

MINUTES
REGULAR TOWN BOARD MEETING
JULY 23, 2015

PRESENT:

Supervisor Gary Westfall, Councilman Lisa Hochadel, Jamie King and Herb Meyer.

ABSENT:

Councilman Bob Rodger

ALSO PRESENT:

Pat Nicoletta, Joyce French, Joe Mull, Marlene Shade and the attached list of attendees.

FIRE EXITS:

Supervisor Westfall explained where the fire exits were located.

PETITIONERS:

Mr. Glen Silver addressed the Town Board and read a prepared statement in response to Councilman King's statement at the June 22nd, 2015 Town Board Meeting. He accused the board and Councilman King of not knowing what they were talking about. He said that "you could take this town's two biggest opponents of local, large-scale mines that are dug to build landfills and said that we supported them is crazy". He said that in regard to the current mine, he feels the town could have enacted a local law banning mining.

Mr. Lee Henry also addressed the Town Board and said he is also responding to Councilman's King comments at the June 22nd Board and to a Letter to the Editor on July 20th, 2015 submitted by Councilman Meyer. He said his term on the town board started in 1997 and four months after taking office they were advised of a mining application filed by Seneca Meadows and which he claims started during the previous administration. Mr. Henry said that the application was too far in the approval process and with no defenses the permit had to be issued.

Mr. Pat Nicoletta, Project Engineer, from the MRB Group, gave an update and presented the Town Board with a Map Plan Report for the Hecker Road Water Improvement Area. Mr. Nicoletta said that this project will extend water along Hecker Road from Reed Road to Brewer Road. The length of the line is approximately 4,000 feet and the work will be done by Municipal Forces. There are 6.25 equivalent dwelling units in the proposed service area. The water supplier will be the Village of Waterloo.

Supervisor Gary Westfall addressed the petitioners of Mr. Silver and Mr. Henry and said that their concerns about the smell and other issues are all about the landfill which is in Seneca Falls, not Waterloo. He told them they should address those issues at a Seneca Falls Town Board Meeting. Supervisor Westfall said in regards to the clay mine, he said that the Town Board has been and still is against the clay mine, but they had no choice because of the hand that was dealt them by the previous Town Boards. He also said that he has had previous meetings with both Mr. Silver and Mr. Henry trying to find a resolution to the clay mine issue. Supervisor Westfall said that if they went to court, the concerned citizens had a benefactor to defray the costs of an Article 78. Subsequently, the permit was issued, the matter went to court and it was determined that Chapter 80 was "no good". Supervisor Westfall said if the law was written banning mining in the year 2000, we would not be a non-issue. In the year 2000, when the Zoning Laws were approved there were two mines operating in the town and they were approved by that Town Board.

Supervisor Westfall also said he is very upset with the approach and tactics the Concerned Citizens are using against the Town Board.

2015-057

Councilman Meyer made the motion to approve the Consent Agenda as follows: Councilman King seconded the motion.

<u>AYE</u>	<u>NAE</u>
Supervisor Westfall	
Councilman King	
Councilman Hochadel	
Councilman Meyer	

The motion was carried.

APPROVAL OF MINUTES – June 22, 2015 – Regular Town Board Meeting

TOWN CLERK’S MONTHLY REPORT

APPROVAL OF THE COMMUNITY CENTER REPORT

APPROVAL OF THE CANINE REPORT

APPROVAL OF BILLS:

GENERAL FUND – TOWNWIDE	\$60,461.34
GENERAL – PART TOWN	1,458.55
HIGHWAY TOWNWIDE	9,738.38
HIGHWAY PART TOWN	3,025.46
BORDER CITY LIGHT DISTRICT	1,811.12
WATERLOO SEWER DISTRICT #1	699.45
5 AND 20 SEWER DISTRICT	6,365.55
BURGESS ROAD WATER DISTRICT	16,264.95
BORDER CITY WATER DISTRICT	758.75
POWDERLY ROAD WATER DISTRICT	17.00
BREWER ROAD SOUTH	544.51
TOTAL	101,145.06
H2 – WATER IMPROVEMENT PROJECT #1	243,898.07

2015-058

Councilman King made the motion to approve the following Mobile Home Park’s for the period June 15, 2015 to June 14th, 2016. Councilman Hochadel seconded the motion.

Dennis Booth	Red’s Trailer Park	999 Waterloo-Geneva Road
John Cavali	Cavali’s Trailer Park	2329 Brewer Road
John Cavali	West Seneca Trailer Park	2283 Brewer Road
Victor Mobile Home	Mallard’s Crossing MHP	890 Waterloo-Geneva Road
Jeffrey Cook	School House Estates	895 Waterloo-Geneva Road
Michael Ruiz	Redemption Estates MHP	909 Waterloo-Geneva Road
Jeff and Ashley	Country Side Estates	2571 Brewer Road
Domenic D’Eredita	Domenic D’Eredita Park	1317 Waterloo-Geneva Road
Allen MacDougal	Hecker Road Park	1343 Hecker Road
Jeffrey Cook	Isle Pines	947 Waterloo-Geneva Road
Jeff Padlick	Quiet Country Estates	1021 Waterloo-Geneva Road
Victor Mobile Home Parks	Canal View Estates	1008 Waterloo-Geneva Road
Victor Mobile Home Parks	Kendig Creek Estates	904 Waterloo-Geneva Road

;

2015-059

Councilman King made the resolution as follows: Councilman Hochadel seconded the motion.

**CONTINUING SUPPORT RESOLUTION
OF THE
TOWN OF WATERLOO
WITH RESPECT TO LAGO RESORT AND CASINO, LLC**

WHEREAS, the New York State Legislature passed the Upstate New York Gaming Act in the Fall of 2013 (“2013 Gaming Act”) and by statewide voter referendum on November 5, 2013, the electorate approved a constitutional amendment to permit “class 3”, or what is considered full casino gaming operations; and

WHEREAS, the 2013 Gaming Act called for establishing “four destination resort casinos in upstate New York” through a competitive process whereby up to four (4) gaming licenses will be awarded in what was identified as Region 1 (Catskill Region- Colombia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster Counties), Region 2 (Capital Region - Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie and Washington Counties), and Region 5 (Upstate Region - Broome, Seneca, Tioga, Tompkins Counties and portions of Chemung, Schuyler and Wayne ease of State Route 14); and

WHEREAS, on December 17, 2014, the Facility Location Board unanimously recommended that the Region 5 Gaming License be issued to the Lago Resort and Casino, LLC proposal to develop and operate a \$425mm destination resort Casino at the northeast intersection of NYS Route 414 and the New York State Thruway featuring a casino, hotel, spa, as well as dining and entertainment with 1200 construction jobs and 1,800 permanent jobs with at \$50 million annual payroll;

WHEREAS, the 4th Department Appellate Division determined that the Town of Tyre needs to re-adopt their SEQRA findings to address what the court identified as a technical and procedural concern;

WHEREAS, **Petitioners** challenging the Casino Project appear to now be funded by parties with interests outside of Seneca County. These outside parties operating VLT and gaming operations fail to make any payments to Seneca County and the Indian Gaming operations enjoyed over 20 years of no payments to the state or local governments yet now voluntarily pay over \$50mm a year to counties east of Seneca County without benefit to Seneca County and are now pursuing retail and other developments that will negatively impact Seneca County.

WHEREAS, the Town of Waterloo desires to show support for the Lago Resort and Casino LLC project to encourage this development so as to provide job opportunities for residents of the County and to maximize revenue opportunities for the schools in the County.

**NOW, THEREFORE, THE TOWN BOARD OF THE TOWN OF WATERLOO,
HEREBY RESOLVES, AS FOLLOWS:**

RESOLVED, that the Seneca County Board of Supervisors through Resolution 49-14 unanimously supported the Lago Resort and Casino and many Towns within the County of Seneca and the Seneca County Chamber of Commerce all joined in their support and today we want to reaffirm our unwavering support for development of the Lago Resort and Casino in the Town of Tyre, Seneca County;

RESOLVED, that each member of the New York State Legislature, the Governor of New York and the Seneca County federal delegation are called upon and urged to join this Legislature in supporting the awarding of a gaming license to the Lago Resort and Casino, LLC;

RESOLVED, as we called for with our initial support resolution, that we call upon the State of New York to establish exclusivity zones in the ninety (90) mile region around the Wilmot Casino and Resort, and around all other recipients of gaming licenses under the 2013 Gaming Act, so as to provide protections to the respective Casino business plans in a form similar to the protections afforded non-tax paying Indian Gaming Facilities, as the contemplated facility fees payable to Seneca County, Town of Tyre and other host communities need to be protected for fiscal certainty.

This resolution shall take effect immediately.

AYE

NAE

Supervisor Westfall
Councilman King
Councilman Hochadel
Councilman Meyer

The motion was carried.

2015-060

Councilman Hochadel made the motion for the following. Councilman Meyer seconded the Motion. It is as follows:

LETTER OF SUPPORT:

Resolution to Support the National Memorial Day Museum's 2015 Consolidated Funding Application.

The Town Board of the Town of Waterloo, is supporting the Waterloo Library and Historical Society's Consolidated Funding Application request for funds to support revitalization of the National Memorial Day Museum. The Memorial Day Museum needs critical infrastructure improvements such as roof replacement, railing restoration, restroom renovations and many other repairs.

As Waterloo being the Birthplace of Memorial Day, 2016 will mark the 150th Anniversary of Memorial Day. The National Memorial Day Museum proudly displays the historical Presidential Proclamation, Congressional Resolution and other pertinent documents which proclaim Waterloo, New York as the Official Birthplace of Memorial Day.

The Waterloo Memorial Day Museum has a rich, historical heritage and these funds are critical to preserving this treasure

AYE

Supervisor Westfall
Councilman King
Councilman Meyer
Councilman Hochadel

NAE

The motion was carried.

2015-061

Councilman Meyer made the motion for an Order for a Hearing with regard to Establishing a Water Improvement Area and to set a Public Hearing on the Hecker Road Water Improvement Area on August 24, 2015 at 7:00 PM. Councilman King seconded the motion.

At a meeting of the Town Board of the Town of Waterloo, Seneca County, New York, held at the Town Hall, 66 Virginia Street, Waterloo, New York, on the 22nd day of July, 2015, at 7:00 o'clock in the afternoon, prevailing time.

TOWN OF WATERLOO, SENECA COUNTY, NEW YORK

In the Matter of the Establishment
of
A Water Improvement Area
in the
Town of Waterloo, Seneca County, New York
Pursuant to Article 12-C of the Town Law

**ORDER FOR A HEARING
with regard to
ESTABLISHING A WATER
IMPROVEMENT AREA**

PRESENT: Supervisor Gary Westfall
Councilman Lisa Hochadel
Councilman Jamie King
Councilman Herb Meyer

ABSENT: Councilman Bob Rodger

The following Order was presented, duly seconded and moved for adoption:

WHEREAS, the Town of Waterloo has caused a Map, Plan and Report dated July, 2015 (the "Map, Plan and Report") to be prepared by MRB Group, Engineering, Architecture and Surveying, P.C., a professional engineering firm duly licensed in the State of New York, a copy of which has been filed in the Office of the Town Clerk, which was prepared with respect to formation of a Water Improvement Area encompassing certain lands along portions of Hecker Road in the Town of Waterloo, Seneca County, New York and outside the boundaries of the Village of Waterloo and providing for the construction and installation of water improvements in said water improvement area; and

WHEREAS, said Map, Plan and Report describing the proposed improvements and Proposed Benefited Area was filed in the Town Clerk's Office for public inspection during regular business hours as required by law, and said Map, Plan and Report have not been modified since the filing thereof in the Town Clerk's Office; and

WHEREAS, the proposed water improvement consists of the construction and installation of water transmission facilities in accordance with such Map, Plan and Report (the "Proposed Water Improvements") and generally as follows:

DISTRIBUTION LAYOUT: Installation of approximately 4,000 Feet of 8" HDPE pipe will be installed along Hecker Road between Reed Road and Brewer Road. Appropriate hydrants and valves will be provided as dictated by the Seneca County Department of Health.

Water services are included as part of this project. Service extension from the main to the curb stop is included in the project cost; however, the cost from the curb stop to the house is the responsibility of the homeowner. Vacant properties will not receive a service.

WHEREAS, the description of the boundaries of the Proposed Water Improvement Area is as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Waterloo, County of Seneca and State of New York, designated as Parcel A, as shown on a map entitled "Map and Plan" prepared by MRB/group, and dated 07/2015 and bounded and described as follows:

Beginning at the intersection of the existing northerly highway boundary of Hecker Road with the northerly extension of the existing common division line between Tax Map Parcel 21-2-04.2 and Tax Map Parcel 21-2-04.111; thence:

1. Easterly, along the last mentioned existing northerly highway boundary and also along the existing northerly boundary of existing Waterloo Water Improvement area, to a point at its intersection with the existing easterly bounds of Tax Map Parcel 18-1-50 said easterly boundary also being the existing westerly boundary of the existing Waterloo Water Improvement area; thence
2. Northerly, along the last mentioned existing easterly boundary to a point at its intersection with the existing northerly boundary or Tax Map Parcel 18-1-50; thence
3. Westerly, along the last mentioned existing northerly boundary and also along the existing northerly boundary of Tax Map Parcels 18-1-51.12, 18-1-51.1 and 18-1-51.2 to a point at its intersection with the existing westerly bounds of Tax Map Parcel 18-1-5.2' thence
4. Southerly, along the last mentioned existing westerly boundary to a point at its intersection with the existing northerly bounds of Tax Map Parcel 21-1-11; thence
5. Westerly, along the last mentioned existing northerly boundary to a point at its intersection with the existing easterly highway boundary of Brewer Road; thence
6. Southerly, along the last mentioned existing easterly highway boundary to a point at its intersection with the existing centerline of Hecker Road; thence
7. Easterly, along the last mentioned existing centerline of Hecker Road to a point at its intersection with the exiting northerly extension of the westerly bounds of Tax Map Parcel 20-2-01.1; thence
8. Southerly, along the last mentioned existing westerly boundary to a point at its intersection with the existing southerly bounds of Tax Map Parcel 20-2-01.1' thence
9. Easterly, along the last mentioned existing southerly boundary to a point at its intersection with the existing easterly bounds of Tax Map Parcel 20-2-01.1; thence
10. Northerly, along the last mentioned existing easterly boundary and its northerly extension to a point at its intersection with the exiting centerline of Hecker Road; thence
11. Easterly, along the last mentioned existing centerline to a point at its intersection with the northerly extension of the existing westerly bounds of Tax Map Parcel 21-2-03.2; thence
12. Southerly, along the last mentioned existing westerly boundary to a point at its intersection with the existing southerly boundary of Tax Map Parcel 21-2-03.2; thence
13. Easterly, along the last mentioned existing southerly boundary to a point at its intersection with the existing easterly bounds of Tax Map Parcel 21-2-03.2, said point also being the intersection with the existing westerly bounds of the existing Waterloo Water Improvement area; thence
14. Northerly, along the last mentioned existing westerly boundary and also along the existing Waterloo Water Improvement area to a point at its intersection with the existing southerly bounds of Tax Map Parcel 21-2-04.2; thence
15. Easterly, along the last mentioned existing southerly boundary and also along the existing Waterloo Water Improvement area to a point at its intersection with the existing easterly bounds of Tax Map Parcel 21-2-04.2; thence
16. Northerly, along the last mentioned existing easterly boundary and also along the existing Waterloo Water Improvement area to the point and place of beginning.

WHEREAS, the estimated maximum amount proposed to be expended for the establishment of said Water Improvement Area and for the improvements, including costs of land or rights in land, construction and equipment costs, preliminary costs and costs incidental thereto, with all necessary appurtenances for the operation thereof is One Hundred Twenty Seven Thousand Four Hundred Dollars (\$127,400); and

WHEREAS, it is proposed that the costs of the establishment of the area and the improvements shall be borne by the lands in the Town of Waterloo benefited thereby; and

WHEREAS, the costs of the establishment of the area and the improvements benefiting the proposed area shall be financed during the period of construction by the issuance of bond anticipation notes of the Town of Waterloo in anticipation thereof (and renewals thereof, as appropriate) in an aggregate principal amount not to exceed One Hundred Twenty Seven Thousand Four Hundred Dollars (\$127,400) and shall be permanently financed by the issuance of general obligation bonds of the Town of Waterloo and bond anticipation notes in anticipation thereof (and renewals thereof, as appropriate); such indebtedness to be reduced dollar for dollar by the amount of any funds that may hereafter be lawfully designated by the Town for such purpose; and

WHEREAS, subject to the use of Community Benefit Funds as set forth in the next paragraph, the proposed method of funding the costs will be on a benefit basis against properties within the proposed Water Improvement Area in accordance with the following formula: One (1) Equivalent Dwelling Unit (EDU) for each dwelling unit; All other uses on a parcel consuming or using 50,000 gallons/year or less will be assessed one (1) EDU; All other uses on a parcel consuming or using more than 50,000 gallons/year will be assessed one (1) EDU, plus one quarter EDU for each additional 12,500 gallons/year of water consumption/use or part thereof; Vacant parcels not containing a dwelling unit or any other water consumption/use will be assessed one-quarter (¼) EDU; Parcels within an Agricultural District will be assessed only to the extent permitted by law; and, EDU's will be determined annually based upon the available consumption records for the prior year; and

WHEREAS, the Town is reserving the option to apply up to \$127,400 from funds received pursuant to the August 15, 2005 Community Benefits Agreement entered into with respect to the Seneca Meadows Landfill ("Community Benefit Funds") to pay for a portion of this Project; and

WHEREAS, the Map, Plan and Report is on file in the Town Clerk's Office for public inspection.

NOW, THEREFORE, BE IT ORDERED:

FIRST, that the Town Board of the Town of Waterloo will meet and hold a public hearing at the Town Hall, 66 Virginia Street, Waterloo, New York, on Monday, August 24, 2015, at 7:00 o'clock in the afternoon, prevailing time, to consider the Map, Plan and Report hereinabove described, and to hear all persons interested in the subject thereof concerning the same and to consider such other action on the proposal as may be required by the Town Law and by SEQRA; and,

SECOND, that the Town Clerk is directed to publish a copy of this Order in The Finger Lakes Times which is hereby designated as the official paper for the publication hereof, the first publication to be not less than ten (10) nor more than twenty (20) days before the day set herein for the public hearing, and to post such copy on the sign board of the Town maintained pursuant to 30(6) of the Town Law, not less than ten (10) nor more than twenty (20) days before the day set for the public hearing, all in accordance with 209-q of the Town Law.

On roll call vote by the town clerk the following votes were recorded:

AYES: 4
NAYS:

Councilman Rodger absent.

AYE
Supervisor Westfall
Councilman King
Councilman Meyer
Councilman Hochadel

NAE

The motion was carried.

2015-062

Councilman King made the resolution to approve two applicants for Water Line Grants. Councilman Meyer seconded the motion.

AYE
Supervisor Westfall
Councilman King
Councilman Meyer
Councilman Hochadel

NAE

The motion was carried.

2015-063

Councilman Meyer made the motion to allow the Justice Department to apply for a JCAP Grant (Justice Court Assistance Program Grant) up to \$30,000 to be used for Office Equipment, and Furnishing/Courtroom Enhancements.

AYE
Supervisor Westfall
Councilman King
Councilman Meyer
Councilman Hochadel

NAE

The motion was carried.

2015-063

Councilman King made the following resolution. Councilman Meyer seconded the motion.

***AUTHORIZING APPLICATION TO NYS COMPTROLLER
FOR APPROVAL OF
THE TOWN OF WATERLOO
SERVEN ROAD, PACKWOOD ROAD, AND PRE EMPTION STREET/TOWNLINER ROAD WATER
IMPROVEMENT AREA AND WATERMAIN IMPROVEMENTS PROJECT***

WHEREAS, the Town of Waterloo Town Board (hereinafter referred to as Town Board) has established the above referenced Water Improvement Area and anticipates proceeding with the above referenced Water Improvements Project; and,

WHEREAS, the Town Board desires to submit an application to the New York State Comptroller's Office in accordance with 2 New York Code of Rules and Regulations (NYCRR) Part 85.

NOW THEREFORE BE IT RESOLVED, by the Town Board of Waterloo, Seneca County, New York, as follows:

1. That the Town Supervisor is hereby authorized to submit an application to the NYS Comptroller in accordance with 2 New York Code of Rules and Regulations (NYCRR) Part 85 and substantially in the form of the attached Application before the Board after updating applicable assessment, demographic and valuation information; and, further,
2. That the attached application was prepared at the direction of the Town Board; that the Town Board believes the contents of the application to be accurate; that the Town Board has determined that the improvement, district, extension or expenditure for which permission is sought is in the public interest and will not constitute an undue burden on the property which will bear the cost thereof; and if the cost of the proposed improvements is to be assessed in whole or in part against a

benefited area, that all real property to be so assessed will be benefited by the proposed improvements and that no benefited property has been excluded

Motion made by Councilman King Seconded by Councilman Meyer

On roll call vote by the town clerk the following votes were recorded:

AYES: _4_

NAYS: __

Councilman Rodger absent.

On canvass of the vote, the Supervisor declared the foregoing order adopted and directed the entry thereof in the proceedings of the Town Board.

Dated: July 23, 2015

SANDRA RIDLEY

Waterloo Town Clerk

DEPARTMENT REPORTS:

Highway Superintendent Joe Mull said his department will start paving from Stark Street up Hecker to Reed Road at the beginning of August and will be finished by the start of the school year. The Inslee Street Extension will be started after Hecker Road is completed.

COMMITTEE REPORTS:

Councilman King said the new water lines are being installed and going along smoothly. He also said they are still accepting complaints from homeowners if they are having any problems with the restorations taking place due to the heavy rains.

Supervisor Westfall gave an update on the Comprehensive Plan for Councilman Rodger who was absent. Supervisor Westfall said the committee is close to having a draft prepared and a Public Hearing will be scheduled soon.

Town Attorney, Mr. Dennis Benjamin gave an update on the Article 78 the Concerned Citizens filed against the Town of Waterloo and he also read a prepared statement as follows:

An Article 78 civil action was filed by the Concerned Citizens against the Town of Waterloo, which was heard on July 16th, 2015. Judge Falvey issued his decision, which is in the form of a proposed order at this point. The order requires further submissions to Judge Falvey.

In the decision, the Court ordered the Concerned Citizens to pay both the Town and Seneca Meadows the nominal fee of \$100.00 within 30 days of the final order. We can only assume that that an assessment of this type is more a message to the petitioners about their delay tactics than a financial burden. These assessed damages appear to be due to the Concerned Citizens failure to include the Town Board when they commenced the action. Due to that potentially intentional oversight, the Town was forced to incur the expense of filing the motion to dismiss, and to make an additional court appearance. If filed correctly the first time, all parties could have saved time and money. Since both the Town and Seneca Meadows were required to respond to the Concerned Citizens error, the Judge ordered the payment. It should be noted that Judge Falvey also referenced the concept of “judicial economy” making it likely that any additional attempts at intentional delays will not be tolerated.

On another note, historically I have extended every courtesy to the Concerned Citizens, specifically Mr. Silver and Mr. Henry by way of meetings, phone calls, and emails. In return, the character, ethics, and professionalism of my firm have been called into question on numerous occasions, in many forums with specific false statements designed to inflame the issue and thereby damage my reputation and business standing in my community, the textbook definition of libel. The facts in evidence would suggest that our legal research and statement of the law as it applies to the issues present has been accurate, and to be clear, it is our ethical obligation to advise our clients accordingly, despite the Concerned Citizens continue attempts to bully everyone into a legally unsupported position. It appears that the Concerned Citizens are simply looking for and making up facts to further their agenda with little or no support coming from existing law. I would simply ask the Concerned Citizens to refrain from any additional personal attacks, either in person or in the media, while this litigation takes its course.

SUPERVISOR COMMENTS:

Supervisor Westfall felt that due to “feelings” that prevailed at tonight’s meeting, he would decline to add any additional comments.

2015-064

Councilman Meyer made the motion to adjourn the meeting at 7:30 PM. Councilman King seconded the motion.

AYE
Supervisor Westfall
Councilman King
Councilman Meyer
Councilman Hochadel

NAE

The motion was carried.

The meeting adjourned at 7:30 PM.

Respectfully Submitted,

Sandra L. Ridley
Town Clerk

**NEXT TOWN BOARD MEETING
AUGUST 24, 2015**