

**REGULAR MEETING
SHELDON TOWN BOARD
JULY 20, 2022**

The Regular Meeting of the Sheldon Town Board held July 20, 2022 at the Sheldon Town Hall, 1380 Centerline Rd., Strykersville, NY 14145 was called to order by Town Supervisor Brian Becker at 7:00 p.m.

Present: Supervisor Brian Becker
Councilmen: Jim Fontaine, Joe Meyer, Mike Armbrust
Recording Secretary: Town Clerk Carol Zittel
Absent: Councilman Vince Kirsch
Also present: Highway Superintendent David Ricketson; Warsaw Courier reporter Maya Borer. A signed list of all present is on file in the Town Clerk's office.

Minutes

A motion was made by Jim Fontaine and seconded by Joe Meyer that the minutes from the June 15, 2022 regular meeting and the Strykersville Fire diminution minutes from June 27, 2022 be approved.

Ayes: (4) Becker, Fontaine, Armbrust, Meyer Nays: (0) Absent: (1) Kirsch Motion Carried.

Communications

The Town Clerk Carol Zittel reported the following:

Dog Control Reports from NYS Ag & Markets

NYS Dept. of Ag & Markets completed inspection reports for the Wyoming County dog control officer and the County shelter. Both reports were rated satisfactory.

Zoom Law Distributed

Supervisor Becker provided the Board with a copy of Wyoming County's Zoom Teleconference Law for their review.

Zoning Report as Submitted by Wyoming County Zoning Officer

MONTHLY REPORT

Date: July 1, 2022 – Report for June 2022

Town: Sheldon

Open Projects:

- Emily Miller (0 Thomas Road, Sheldon SBL No.68.-1-22.2) – submitted an application for a land separation. The application went before the Town of Sheldon Planning Board on June 8, 2022 and the land separation was approved.

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- David McNulty (3725 Route 78) – submitted an application for a land separation. The application went before the Town of Sheldon Planning Board on June 8, 2022 and the land separation was approved.

Permits Issued:

June: 10 permits

- Wade & Melinda Martin (2834 Rt. 77) – submitted an application for 18’ x 20’ addition
- James White (2314 Route 98) – submitted an application for 6.48 kW rooftop mounted solar
- Emily Miller (0 Thomas Road, Sheldon SBL No.68.-1-22.2) – submitted an application for land separation
- David McNulty (3725 Route 78) – submitted an application for land separation with area variance for 2 undersized lots
- William Snyder (733 Rt. 20A) – submitted an application for fence
- Florence Yott (1112 Route 20A) – submitted an application 320’ lean-to addition onto pole barn and dwelling
- Gary & Ann Daniel (1154 Centerline Road) – submitted an application for 60’ x 120’ pole barn
- Pam & Neil Winch (3997 Main Street) - submitted an application for 12’ x 22’ shed
- Tamara Dedoszak (1790 Schwab Rd) – submitted an application for 26’ x 16’ addition
- James Hopcia (2536 Humphrey Road) – submitted an application for 40’ x 32’ addition – maple sugar house

Violations:

- Dennis Mills - 1907 Route 20A (SBL: 56.-2-26) – Violation Notice/Order to Remedy issued September 28, 2021. Property owner is to remove and dispose of, or place into storage any un-registered or inoperable motor vehicles, lawn mower or other miscellaneous vehicle parts and pieces. Original dates for corrections to be made was October 28, 2021; Mr. Mills is working with Don Roberts at Building Codes to start

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resolving this matter. Visual inspection performed by the Building Department on 11/22/2021 shows that progress is being made. David DiMatteo issued a 10 day attorney letter on January 3, 2022. Updated photos were taken by Don Roberts of the Wyoming County Building Department on April 15, 2022. As of June 2, 2022, Mr. DiMatteo's office received the signed resolution and drafted a summons and complaint to be approved by Mr. DiMatteo.

- Joshua Ennis and Anne Elliott – 2009 Thomas Road (SBL: 68.-1-12.112) – Violation Notice/Order to Remedy issued April 14, 2022. Property owner is to either remove the camper located on the vacant parcel, OR a parcel merge request must be filed and approved by the Town Assessor for 2009 Thomas Road and 1942 Thomas Road to become one parcel, OR a use variance application needs to be filed with the Wyoming County Zoning Department. **Proof of the parcel merge from Real Property has been received – waiting on camping permit application from applicant.**

Highway Superintendent Report

Superintendent Ricketson reported on the following:

Paving Humphrey Road in 2023

The Department is preparing Humphrey Road between Centerline & Schwab Roads for paving next year. The road will be shut down for two days for culvert replacement. These are the last two medal pipes.

Armbrust Paving

The Department is prepping Armbrust Road for paving. I will wait until July 25th to get pricing as asphalt prices are coming down as the price of oil comes down. I'm not sure if we will have enough budget funds to pave all of it this year – may do half the road this year and half next year.

Road Work with the Town of Bennington

The Department has been working with the Town of Bennington the past couple of weeks assisting them with paving Poland Hill Road and East Burrough Road. Bennington will be bringing their excavator to Schwab Road on Monday to assist with removing a culvert pipe in front of the Glaus shop.

Crack Filler from Town of East Aurora

The Department borrowed East Aurora's crack filler, however, it was not working. Once East Aurora gets it fixed, they will get it back to us for use.

Equipment

Truck #234 (Highwayman Wally's truck) is at Caledonia Diesel for alignment work.

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Supervisor's Report

Supervisor Becker reported on the following:

Wyoming County Community Hospital

The County hospital lost \$8.5 million from January – May 2022. The County expects to supplement another \$7 million by year-end. The biggest cost is contract nursing as contract nurses are paid at a higher rate. The hospital is creating a new position – a dedicated recruiter to fill needed positions. They are also adding a position of Director of Special Projects to cut the costs.

EMS Contract with Monroe County

Wyoming County Director of Emergency Services Brian Meyers and Wyoming County EMS Coordinator Bill Streicher, presented to the County Board of Supervisors. The County currently contracts with Monroe Ambulance for two ambulances. The County holds the Certificate of Need which means that billing should be done by the County, however, Monroe Ambulance has been billing patients directly. The current contract ended spring 2022 and a temporary contract is in place. Mr. Meyers and Mr. Streicher are proposing that the County purchase three ambulances and hire eight people to man them. More information will be forthcoming on this proposal.

Acceptance of Reports

A motion was made by Jim Fontaine and seconded by Mike Armbrust to accept all reports as presented.

Ayes: (4) Becker, Fontaine, Armbrust, Meyer Nays: (0) Absent: (1) Kirsch Motion Carried.

Old Business:

ARPA Funding

The Town has received the total awarded amount of \$234,871.08 in ARPA funding. Cheryl Ketchum, Clerk to the Board of Supervisors, assisted Supervisor Becker with ARPA paperwork. Supervisor Becker will need to meet with her again for more assistance.

Supervisor Becker stated the following:

- The excavator cost is \$205,757.00 and should be in by the end of July.
- One of our proposed projects with the funding is a new generator.
- We want to spend the money universally in the Town.
- I'm sure the people in the water district would love \$253,000, however, the people in Strykersville would say that that doesn't work for them. It should be used equitably.
- We have also been looking at putting cement in front of the highway bays. Supervisor Becker suggests using \$205,000 for the excavator and then using \$40,000 for a generator and that would take care of the ARPA funding.
- We have until end of 2025 to spend it.

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Resident, AJ Dyrbala, disagreed that an excavator would benefit the whole Town. Supervisor Becker and the Board responded that an excavator would be used on all roads for digging ditches, culverts, etc...

Resolution to Use ARPA Funding

A motion was made by Brian Becker and seconded by Jim Fontaine to use ARPA funding to pay for the excavator at the cost of \$205,757.00 and to use the remaining funds to purchase a generator for the Town Hall.

Ayes: (4) Becker, Fontaine, Armbrust, Meyer Nays: (0) Absent: (1) Kirsch Motion Carried.

Spectrum Internet Town Hall

On July 13, 2022 a Spectrum technician came out to install a new modem that had been dropped off in March by another Spectrum technician. In March, the technician did not install the modem, therefore, the Town had been using the old internet modem until July 13th when the new modem was installed. The Town has been double billed with two separate account numbers for internet service since March. The Town will continue to work with Spectrum to get this billing issue resolved. Supervisor Becker would like to switch the Town hall phones to Verizon to save money. He would also like to eliminate the fax lines and the Highway Superintendent's office phone when Highway Superintendent Ricketson retires. The new Superintendent will get a cell phone with the highway office number.

Varysburg Water

There was a very lengthy discussion regarding various issues in the Varysburg Water District. The following is a summary of the discussion and not a verbatim transcript. Supervisor Becker reported the following:

- There was a water leak about a month and a half ago. Thankfully AJ Dyrbala recognized it and it was fixed.
- We knew there was another leak as we were pumping more water than we were selling. We couldn't find the leak though.
- We finally found it by AJ Dyrbala's house. It goes under the road about a foot. We were going to fix this on July 1st and upon notifying the State DOT we were told we could not work on it until at least after July 5th. We were then notified that the Town has to have a permit to work on the road. Wyco Construction filled out the permit. We could not use the fire department for flaggers. The DOT supplied a diagram of how cones, signs, trucks, flaggers need to be set up. Supervisor Becker showed the diagram to those in attendance. Cost for placards, signs, flags would be over \$3,000.00. Shane Evans from the Village of Warsaw will be lending the Town the signs. Highway Superintendent Ricketson informed the Board that the County has the signs and would lend them to the Town. Supervisor Becker will borrow whatever other signs are needed from the County. Dig Safely requires a two day call out.

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- Resident Ray Kirsch asked how much the repair on the last leak cost. Supervisor Becker responded \$9,800.00.
- On July 13th Supervisor Becker was taking care of the Water District as Thane Wright was out of Town. On July 13th as he was monitoring the water district and the water tank had only one foot of water. The sensor was bad. In the next couple of days, Supervisor Becker climbed the tower several times and the tank was full.

Grants for Water District Engineering

- Supervisor Becker stated: We are not going to get a grant for the engineering portion as the poverty levels in the District are not low enough. We still have engineering RFP's from two years ago. I would like permission to hire Barton & Loguidice for engineering services to install new pipes for the remainder of the water district that still has old pipes. Supervisor Becker stated that as these are professional services, bids are not required. We will have approximately \$102,000.00 to work with.
- Councilman Fontaine asks if there is a possibility for grants for the construction portion. Supervisor Becker responded that we hope and think so. Resident Ray Kirsch asked what is the scope of engineering services that we are requesting. Supervisor Becker responds: the placements of the pipes, add in drainage on south side of School Street. Ray Kirsch asks: "you aren't creating a new system?" Supervisor Becker responds: "correct."
- AJ Dyrbala, who is the former water district operator, addresses the Board to say that he notified the Board regarding the water tank telemetry being shot three years ago and the Board shot down the funding for that. He also stated that the other issue with the tank is that it has six feet of sediment in it and you did nothing about it. Supervisor Becker and the Board disagreed with this figure of sediment – they believe it was much lower. AJ Dyrbala also stated that last year when there was a leak in front of his house before they paved the road, they hit the main in front of Dan Keicher's house. When they hit the line, they wanted us to dig deeper and you said no. Supervisor Becker and the Board do not recall notification regarding this. Mr. Dyrbala went further, stating that he came to the Board three years ago telling them they need to start spending money now and that's why they are in the predicament they are in. Mr. Dyrbala said: "You guys aren't supplying us a good supply of water." Mr. Keicher stated that they pay \$200 per year for maintenance. There was a lengthy discussion regarding engineering costs.
- Supervisor Becker replied to Mr. Dyrbala that the project (install of new water lines using USDA money) was completed less than 6 and a half years ago. Everything we could do, we did at that time. The USDA gave us \$1.2 million. The bid was \$1.4 million and had to back things out of the project. The project came in under bid but we couldn't then get more money. The District has \$1 million in loans outstanding. We need to get engineering done so we can get grants.

Councilman Meyer asked the Town Clerk to look for the engineering report on the tank for next meeting.

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Water rates: Supervisor Becker stated that the Town will need to raise water rates by approximately \$6-\$7 per quarter. Mr. Dyrbala replied that you can't do that if you aren't providing a good service and also stated that there is a fire hydrant not working.

Hiring of Engineer for Varysburg Water District

A motion was made by Mike Armbrust and seconded by Joe Meyer to authorize the Town Supervisor to hire Barton & Loguidice for professional engineering services for the Varysburg Water District with a scope of work to include water main line replacement on School Street and on Route 98 North of School Street to the end of the water district (2150 Route 98).

Ayes: (4) Becker, Fontaine, Armbrust, Meyer Nays: (0) Absent: (1) Kirsch Motion Carried.

Water Operator

Mr. Dyrbala recommended that the Board hire a full-time water operator. Councilman Armbrust replied that that could cost at a minimum \$65,000 a year which would work out to over \$600 per water resident. Supervisor Becker stated that the hope is that Wyoming County Water Resources Agency will hire someone to oversee all the Towns with water districts but it hasn't happened yet. Dan Keicher stated that his water has been consistently getting worse over the last six years and that he is replacing filters constantly.

Ayes: (4) Becker, Fontaine, Armbrust, Meyer Nays: (0) Absent: (1) Kirsch Motion Carried.

End of Discussion Water District

Supervisor Becker ended the discussion on the water district by stating that the Board will have the project engineered and will try to get a grant for the construction portion. Supervisor Becker stated the following:

- construction would not start until at least next year.
- the leak in front of 2245 Route 98 to 2219 Route 98 will be fixed on Tuesday.
- Varysburg Water customers pay approximately \$550/year for water minimum. The NYS Comptroller estimates that anything under \$950/year is a low rate so we are not sure if the district will be eligible for a grant. If it isn't eligible for a grant then a USDA loan will be applied for.

Strykersville Fire Diminution

The Board adopted the resolution approving the Strykersville Fire Diminution at a special June 27th meeting held at the Strykersville Fire Hall. The diminution was required as the Town of Holland withdrew from contracting with the Strykersville Fire Department. The minutes of that meeting were approved tonight and will be in the official copy of the Town's minutes book.

Strykersville Fire Company Contract

Town Clerk Zittel reached out to Strykersville Fire Treasurer Bob Gibson to ask for the Strykersville Fire funding request as the current contract expires at the end of this year. As of tonight, the Town Clerk has not received this information from the fire company.

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Strykersville Fire Contract Public Hearing

A motion was made by Jim Fontaine and seconded by Mike Armbrust to schedule a public hearing for the Strykersville Fire Company contract for August 24, 2022 at 7:00 p.m. at the Sheldon Town Hall.

Ayes: (4) Becker, Fontaine, Armbrust, Meyer Nays: (0) Absent: (1) Kirsch Motion Carried.

New Business:

NYMIR Inspection

The Town Supervisor and the Town Highway Superintendent will meet with NYMIR on August 2nd at 1:30 p.m. for an insurance inspection. Supervisor Becker will contact Town Historian Jeanne Mest for access to the Schoolhouse Museum.

Veterans Banners

Resident Noelle Pitkin, who lives on Lefort Road, attended tonight's meeting to ask the Board for financial assistance to display Veterans banners throughout the Town to honor our local servicemen and women. Ms. Pitkin was inspired by the banners in East Aurora. Other towns in the area that have these banners are Sardinia, Arcade, Attica and Warsaw. She has received two quotes so far. She hopes to put banners up on Route 78, Route 98 and Route 20A. Supervisor Becker noted that the Town is looking into whether the Town can use Town funds for such a project and we are waiting for a response from the Comptroller's Office and our Town Attorney. Supervisor Becker noted that other Towns and Villages ask the families to pay for the cost of the banners and municipality funds are not used. Mr. Ray Kirsch commented that this could be thousands of veterans if you are going back to WWI. Councilman Fontaine thanks Ms. Pitkin for her passion. Councilman Armbrust asks Brian Marcheson, former commander of the Six Star Post, if they are willing to get involved. Mr. Marcheson replied they are certainly interested in helping out but can't cover the whole cost.

Former Historian Contact Info

Supervisor Becker noted that the Town Attorney is looking into the matter of former Town Historian Barb Durfee using a Sheldon historian email address and website.

County-Wide Dog Enumeration

Supervisor Becker notified the Town Clerk that she can invite Wyoming County Animal Control Officer Justa Goodell to either the September or October meeting to discuss details regarding a county-wide dog enumeration.

Fund Transfer

A motion was made by Joe Meyer and seconded by Mike Armbrust to authorize the transfer of \$100,000.00 from General Money Market A1083 to Highway Money Market DA1083 for July bills and payroll.

Ayes: (4) Becker, Fontaine, Armbrust, Meyer Nays: (0) Absent: (1) Kirsch Motion Carried.

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Bills:

Supervisor Becker confirmed that the Board had a chance to review the abstracts.

A motion was made by Mike Armbrust and seconded by Joe Meyer that the

General Bills #139 to #161 for a Total of \$12,920.88, the

Highway Bills #87 to #98 for a Total of \$26,561.47, the

Trust & Agency Bills #21 to #23 for a Total of \$569.72, and the

Varysburg Water District Bills #30 to #36 for a Total of \$11,287.07 be paid.

Ayes: (4) Becker, Fontaine, Armbrust, Meyer Nays: (0) Absent: (1) Kirsch Motion Carried.

Comments from the Floor

At 8:40 p.m. Supervisor Becker opened the floor to comments.

Resident Ray Kirsch

Resident Ray Kirsch addressed the Board with several concerns:

- Mr. Kirsch expressed his dissatisfaction that the town hall front door is left wide open when someone is in the building, which is wasting town resources such as heat and electric. Councilman Fontaine replied that the door was left open tonight to provide air flow due to COVID. The Town Clerk interjected as she is the reason the door is left open, stating that she leaves the door open when she has Town Clerk office hours but the air conditioning is not turned on. Mr. Kirsch then replied that the taxpayers are paying the burden for some illogical thought processes. Mr. Kirsch said that the employee that leaves the door open should pay the utility bills. The Town Clerk noted that there is limited space in front of her window so the open door allows for ventilation during a pandemic. Mr. Kirsch expressed his opinion that the “pandemic is pretty much history.” The Town Clerk reiterated that she does not run the heat and air conditioning if the door is open but would shut the door if heat or air were required.
- (The following discussion lasted for over 24 minutes – this is a summary of statements and not verbatim. Quotation marks are used for direct quotes)
Mr. Kirsch distributed copies of assessment paperwork regarding his home assessment including six photos of his home. The house in question is 1078 Centerline Road which is undergoing renovation. Mr. Kirsch distributed two copies of a comparable sales report which compared the following properties: 1078 Centerline, 1942 Thomas Rd., 3598 Route 78, 1205 Centerline, 2760 Maxon Rd. The paperwork included an email from the Town Assessor Mary Kern to Mr. Kirsch. It also included a list of contractor estimates for labor and materials dated 6/1/2022 that listed the projected costs to finish the house renovation. Total estimate of \$105,441.00. Photos of the property were also included.

Mr. Kirsch stated that this “isn’t really talking about my property assessment but is really talking about the methodology of the assessor but the paperwork I have given you is using my property as an example.” Councilman Fontaine asked if Mr. Kirsch had talked to the assessor about this. Mr. Kirsch said, “many times.” Mr. Kirsch stated that he did go before the Board of Assessment Review – once last year and again this year. Mr.

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Kirsch refers to handwritten notes on one of the comparable home reports and stated “she (Mary Kern) is saying that the house in question has new floors, walls, etc.” Mr. Kirsch believes these notes were jotted down after the 2021 BAR meeting and that after the BAR meeting there was a discussion amongst the board and she (Mary Kern) took notes. On another page were Ms. Kern’s typed up handwritten notes. Mr. Kirsch went to the small claims court to challenge the assessment and stated that Ms. Kern used this typewritten report to substantiate her assessment of his property at court. Mr. Kirsch stated that the email attached is the email Ms. Kern sent to the court. (note: the paperwork Mr. Kirsch distributed tonight shows an email that Ms. Kern sent to Mr. Kirsch – there is no email correspondence between Ms. Kern and the court provided) Mr. Kirsch stated that in Ms. Kern’s email to the court (which was not provided tonight) she left things out such as the three additional photos that Mr. Kirsch took showing the older buildings on the property. Mr. Kirsch said: “It’s almost like she intentionally didn’t supply that to the small claims court.” “I lost my argument in front of the grievance board and the small claims court.” Mr. Kirsch stated “her (Mary Kern) mode of operation is very unethical, unorthodox and very unprofessional. I am not looking for a response tonight but I will return next month and talk to you again.” Supervisor Becker stated that he has explained in the past to Mr. Kirsch that the Assessor is an independent position. Supervisor Becker stated that “to lower the assessment on my mother’s property or raise my enemy’s assessment would be unacceptable and unethical and that we (the Board) do not hold control over the Assessor. She is appointed to a six-year term.” Mr. Kirsch said that you may not have control over assessment values “but you do have control over other things over the Assessor. Whether she gets a second term.” Mr. Kirsch then went on to discuss what he considered personnel issues at the County Real Property Office. Mr. Kirsch stated: “We (the Town) went to the County’s Assessor’s office and things were going fine and then there were personnel issues that started to erupt due to two people and then those two people left that office and started to take back a lot of the towns that they recruited to the County office and when they recruited those towns they were paid bonus money from taxpayer monies.” Supervisor Becker asked: “how is that? What bonus?” Mr. Kirsch replied that the employees in the tax office were incentivized to get towns and received money per parcel. He stated: “I know for a fact that Arcade paid a bonus.” Further stating, and “then Arcade pulled out two years later and basically that bonus money was burned.” Councilman Armbrust replied that he thinks Mr. Kirsch is talking to the wrong board. Mr. Kirsch asked what board he should be speaking to. Mr. Armbrust replied: “the County. If you are accusing the county of doing something then you should go to them.” When asked who paid the bonus, Mr. Kirsch replied “the Towns.” Supervisor Becker said to Mr. Kirsch: you made an accusation that there were personnel issues at the County office which seems like speculation on your part. Mr. Kirsch responded that that is not true, further stating that “you had people working in the County office and then they became unhappy and started to recruit towns on their own.” Mr. Kirsch said “individuals were given bonuses to get towns to sign on. The money for the bonuses came from the Towns. Ask Arcade. I know for a fact that it happened in Arcade. The money that was given in a bonus was equal to the number of parcels.” Mr.

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Kirsch said to “follow the trail.” Mr. Kirsch stated that “you had a personnel problem whether or not you want to admit it and that there was friction in that office for quite some time.” Mr. Kirsch told Supervisor Becker he should dig into it. Supervisor Becker said he is not digging into it. Mr. Kirsch stated that it was very unethical behavior for these County employees to leave and work for individual towns. Supervisor Becker said that Mr. Kirsch is engaging in a lot of speculation. Mr. Kirsch said that “human nature – you know there are courses taught on human nature and a person operating on their own will tend to go rogue much quicker than a person operating on a team. And it is a tough job – Mary is in a tough spot – she is constantly having to defend her stake in the sand and I’m sure after a while, that wears on you and as you get older you get tired of fighting these battles, right, and you are going to start to do some rogue things. And you think that this is ok.” Mr. Kirsch went on to state that if the Town reinstates another six-year term with Ms. Kern the Town will be right where they were 10-15 years ago. Supervisor Becker stated that there is nothing they can do with changing his assessment. Mr. Kirsch stated that he “paid taxes on the full amount, due to her false statements.” Supervisor Becker stated that that is because you wouldn’t let the Assessor inspect your property last year. Mr. Kirsch said: “I asked her to do an inspection last year and she refused. This year she agreed and then she told me they had me over-assessed last year.” He then asked Ms. Kern “about the excess money I paid last year. She said that’s gone, there’s no recouping that, to which Mr. Kirsch replied oh, that’s wonderful that’s almost like stealing especially when you lie...” Mr. Kirsch asked to have his paperwork returned to him. The Town Clerk stated that one copy is now public record and is subject to FOIL.

County Planning Board Position

Councilman Armbrust stated that he recommends the Board look for a replacement for his position on the County Planning Board.

Adjournment

At 9:05 p.m. a motion was made by Joe Meyer and seconded by Mike Armbrust to adjourn the June 15, 2022 meeting of the Sheldon Town Board.

Ayes: (4) Becker, Fontaine, Armbrust, Meyer Nays: (0) Absent: (1) Kirsch Motion Carried.