

## **Town of Henderson Board Meeting – January 20, 2010**

The board entered executive session to discuss impending litigation involving Mr. and Mrs. Clayton Drescher's (phonetic) property. The property owners initiated a Supreme Court *certiorari* action to reduce their property assessment by \$1.6 million. Town attorney David Renzi participated in the executive session. One stated aspect of the executive session was to enter into a partnership with Belleville-Henderson Central School district to defend the lawsuit. The arrangement is a 50-50 verbal agreement to share a lawyer. The amount at stake is significant enough to affect the taxes paid by everyone in the Town of Henderson, and would require a rebate from the school district for taxes paid to date. The Town of Henderson pays about 2/3 of the Belleville-Henderson school taxes. Success by the plaintiffs (the Dreschers) would lock in their reduced assessment for three years.

Corey Reid of Bernier & Carr, and Ray Mallette, Clerk of the Works, were not present to give reports on the status of Water District #2. Town Board meetings for March and April were rescheduled from the first Thursday of the month to March 11 and April 8 to accommodate the unavailability of Cory Reid.

Carol Hall stated that she believed Frank Ross should have recused himself from the vote at the January 4th meeting at which the appeal of the Henderson Harbor Performing Arts Association decision was rescinded, as Frank Ross is on the Board of Directors of HHPAA. Or at the very least, he should have disclosed his involvement. Ray Walker stated that the rescission motion involved the legality of hiring attorney David P. Antonucci. She claimed there is a conflict of interest and a code of ethics issue. January 4 minutes were tabled until this issue could be researched. Carol Hall also raised an issue about Frank Ross voting for Charlotte Richmond's salary. No resolution of these questions was apparent.

The new bookkeeper, Jim Yuhas, discussed a bookkeeping system with finer granularity (that is, fewer categories lumped together) to allow better financial control by the Town Board, and to avoid tedious budget transfers. He also noted his salary is \$3,000 above the 2010 adopted budget. The budget is now 31 pages long.

Carol Hall and Harold Nelson announced that the new Highway Dept. truck for winter snow removal will be in operation tomorrow.

A training class for the Town Board, the Sole Assessor, and the NYS Office of Real Property Services will be held February 16, 2010 at 10:00 am. Public notice will be given.

The Department of Defense (a Colonel in the Marine Corps) and US Customs & Border Protection have expressed an interest in mounting a radar on the water tower, for a 30-day test to watch the border. Eventually a line of radars would guard the entire border.

(at 49:00 into the audio recording:) Hancock and Estabrook's involvement in a CPLR Article 78 proceeding regarding the Galloo Island wind project was discussed by Ray Walker. February 5th is the deadline for filing a motion to intercede. Carol Hall stated "I don't think we should back down." Torre Lane-Parker said "I agree with Carol." Frank

Ross stated "Personally I don't think we need to go to that kind of money." Debbie Fargo asked "The transmission line, the route right now, would cross Mr. Ross' property, correct? And this directly relates to that. And that's a conflict of interest." Ray Walker said "We are not even discussing a conflict of interest right now; we are trying to get the general consensus of how the board feels and the direction we want to go on it."

Debbie Fargo: But should Mr. Ross be included when he has a financial gain from it?

Ray Walker: He hasn't even been approached on this at all.

Frank Ross: Not what they are saying.

Ray Walker: They are siting the lines, but I don't think the person has been approached at all on this whole thing.

Debbie Fargo: On the transmission lines?

Ray Walker: What we're trying to do is get a little discussion up here; trying to figure out what direction we want to go as a Board, and we'll open up the floor a little bit later.

David Perry (from the floor): Mr. Supervisor, if I could point out to you, the minutes of the 29th that you just approved, there was a motion that was voted and carried to escrow \$100,000 to cover the Article 78 challenge. I will also point out to the new members of the Board as well as refresh yours and Council Hall's memory that when we originally met with Hancock and Estabrook and we went into executive session we discussed the Chapter 78 [sic]; we were briefed by the law firm at that time that there was a 30-day window from the day that the Hounsfield planning board acted on the SEQR and the site plan review and one of their major strategies was to attack that site plan review and that SEQR because the SEQR was not segregated into the different steps. They lumped it all into one and went with it. That's what they briefed us and that's one of the reasons the \$100,000 from last year's money was put towards the Article 78 which is right in your minutes that you did approve. That was the game plan from the beginning, to attack that.

Carol Hall: You're right. We did approve it. We just approved the minutes.

Ray Walker: Effectively, I've talked to the lead lawyer on that and what we're going to do is, if..., they are going to start reviewing this stuff that they reach a certain point that they feel that it is totally futile, in other words, they reach a point -- they have gone through the paperwork and they find out that we have no case -- they effectively said they would let us know and essentially they would give us a chance to say "stop."

... further discussion ...

Motion by Walker: The first thing we are going to do is approve the January 5th invoice, 2010 invoice, from Hancock and Estabrook, number 353166, from Hancock Estabrook LLC, for \$1,823.75 and authorize it to be released from the escrow account being held by them. Do I get a second?

Ray Walker: All in Favor? -- All in favor.

Ray Walker: The escrow account was not mandatory, though. And what I'm going to do is be asking you, this Board, to approve that we ask Hancock and Estabrook to return that money to us and we will pay them monthly. We will be billed. And effectively what we're going to do we will pay that money into the bank; it's going to be staying there and we're going to be the ones drawing the interest on it. Motion: To ask Hancock and Estabrook LLC to return the escrow balance established for the purpose of providing legal services relative to the Public Service Commission litigation and the siting of the power transmission lines and possibly for an Article 78 proceedings on the approvals and environmental review of the Galloo Island wind farm as representatives for the Town of Henderson, which funds will then be maintained by the Town in a separate budget line item. This will be the escrow money minus what we have already released. Do I get a second?

Much discussion ensued about whether the amount at this point for legal services is \$200,000, and whether or not escrow was required. Dave Perry maintained that Hancock and Estabrook requested escrow, but a page is missing from the legal services quotation, and he promised to provide the missing page. Ray Walker then protested that the Town of Henderson is footing the entire legal bill, with no help from the Coalition for the Preservation of the Golden Crescent. The Coalition was defended by comments from Karl Williams and Bob Ashodian. They stated that funding for TV and radio spots was funded by donations from individuals all throughout the Golden Crescent, from Hammond to Pulaski, not necessarily just from Henderson citizens. The motion to pull back the escrowed money was tabled.

Ray Walker requested \$25 per hour, to a maximum of \$750, for Gary Mack to continue preparing the annual report. Walker expressed concern and regret that this effort was not included under Gary Mack's annual salary as bookkeeper for the town.

Seven salaried town officials need to maintain time sheets for three months to qualify for retirement benefits.

Mr. and Mrs. Kivat, 12955 County Route 72, have requested a streetlight in front of their house, but the lighting district map shows the lighting district going only through their back yard. No one on the board seemed to know what to do.

Volunteer assignments of the town board members to specific areas were made. Carol Hall will handle sanitation and recreation; Frank Ross will handle highway and assessor; Ray Walker will handle water districts #1, #2, and the ZBA; Torre Parker-Lane will handle the Clerk and court. The Planning Board and the ZEO will be assigned to the new (fifth) town board member.

During Public Comments, David Perry said hourly wages for sanitation workers violate the contract. He is seeking 25¢ per sheet for 124 pages added to his Codification Book, which was returned to the town at the end of 2009. His authorization for access to the website has been removed, and he cannot correct the audio minutes labels. He received a letter from the town attorney, Brown Dierdorf & Renzi, asking for return of town records. The board was notified of this action by e-mail. He contends that he has turned everything in, and he was added to the letter as an afterthought. Charlotte Richmond says she has received absolutely no town records from Moore and Perry. Steve Coty has also

turned in nothing. David Perry also called attention to advertising for a Planning Board position versus the town website, which states a full complement of members with term expiration dates. Charlotte Richmond stated that board members are holdovers until they are replaced. Torre Parker-Lane concurred. David Perry averred that the website list implies the board has made up their minds about Planning Board membership. Much discussion ensued about holdovers.

Robert Ashodian commended the board for the orderly fashion in which they went through the agenda, and thanked the board for allowing the public to occasionally comment during the meeting.

Harold Nelson stated that The Cut (near Association Island) is filling in naturally, and the town does not have the resources to deal with it. A dragline or an 80-foot backhoe is needed, together with silt screens, and ice is another problem.

Meeting adjourned.