

Minutes  
Richford Town Board Meeting April 9, 2013

The regular Town of Richford Board meeting was called to order at 7:23 p.m. by Supervisor Wilcox. All Board members were present. Highway superintendent Mike Holt was present and ten townspeople were also in attendance.

The minutes of the March 12, 2013 Town Board meeting were presented for review. It was asked that four changes to be made to the minutes 1) second paragraph-omit Land Trust website 2) 5<sup>th</sup> paragraph, 1<sup>st</sup> page, add word bridge to Barden Road "Bridge" Project 3) in the 5<sup>th</sup> paragraph from the bottom of the last page, change repair to replacement, delete upgrade, and add 'of the bridge.' 4) Also requested that the tape of the March 12 meeting be reviewed regarding new business-proposal motion to do sealed bids for new truck. Councilman Brown, seconded by Councilwoman Herrick, made a motion to accept the minutes as amended. All approved.

No Town Clerk's report was presented. Town Supervisor report for March 2013 was presented.

Highway Superintendent Holt gave a report for March 2013. He informed the Board that the stop signs are up on Victory Hill & Michigan waiting for 4-way stop ahead balloons that should be in in a week or so. Superintendent Holt also informed the board that roughly 3700 ton of gravel has been hauled in so far and they are about done with that purchase. They are working on the Pit Project, and the equipment has been serviced. A lot of roads swept, will continue when there is enough moisture so they don't fog everybody out. Meeting with county soil and water tomorrow on the bridge project to get the permit started. He also has a meeting tomorrow regarding the purchase of cinders at a very reasonable price; there is 40,000 yards of materials laying that Superintendent Holt made an offer on. The cinders require trucking but will save the town considerable money and require hauling less sand. Councilwoman Herrick inquires about storage and Superintendent Holt responds that they can be stored at the old dump.

No Code Enforcement or dog patrol officers report.

Town Justice court report passed out to board members. Enclosed check, \$2465.00.

Charles Davis informs board and spectators that they are prepping the April newsletter so if anyone has anything to go in please get it to him in the next week or so.

A Town Planning Board report was given by Charles Davis. Discussion followed on public meeting issues; the NYS open meeting law requires notification and Mr. Davis is unsure if we properly advertised and allowed enough notice time before the public meeting. He will review and public meeting laws and check with Elaine Jardine. Supervisor Wilcox noted that it was not an official meeting as the committee had no authority to act so the NYS open meeting law did not apply. Mr. Davis will research and send out what constitutes a town meeting. Supervisor Wilcox states that a work session is actually a public meeting. Mr. Davis is concerned with gray area. Supervisor Wilcox states that a meeting with the potential to conduct town business then it's a public meeting. Any time you get together to vote on anything, that is a public meeting. Mr. Davis advises that on May 2 they have a training session in Owego an agenda item is 'Conducting a Public Meeting' so if anyone on the town board wants to attend they are welcome to, it's an open meeting for residents of the county.

Planning Board member John Schwartz first off, as a resident of Michigan Hill, thanks the board and Superintendent Holt for the stop signs and their quick placement. Mr. Schwartz states that he has put

together a timeline of the work and communications by the planning board and town board on road use agreements and laws. He then initiates a discussion on the boards work on natural gas drilling and notes that the planning board presented to the town board in April of 2010 on Planning for Gas Drilling in Richford. In 2012 the town board instructed the planning board to develop recommendations regarding town laws and at the December 2012 town board meeting the planning board delivered a draft road protection law based on the Town of Dickinson law and at the January 2013 town board meeting the planning board presented a draft road use agreement. That draft road protection law was the one developed by the law firm of Conklin and Gearhart for the Town of Dickinson. It is cited as a model law by the law firm of Thaler and Thaler of Ithaca. The planning board based their draft road use agreement on the Tioga Investigates Natural Gas, the TING binder of which the town has a copy. So that is where those two laws came from. Mr. Schwartz concern, it is now April of 2013 and the town board has not made a comprehensive response to these documents. Though the board did pass a resolution promoting gas drilling right away and sent that motion to the state officials. So the town board is now in a position of promoting gas drilling but not having developed any laws or processes to protect Richford residents from the costs, both human and financial, that come with gas drilling. There have been comments from New York State officials that gas drilling could begin immediately in Broome, Tioga, and Chemung county towns that do not oppose it. According to comments by New York state officials, drilling for natural gas can occur before the state regulations are complete. Supervisor Wilcox asks who made that statement. Mr. Schwartz responds that it came out of Cuomo's office but he'll have to go back and check on who made it. Supervisor Wilcox comments that statement is pretty absurd because that's what everybody is waiting for is the regulations. Mr. Schwartz states that they are proposing that these be demonstration wells before the regs are put out. Supervisor Wilcox: how does a model demonstration well work as far as DEC regulations? Supervisor Wilcox understands that the DEC regulates drilling in New York State, oil, gas, whichever. So a demonstration or model well must still be under DEC regulations. Mr. Schwartz wonders the same and cannot answer the question. Supervisor Wilcox feels the statement is alarming but that you can't just start drilling without going through the DEC. Mr. Schwartz states that the DEC is supposedly allowing this. Supervisor Wilcox asks Mr. Schwartz to get the sources for this information. Mr. Schwartz restates that the point is that the town board is on record as promoting gas drilling starting right away, as soon as possible, and we have no laws to protect our residents. We can't depend on the drilling companies to choose practices that Richford residents want. Town officials have the responsibility of protecting the residents. The town board needs to respond to the planning board documents they have been given and a joint meeting of the two bodies to discuss these documents would be a good way to proceed. The planning board can answer questions the town board has and these documents can be made ready for public comment and vote in the case of the road protection law and public discussion in the case of the procedural practices. Mr. Schwartz feels the Town of Richford may need a moratorium law and the town board has a draft of a moratorium law but lets first have the planning board and town board meet and see what can be done.

Mr. Schwartz brings attention to paragraph 8 from the beginning of the March 2013 board minutes referring to a special Town Board meeting held on Wednesday, March 20, 2013, at 6:00 pm for the board to work with the Planning Board and AdHoc Committee on the Road Use Agreement and Road Preservation Law. The date was changed to Tuesday and Supervisor Wilcox states that he could not attend and it was his understanding that it was not a town board meeting. Councilwoman Herrick confirms that it was discussed at the beginning of that meeting that it was not a town board meeting. Mr. Schwartz questions that any laws being developed from that meeting are then not coming from the town board and that no special meeting was held as specified in the March 2013 meeting minutes. Charles Davis states that it was not a board meeting as approved in the minutes as there were only three members there and no one was designated as chairman of the meeting.

Supervisor Wilcox comments on the statement that drilling is imminent. He notes that everyone is waiting on Governor Cuomo to give the go ahead, which he has not. Then the assembly passed a motion or something to delay drilling until 2015. Mr. Schwartz comments that he believes the assembly discussed it but did not passing anything. Supervisor Wilcox then notes that in order for something to take affect it has to be passed by the senate as well. Charles Davis commented that he thought it was passed by the assembly and presented to the senate but the senate has not done anything with it yet. From attendee Roberta, Cuomo is waiting on Pennsylvania study on existing wells.

Mr. Davis just wants to be sure we do things properly in case any issues are raised and the minutes don't correctly reflect the procedure of creating the law. Roberta would like these minutes to reflect that the March 20 (or March 19) joint meeting was not a board meeting; that the people in attendance knew it was not a board meeting and therefore no one took minutes. Councilwoman Herrick questions the requirements for it to have been a board meeting. Mr. Schwartz states that it has to be advertised for a certain time period before the meeting. Supervisor Wilcox states that notices can be posted and there is no set amount of time, to the extent practicable. Mr. Schwartz states that Richford doesn't have a medium accessible by all residents. Supervisor Wilcox states that we have a bulletin outside the town hall, one at the clinic, at the Post Office, and at the Quickway. Mr. Schwartz comments that Elaine Jardine said that something as sensitive as the road protection law should be restricted to pre-planned monthly town board meetings. As far as the law is concerned, it goes in the minutes; the town has a draft law that was reviewed by the town attorney, subject to a public hearing, then you vote on it. Those are the steps, and he feels we do our job. He feels Elaine may be overly cautious, he would need to see where a law was picked apart in court with reference to minutes from meetings years old where the law, draft law, concept was discussed.

Planning Board member Charles Davis states that he has recently heard chatter that if we have a town website the preliminary town budget and assessment role has to be posted on it. Supervisor Wilcox states we only have a tentative budget as this point, the preliminary budget goes to public hearing. Mr. Davis states that we only need a link on the website to the assessment roles. Supervisor Wilcox has heard of some towns not following the "open ease?" law as far as adopting a budget. We try to follow the law, make copies of the budget available. Mr. Davis heard this from a talk show so will check on its veracity.

Councilman Miller, seconded by Councilman Ricky Brown, made a motion to pay the vouchers on Abstract #4 and that the vouchers on the Abstract are the same ones signed by the Board. The General Abstract includes vouchers A66 through A86 amounting to \$12,042.78. The Highway Abstract includes vouchers DA67 through DA86, amounting to \$20,012.40. All approved

Supervisor Wilcox asks that an item be placed in the minutes stating that the special town board meeting scheduled for Wednesday, March 20, changed to Tuesday, March 19 was not held.

#### OLD BUSINESS:

Supervisor Wilcox notes that there was a motion at the last board meeting to authorize the Highway Superintendent to place ads for sealed bids on a 2013 or newer pickup truck to be opened at the regular April Town Board meeting. Supervisor Wilcox has received three bids and asks if anyone wishes to present a sealed bid. No other bids are submitted and the following sealed bids were opened by Supervisor Wilcox and passed to board members to examine: 1) Robert Green Truck Division for Chevrolet, Monticello, NY opening bid 1 ton single cab, for \$33,596; 2) Botnick Chevrolet for 1 ton single cab \$31,774 but subject to availability of vehicle as specified in the vehicle build so price may increase or decrease according to dealer inventory; and 3) Jack McNerney Chevrolet for 1 ton single cab Chevy \$31,881 and again depends on availability of vehicle so price may vary. Superintendent Holt reviews bids and Councilwoman Herrick

gets clarification that \$35,000 was budgeted for the new truck. Discussion follows regarding consequences of accepting a bid and then the dealer being unable to meet our specs. Supervisor Wilcox states that we cannot accept the truck; it must meet the approved specs. Discussion on \$2000 difference in quotes; comment on cost of bigger, heated mirrors. Superintendent Holt notes that Botnik quote does not meet the specs, Green and McNerney both meet the specs. Supervisor Holt states that Jack McNerney Chevrolet bid of \$31,881 is acceptable to him. Councilwoman Brown, seconded by Councilman Brown, made the motion to accept the bid and purchase the Jack McNerney 1 ton Chevrolet truck for \$31,881. All approved. Supervisor Holt will make arrangements to have McNerney submit the voucher at the next meeting.

Discussion ensues on how to sell the truck we currently have. Superintendent Holt recommends asking for sealed bids on Auctions International. Supervisor Wilcox suggests the Broome County equipment auction but Superintendent Holt notes that it takes place in late fall which is too late to sell this type of truck. Board member asks if a plow will be sold with it and Superintendent Holt confirms that it will. Councilman Brown, seconded by Councilwoman Brown, made a motion to allow Superintendent Holt to sell the town's current 2010 Ford 1 ton truck with plow through Auctions International via sealed bids with no guarantee to sell if acceptable price is not met. All approved.

Councilwoman Herrick notes that the board met in executive session before this board meeting to discuss the contract with the men and she feels more time is needed for that topic and would suggest the town board meets in executive session again before the May 14 town board meeting. Councilwoman Herrick, seconded by Councilmen Miller, made the motion that the board meet in executive session at 6:00 p.m. on May 14, 2013 before the regular town board meeting. All approved.

Councilwoman Herrick readdresses the road preservation law topic. The town needs to have one (law) so we need to have a meeting and wondered if it makes sense to meet during the planning board meeting on May 1, 7:00 p.m. Supervisors Wilcox ask that board for thoughts. Councilman Miller states that he has had no time to review the draft law so is not ready to go back to the planning board or town board with proposed changes and would not be able to attend the May meeting. Councilman Brown and Councilwoman Brown can attend on May 1. Councilwoman Herrick, seconded by Councilman Brown, made the motion to hold a joint with the town board planning board at 7:00 p.m. on May 1 to discuss the road preservation law. Question on whether or not local truck drivers can attend this meeting. Supervisor Wilcox and Planning Board Chair Davis respond affirmative, it is an open meeting. Opposed by Councilman Miller. The motion was approved four to one.

#### NEW BUSINESS:

Official town paper had been Town and Country Pennysaver published by Scotsman Press. Scotsman is out of business; we need to assign an official town paper with a general circulation in town and be 2<sup>nd</sup> class mail matter. Shopper of Dryden was suggested but unable to determine if it meets the requirements. Councilman Ricky Brown, seconded by Councilwoman Bev Brown, made the motion to make the Tioga County Courier the official town newspaper. Councilwoman Herrick voted no. The motion was approved four to one.

Superintendent Mike Holt notified the board that tire collection day will be May 11 from 8:00a.m. to 2:00p.m. Tires and tires on rims will be accepted and fees apply. The fees will be the same as last year. Councilman Miller, seconded by Councilwoman Herrick, made the motion to accept the May 11 date and applicable fees. All approved. Supervisor Wilcox to put up flyers.

Councilwoman Herrick notes that the 'Town of Richford' sign is missing. Superintendent Holt states that the wind took it down and he will be putting it back up.

Supervisor Wilcox closes the board meeting at 8:30 p.m. and opens the floor to the townspeople.

#### PRIVILEGE OF THE FLOOR:

Dean Prince (607-539-7856 or 279-8756 cell) who lives at 712 Harford Road lodges a complaint about the "junk yard" next door to his property. He has worked hard to keep a nice place they continue to pile in more junk. He has tried the code enforcement officer but gets no response. What is the junk law for a Tioga County road? How many days (30?) do they have to haul away junk? The police have been called and when they arrive they're told that they junk on the back of the truck is being hauled away and that they're working on cleaning up the yard when in fact, the junk on the truck is being dumped into the yard and no attempt is made to haul anything away. Supervisor Wilcox will call the code enforcement office to see what he is doing. The code enforcement officer needs to initiate the process.

John Schwartz introduces the subject of the Road Protection Law. Asks if the board has copies. Councilwoman Herrick asks if he is working off a drafted copy or starting with a law that's been passed elsewhere. John is assuming they will use the draft agreement that the Planning Board gave the Town Board. Supervisor Wilcox states that he will use the Planning Board copy and all copies he's received. Councilwoman Herrick feels he should only use the copy drafted at the last Planning Board meeting. John notes that he was going from the Town of Dickinson road preservation law planning. Charles Davis asks when the citizens see a draft of the law. Supervisor Wilcox advises that the draft law must go up for public hearing before the town can act. Once the public hearing is held, the board can then vote.

A concern was raised that the town is on a shoe string budget and cannot afford the road repairs that fracking equipment causes.

Jessie Keener asks who the dog warden is for this area and why Richford doesn't have one. Supervisor Wilcox replied that he could not find anyone willing to do that job. Ronald Raab is the dog control office for this area. Jessie states that there has been an issue with a stray dog attacking his family's dog. Jessie has tried to reach Mr. Raab but got no answer and no call back. Councilwoman Herrick states she has had the same issue trying to reach Mr. Raab. Supervisor Wilcox says to call the state police if you cannot get a hold of Mr. Raab. Supervisor Wilcox will contact Mr. Raab to see why he is not returning people's calls.

Councilman Miller, seconded by Councilwoman Herrick, made a motion to adjourn. Motion approved. The meeting was adjourned at 8:50 p.m.

Submitted by Tina Thurston for  
Judith Thurston, Town Clerk