008 - CHAPTER 166 ENTITLED “SNOWMOBILES, ALL-TERRAIN VEHICLES AND OFF-ROAD MOTORCYCLES” LAW:**

**ADOPTION:**

Councilman Yale offered the following Resolution **11-08** and moved its adoption. Seconded by Councilwoman Marini to wit:

**LOCAL LAW NO. 1 OF THE YEAR 2008**

Chapter 166

**SNOWMOBILES, ALL TERRAIN VEHICLES AND OFF ROAD MOTORCYCLES**

- §166-1. Title.
- §166-2. Purpose.
- §166-3. Definitions.
- §166-4. Operation restricted.
- §166-5. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Walworth 5-19-1983 as L.L. No. 3-1983. Amendments noted where applicable.]

**GENERAL REFERENCES**

- Noise – See Ch. 108.
- Parks and recreation areas – See Ch. 117.
- Use of premises – See Ch. 125.
- Vehicles and traffic – see Ch. 163.

§166-1. Title.

This chapter shall be known and may be cited as the Town of Walworth “Snowmobile, All Terrain Vehicle and Off Road Motorcycle Law.”

§166-2. Purpose.

The purpose of this chapter is to protect the public health, welfare and safety by prohibiting the operation of snowmobiles, all terrain vehicles and off road motorcycles and by regulating the operation of these vehicles in public parks and on private lands and places in the Town of Walworth in a manner which will be compatible with the use of such private lands, and which will promote the safe and proper use of snowmobiles, all terrain vehicles and off road motorcycles for recreation and minimize detrimental effects of such use on the environment.

§166-3. Definitions.

The following words shall have the meanings respectively ascribed to them for purposes of this chapter, or the current definitions of the New York State Vehicle and Traffic Law:

**ALL TERRAIN VEHICLE** – any self-propelled wheeled vehicle which is manufactured for sale for operation primarily on off highway trails or off highway competitions and only incidentally operated on public highways providing that such vehicle does not exceed seventy inches in width, or one thousand pounds dry weight.

**OFF ROAD MOTORCYCLE** – a motorcycle which is not equipped in conformity of section three hundred eighty one of the New York State Vehicle and Traffic Law and which is manufactured and sold for operation primarily on off highway trails or in off highway competitions and only incidentally operated on public highways.

**SNOWMOBILE** – a self-propelled vehicle designed for travel on snow or ice, steered by skis or runners and is supported in whole or in part by one or more skis, belts or cleats.

**TOWN PARKS** – all areas of parklands owned by the Town of Walworth, except a roadway designed for use of vehicles licensed under the Vehicle and Traffic Law of the State of New York.

**MARKED TRAIL** – a trail established by covenant or agreement with a property owner that is maintained by a club affiliated with the New York State Snowmobile Association (NYSSA) .

§166-4. Operation restricted.

- A. No person shall operate a snowmobile, all terrain vehicle or off road motorcycle on private lands or on Town Park land in the Town of Walworth at any time without consent of the owner or other person legally in possession of said premises.
- B. No person shall operate a snowmobile, all terrain vehicle or off road motorcycle on private lands in the Town of Walworth within seventy-five (75) feet of a building owned by another used for human habitation. This section shall not apply to use of public rights-of-way by licensed vehicles and to the use of agricultural or construction vehicles even though unlicensed when use in and for the purpose designed.
- C. No person shall operate a snowmobile, all terrain vehicle or off road motorcycle on his or her own land in the Town of Walworth if it is within twenty-five (25) feet of a building not used for human habitation owned by another. [Amended 9-1-1994 by L.L. No.1-1994]
- D. No person shall operate a snowmobile, all terrain vehicle or off road motorcycle on public property or on Town Park land at any time, except on

designated roadways or in accordance with marked trails during posted permitted use periods, when properly licensed or on lands specified by the Town Board within the Town of Walworth at any time.

- E. Submission of a map of the designated marked trails to the Town of Walworth by the club(s) associated with NYSSA before December 26<sup>th</sup> of each year. If modifications occur on the marked trails, the club(s) associated with NYSSA will submit a revised copy to the Town of Walworth.

§166-5. Penalties for offenses.

Unless otherwise specifically provided by state statute, any person who violates any provisions of this chapter shall be guilty of a violation and, upon conviction for a first offense, shall be, subject to a fine of not more than \$250 or imprisonment not exceeding 15 days, or both such fine and imprisonment. Upon conviction of a second offense, the fine shall not exceed \$500 or imprisonment not to exceed 15 days or both such fine and imprisonment. Upon conviction of a third or subsequent offense, the fine shall not exceed \$750 or imprisonment not to exceed 15 days or both such fine and imprisonment.

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Discussion: Councilman Yale stated that he would like to commend all those who had a part in putting this together. This was a very difficult process. In spite of very high emotions on many sides, they ~~came~~ had come out with a very solid platform ~~to at least begin to begin the process~~. Councilman Maciuska concurred, ~~;~~ he said the fact that ~~they~~ the Committee came had come up with a consensus on such an emotional issue ~~like this, he stated the committee needed to be commended was most commendable~~. Councilwoman Marini thanked ~~committee~~ Committee members.

Roll call vote:	Councilman Maciuska	Aye
	Councilwoman Marini	Aye
	Councilwoman Hawkins-Mance	Aye
	Councilman Yale	Aye
	Supervisor Plant	Aye

Resolution carried.

**WEB SITE DOMAIN NAME CHANGE:**

Motion by Councilman Maciuska authorizing the Supervisor to shift the domain name for the Town of Walworth website from .com to .gov for an amount not to exceed \$125.00 per year.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 5 Nays 0

**DOG FEES DISCUSSION:**

Councilwoman Hawkins-Mance stated that she had reviewed the dog fees back to 2000 and was of the belief ~~believes~~ that the Town needed to increase these fees at this point in time. Councilwoman Hawkins-Mance continued to explain that she went back and looked at what the Town ~~wa~~ is spending on kennel fees versus what the Town ~~is~~ was taking in on kennel fees, and ~~this is it was~~ not even close in comparison. She presented a new proposal to Council members that she ~~had~~ had put together and asked that they review ~~this it~~ this. ~~She added that if~~ She added that if Council members ~~were in~~ were in needed of ~~more any other~~ more information, she had ~~to~~ to annual reports for ~~the~~ the dog pick-up fees for the last three years. She stated that Council members ~~had~~ had ~~could refer to~~ could refer to their budget books ~~that show to see~~ that show to see how much the Town ~~wa~~ is paying ~~for the~~ for the Rabies Responders and Animal Control Officers, ~~;~~ ; and when you offset the two, it becomes quite apparent that the Town ~~really~~ really needs to increase ~~the~~ the fees. Discussion ensued with Council members regarding the proposed fee schedule as follows:

**- DRAFT -****§ 56-8. Redemption of seized dogs; fees; disposition of unredeemed dogs. [Amended 4-3-1986 by L.L. No. 3-1986; 9-1-1994 by L.L. No. 1-1994; 6-1-2000 by L.L. No. 2-2000]**

- A. Every dog seized shall be properly fed and cared for at the expense of said Town until disposition thereof is made as herein provided. In the event that a dog seized bears a license tag, the Dog Control Officer shall ascertain the owner of the dog and shall give immediate notice, in writing, by certified mail, return receipt requested or personal service on a person living at that address or by notice being tacked on the door of the residence and a copy mailed to the address, stating that the dog has been seized and the dog will be destroyed unless redeemed within the period hereinafter provided.
- B. The owner of a dog seized while bearing a license tag may redeem the dog within five days of personal notification of the seizure of the dog; however, if notice to the owner of the seizure is given by mail, the owner of the dog seized may redeem the dog within seven days of the service of such notice. If notice is sent by mail, it shall be sent by certified or registered mail, return receipt requested. The owner shall pay to the Town Clerk the following fees, which shall be deemed impoundment fees: ~~\$20-25~~ as a result of the seizure, a fee equivalent to the amount allowed by the Internal Revenue Service as a mileage deduction per mile for income tax purposes times the mileage for the pickup of the dog and transporting the dog to the kennel where it is to be harbored during the seizure period and a fee in the amount of ~~\$40-20~~ per day for each day ~~following beginning its~~ day of seizure.
- C. In the event that the dog seized does not bear a license, the owner of the dog seized may redeem the dog within three days from the day seized, during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of Article 7 of the Agricultural and Markets Law. The owner shall pay to the Town Clerk the following fees, which shall be deemed impoundment fees: ~~\$20-25~~ as a result of the seizure; a fee equivalent to the amount allowed by the Internal Revenue Service as a mileage deduction per mile for income tax purposes times the mileage for the pickup of the dog and transporting the dog to the kennel where it is to be harbored during the seizure period; and a fee in the amount of ~~\$40-20~~ per day for each day ~~following beginning its~~ day of seizure, plus a license fee and penalties prescribed by law for an unlicensed dog.
- D. For a second ~~and subsequent violation~~ impoundment of any dog owned by the same owner by one owner within a one-year period, the animal control officer shall, upon determination and identification of the dog, seize and take into custody said dog and serve, deliver or mail the notice of second violation in the same manner as set forth in Subsections B and C above. The owner shall pay to the Town Clerk the following fees, which shall be deemed impoundment fees: ~~\$40-50~~ as a result of the seizure; a fee equivalent to the amount allowed by the Internal Revenue Service as a mileage deduction per mile for income tax purposes times the mileage for the pickup of the dog and transporting the dog to the kennel where it is to be harbored during the seizure period and a fee in the amount of ~~\$20-40~~ per day for each day ~~following beginning its~~ day of seizure, plus a license fee and penalties prescribed by law for an unlicensed dog.
- E. (Insert into a new paragraph): For a third and any subsequent impoundment of any dog owned by the same owner, within a one-year period, the animal control officer shall, upon determination and identification of the dog, seize and take into custody said dog and serve, deliver or mail the notice of third or any subsequent violation in the same manner as set forth in Subsections B and C above. The owner shall pay to the Twon Clerk the following fees, which shall be deemed impoundment fees: \$75 as a result of the seizure; a fee equivalent to the amount allowed by the Internal Revenue Service as a mileage deduction per mile for income tax purposes times the mileage for the pickup of the dog and transporting the dog to the kennel where it is to be harbored during the seizure period and a fee in the amount of \$50 per day for each day, beginning the day of seizure, plus a license fee and penalties prescribed by law for an unlicensed dog.
- F. If any dog so seized is not redeemed in the time hereinbefore set forth, the owner shall forfeit all title to the dog and the dog shall be sold by the Town or destroyed. In case of sale, the purchaser may pay the cost of seizure to the Town Clerk and obtain a license for such dog. In case the dog shall be destroyed, the animal control officer or officer who destroys the dog shall immediately dispose of the carcass and make a written report of such destruction and disposition to the Town Clerk, who shall keep a record thereof. The owner of a dog so destroyed shall pay the Town Clerk the impoundment fees in Subsections B and C herein and the cost of destruction of such dog, and such cost may be recovered by the Town in a civil action brought in the name of the Town before a Town Justice in the Town of Walworth.
- G. The destruction of any dog seized by the animal control officer or law enforcement officer as herein provided shall be accomplished by approved humane methods. No dog seized shall, be sold or surrendered to any person, firm, organization or institution for experimental use.

**Art to add clause stating i.e. Town Board by resolution may amend fees.**

Councilman Maciuska agreed that dog fees were too low across the board; other Council members reiterated his opinion. Various methods of raising fees were discussed. It was agreed that a Public Hearing would have to be held, as this is part of Town Code. Supervisor Plant closed the discussion by referring the matter to the Attorney for the Town, Art Williams, for final verbiage.

**WALWORTH AMBULANCE CONTRACT AUTHORIZATION:**

Motion by Councilman Maciuska authorizing the Supervisor to sign the Walworth Ambulance Contract for 2008.

Seconded by Councilwoman Marini.

Comment: Councilman Yale stated that this ~~was~~ in keeping with the budgeted amount and ~~keeping~~ with the same contractual agreement the Town has had in the past. Councilman Maciuska stated that residents should be aware that the fee the Town ~~was~~ paying ~~is probably was~~ a reasonable fee and we ~~are were~~ one of the few remaining ambulances in Wayne and Monroe County providings free service to ~~the~~ residents.

Roll call vote:	Councilman Maciuska	Aye
	Councilwoman Marini	Aye
	Councilwoman Hawkins-Mance	Aye
	Councilman Yale	Aye
	Supervisor Plant	Aye

Motion carried.

**WALWORTH TOWN BOARD – REGULAR MEETING CONTINUED  
7 FEBRUARY 2008**

**INTEGRATED WIRELESS DISCUSSION:**

Supervisor Plant explained that in 2007 he had budgeted \$4,000.00 for wireless connection of the Highway and Sewer Departments to the Town Hall. In February, 2008, the Supervisor received a quote for \$4,000.00 in equipment and \$3,750.00 in labor from Integrated Systems for this connection. These departments have no connection to the Town Hall or internet access at the present time. Another option would be Road Runner at the Highway Department, - not sure about the price - but the Supervisor stated he believed it would be about \$80.00. Councilman Maciuska asked if the Supervisor had some literature on this proposal and how the technology would work. He explained he did not have it but could explain how it would work. ~~This; it~~ would be wireless that ~~goes went~~ on an antenna on the side of the building and ~~was~~ a secured network. A ~~suggestion was made~~ question was raised as to whether this would qualify for a Homeland Security Grant. Supervisor Plant stated "possibly." Councilman Maciuska said he thought this was something worth pursuing, and Councilwoman Hawkins-Mance will look into this.

**PROPOSED GRANT REQUEST LIST DISCUSSION:**

Supervisor Plant ~~explained to~~ presented Council members ~~that before them they had with~~ a list of possible grant requests for 2008/2009. Discussion ensued ~~with in terms of~~ prioritizing the list of nine items and possibly combining some of the items on the list. It was stated that the grant request to Congressman Walsh ~~must had to~~ be submitted before March 1, 2008. Following is the list of possible grant requests, prioritized ~~according to~~ by Council members:-:

1. Sewer to West Walworth Hamlet \$1,400,000
2. Sewer across creek on Canandaigua Rd \$130,000 (included in #1)
3. Drainage for Ginegaw Park \$102,000
4. Park Pavilion, enclosed, in Sherburne Rd Park \$150,000
5. Lights along Lorraine Dr \$100,000
6. Sidewalks along Gananda Parkway from Canandaigua Rd to West Walworth Rd \$250,000
7. Sidewalks in West Walworth and Walworth Hamlets \$100,000

Numbers 3, 4 and 5 could be combined into one grant for improvements to the Town Park.

**AREA CODE 315 DISCUSSION:**

Supervisor Plant supplied Council members with a copy of the letter he had received from the New York State Department of Public Service regarding the 315 area code and a proceeding to determine the best way to implement a new area code. The Supervisor asked for Council members to review this and give comment at a later time. Discussion ensued, ~~with~~ noting that the letter ~~is~~ askinged for public comment. Council members decided that this letter should be made available to the press.

Roll call vote:	Councilman Maciuska	Aye
	Councilwoman Marini	Aye
	Councilwoman Hawkins-Mance	Aye
	Councilman Yale	Aye
	Supervisor Plant	Aye

Motion carried.

**WALWORTH TOWN BOARD – REGULAR MEETING CONTINUED  
7 FEBRUARY 2008**

**SMALL CITIES GRANT PUBLIC HEARINGS SCHEDULED:**

Motion by Councilman Yale scheduling the following Public Hearings for the purpose of Small Cities Grant:

February 21, 2008, ~~at~~ 7:45 PM  
 March 6, 2008, ~~at~~ 7:45 PM

Seconded by Councilwoman Hawkins-Mance.

Adopted: Vote Ayes 5 No 0

Roll call vote:	Councilman Maciuska	Aye
	Councilwoman Marini	Aye
	Councilwoman Hawkins-Mance	Aye
	Councilman Yale	Aye
	Supervisor Plant	Aye

Motion carried.

**AUTOMOBILE SALVAGE YARD LICENSE – MARK W. VOELCKERS/BRITISH AUTO:**

Councilman Maciuska presented the renewal license for Mr. Voelckers and advised that the fee had been paid. Councilman Yale inquired as to any knowledge of violations or complaints with regards to the Voelckers Automobile Salvage Yard. Susie Jacobs, Town Clerk, stated that she was not aware of any.

Motion by Councilman Yale authorizing an Automobile Salvage Yard License Renewal to Mark W. Voelckers for 2008.

Seconded by Councilman Maciuska.

Adopted: Vote Ayes 5 Nays 0

**SIT WITH THE SUPERVISOR:**

Supervisor Plant stated that there would be a “Sit with the Supervisor” session at the West Walworth Fire Hall at 9:00 AM on Saturday, February 9, 2008. Susie Jacobs, Town Clerk, advised Supervisor Plant that she was not informed and therefore ~~did~~ had not advertised this meeting. Supervisor Plant stated that it was mentioned in the Supervisor’s Column and the Town Topics.

**EXECUTIVE SESSION:**

Motion by Councilwoman Marini to enter into executive session to discuss litigation and possible litigation and the employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

Seconded by Councilwoman Hawkins-Mance and unanimously carried.

Time: 9:07 PM.

**RECONVENE:**

Supervisor Plant reconvened the regular scheduled Town Board ~~Meeting~~meeting.

Time: 9:45 PM.

Motion by Councilman Maciuska to reaffirm the motion made January 10, 2008, at the Special ~~Meeting~~meeting regarding the upgrade of re-roofing the Town Hall to 50-year shingles.

Seconded by Councilwoman Marini.

**WALWORTH TOWN BOARD – REGULAR MEETING CONTINUED  
7 FEBRUARY 2008**

Roll call vote:	Councilman Maciuska	Aye
	Councilwoman Marini	Aye
	Councilwoman Hawkins-Mance	Aye
	Councilman Yale	Aye
	Supervisor Plant	Aye

Motion carried.

Motion by Councilman Maciuska to reaffirm the motion made for the request for proposal for submission of contracts to operate the ~~sewer~~Sewer plant~~Plant~~ at the January 10, 2008, Special meeting.

Seconded by Councilwoman Marini.

Roll call vote:	Councilman Maciuska	Aye
	Councilwoman Marini	Aye
	Councilwoman Hawkins-Mance	Aye
	Councilman Yale	Aye
	Supervisor Plant	Aye

Motion carried.

**ADJOURNMENT:**

Motion by Councilwoman Marini to adjourn.

Seconded by Councilwoman Hawkins-Mance and unanimously carried.

Time: 9:58 PM.

Respectfully Submitted,

Susie C. Jacobs  
Town Clerk