

OCTOBER 11, 2011 REGULAR TOWN BOARD MEETING MINUTES

MEMBERS PRESENT:                    Norman Teed                    Supervisor  
   Carl Beechler                Councilman  
   Doris Day                    Councilwoman  
   John Dole                    Councilman  
   Dennis King                Councilman  
   Terry Featherly            Highway Superintendent  
   Linda Nieskes              Town Clerk

PUBLIC ATTENDANCE:    See listing in book.

CALL TO ORDER:        Supervisor Teed called the Regular Meeting to order at 7:00 PM.

PLEDGE OF ALLEGIANCE:    Supervisor Teed led the meeting with the Pledge of Allegiance.

PUBLIC HEARING:        Supervisor Teed opened the Public Hearing at 7:02 PM. He asked if anyone  
LOCAL LAW #3, 2011    wished to address the Board either for or against this Local Law. He asked  
MORATORIUM ON        a second time if anyone wished to address the Board regarding this Local  
HYDROFRACTING        Law. No one asked to speak. The Public Hearing was closed at 7:04 PM.

PUBLIC PARTICIPATION: Aaron Newton, Phelps Ambulance Department spoke about the 12% increase in fees to patients or insurance companies for the Ambulance use. He stated that this increase in no way affects the tax payers. Councilwoman Day asked if it was the same insurance company. Mr. Newton said yes. Supervisor Teed asked if the Ambulance Service had a hard time collecting from self-pay patients. Mr. Newton said they have a hard time with some self-pay patients. He said about 10% of the patients are uninsured. He said they offer payment plans and if the account is not paid; it is turned over for collection. He said they had not increased their fees for two (2) years. Supervisor Teed asked where they fell with their rates in comparison to other Ambulance Services. Mr. Newton said their rates fall lower than other area ambulance billing services. Supervisor Teed asked if most insurance companies covered this. Mr. Newton said yes most do. He said Medicaid reimbursement allowable rates are still well below what we bill and there is nothing we can do about that. Supervisor Teed asked what is done if their billing rate is more than the insurance pays. Mr. Newton said the balance is written off. He said 5% of our insurance billables are Medicaid, 40% are Medicare and the rest are private pay or auto insurance. He said the auto insurances follow suit with the Medicaid billing practices, which has an extreme impact on us. Mr. Newton said they are continuing to enhance their services by offering Advanced Life Support in-house. He stated the Ambulance Service is staffed Monday through Friday with a basic and a paramedic EMT from 7 AM to 4 PM and from 4 PM to 10PM Monday through Friday we also staff a paramedic; so we have advanced service available for a good portion of the day. Councilwoman Day said it is a good service. Supervisor Teed said it is indeed and we appreciate it.

CORRECTIONS TO THE    Councilman King, offered the following Resolution. RESOLVED that, the  
SEPTEMBER 12, 2011    September 12, 2011 Regular Town Board and the September 22, 2011 Special  
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REGULAR TOWN BOARD  
AND THE SEPTEMBER  
22, 2011 SPECIAL TOWN  
BOARD MEETING  
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Town Board Meeting Minutes be approved as written. The Resolution was seconded by Councilwoman Day, who moved the adoption. 5 AYES. Motion carried.

RESOLUTION:

Adopt Local Law #3, 2011-One Year Moratorium on Horizontal and Directional Gas Drilling and Hydraulic Fracturing (see attached).

RESOLUTION:

Schedule Public Hearing for Local Law #4, 2011 Tax Cap Override (see attached).

Supervisor Teed said this Local Law is in response to the 2% tax cap law our Governor put into place. He said upon our Attorney's recommendation this would protect us if an honest mistake was made and we went over the 2% tax cap. He stated the entire County is doing this Law to protect their municipalities. He said if by a mistake you went over this, they might not catch it for 5 or 6 years; but the penalty compounds every year. He said the repercussions could be drastic. He said they are also lobbying to get the State to relieve some of the mandates they have put on the local towns by not funding them anymore. He stated that is why this Local Law is before you tonight. Councilwoman Day said she would like to see some of the mandated funding relieved; but being a taxpayer and landowner, a 2% tax cap which is affecting the school district and us. She stated she understood that the Towns and County are doing this to protect themselves; but somewhere it has got to stop. She said the Town Board is doing the right thing by trying to control this; but the school has their budget, we have our budget. She stated that this November we are going to be asked to vote on \$175,500 increase to our library budget. She said where does this stop; the money comes from the tax base that we have out there or its going to dry up pretty soon. She said do I agree with us getting into trouble with us unknowingly going over the percentage, something would have to be done. She said but do I agree with the tax cap and living within your means, I have to do it for my budget; somewhere it has got to stop. She said this is just my personal opinion.

Supervisor Teed said if they relieve some of the mandates, this would not be an issue. Councilwoman Day said she would like to see that done, but it has not been done in the past and she doubts that is will be done in the future. Supervisor Teed said to do that, a lot of people are going to be affected because we are used to everything being supplied and it all costs. He said if you do not pay, someone else has to. Councilwoman Day said they are all unfunded mandates; just like the Dog Licensing that the Town had to take over. Councilman Beechler said those are already in place so in theory it gives us protection if they throw something our way without throwing the equal amount of money. Supervisor Teed said they can still pull funding but demand the services; that is the crazy part of this. He said it was a "feel good" law, sounded good when it came out because everyone

- RESOLUTION: Adopt Preliminary Budget for 2012 (see attached).
- RESOLUTION: Schedule Public Hearing for 2012 Budget (see attached).
- RESOLUTION: Approve Excavation Permit for NYSEG – Spafford Rd. (see attached).
- RESOLUTION: Schedule Public Hearing for Local Law #5, 2011 Lighting Legislation (see attached).
- RESOLUTION: Councilman King offered the following Resolution. RESOLVED that, the Town Board accepts the 12% increase in the Phelps Ambulance, Inc. 2012 billing fees as presented by Aaron Newton. The Resolution was seconded by Councilwoman Day, who moved its adoption.

VOTE: Councilman King	AYE
Councilwoman Day	AYE
Councilman Beechler	AYE
Councilman Dole	Abstain (Member)
Supervisor Teed	AYE

RESOLUTION:	ADOPTED	DEFEATED	ABSTAIN
	<u>4 AYES</u>	<u>0 NAYS</u>	<u>1</u>

HIGHWAY: Superintendent Featherly presented his September 2011 Highway Report to the Board (see attached).

Councilman Beechler asked how Superintendent Featherly was doing with all the projects he had scheduled for this year. Superintendent Featherly said they are going to fall short. He said we just did not have enough money to go any further with the roads that he had in his 284 Agreement, so we took some money and have been going around patching where we think we will be cold patching all winter. He said because of the price of asphalt, we will not be able to go much farther on that. Councilman Beechler asked if that is what did the Highway Department in, was the cost of asphalt. He also said he did not think the fire helped the situation either. Superintendent Featherly said that and when you do a lot of wedging, you cannot pinpoint exactly how much asphalt the road is going to take. He said it is a lot easier to calculate it if you are going to run a paver and you can put 1” of top down; but when you are grader wedging it, you just do not know. He said some roads took more, some roads we were pretty close on and some took quite a bit more than we planned on putting on them. He stated Carter and Skuse ate up a lot. Superintendent Featherly said the year started with asphalt high and it never did

come down. Superintendent Featherly said he had an estimate to fix the heating elements in the shop and truck bay from Phelps Sungas for \$3,113.00. He said he thinks between that, the doors and the cleanup, the \$12,000 the Board agreed to

give him should be right in the ballpark to get everything done. Councilman King asked if they had started the cleanup yet. Superintendent Featherly said no because we had to schedule the doors to be fixed first and we have to get that truck out of there. He said they are figuring tentatively October 19<sup>th</sup> to install the doors and then the clean-up will begin on October 20<sup>th</sup>. Councilman King asked where the truck was going to be kept. Superintendent Featherly said they will probably put it behind the shop and tarp it for now. Councilman Dole asked if we had been paid on that truck. Supervisor Teed said yes. Councilman King said if you are going to put heat in there, does that require electricity. Superintendent Featherly said there is heat in there. Councilman King asked if we were all set as far as the codes. Superintendent Featherly said they got several of the lights up and working when Steve's Electric was in there. He said there are only about 2 lights that are not working. He said he would like to keep it at least 50 degrees in there. He said Servpro's estimate included repairing the insulation where the truck fire was. Supervisor Teed asked what the cost was going to be for the clean-up. Superintendent Featherly said he believed it was around \$7,000 but he is getting the scissor-lifts so there will be about \$2,000 off that. He said we purchased the destroyed truck for \$119,776 and the insurance company paid us \$126,880 for the settlement which gave us a profit of \$7,104. He said since the fire he has been looking for a truck to replace that one. He said it will be tough this time of year, but he has a line on a truck that is out-of-state almost identical to the truck that burned. He said they would have to investigate the fire risks on the newer models. Councilman King said he is not in favor of replacing the truck; he wants to put the money toward the new building. Superintendent Featherly said he does not know if you can do that. He said the garage comes out of the general fund and the highway comes out of the DB line of the budget and he said by law you cannot use that money for the garage. Councilman King again stated he is against replacing the truck. Supervisor Teed said it comes to a point where we need a building and that is top priority. Superintendent Featherly said he agrees. Councilman King said we have got to stop this. Superintendent Featherly asked if they thought that Truck #2 was an extra truck. He said Norm bought that truck to replace the F800 Ford we had. He said that is not a truck he added to the fleet. Councilman Dole asked how many miles it had on it. Superintendent Featherly said about 40,000. Councilman Dole said so since 2008 it has 40,000 miles on it. Councilwoman Day asked if that truck had a dedicated run in the winter for snowplowing. Superintendent Featherly said he made it a dedicated run because what the driver does is he goes out and picks up the County Roads that fall at the end of everybody's routes where we were having the most amounts of accidents, which would be Co. Rd. 25 and Co. Rd. 23. He said the driver goes out and hits them first, then goes around and hits the dead ends and then hits a couple of roads in everyone's sections. He said it saves them about a half hour of time on the other guy's routes. Councilwoman Day asked if that truck was not replaced, who would pick up those dedicated runs. Superintendent Featherly said we would go back to the 5-truck route and it would take 2-1/2 to 3 hours for them to get around plowing snow.

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Councilman Beechler said they could go back and pick up the roads in their own section. He said it seems having a truck go service almost the entire town, by hitting a little bit here and a little bit over there is a lot of driving without plowing. Superintendent Featherly said that is why you cannot send the guys out on a 5-truck route, go hit the County Roads first and then jump around and start on

their regular routes. He said it would be a mess and you are never going to get them done on time. He said you have to start from the shop and work your way out. Councilman Dole asked what Superintendent Featherly would do with the person that is in that truck, where would he go? Superintendent Featherly said he would have to ride with somebody. Councilman Dole said that does not seem like a very good use of manpower. Supervisor Teed asked how many trucks are running right now with that truck. Superintendent Featherly said with that truck it would be 5. Supervisor Teed said he would suggest a 1-ton truck with a plow on it. Superintendent Featherly said you would have to go a little bit bigger than that. He said he tried that with the 1-ton they have and it is destroying that truck; and they can no longer use it for plowing because the salt goes up underneath and is eating the oil pan off it. He said the truck has got to be higher off the ground. Councilman Beechler asked how many dead end roads we have in the Town. Superintendent Featherly said you have Everson; Mill St, Orleans; the dead end behind Sugar Creek, the one off Maryland. Councilman King said we have to start lowering our overall costs. Superintendent Featherly said that is fine with him; he just wants the Board to know that it is not an extra truck. Supervisor Teed asked how many MACKS are down there, 6 right. Superintendent Featherly said yes because we still have old truck 8 that we have not taken to auction yet. Supervisor Teed said he would rather see that used for another year or two and not replace the International. He said that way you would still have your 6 trucks. Councilman Dole asked what the condition of that truck is. Superintendent Featherly said we would have to replumb the whole thing. Supervisor Teed said you were going to do that anyway, right? Superintendent Featherly said right. Councilwoman Day asked what year the truck was. Superintendent Featherly said 2000-2001. Supervisor Teed said it is probably 10 or 11 years old. He said it probably has 100,000 miles on it. He said plowing snow is a lot harder on a truck. He said you stop/go at every intersection, turn right, back up and the cold weather is very hard on it. He said we use to replace them every 10 years; but times change and a lot of the Towns are trying to get 12 and 14 years out of them; it depends on the condition. He said he just cannot see spending that kind of money when we desperately need someplace else. He stated if we do not come up with the money, we are not going to have a new Highway Department Garage. Councilman Dole asked how much money would have to be put into old Truck 8 to get it ready to plow snow. Superintendent Featherly said he really did not know what they were going to run into with that. Councilman Dole said \$10,000. Superintendent Featherly said he did not think it would be that much. He said given the circumstances, we do not know coming off that fire what the trucks are going to do. He said we could be heading for disaster, he just does not know. He said we had 5 trucks; one truck burned up and 4 got smoke and heat damage. He said he does not know what is going to happen when they get out plowing snow. Councilman Dole asked if there had been any problems

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with the trucks yet. Superintendent Featherly said the 2 worst trucks are not back yet.

Superintendent Featherly said he noticed there is nothing in the Budget for 2012 equipment and he wanted to know if that was something that is up for negotiation at the workshop. Supervisor Teed said that will be discussed at the workshop.

Councilman Beechler asked Superintendent Featherly if he had turned in his 284 Form yet. Superintendent Featherly said he had to get through this year before he could complete that. He said there will be things that have to get carried over into next year.

ZONING REPORT: The Zoning Report for the month of September 2011 is on file in the Town Clerk's Office.

MONTHLY REPORT: The Town Clerk's September 2011 report was reviewed by the Board Members for their approval.

DISCUSSION WITH THE SUPERVISOR: A) Supervisor Teed announced that a Budget Workshop would be held on Tuesday, November 1, 2011 at the Phelps Town Hall, 79 Main Street, Phelps, NY at 4:00 PM.

B) Supervisor Teed said we received a Statement of Values from NYMIR on the Town buildings. He said some of the amounts have increased and some have been decreased. He said the report is at the Town Hall for the Board's review.

C) Superintendent Featherly asked if we have heard anything from the insurance company regarding the contents of the Highway Garage that was damaged in the fire. Supervisor Teed said we have not heard anything. Councilman Dole asked what is taking them so long on the contents. Supervisor Teed said he has called them 3 or 4 times and still has not received anything. He said he will contact them again.

D) Councilman Beechler asked Clerk Nieskes about the Ag Local Law. She said she had received the go ahead from Ron Allen and she e-mailed Attorney Graff to tell him the Planning Board agreed with all his changes. She said she is waiting to hear back from Attorney Graff. Councilman Beechler said the next goal is to go to the County Planning Board. Clerk Nieskes said that was correct. She said Attorney Graff also wanted to know if it had gone to Ag and Markets. She said Ron Allen said they had seen it; but it should go back to them with the changes. She said she would e-mail Attorney Graff tomorrow and have him forward it to Ag and Markets.

E) Councilwoman Day asked if there was anything new on the Melvin Hill/Griffith/Toll Road Water District. Supervisor Teed said he is meeting with Pat Nicoletta of MRB on Monday morning because our Grantsman Stu Brown wants to submit the grant application. He said Rural Development has lowered the interest

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rate from 3.75% down to 3%. He said the other issue is they have cut the funding. He said we were eligible for \$650,000 and now that is down to \$500,000. He said that will kill the project because it will raise the EDU back up to at least \$1,200. He said he has contacted Senator Nozzolio, Assemblyman Kolb and one other person. He said he has gotten one letter of support back. He said with this lower interest rate it would bring it back down; but not where we were before. He said we might be \$50,000 short. Councilwoman Day said the district is basically what

we talked about before; from the Griffith Road transmission station, up to Melvin Hill, down Melvin Hill both ways. She asked if that included Toll Road. Supervisor Teed said only to the old Crosby property at the old line. He said we would then disconnect the old line; but we would be able to feed the Scout Camp through that old line and they would be responsible for that.

OPEN FORUM:

BRIAN MANEY, OAKS CORNERS FIRE DEPARTMENT: Mr. Maney asked if the Budget Workshop was open to the public. Supervisor Teed said it was. Mr. Maney asked what the Fire Tax would be for next year. Councilman Beechler said the Preliminary Budget shows the Fire Tax Rate at .6879 cents. Mr. Maney said that was all he had for now.

JOHN OAKS, CO. RD. 6, OAKS CORNERS: Mr. Oaks asked if the Horizontal Drilling was under home rule. Supervisor Teed said this is the same law that all the other Towns are establishing. Mr. Oaks again asked if it was under home rule because that is being challenged all over the State. Supervisor Teed said according to what the County has told him, this is what we have to do to get a control on it in our own local zoning. Mr. Oaks said it is being challenged and it is running into big money with lawsuits. Mr. Oaks asked what the date was for the Public Hearing on the 2% Tax Cap. Supervisor Teed said it will be at our next meeting which is November 14, 2011.

KARA SIMMONS, TOLL ROAD, PHELPS: Mrs. Simmons asked the Board to explain the whole budget process to her. She said you adopted a Preliminary Budget that no one has really seen or had any input in. She said last year you did that in October. She asked what the purpose is of adopting a Preliminary Budget that really means nothing, is that just a formality. Supervisor Teed said it is a starting point. He said the Fiscal Officer puts a Tentative Budget together and that becomes the Preliminary Budget. Mrs. Simmons asked who the Fiscal Officer was. Supervisor Teed said he was the Fiscal Officer. He said you then schedule a workshop; but you also schedule a Public Hearing on that budget. He said the Board then has their input into those numbers. Mrs. Simmons asked what the amount of the budget was. Supervisor Teed said the proposed tax rate is \$2.51. She asked Superintendent Featherly what he spent on equipment this year. Superintendent Featherly said he had spent under \$160,000. Mrs. Simmons asked if he planned to spend anything next year. He said he did not know at this point. Mrs. Simmons asked if that was feasible. He said we are going to find out; with this 2% tax cap he does not know if it is. Councilman Beechler said we talked about that earlier, regardless of the tax cap, what is the best way for us to spend that

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money that we appropriate every year. Mrs. Simmons said it would be prudent if there was a 3 or 5 year plan. Superintendent Featherly said he has a 15 year plan for equipment. Mrs. Simmons said she does not mean just Highway because last year we got hit with the \$100,000 for the transfer station truck. She said she did not think that was a surprise and should have been planned for. She said it was unfair for the tax payers to get hit with that huge burden last year. She asked who determines the salary increases. Supervisor Teed said the Town Board establishes the salaries. Mrs. Simmons said she would like to publicly state that a 5% increase is too much; anything more than a 2-1/2% increase is too much. Supervisor Teed

said he has a 2% increase in this budget. He said the Board can do more, less or adopt the budget the way it is.

LEE DERUYTER, CO. RD. 6, PHELPS: Mr. DeRuyter said he is still trying to understand all these dates. He said he does not understand why you would vote on a budget before anyone has spoken on it. Supervisor Teed said we did not vote on the budget, we took it from the Tentative Budget to the Preliminary Budget. Mr. DeRuyter said it looks like the Fire Tax went up 2% this year from last year; He said he felt the Board did quite a disservice last year with this tax cap looming, it was a terrible year to go down. He said he knows of one town in this county that actually built a little “fluff” into their budget in anticipation of this 2% tax cap. He said he also has a question about the truck that was bought for the Transfer Station. He said that is a Village Transfer Station, why would the Town buy a truck for the Village. Supervisor Teed said we paid half of the truck. He said we share the expenses of the transfer station. He said the Village owns the property and maintains it; but the Town has a cost percentage involved. Mr. DeRuyter asked where the Budget Workshop would be held. Supervisor Teed told him it would be in the Conference Room at the Town Hall.

Mr. DeRuyter asked if anything was going on with the east end water. Supervisor Teed said that is on hold until we can get the Melvin Hill Water District straightened up. He said we still have all the paperwork in place.

DAVID SMITH, LESTER RD., PHELPS: Mr. Smith said he had a question on the hydrofracking and drilling. He said you are putting all these rules and regulations in place. He said in 2002 it was written that if anyone had the rights to your gas or whatever, they were grandfathered in. He said what is this going to do if they have already bought the rights to your property. He said this means nothing to them; they will walk right over top of you. Supervisor Teed said he did not know if that grandfather clause would pertain to hydrofracking. He said this is a new process they have come up with which is a lot cheaper for them. Mr. Smith said if you word these laws wrong, they are going to take advantage of you and it looks like Town is getting raked over pretty good now. He said there are a lot of things going on that you cannot do anything about. Supervisor Teed said it is very frustrating. He said this is a step to try to get control of it.

NEXT TOWN BOARD MEETING:

The next Town Board Meeting will be held Monday, November 14, 2011 at the Phelps Town Court/Meeting Room, 1331 Rt. 88, Phelps at 7:00 PM.

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BILLS:

Councilman King offered the following Resolution. RESOLVED that the following bills:

GENERAL “A” - #296 - #327 THE AMOUNT OF \$55,695.12,

GENERAL “B” - #86 - #92 IN THE AMOUNT OF \$7,236.43,

HIGHWAY “DB” - #209 - #233 IN THE AMOUNT OF \$76,325.17,

SEWER DISTRICT - #24 IN THE AMOUNT OF \$6.16,

WHITE ROAD WATER DISTRICT - #25 - #28 IN THE AMOUNT OF \$1,321.95,

RT. 96/488 WATER DISTRICT - #54 - #60 IN THE AMOUNT OF \$5,713.89,

ORLEANS WATER DISTRICT - #40 - #46 IN THE AMOUNT OF \$587.10,

SPAFFORD RD. WATER DISTRICT - #27 - #28 IN THE AMOUNT OF \$176.91,  
MELVIN HILL WATER DISTRICT - #37 - #38 IN THE AMOUNT OF \$240.44,  
TRUST & AGENCY - #36 - #37 IN THE AMOUNT OF \$2,665.12 be approved.  
The Resolution was seconded by Councilman Dole, who moved its adoption. 5  
AYES. Carried.

ADJOURNMENT:

Councilwoman Day offered the following Resolution. RESOLVED that, the  
Town Board Meeting be adjourned. The Resolution was seconded by  
Councilman Beechler, who moved its adoption. 5 AYES. Motion carried.

TIME:

8:23 PM.

Respectfully submitted,

Linda Nieskes  
Town Clerk