

**REGULAR MEETING
SHELDON TOWN BOARD
MAY 18, 2022**

The Regular Meeting of the Sheldon Town Board held May 18, 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. A Zoom meeting was not held.

Present: Supervisor Brian Becker (in-person)
Councilmen: Vince Kirsch, Jim Fontaine, Joe Meyer, Mike Armbrust
Recording Secretary: Town Clerk Carol Zittel
Also present: Highway Superintendent David Ricketson, Attorney David DiMatteo, Arcade Herald Reporter Maya Borer, Deputy Town Clerk Whitney Kehl

Minutes

A motion was made by Jim Fontaine and seconded by Joe Meyer that the minutes from the April 20, 2022 regular meeting be approved.

Ayes: (5) Becker, Fontaine, Kirsch, Armbrust, Meyer Nays: (0) Motion Carried.

Communications

The Town Clerk, Carol Zittel, reported the following:

Town Clerk Report

The Town Clerk distributed a new Town Clerk report as the one emailed prior to the meeting was incorrect. The prior report had the incorrect figures for the NYS DEC and Town Supervisor. (Town Clerk overpaid the Town Supervisor). The Town Bookkeeper issued the Town Clerk a check to make up for the discrepancy.

Reports

The Town Supervisor financial reports, Town Clerk report and Town Justice reports were distributed.

Zoning Report

The Town Clerk will begin adding the Zoning Report to the meeting minutes.

MONTHLY ZONING REPORT

Date: May 2, 2022 – Report for April 2022

Town: Sheldon

Open Projects:

- William Snyder (Windy Brew) 733 20A, SBL.: #54.-2-10.2 – submitted an application for expansion of special use permit. Currently the applicant is open from Wednesday to

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Sunday. The applicant is requesting to be open from Monday to Sunday. The application will go before the Wyoming County Planning Board on May 2, 2022 at 7PM.

Permits Issued:

April: 2 permits

- James Kitchen (2386 Maxon Rd.) – submitted an application for 25’ x 25’ 2nd floor addition.
- Donald Gasiewicz (2320 Centerline Rd) – submitted an application for 54 x 64 pole barn

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 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 and a court petition was requested from David DiMatteo on April 20, 2022.
- 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. Deadline is May 19, 2022. The property owner notified the Zoning Department that a parcel merge has been filed. Once proof of the parcel merge has been received, this violation will be resolved.

Zoning Board of Appeals – Public Hearing Notices

The Town Clerk and Town Board had a short discussion regarding the mailing of notices to landowners within 1,000 feet of a variance application parcel. Town Zoning Law requires that notices be certified mailed as outlined in Section 8060 of Town Zoning Law:

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The Board of Appeals shall also, at least seven (7) days prior to the date of the hearing, give notice in writing by certified mail to all property owners within one thousand (1000) feet of the property to be affected by said appeal or to all property owners of contiguous land or properties adjoining said property to be affected, and other interested property owners as may be designated by the Board of Appeals.

The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Zoning Board of Appeals prior to the hearing of such appeal.

The topic was raised as there were two Variance public hearings this month. One of the hearings had to be rescheduled as the applicant did not mail out the notices. If the Town Board and Planning Board feel the 1,000 feet requirement is too large of an area the Boards will need to consider changing this when the Zoning Law is revised.

New Zoning Law

The Town Planning Board and County Building & Codes office were working on adopting a new zoning law prior to the start of the COVID-19 pandemic. The Town Planning Board is ready to take up the project again and will be reviewing the new proposed zoning law at their future meetings. Town Attorney David DiMatteo asked if he should review the law as it is proposed or if he should wait until asked to do so by the Town Planning Board. Supervisor Becker will contact Mr. DiMatteo when the Planning Board is ready for his review. Supervisor Becker also noted that he has given the Planning Board authorization to meet twice a month to work on the new law.

Non-Conforming Uses and a New Zoning Law

Attorney DiMatteo recommended that the Town request that landowners of parcels that will have non-conforming lots due to any changes to Town Zoning Law, register their non-conforming uses with the Town. By registering, they will ensure that they will not be in violation of the new zoning law.

Highway Superintendent Report

Highway Superintendent Ricketson reported on the following:

Falls Road Paving

Falls Road has been paved using 70-80 tons of blacktop. The bill has not yet been received. Supt. Ricketson noted that the cost of asphalt last year was \$51/ton. This year it is \$81/ton.

Highway Work

The Department has been working on patching winter break ups and pipes. Supt. Ricketson feels that the Town roads fared pretty well over the winter. The Department has been working on ditching roads and still has more to do.

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Use of East Aurora's Commercial Asphalt Machine

The Town of Aurora will be lending the Department its commercial asphalt machine for the filling in of road cracks.

International Truck

The International is back and the bill is in tonight's bills. It needed a new booster and the king pins were replaced.

Road Salt

Councilman Fontaine commented on the \$32,000 salt bill and asked if it filled half of the salt building. Supt. Ricketson responded that yes, about half. The Superintendent added that he may order more by the end of the month.

DEF Fluid

The Board and the Superintendent had a short discussion regarding DEF fluid. Councilman Fontaine offered the Superintendent the name of a vendor who sells it at a fair price.

Supervisor's Report

Supervisor Becker reported on the following:

Mortgage Tax Revenue

The Town received \$24,173.76 in mortgage tax revenue. This was the 6th highest in the County.

Zoom Law – County Level

The County is proposing a Law to allow the Board of Supervisors to continue meeting via Zoom. Supervisor Becker will forward a copy of the law to the Town Clerk. The Town Board expressed their hope that the Town will be able to have the Zoom option going forward even if the COVID emergency order is lifted by the Governor of New York.

Wyoming County Community Hospital Revenue Loss

Supervisor Becker reported that the Wyoming County Community Hospital lost \$1.1 million in the month of April. A new CEO has been hired and will be starting soon.

Acceptance of Reports

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

Ayes: (5) Becker, Fontaine, Kirsch, Armbrust, Meyer Nays: (0) Motion Carried.

ARPA Funding

Nothing new to report.

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Spectrum – Town Hall

A new router has been installed at the Town Hall as reported by Supt. Ricketson at the last board meeting. Superintendent Ricketson noted that the internet speed and reliability does seem better to him. The Town Clerk has not noticed an improvement in internet speed, however, she believes it is more a problem with her laptop than the internet connection. The Town is receiving two bills for internet service. One is from Charter Communications local and one is from Spectrum National. The Spectrum National bill has charges for two phone lines just installed by Spectrum – these lines were not approved by the Town for installation. Supervisor Becker will speak with Justin Niebel from Spectrum to rectify this issue.

Varysburg Water

Supervisor Becker was contacted by engineering firm, Barton & Loguidice, regarding the potential of grant funding for the Varysburg Water District. This grant would cover the cost of having an engineering firm design and price out the replacement of lines north on Route 98 and on School Street. The grant is not for the cost of the replacement of the lines, it is just for the engineering plans.

Varysburg Water Expenses/Revenues

The Town Supervisor and Town Bookkeeper, Katie Chmura, reviewed the Water District expenses for the past three years vs. revenue. The prior year the District was short approximately \$3,500 and last year short \$6,000. The current rate of \$12.50 per 10,000 gallons generates approximately \$11,000. Katie will compile a report for the Board's review. It is expected that the Town will need to raise the rate from \$12.50/10,000 gallons to \$18.50/10,000 gallons. Water billing is quarterly so this will result in an increase of \$24 per year for those who use 10,000 gallons per quarter. A meeting with the Varysburg Water Advisory Board will need to be scheduled.

Attorney DiMatteo recommended that an informational meeting be held for customers of the Water District before rates are raised. Attorney DiMatteo also expressed concerns that the Town will be unable to obtain grant funding for the Water District due to the low rates we charge customers.

Auditor Report – Town Books

Donald Przybyl submitted a written auditor report. The report was emailed to the Town Board prior to the meeting and is on file in the Town Clerk's office.

A motion was made by Mike Armbrust and seconded by Joe Meyer to accept the audit findings as submitted by Donald Przybyl.

Ayes: (5) Becker, Fontaine, Kirsch, Armbrust, Meyer Nays: (0) Motion Carried.

Waste Management Update

The kinks are still being worked out with the new garbage regulations and the Town Clerk is fielding many calls by residents with questions/concerns. There have been several properties identified that have not been billed for garage service on their tax bills but were receiving garbage service. The County has advised these residents to complete a form requesting garbage

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service. The Town Clerk is assisting these residents with completing and submitting the form. A resident on Grandview Drive has requested service – as this is a seasonal road – there is uncertainty whether Waste Management will service this road.

Windy Brew – Special Use Permit

Michelle Snyder, owner of Windy Brew, has submitted a special use permit application to increase the number of days of operation for her business. The Board expressed concerns that the business has not been inspected by the Town Zoning Officer every two years as stipulated in the original special use permit. The Board also expressed concerns over incidents of parking along Route 20A and also behind the Snyder’s house. Over the winter, there was a call by the Sheriff’s department to clear 20A of cars parked alongside the road so that plows could safely pass. Ms. Snyder called the Town Supervisor this past week, Supervisor Becker noted that the call was not a good conversation, noting that Ms. Snyder accused the Board of giving preferential treatment on the Daryll and Ashley Howe application to open a competing business at the corner of Route 20A and Folsomdale Road. Supervisor Becker notified Ms. Snyder that the corner of Route 20A and Folsomdale Road has been zoned commercial since at least the 1970s. The Board also noted that the special use application is requesting to operate on Tuesdays and the Board has been notified that the business has been open on Tuesdays for quite some time. Supervisor Becker noted that Ms. Snyder indicated that Tuesdays were for private parties. The Board noted that private party or not, the business was still operating and open for business on Tuesdays. The Board reiterated that the Town/County Zoning Officer should mail out the public hearing notices to each resident on both sides of Route 20A between Folsomdale Road and Burroughs Road. Supervisor Becker recommended that if the Board wants to continue discussing the Windy Brew application that they go into Executive Session. The Board decided to end discussion on the matter and not enter into Executive Session.

Varysburg Park Garbage Disposal

Councilman Meyer left a phone message for Darlene Janes to discuss garbage pick up at the park but has not heard back.

New Business:

Budget Transfer

A motion was made by Jim Fontaine and seconded by Vince Kirsch to authorize the transfer of \$100,000.00 from General Fund A1083 to Highway Fund DA1083 for May 2022 bills and payroll.

Ayes: (5) Becker, Fontaine, Kirsch, Armbrust, Meyer Nays: (0) Motion Carried.

Zoning Violation

**TOWN BOARD OF THE TOWN OF SHELDON
RESOLUTION TO DIRECT COMMENCEMENT OF ACTION
ON BEHALF OF MUNICIPALITY**

Adopted: May 18, 2022

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WHEREAS, the Town Board of the Town of Sheldon met at a regular board meeting at the Town Offices located at 1380 Centerline Road, Sheldon, New York 14145 on the 18th day of May 2022, commencing at 7:00 p.m., at which time and place the following members were:

<u>Present:</u>	Supervisor	Brian Becker
	Council Member	Vince Kirsch
	Council Member	Jim Fontaine
	Council Member	Mike Armbrust
	Council Member	Joe Meyer

WHEREAS, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

WHEREAS, it appears that Mr. Dennis J. Mills is in violation of Article V, §5110 – “Outdoor Storage of Junk” within the Zoning Law of the Town of Sheldon relative to the property located at 1907 Route 20-A, Varysburg, New York 14167; and

WHEREAS, this will be the second time the Town pursues prosecution of 1907 Route 20-A, Varysburg, New York 14167 owned by Dennis J. Mills due to violations of the Town of Sheldon Zoning Law; and

WHEREAS, the Town previously prosecuted Dennis J. Mills with regard to property violations in 2018; and

WHEREAS, it appears to be in the best interest of the Town of Sheldon to prohibit Mr. Mills from continuing to be in violation of said Section of §5110 – “Outdoor Storage of Junk” within the Zoning Law of the Town of Sheldon; and

WHEREAS, the Town Board of the Town of Sheldon feels it is in the best interest of the Town of Sheldon to retain the services of Town Attorney, David M. DiMatteo, to pursue the enforcement of §5110 – “Outdoor Storage of Junk” within the Zoning Law of the Town against Mr. Mills to ensure that this property is brought into compliance with said Law.

NOW ON MOTION OF Jim Fontaine which has been duly seconded by Joe Meyer, be it

RESOLVED, that the Supervisor of the Town of Sheldon, be and he hereby is authorized and directed to retain the services of David M. DiMatteo, Attorney for the Town of Sheldon in this matter, upon such terms as he deems proper and advisable, and Supervisor of the Town of Sheldon shall authorize David M. DiMatteo on behalf of the Town of Sheldon to take such action as may

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be deemed advisable to prevent any continuation of the violation of §5110 of the Zoning Law of the Town of Sheldon and the seeking of permanent injunction.

Ayes: (5) Becker, Fontaine, Kirsch, Armbrust, Meyer Nays: (0) Motion Carried.

Historical Marker – Willow Tree

Town Historian, Jeanne Mest, received a grant for a historical marker as has been noted in past meetings. Supervisor Becker and Superintendent Ricketson retrieved the sign from the highway garage to show it to the Board and those present. The Town Board gave permission for the Town Highway Department to use highway equipment to erect the sign. Highway Superintendent Ricketson will lend his personally owned equipment to assist with the install.

Frinks Corners Cemetery Maintenance

A motion was made by Joe Meyer and seconded by Mike Armbrust to hire Jeremiah Pedro to provide lawn mowing services for the Frinks Corner Cemetery at a cost of \$200 per year.

Ayes: (5) Becker, Fontaine, Kirsch, Armbrust, Meyer Nays: (0) Motion Carried.

Strykersville Fire Diminution

Attorney DiMatteo distributed a resolution to schedule a public hearing regarding the diminution of the Strykersville Fire Protection District. This is necessary due to the Town of Holland's decision to not contract with the Strykersville Fire District for fire protection services. Mr. DiMatteo will work with the other Towns to set a date for the public hearing. He is hoping for late June.

Bills:

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

A motion was made by Vince Kirsch and seconded by Jim Fontaine that the General Bills #76 to #107 for a Total of \$36,101.04, the Highway Bills #56 to #69 for a Total of \$56,786.37, the Trust & Agency Bills #15 to #17 for a Total of \$569.72, the Lighting District Bills for a Total of \$203.73, and the Varysburg Water District Bills #18 to #25 for a Total of 33,492.93 be paid.

Ayes: (5) Becker, Fontaine, Kirsch, Armbrust, Meyer Nays: (0) Motion Carried.

Comments from the Floor

At 8:50 p.m. Supervisor Becker opened the floor to comments. Whitney Kehl asked the Board a few questions about the Windy Brew application to which the Board responded.

Adjournment

At 9:00 p.m. a motion was made by Vince Kirsch and seconded by Joe Meyer to adjourn the May 18, 2022 meeting of the Sheldon Town Board.

Ayes: (5) Becker, Fontaine, Kirsch, Armbrust, Meyer Nays: (0) Motion Carried.