

**WALWORTH TOWN BOARD – REGULAR MEETING
18 JUNE 2009**

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:	Patricia Marini	Councilwoman
	Frank Maciuska	Councilman
	Suzi Hawkins-Mance	Councilwoman
	Susie Jacobs	Town Clerk
	Mike Frederes	Highway Superintendent
	Rob Burns	Sewer Superintendent
	Jacqueline Van Lare	Recreation Director
	Denise Munson	Attorney for the Town

Absent:	Thomas Yale	Councilman
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MINUTES:

Motion by Councilwoman Marini to approve the Minutes of May 7, 2009, as presented.

Seconded by Councilman Maciuska.

Discussion: Supervisor Plant stated that on Page 112, TOWN CLERK – DEPUTY CLERK, where the Town Clerk **requested** to appoint Laurie Wiecek as Deputy Clerk I, it should read: The Town Clerk **appointed** Laurie Wiecek as Deputy Clerk I. Council agreed. Susie Jacobs stated, “ok.”

Motion by Councilwoman Marini to amend the Motion.

Seconded by Councilman Maciuska.

Adopted: Vote Ayes 4 Nays 0

MINUTES:

Motion by Councilman Maciuska to table the Minutes of May 21, 2009, as presented.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 4 Nays 0

MINUTES:

Motion by Councilwoman Hawkins-Mance to table the Minutes of June 4, 2009, as presented. She had no time to review them.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 4 Nays 0

PUBLIC PARTICIPATION:

Anthony Evans, Orchard View Development, commented that it had been brought to his attention that the Town had received several complaints regarding trees that were being cut down on property that we owned at Orchard View Estates. He stated that he was here to address that issue. He continued that when they first received approvals for Orchard View, they stated that they would dedicate a little over ten (10) acres of land to the Town to keep as green space. A couple of years ago they approached the Town Board for permission to go in and clean up the same area to build walking trails, take out dead trees and move trees that must be moved. The Board agreed, and that is what is being done now, the cutting down of trees, thinning out of the area, and trying to make way for the walking trails. We have Eagle Scouts lined up to go in there and help us do that. We are receiving complaints about the trees and are trying to do our best; but if the Town feels that we are doing something we shouldn't be, we will definitely stop - which we already have, actually, until we

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receive further direction from the Town Board. Discussion ensued. The Town has not accepted the land yet, the land still belongs to Orchard View Development. Councilman Maciuska asked if there was a plan for the land (conceptual rough plan); Mr. Evans stated, "yes." Mr. Evans stated that if the Town wanted him to stop, he did not have a problem stopping. He would leave it just like it was and dedicate it right now to the Town. Supervisor Plant stated that the idea was that the land would not be dedicated until the last sections were done - to see if there were changes because of lots as they were divided out; and we did not want to lock anyone into a specific line that might change by a few feet one way or another. Mr. Evans agreed. Supervisor Plant stated that he had received a few complaints, and the Code Enforcement Officer (CEO) did go out to look and felt that Orchard View was just clearing trails and dead trees out of there. He noted that the CEO stated that it may look different to residents because of where they have to drag things out; Mr. Evans explained the process. Mr. Evans noted that at one point he had given the homeowners permission to go back beyond their area and clean that down so that they would have a better look, and it grew back within a year and I anticipate the same old growth to grow back again. Mr. Evans explained that in talking to the logging company that he is using, the trees that are there and still need to come down are the ones that are cracked and quite a few hollow trees ; but also to take out all the other garbage that is in there and we are getting a lot of stuff that is still being thrown into there by the residents, which according to them, they think it is legal because the Town owns it. This is the explanation that they gave me. They thought that as long as the Town owns it, they can actually dump on it. Councilman Maciuska stated that the Town of Walworth has an Anti-Dumping Ordinance, where residents can be cited for dumping. Councilman Maciuska stated that in his personal opinion Mr. Evans had already worked it out with the Scouts; it was in harmony with the overall plan development for recreational use of the community and that Orchard View should continue doing what you are doing; we will let the CEO handle the complaints. It would make it easier if he could show them the conceptual plans so they knew exactly what was going on. Councilwoman Hawkins-Mance questioned if he was not doing a total clearing of every tree, correct? Mr. Evans responded, "No," that would not be beneficial to him or anyone. Councilman Maciuska noted that part of the cluster agreement was that part of that hard wood area would be dedicated to the Town. Part of a good forest is managing it well, clearing out the bad trees. Supervisor Plant noted that this land did not have a "forever wild" designation as some residents were thinking.

Motion by Councilman Maciuska authorizing Anthony Evans, Orchard View Development, to continue with the Plan.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 4 Nays 0

Mr. Ray Zientara, owner of property at 787 Plank Road, stated that this was a Garage for car work, very close to the Lincoln Fire house - the building was originally built for collision work and tire sales. He stated that it should be covered under "Grandfather's rights." Mr. Zientara came before the Board to inquire about the possibility of renting out the building to T & G Transport Company, who wished to operate a vehicle donation program to benefit The Humane Society at Lollypop Farm. The building would be used to clean and detail donated vehicles - not for sales, and it was estimated that 10-12 vehicles could be expected at any one time in or around the establishment. Denise Munson, Attorney for the Town, reported that the sticking point in getting this approved was that the Code in the hamlet required this to be a secondary use but there is no primary use currently established. Supervisor Plant stated that this would require a modification to Town Code. Discussion ensued. Councilman Maciuska stated that this would be a Planning Board issue because a Special Use Permit was Planning Board and not Town Board. It was recommended that the Code Enforcement Officer be the contact person should T & G Transport wish to pursue this matter. However, Mr.

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Zientara was warned that this would likely be a lengthy process, and not likely to mesh with the company's timeline.

CORRESPONDENCE:

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

Supervisor Plant had the following two (2) items for correspondence:

1. June 11, 2009

Dear Mr. Plant:

We have completed our review of the intersection of Route 441 and Gananda Parkway in the Town of Walworth for the need for advanced warning at the newly installed signal.

Our review has found that a signal ahead sign for westbound vehicles would be appropriate. This work will be completed by our maintenance forces as work schedule and ordering permit.

Sincerely,
David C. Goehring, P.E.
Regional Traffic Engineer

2. Happy 90th Birthday Stuart!

The families of Stuart Huntley will be honoring him with an open house on the occasion of his 90th birthday.

Please join us in celebrating this milestone in Stuart's life.

Date: August 9, 2009

Place: The Lodge at Ginewaw Park
Lorraine Drive, Walworth, NY

Time: 2-4 p.m.

Your presence and birthday wishes on this special day will be a memorable gift for Stuart.

Motion by Councilwoman Hawkins-Mance to accept and file the two (2) above pieces of correspondence.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 4 Nays 0

SUPERVISOR'S REPORT:

Motion by Councilwoman Marini to approve and file the Supervisor's Monthly Report for May, 2009, as presented.

Seconded by Councilwoman Hawkins-Mance.

Adopted: Vote Ayes 4 Nays 0

COUNCILMAN YALE ENTERED THE MEETING:

Time: 7:45 P.M.

DEPARTMENT HEAD REPORTS:

HIGHWAY – APPROVE J MILES

Mike Frederes, Highway Superintendent, stated that Supervisor Plant had the Amendment to the New York State Snow and Ice Contract for 2008/2009 so that the Town could get the excess amount of the contract; the J miles worked out at 115% so we will receive approximately \$8,000.00 extra for the Snow and Ice Contract that was signed.

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RESOLUTION 63-09 AUTHORIZING 2008/2009 SNOW AND ICE CONTRACT AMENDMENT B

Councilman Maciuska offered the following Resolution 63-09 and moved its adoption. Seconded by Councilman Yale to wit:

WHEREAS, Town Board of the Town of Walworth has reviewed the Amendment to Change the Estimated Expenditure for Snow & Ice Agreement for 2008/2009 for the Town of Walworth, and

WHEREAS, the Town Board of the Town of Walworth authorizes the Supervisor, Robert Plant, to sign the Amendment, and

NOW BE IT RESOLVED that the Town Council of the Town of Walworth adopt Resolution 63-09.

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

Resolution carried.

HIGHWAY - WAYNE COUNTY SNOW AND ICE CONTRACT UPDATE

Mike Frederes, Highway Superintendent, reported that the Wayne County Snow and Ice Contract was for Time and Materials. The contract from last year worked out better financially for the Town.

SEWER

Nothing reported at this time.

RECREATION DEPARTMENT

Nothing reported at this time.

ASSESSMENT

Nothing reported at this time.

ATTORNEY FOR THE TOWN

Nothing reported at this time.

TOWN CLERK

Nothing reported at this time.

COMMITTEE REPORTS:

CABLE

Councilman Maciuska reported that he had received a letter from the cable company notifying him of changes being made to current programming - the higher end of the programming. Councilman Maciuska recommended that the public watch the newspapers for notification of changes.

SEWER – BLACK CREEK EXTENSION PROJECT UPDATE

Councilman Maciuska reported that the sewer extension across Black Creek was going very well. They have made considerable headway; they ran into some problems, however they have worked through them. We do have an engineer from Parrone Engineering on site every day who is watching, so we do have oversight. He reported that he expects they will be right on schedule with the project.

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LIBRARY COMMITTEE -

Councilman Maciuska reported that the number of items checked out was down over the last month compared to previous months; it looks like it may be because there have been fewer people/ kids signing up for programs, as well as the time of year - that may be the reason why, and we will have to work through that.

TOWN CLERK – CMCI AUTHORIZATION

Motion by Councilman Maciuska authorizing Susie Jacobs, Town Clerk, to attend Cornell Municipal Clerk's Institute held in Ithaca, New York, July 19 - 23, 2009, from budgeted line A1410.41, for an amount not to exceed \$775.00, for registration, coursework, materials, meals, lodging for four nights, plus mileage.

Seconded by Councilwoman Marini.

Adopted: Vote Ayes 5 Nays 0

HEALTH CARE COMMITTEE

Councilwoman Marini reported that the Health Care Committee met a week and a half ago, and it was being recommended that we continue with the program that we started in April, 2009, of the Town's payment of 100 percent of the single plan and the 80/20 split for the family plan, for the remainder of this fiscal year. To be reevaluated at budget time and make recommendations for next year.

Motion by Councilwoman Marini to accept the Committee's recommendation as stated.

Seconded by Councilman Yale.

Adopted: Vote Ayes 5 Nays 0

DOG ENUMERATION

Councilwoman Hawkins-Mance stated that the dog enumeration would be starting soon, so the second half of the enumeration would hopefully be completed within this year's time.

TOWN COMPLEX STUDY GROUP

Councilwoman Hawkins-Mance stated that Phase II met and we were missing a couple of Committee members. We need to get together with them, plan a date and then we will meet with the semi-finalists to try to get a better idea of the pricing structure that they intend to use so we have narrowed it down to two and proceed further with those.

RESOLUTION 61-09 DOG LICENSE – LOCAL FEE INCREASE:

Councilwoman Hawkins-Mance offered the following Resolution 61-09 and moved its adoption. Seconded by Councilman Yale to wit:

WHEREAS, Article 7, Section 78.3 of the Agriculture and Markets Law provides that any city, town or licensing village may, by local law or ordinance, set local license fees as provided for by Article 7 of the Agriculture and Markets Law. Upon the filing of a written request by a municipality, the Department shall print the amount of said local license fee on the license renewal forms mailed to the dog owners in that municipality. The local license fee shall be printed on the license renewal forms within sixty days of the receipt of said request, or on the effective day of the local law or ordinance, whichever is longer. If the department does not receive a written request from a municipality, the license renewal forms sent to dog owners in that municipality will not bear a local license fee and it shall be the responsibility of the municipality to notify dog owners of local fees, and

WHEREAS, the Town Board of the Town of Walworth has adopted Local Law No. 1 of the Year 2009 by Resolution 17-09 on February 19, 2009, Article III to Chapter 1 of the Walworth Town Code, entitled "Establishment and Modification of Fees" and further adding §1-17 entitled "establishment and Modification of Town Fees by Resolution", and

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WHEREAS, the Town Board of The Town of Walworth had a Dog License Fee increase by Resolution on September 18, 1980, and

WHEREAS, the Town Board of the Town of Walworth desires to increase the Dog License – Local Fees to be set as follows:

Local Individual Fee - Spayed or Neutered Dog \$5.00
 Local Individual Fee - Unspayed or Unneutered Dog \$5.00
 Local Purebred Fee 0-10 Dogs \$5.00
 Local Purebred Fee 11-25 Dogs \$5.00
 Local Purebred Fee 26 Dogs and over \$5.00

NOW BE IT RESOLVED, that the Town Board of the Town of Walworth authorizes the Town Clerk to collect the stated Dog License – Local Fees effective August 1, 2009,

FURTHER RESOLVED, that the Town Council of the Town of Walworth adopt Resolution **61-09**.

Adopted this 18th day of June, 2009, at the meeting of the Town Council.

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

Resolution carried.

RESOLUTION 59-09 DOG ENUMERATION:

Councilwoman Hawkins-Mance offered the following Resolution 59-09 and moved its adoption. Seconded by Councilman Yale to wit:

WHEREAS, Article 7, Section 114 of the Agriculture and Markets Law provides that the governing body of any municipality may require its Dog Control Officer or any other authorized agent to ascertain and list the names of all persons in the municipality owning or harboring dogs, or in lieu thereof, any municipality may contract to have the same done;

AND WHEREAS, Article 7, Section 110 Sub 4 (d), License fees, of the Agriculture and Markets Law states in part; any person applying for a dog or purebred license for a dog identified as unlicensed during and enumeration conducted pursuant to subdivision seven of section one hundred fourteen of this article shall pay a fee of five dollars (\$5.00) in addition to the license fee;

AND WHEREAS, for health and safety reasons it is important to the Town of Walworth to know where dogs are being harbored in the Town;

NOW BE IT RESOLVED, that the Town Board of the Town of Walworth authorizes the Dog Control Officers to plan and conduct a Dog Census for the Town of Walworth beginning in the month of June, 2009, and anticipating ending in October, 2009. *An additional* charge of \$5.00 to be applied to those dogs identified as unlicensed as per Article 7 Section 110 Sub (d).

FURTHER RESOLVED, that the Town Council of the Town of Walworth adopt resolution **59-09**.

Adopted this 18th day of June, 2009, at the meeting of the Town Council.

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Discussion: Councilman Maciuska questioned if he was enumerated last year, if he would be enumerated this year. Councilwoman Hawkins-Mance stated, “No, we did half the town last year and the other half this year.”

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

Resolution carried.

Councilwoman Hawkins-Mance asked if that would be re-advertised. Susie Jacobs, Town Clerk, replied that it would be.

RESOLUTION 58-09 OFFICIAL DEPOSITORIES:

Councilwoman Hawkins-Mance offered the following Resolution **58-09** and moved its adoption.

Seconded by Councilwoman Marini to wit:

BE IT RESOLVED that the following banks be declared official depositories for Town Officials:

SUPERVISOR:	M&T Bank, HSBC, JP Morgan Chase, N.A.
TOWN CLERK:	M&T Bank, JP Morgan Chase, N.A.
RECEIVER OF TAXES:	M&T Bank, JP Morgan Chase, N.A.

Adopted this 18th day of June, 2009, at the meeting of the Town Council.

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

Resolution carried.

BURN PERMIT – 1974 FINLEY ROAD:

Motion by Councilman Yale authorizing approval of a Burn Permit for 1974 Finley Road; based on reviewing the map and location of the burn pile and the density of the area, it is clear that this is not a hazard or danger to others.

Seconded by Councilwoman Hawkins-Mance.

Adopted: Vote Ayes 5 Nays 0

BURN PERMIT – 4441 WALWORTH-ONTARIO ROAD:

Motion by Councilman Yale authorizing approval of a Burn Permit for 4441 Walworth-Ontario Road; based on reviewing the map and location of the burn pile and the density of the area, it is clear that this is not a hazard or danger to others. In addition, this is a large, almost eight (8)-acre, parcel.

Seconded by Councilwoman Hawkins-Mance.

Adopted: Vote Ayes 5 Nays 0

AUTHORIZATION PRE-PAY LOWES BILL:

Motion by Councilman Yale authorizing pre-payment of Lowe’s Home Center, Inc. voucher, account number CM1-7110.23, for an amount not to exceed \$1,280.64.

Seconded by Councilwoman Hawkins-Mance.

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

Motion carried.

EXECUTIVE SESSION:

Motion by Councilwoman Hawkins-Mance to enter into executive session to discuss pending or possible litigation.

Seconded by Councilman Maciuska

Adopted: Vote Ayes 5 Nays 0

Time: 8:07 PM.

RECONVENE:

Supervisor Plant reconvened the regularly scheduled meeting.

Time: 9:00 PM.

RECESS:

Supervisor Plant indicated the Board would take a recess to complete the audit of claims.

Time: 9:02 PM.

RECONVENE:

Supervisor Plant reconvened the regularly scheduled meeting.

Time: 9:27 PM.

RESOLUTION 60-09 – AUDIT OF CLAIMS:

Councilman Yale offered the following Resolution **60-09** and moved its adoption.

Seconded by Councilwoman Hawkins-Mance to wit:

WHEREAS, the following claims submitted at the scheduled Town Board Meeting of June 18, 2009, have been audited and approved by the appropriate Council Members.

BE IT RESOLVED that the claims be paid on **Abstract #6**, numbered 742 through 907, in the following amounts:

GENERAL FUND	\$	65,790.04
HIGHWAY FUND	\$	13,971.41
WALWORTH SEWER DISTRICT #1	\$	32,005.18
BROOKSIDE LIGHT DISTRICT	\$	7.33
GANANDA LIGHT DISTRICT	\$	858.28
HARVEST HILL LIGHT DISTRICT	\$	564.98
ORCHARD VIEW LIGHT DISTRICT	\$	63.06
WALWORTH LIGHT DISTRICT	\$	456.32
PARK PAVILION CAPITAL FUND	\$	3,570.36
PARK SPECIAL REVENUE	\$	13,477.15
ALBRIGHT/BUSHWOOD/HENN EXT #12	\$	438.75
WALWORTH CONSOLIDATED DRAINAGE	\$	7,596.02
KUTT/CANANDAIGUA EXT #15	\$	380.25
MILDAHN ROAD EXT#16	\$	680.00
COUNTY LINE ROAD EXT#17	\$	1,190.00
PLANK ROAD EXT #18	\$	850.00
DAANSEN ROAD EXT#5	\$	87.75

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BE IT FURTHER RESOLVED that the claims be paid on **Abstract #6**, numbered 93 through 107, in the following amount:

TRUST & AGENCY \$ 23,999.99

NOW THEREFORE BE IT RESOLVED that the Town Council of the Town of Walworth adopts Resolution 60-09.

Adopted this 18th day of June, 2009, at the meeting of the Town Council.

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

Resolution carried.

RESOLUTION 62-09 – FINANCIAL TRANSACTIONS:

Councilman Maciuska offered the following Resolution 62-09 and moved its adoption. Seconded by Councilwoman Marini to wit:

BE IT RESOLVED that the Senior Account Clerk be authorized to modify budget as follows:

\$607.04 from HP8310.44 Park Pavilion Surveyor & \$149.45 from HP8340.42 Park Pavilion Finger Lakes Const. To HP8132.21 Park Pavilion Interior \$630.64 & HP8310.43 Park Pavilion Site Const.

To cover current invoices.

\$5,896.17 from CM1 Fund Balance to CM1-7110.21 Parks Capital Expenditures

\$2,896.17 and CM1-7110.23 Parks Lodge Furnishings \$3,000.00.

To cover current expenditures.

\$4,839.00 from General Fund Balance to A1110.21 Justices – Equipment

To cover purchase of scanner – Court Grant.

\$9,932.00 from A1990.41 Contingent Account to A1620.21R Computer Equipment

To cover Security Cameras – Park Lodge.

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

Resolution carried.

ADJOURNMENT:

Motion by Councilman Yale to adjourn. Seconded by Councilwoman Hawkins-Mance and unanimously carried.

Time: 9:27 PM.

Respectfully Submitted,

Susie C. Jacobs
Town Clerk