

Regular Meeting, Town Of Otto

A regular meeting of the town board of the Town of Otto, Cattaraugus County and the State of New York was held at the Otto Town Hall, 8842 Otto- East Otto Road, Cattaraugus, NY on the 15th day of July 2014.

Present: Ron Wasmund .. Town Supervisor
Brenda Mallaber .. Councilwoman
Paul Stang .. Councilman
Francis Feth .. Councilman
Trisha Priest .. Town Clerk
Robert Barber Jr. .. Highway Superintendent

Absent: James Wojdan .. Councilman

Others Present:

Colleen Feth .. Comprehensive board chairwoman
Jeff Hollar .. Code Enforcement Officer entered the meeting at 7:45pm

Community Members Present:

George Fantaski, of Otto

Supervisor Wasmund called the regular meeting to order at 7:00pm.

RESOLUTION 2014-75

Approval of minutes

On a motion made by Councilwoman Mallaber and seconded by Councilman Feth, the following resolution was

APOPTED Ayes 4 Feth, Mallaber, Stang, Wasmund
 Nays 0

Resolved that the minutes of June 17, 2014 are approved as presented.

Planning Board Coleen Feth reported that the planning board members walked the approximate 9 and one half acre property that they hope to procure as a gift from J. Pocobella for the use as a town park. She is asking the town board for approval to move forward with the process of procuring the property for this use. Questions were asked in regards to what stipulations were being placed on the gifted property to the town. The only stipulation chairwoman Feth was aware of was that J. Pocobella requires that the property be kept mowed. The planning board is willing to do all the work necessary to acquire the funds through grants and fund raising activities and just asked for the towns obligation to maintain the park. At this time there is no plan to put in electric or restrooms. The ideas at present are to have walking paths and a small picnic pavilion. C. Feth reminded the Town Board of the Public hearing in regards to the revision of the zoning enforcement plan, July 22, 2014 at 7pm. She also presented the board with a list of 20 properties that are in violation of our current zoning laws. She would like these violations addressed and the laws enforced.

RESOLUTION 2014-76

Acquisition of property

On a motion made by Councilwoman Mallaber and seconded by Councilman Stang, the following resolution was

ADOPTED Ayes 4 Feth, Mallaber, Stang, Wasmund
 Nays 0

WHEREAS the Comprehensive planning board would like to invest it's time and effort to acquire property for use as a park to serve the Town of Otto and;

WHEREAS the Town Board shares interest in procuring property for use as a park in the Town of Otto and;

WHEREAS the establishment of publicly managed parks within the Town of Otto was endorsed by the Town in its vision statement dated January 1996.

RESOLVED that the comprehensive planning board may move forward in their efforts to acquire information on the projected expenses, work with the town attorney to procure property for said park and to formulate fund raising activities to support the park.

Report of town officials

Supervisor Ronald Wasmund presented the monthly report on the Town's finances for the month of June 2014. Supervisor Wasmund Presented the board with a model code of ethics for review and proposed adoption.

Highway Superintendent Robert Barber Jr reported that Dake Hill is paved. The shoulders are still soft and will be apply more cold mix to the shoulders. It is scheduled in 30 days to chip seal Dake Hill Road. He has received an email indicating that the town will be getting assistance from FEMA. He has not been able to get in touch with that department to determine how much assistance.

Code enforcement Jeff Holler turned in \$78 in building permit fees collected. He conducted 18 inspections, 9 phone calls, issued 2 building permits and one stop work order for a property on Swamp Road. He will be sending out letters for two unsafe building which are at risk of collapsing. Asked of the next steps in the Wilder case J. Holler responded that the Judge will bring schedule a date for another appearance and if Wilder doesn't appear on that date a warrant will be issued. J. Holler has not been told when the next date is. C. Feth provided Mr. Holler with the list of violations she had discovered and asked him to enforce the zoning laws. Mr. Holler was aware of many of the issues presented on the list, and has been working with those property owners to get the violations corrected.

Town Clerk Trisha Priest presented the board with a monthly review of the town clerks cash flows .

The following correspondence was read into the record:

NYCLASS New York State Cooperative Liquid Assets Securities System : Notice of Amendment of the NYCLASS Municipal Cooperation Agreement -- undated

The governing board of the New York State Cooperative Liquid Assets Securities System (NYCLASS) has several program changes designed to better serve the NYCLASS investment program. These program changes will serve to revitalize the program by enhancing its long-term viability in all economic environments. Effective today, January 13, 2014, the governing Board has approved and gives notice of an Amended and Restated NYCLASS Municipal Cooperative Agreement.

- 1) Bring the NYCLASS Investment Policy into conformity with all applicable NYS General Municipal Law public funds investment guidelines.
- 2) Streamline the steps for certain amendments, by empowering the Governing Board to amend certain operational aspects of the agreement, including the investment policy, which fully conforms to NYS Law. Thirty (30) day's notice to Participants is required for such changes.
- 3) Allow for the potential creation of other investment options as market conditions change or improve over time.

The current agreement is being amended to accommodate these changes and other housekeeping items as described in the attached reline version for your review.

In accordance with Section 11.1 of the current agreement, each participant has until March 14, 2014 to execute the Amended Agreement reflecting these changes.

Participants that have not completed the amendment shall be deemed to have given notice of withdrawal from the NYCLASS program. Mathew Starr, NYCLASS administrator.

Village of Cattaraugus --undated

Dear Ron:

At this time, I am requesting the Town of Otto's contribution to the Summer Recreation program. Cattaraugus-Little Valley Central School has approved the busing for the Summer Swim Program. The contribution amount for your municipality is \$2700.00.

Please forward your contribution as soon as possible so that we can make preparations for the Summer Swim Program. We are hoping to receive all checks for this program in June so that we can pay bills. We also require the resolution, please find a resolution enclosed for your convenience. Rose LaQuay, Youth Council secretary / Disburser.

RESOLUTION 2014-77

Youth Council 2014

On a motion made by Councilman Stang and seconded by Councilman Feth, the following resolution was

ADOPTED Ayes 4 Feth, Mallaber, Stang, Wasmund
 Nays 0

WHEREAS, it is necessary to make application to the Cattaraugus County Youth Bureau/ NYS Office of Children and Family Services.

WHEREAS, it is necessary for the supervisor to sign for the Town of Otto, now, therefore be it

RESOLVED, the Town Board does hereby authorize the Supervisor of the Town of Otto to enter into agreements with the Cattaraugus County Youth Bureau/ NYS Office of Children and Family Services to run youth programs for the 2014 program year ending December 31, 2014.

RESOLUTION 2014-78

Municipal Cooperation Resolution Agreement

On a motion made by Councilman Stang and seconded by Councilman Feth, the following resolution was

ADOPTED Ayes 4 Feth, Mallaber, Stang, Wasmund
 Nays 0

WHEREAS, New York General Municipal Law, Article 5-G, §119-o ("§119-o" empowers municipal corporations [defined in Article 5-G, §119-n to include school districts boards of cooperative educational services, counties, cities, town and villages] and districts to enter into, amend, cancel and terminate agreements for the performance among themselves (or one of the other) of their respective functions, powers and duties on a cooperative or contract basis;

WHEREAS; the Town of Otto wishes to invest certain of its available investments funds in cooperation with other corporations and/or districts pursuant to a municipal cooperation agreement;

WHEREAS; the Town of Otto wishes to assure the safety and liquidity of its funds;

Now, therefore, it is hereby

RESOLVED as follows: The town supervisor, Ronald Wasmund is hereby authorized to execute and deliver the cooperative investment agreement in the name of and on behalf of the Town of Otto.

RESOLUTION 2014-79

Model Code of Ethics for Local Governments

On a motion made by Councilman Stang and seconded by Councilman Feth, the following resolution was

ADOPTED Ayes 4 Feth, Mallaber, Stang, Wasmund
 Nays 0

WHEREAS, article 18 of the General Municipal Law prohibits the officers and employees of a municipality from having certain conflicts of interest, and

WHEREAS, section 806 of the General Municipal Law requires the governing body of each county, city (other than the City of New York), town, village, school district and fire district¹ to adopt a code of ethics that sets forth for the guidance of its officers and employees standards of conduct reasonably expected of them, and

WHEREAS, section 806 of the General Municipal Law also authorizes the governing body of any other municipality to adopt such a code of ethics, and

WHEREAS, a code of ethics adopted by the governing body of a municipality must set forth standards of conduct for the guidance of the officers and employees of the municipality with respect to disclosure of interests in legislation before the local governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment, and such other standards as may be deemed advisable.

NOW, THEREFORE, be it resolved that the Town Board of the Town of Otto hereby adopts a code of ethics to read as follows:

Code of Ethics of the Town of Otto

Section 1. Purpose.

Officers and employees of the Town of Otto hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town Board, serving the Town of Otto recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This code of ethics establishes those standards.

Section 2. Definitions.

(a) "Board" means the governing board of a municipality and any municipal administrative board (e.g. planning board, zoning of board of appeals), commission, or other agency or body comprised of two or more municipal officers or employees.

(b) "Code" means this code of ethics.

(c) "Interest" means a direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.

(d) "Municipality" means the Town of Otto . The word "municipal" refers to the municipality.

(e) "Municipal officer or employee" means a paid or unpaid officer or employee of the Town of Otto, including, but not limited to, the members of any municipal board.

(f) "Relative" means a spouse, parent, step-parent, sibling, step-sibling, sibling's spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

Section 3. Applicability.

This code of ethics applies to the officers and employees of the Town of Otto , and shall supersede any prior municipal code of ethics. The provisions of this code of ethics shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, article 18 of the General Municipal Law and all rules, regulations, policies and procedures of the Town of Otto .

Section 4. Prohibition on use of municipal position for personal or private gain.

No municipal officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

Section 5. Disclosure of interest in legislation and other matters.

(a) Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or

material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall disclose in writing the nature of the interest.

(b) The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.

(c) In the case of a person serving in an elective office, the disclosure shall be filed with the governing board of the municipality. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's position.

In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

Section 6. Recusal and abstention.

(a) No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

(b) In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:

(1) if the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or

(2) if the power or duty that is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.

(3) if the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

Section 7. Prohibition inapplicable; disclosure, recusal and abstention not required.

(a) This code's prohibition on use of a municipal position (section 4), disclosure requirements (section 5), and requirements relating to recusal and abstention (section 6), shall not apply with respect to the following matters:

(1) adoption of the municipality's annual budget;

(2) any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

(i) all municipal officers or employees;

(ii) all residents or taxpayers of the municipality or an area of the municipality; or

(iii) the general public; or

(3) any matter that does not require the exercise of discretion.

(b) Recusal and abstention shall not be required with respect to any matter:

(1) which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by section 6 of this code;

(2) which comes before a municipal officer when the officer would be prohibited from acting by section 6 of this code and the matter cannot be lawfully delegated to another person.

Section 8. Investments in conflict with official duties.

(a) No municipal officer or employee may acquire the following investments:

(1) investments that can be reasonably expected to require more than sporadic recusal and abstention under section 6 of this code; or

(2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.

(b) This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:

(1) real property located within the municipality and used as his or her personal residence;

(2) less than five percent of the stock of a publicly traded corporation; or

(3) bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

Section 9. Private employment in conflict with official duties.

No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

(a) can be reasonably expected to require more than sporadic recusal and abstention pursuant to section 6 of this code;

(b) can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;

(c) violates section 805-a(1)(c) or (d) of the General Municipal Law; or

(d) requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matter to which the municipality is a party.

Section 10. Future employment.

(a) No municipal officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.

(b) No municipal officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves.

(c) No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

Section 11. Personal representations and claims permitted.

This code shall not be construed as prohibiting a municipal officer or employee from:

(a) representing himself or herself, or his or her spouse or minor children before the municipality; or

(b) asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

Section 12. Use of municipal resources

(a) Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel, and the municipality's money, vehicles, equipment, materials, supplies or other property.

(b) No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:

(1) any use of municipal resources authorized by law or municipal policy;

(2) the use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or

(3) the occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule. (c) No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

Section 13. Interests in Contracts.

(a) No municipal officer or employee may have an interest in a contract that is prohibited by section 801 of the General Municipal Law.

(b) Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by section 803 of the General Municipal Law.

Section 14. Nepotism.

Except as otherwise required by law:

(a) No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board.

(b) No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

Section 15. Political Solicitations.

(a) No municipal officer or employee shall directly or indirectly to compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

(b) No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

Section 16. Confidential Information.

No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

Section 17. Gifts.

(a) No municipal officer or employee shall solicit, accept or receive a gift in violation of section 805-a(1)(a) of the General Municipal Law as interpreted in this section.

(b) No municipal officer or employee may directly or indirectly solicit any gift.

(c) No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars or more when:

(1) the gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;

(2) the gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or

(3) the gift is intended as a reward for any official action on the part of the officer or employee.

(d) For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to

the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed seventy-five dollars must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

(e) (1) A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.

(2) A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.

(f) This section does not prohibit any other gift, including: (1) gifts made to the municipality;

(2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;

(3) gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;

(4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;

(5) awards and plaques having a value of seventy-five dollars or less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or

(6) meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

Section 18. Posting and distribution.

(a) The Town Supervisor must promptly cause a copy of this code, and a copy of any amendment to this code, to be posted publicly and conspicuously in each building under the municipality's control. The code must be posted within ten days following the date on which the code takes effect. An amendment to the code must be posted within ten days following the date on which the amendment takes effect.

(b) The Town Supervisor must promptly cause a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the Town of Otto .

(c) Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the clerk of the municipality, who must maintain such acknowledgments as a public record.

(d) The failure to post this code or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of a municipal officer or employee to receive a copy of this code of ethics or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

Section 19. Enforcement.

Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.

Section 20. Effective date.

This code takes effect on August 01, 2014.

Old Business Supervisor Wasmund spoke with Colleen Young in regards to the Historical Society. P. Stang mentioned that there are community members who are interested in restoring the damaged roof of the Historical Building. B. Mallaber stated that the Dankert boys at one time would donate their labor if the materials are supplied. A moderate amount of discussion was had about different options the society or the town may have. There was mention that everyone still needs to consider regulations set forth by the National Registry of Historical Places in regards to repairs on such buildings with that distinction. R. Wasmund will contact Bob Waite to learn what he knows about grants and the registry obligations.

Privilege of the Floor/Public Concerns

G. Fantaski addressed the board with an observation he made on the Final 2014 Tax Assessment Roll. In his case as well as roughly one third of the statements, the co ownerships were missing/ deleted. This is a concern when reporting taxes paid but your name is no longer on the bill. G. Fantaski is seeking corrections and is not satisfied with the way it is being handled by the Town Assessor, Jeff Forester. Supervisor Wasmund will address this matter.

RESOLUTION 2014-80

Audit of Claims

On a motion made by Councilman Feth and seconded by Councilman Wojdan, the following resolution was

ADOPTED Ayes 4 Feth, Mallaber, Stang, Wasmund
 Nays 0

Resolved that the bills contained on Abstract #007 have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Fund	No. 65 through 86	\$ 4,272.41
Highway Fund	No. 82 through 94	\$18,953.24
Water District	No. 10 through 12	\$ 291.27
Light District	No.	\$ 0.00
Sewer District	No. 5 through 7	\$ 379.01

RESOLUTION 2014-81

Supervisor's Monthly Report

On a motion made by Councilman Wojdan and seconded by Councilman Feth, the following resolution was

ADOPTED Ayes 3 Feth, Mallaber, Stang
 Nays 0

Resolved that the Supervisor's Monthly report for the month of June 2014 be accepted as submitted.

With no further discussion, on a motion of Councilman Stang and seconded by Councilman Feth, the meeting was adjourned at 8:23pm. Carried unanimously.

The next board meeting will be held on August 19, 2014 7PM at the Otto Town Hall.

Respectfully Submitted,

Trisha A. Priest, Town Clerk