

October 7, 2004

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A Public Hearing re: proposed Local Law #5 of 2004 amending Chapter 17 Code of Ethics was held at 7:00pm at the Town Hall.

PRESENT:

Supervisor Duke	Councilman Hornbeck	Councilman Ryan
Councilman Santosky	Town Clerk Sommer	Attorney Christiana

ABSENT:

Councilman Gray

Attorney Christiana led the Pledge of Allegiance to the Flag.

Supervisor Duke opened the meeting and explained the Rules of Procedure.

The public hearing was opened.

Resident, Kathy Kuthy supports this new law and hopes it is adopted.

Resident, Jean Atwood agreed.

Resident, Len Bernardo spoke in support of this proposed law.

HEARING CLOSED:

A Motion was made by Councilman Santosky to close the public hearing at 7:07pm.

Seconded by: Councilman Ryan

Motion carried 4-0  
Gray - absent

Respectfully submitted,

Veronica I. Sommer  
Town Clerk/RMC

October 7, 2004

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The Town Board Meeting was held on October 7, 2004 at the Town Hall immediately following the public hearing on proposed local law #5.

**PRESENT:**

Supervisor Duke	Councilman Hornbeck	Councilman Ryan
Councilman Santosky	Town Clerk Sommer	Attorney Christiana

**ABSENT:**

Councilman Gray

**Resolution 100 - 2004:**

A Resolution was made by Councilman Ryan, seconded by Councilman Hornbeck to adopt Local Law #5 of 2004, amending Chapter 17, Code of Ethics of the Town of Rochester.

Chapter 17 of the Code of the Town of Rochester is repealed in its entirety and replaced with the following new Chapter 17.

**ETHICS:**  
Article 1: Code of Ethics

17-1. Purpose and Intent

Pursuant to the provisions of Section 806 of the General Municipal Law, the Town Board of the Town of Rochester recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in (our unit of) local government. It is the purpose of this article to promulgate these rules of ethical conduct for the officers and employees of the Town of Rochester, so that they may know the standards of conduct reasonably expected of them. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Rochester. The rules of ethical conduct of this article as adopted shall not conflict with, but shall be in addition to, those rules promulgated in Article 18 of the General Municipal Law and any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees as may, from time to time, be promulgated by the State of New York.

17-2. Definitions

As used in this article, the following terms shall have the meanings indicated:

**INTEREST** - A pecuniary or other material benefit accruing to officers and employees, or to their relatives, as defined in Paragraph K of Section 17.3 of this article; or, where there is a material or pecuniary benefit accruing to: a firm, partnership or association of which such officers or employees are members or employees; a corporation any stock of which is accrued or controlled directly or indirectly by such officers, directors, or employees; a corporation any stock of which is accrued or controlled directly or indirectly by such officers or employees.

**OFFICER or EMPLOYEE** - An officer or employee of the Town of Rochester, whether paid or unpaid, including without limitation, all members of any administrative or advisory, council, board, or commission or other agency or department thereof. For purposes of this article, officers and employees shall not include any judge, justice, officer or employee of the court system; nor any volunteer fire fighter or civil defense volunteer, except a Fire Chief or Assistant Fire Chief; nor any member of an advisory board of the Town of Rochester if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the Town or to restrict the authority of the Town to act. No entity established pursuant to the General Municipal Law of the State of New York shall be deemed an advisory board for purposes of this paragraph.

2. Disclosure of interests. Officers and employees who have, will have, or may later acquire an interest in any actual or proposed contract with the Town shall publicly disclose the nature and extent of that interest in accordance with Section 17-5 of this article. The Town Clerk shall immediately file such disclosure with the Ethics Board.

3. Violations. Officers and employees who are found to have violated the provisions of this section shall be guilty of a misdemeanor, to the extent provided by Section 805 of the General Municipal Law.

I. Private employment. Officers and employees shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of their official duties; and they shall not use the powers of their office or the powers of their official duties to obtain outside employment.

J. Future employment. For a period of one year after termination of their term of office or employment with the Town, other than acting on behalf of themselves pursuant to Section 17-4 of this Code, no former officer or employee may appear before the Town, including on any boards and commissions on which the former officer or employee has represented the Town, in relation to any matter upon which they had discretionary power during their term of office or employment with the Town, unless requested to provide information by the Town Board.

K. Employment of relatives. Members of officers' or employees' immediate family may be considered for employment by the Town if the applicant possesses all of the qualifications for employment. An immediate family member may not be hired, however, if the employment would create either a direct or indirect supervisory/subordinate relationship with the family member; or create either an actual conflict of interest or the appearance of a conflict of interest. These criteria will also be considered when assigning, transferring or promoting an employee. As used herein, "immediate family" includes any officer's or employee's spouse, partner or significant other, brother, sister, parents, children, step-children, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, and any other member of the officer's or employee's household. Employees who marry or become members of the same household may continue employment as long as there is not a direct or indirect interest or the appearance of a conflict of interest. Should one occur, the Town will attempt to find a suitable position with the Town to which one of the affected employees may be appointed. Such appointment must be in accordance with applicable state and local statutes, including Civil Service Law and related rules and regulations. If accommodations of this nature are not feasible, the employees will be permitted to determine which one of them will resign.

L. Discrimination. Town Board Members, officers and employees, or any services or other organizations chartered by or directly or indirectly sponsored or supported by the Town of Rochester shall not:

1. Permit, directly or indirectly, the use of any Town property, equipment or services by any person or persons, organizations, corporations, or any other group which directly or indirectly discriminates based upon creed, color, national origin, gender, sexual preference, veteran status, marital status, disability, or any other federal or state legally protected class; or
2. Allow the Town to knowingly have any financial or business dealings with any organization which discriminates as set forth above.

M. Use of public property. Officers and employees shall not request or permit the use of Town-owned vehicles, equipment, materials or property for personal convenience or profit except when such services are available to the public generally or are provided as municipal policy for the use of such officers and employees in the conduct of their official duties.

N. Political solicitation. Officers and employees shall not direct, request or authorize any other officers or employees, nor any subordinates of any officers or employees, to participate in an election campaign or contribute to a political committee.

17-3. Standards of conduct.

Officers or employees of the Town of Rochester shall be subject to and abide by the following standards of conduct.

A. Recusal. Officers and employees shall promptly recuse themselves from acting on a matter before the Town, when acting on the matter, or failing to act on the matter, may benefit themselves or any of their relatives as defined in Paragraph K of Section 17-3 of this article, financially or otherwise, or give the reasonable appearance of a conflict of interest or impropriety. Whenever officers or employees are required to recuse themselves, they must refrain from further participation in the matter. Failure to recuse themselves may result in a preliminary finding of a violation of this Code.

B. Gifts. Officers and employees shall not, directly or indirectly, solicit any gift, or accept or receive any gift having a value of \$25 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, material thing or promise or any other form under circumstances in which it could reasonably be inferred that the gift was intended to influence them or could reasonably be expected to influence them in the performance of their official duties or was intended as a reward for any official action on their part.

C. Confidential Information. Officers and employees shall not disclose any confidential information acquired by them in the course of their official duties or use such information to further anyone's private interests.

D. Representation before one's own agency. Officers and employees shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which they are officers, members or employees or of any municipal agency over which they have jurisdiction or to which they have the power to appoint any member, officer or employee.

E. Representation before any agency for a contingent fee. Officers and employees shall not enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of the Town of Rochester, whereby their compensation is to be dependent or contingent upon any action by such agency with respect to such matter. This paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

F. Disclosure of interest in legislation. All members of the Town Board and officers and employees of the Town of Rochester, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest they have in such legislation or in any action of the Town Board in accordance with Section 803 of the General Municipal Law.

G. Investments in conflict with official duties. Officers and employees shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction which creates or would create a conflict with their official duties. Officers and employees shall publicly disclose on the official record any and all such investments and divest themselves of any and all such investments prior to acceptance of public office or public employment or prior to any official action that may affect such investment.

H. Interest in contracts with the Town.

1. Prohibited interests. Officers and employees shall not hold an interest in a contract with the Town, or any interest in a bank or trust company, that is prohibited by Section 801 of the General Municipal Law. Any contract willfully entered into by or with the Town in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable, to the extent provided by Section 804 of the General Municipal Law.

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17-4 Filing of claims.

Nothing herein shall be deemed to bar or prevent the timely filing by present or former officers or employees of any claim, account, demand or suit against the Town of Rochester or any agency thereof on behalf of themselves or any members of their families arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

17-5 Distribution of Code.

The Supervisor of the Town of Rochester shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Town within 15 days after the effective date of this article, or its amendment, or at such other times as the Supervisor deems necessary. All officers and employees elected or appointed thereafter shall be furnished a copy before entering upon the duties of their office or employment. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such Code or the enforcement of provisions thereof.

17-6 Penalties.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this Code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

17-7. (Reserved)

Article II: Board of Ethics

17-8 Establishment; membership

A. There is hereby established a Board of Ethics consisting of three members to be appointed by a majority of the Town Board, who shall serve without compensation and at the pleasure of the Town Board. A majority of such members shall be persons other than officers or employees of the Town of Rochester, except at least one member may be an elected or appointed officer or employee of the Town of Rochester.

B. Ethics Board members shall reside in the Town and shall not hold an office in any political organization. Members shall serve for a term of three years, except that as to the members first appointed, one shall serve until December 31 in the year 2005; one shall serve until the second December 31; and one shall serve until the third December 31. Consecutive service shall not exceed two full terms. When a vacancy occurs, it shall be filled within 60 days for the unexpired portion of the term. However, members shall serve until their successors have been appointed.

17-9 Powers and duties.

A. The Board of Ethics shall have jurisdiction only with respect to officers and employees of the Town of Rochester. The Board shall render advisory opinions to the Town Board, officers and employees of the Town. Such advisory opinions shall be rendered pursuant to the written request of the Town Board and any such officer or employee under such rules and regulations as the Board may prescribe and shall have the advice of the Attorney for the Town.

B. The Board of Ethics may make recommendations to the Town Board with respect to the drafting and adoption of amendments to the Code of Ethics; prescribe its own rules and regulations governing its own internal organization and procedures in a manner consistent with this chapter; review and maintain on file lists of officers and employees and Annual Disclosure Statements; periodically review the laws governing the conduct of Town officers and employees and recommend changes to those laws. The Ethics Board shall, further, prepare and submit an annual report to the Town Board summarizing its activities and listing any recommended changes to the text or administration of this Code.

C. Public inspection of certain records. The Ethics Board shall make available for public inspection only those records whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by some other state or federal law or regulation. No meeting or proceeding of the Ethics Board concerning misconduct, non-feasance, or neglect in office by any officers or employees shall be open to the public, except upon the request of the officers or employees or as required by the provisions of Article 7 of the Public Officers Law or by some other state or federal law or regulation.

D. The Board shall convene upon complaint of any individual who, having filed a written complaint with the Town of Rochester, alleges a violation of the Town of Rochester Code of Ethics by an officer or employee of the Town. This complaint must be signed by the complainant. The complaint shall be forwarded by the Town Supervisor to the Board of Ethics within five (5) business days. Upon convening, the Board of Ethics shall examine the complaint and may call individuals to testify relative to the complaint. The Board shall have access to any material held by the Town of Rochester government that the Board determines is relevant to the matter before the Board. All material requested by the Board shall be provided within five (5) business days. If the Board is not in receipt of the material within the specified time, it will notify the Town Board for further action. The Town Board will make this action as part of the next scheduled agenda. After reviewing all material and hearing all individuals concerned with the matter, the Board of Ethics shall render an advisory opinion. The Board shall not disclose the identity of any person who files a complaint.

E. In the event a member of the Board of Ethics is the subject of the complaint, that member shall remove him/herself from the Board of Ethics during consideration of the complaint and an alternate member shall be appointed by the Town Board.

F. If there is a finding of violation of the Code of Ethics, the Town Board shall take further action within the confines of power delegated to the Town Board pursuant to New York State law. If the determination of the Board of Ethics establishes that there is reason to believe that a crime may have been committed, then the Town Board, after reviewing the determination, shall forward the determination to the Ulster County District Attorney's Office for any and all further action.

G. The Ethics Board shall monitor officers' and employees' compliance with decisions and recommendations made by the Ethics Board.

#### 17-9 Appropriations.

The Town Board may allocate funds for support staff, maintenance and personal services required in connection with the activities of the Board of Ethics.

#### 17-10 Proceedings.

A. If a written complaint pursuant to this article shall be submitted to the Town Board pursuant to Section 17-8 of this Code, the Ethics Board shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with fifteen (15) days to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements, pursuant to this section. This proceeding shall be confidential until and unless the Ethics Board makes a finding to the Town Board that a violation has occurred.

B. If the Ethics Board makes a reasonable cause finding that a violation of this Local Law has occurred, or if after any grace period granted by the Ethics Board such violation remains uncured, the Ethics Board shall send a notice of reasonable cause to (a) the reported/applicable person, (b) the complainant, if any, and (c) the Town Supervisor and the Town Board.

C. If the Ethics Board makes a preliminary finding of reasonable cause that a violation of this Local Law has occurred, the Board shall (a) notify in writing the affected person as to the possible or alleged violation; (b) afford the affected person an opportunity to submit in

writing a response setting forth such information as said affected person deems relevant to the activities cited by the Board; and (c) upon written request, afford the affected person a hearing wherein the said person may provide either a written or oral response setting forth such information as the person deems necessary or appropriate in response to the preliminary findings of the Board.

D. Hearing procedure and representation. All hearings required to be conducted pursuant to this section shall be conducted to the maximum extent practicable in accordance with the provisions of Article 3 of the State of New York Administrative Procedure Act (Chapter 82 of the Consolidated Laws of the State of New York). Any person compelled to appear or who voluntarily appears before the Ethics Board shall be accorded the right to be accompanied, represented by, and/or advised by counsel.

E. Disciplinary Action. In its discretion, after a hearing pursuant to this section and a finding of reasonable cause that a violation of this section has occurred, or that a violation has not been cured after a grace period, the Ethics Board may recommend disciplinary actions to the Town Board which is authorized to impose such sanctions. Sanctions may include a warning, reprimand, or suspension or removal from office or employment, or any other sanction authorized by law or collective bargaining agreements.

F. Waivers. The Ethics Board may, in its discretion, grant waivers to the disclosure requirements promulgated by this section, and shall index and maintain on file applications, decisions, and other records and proceedings, relating to such waivers. Waivers shall be granted upon written application and proof of compelling need by the applicant, and no waiver shall permit conduct otherwise prohibited by Article 18 of the General Municipal Law of the State of New York. Waivers shall be in writing and shall state the reasons for granting the waiver, and the Ethics Board shall make all waivers part of the public record.

17-11 Judicial Review.

Any person aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

17-12 Miscellaneous Provisions.

A. Whenever the requirements of this article are inconsistent with the provisions of Section 808 of the General Municipal Law, the more restrictive provision, or those imposing higher standards, shall govern.

B. If any provision of this article is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this article.

C. This Local Law shall supersede and repeal the existing Chapter 17 of the year 1970 as amended.

Effective Date.

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State in compliance with all applicable provisions of law.

Roll call vote:	Councilman Hornbeck	aye
	Councilman Ryan	aye
	Councilman Santosky	aye
	Supervisor Duke	aye
	Councilman Gray	absent
		Resolution carried 4-0





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time they will be opened and read aloud.

Seconded by: Councilman Santosky

Motion carried 4-0  
Gray - absent

**LIAISON REPORTS:** Comments filed with the Town Clerk.

**HIGHWAY MATTERS:**

**HIGHWAY ROOF:**

Supervisor Duke reported that Resolution #96 was passed rescinding Resolution #90 regarding formal bids for the Highway Roof to be accepted and read on or before October 6, 2004 at 11:00am, due to the fact that the required contract specifications could not be obtained in the allotted time, the Board and the Highway Superintendent are working on this.

**SNOW REMOVAL SERVICES AGREEMENT:**

*Resolution #108*  
**A Motion** was made by Councilman Ryan to accept the Contract for the Snow Removal Agreement to be raised from the rate of \$55.00 per hour to \$65.00 per hour for sanding and plowing.

Seconded by: Councilman Santosky

Motion carried 4-0  
Gray - absent

**SECRETARY RESIGNS/POSITION POSTED:**

Supervisor Duke received a letter of resignation from Crystal Gazlay, secretary to the Highway Superintendent, effective October 31, 2004. Crystal is retiring after working here for 23 years, and we wish her all the best.

**Resolution #109 - 2004**

**A Motion** was made by Councilman Hornbeck that the position of Secretary to the Highway Superintendent remain a full time position and that the Town Clerk be directed to advertise same. The salary range is from \$10.54 to \$14.23 an hour. This position will be posted until 10/22/04 when interviews will be conducted by the Town Board.

Seconded by: Councilman Ryan

Motion carried 4-0  
Gray - absent

**COMMITTEE REPORTS/BOARD MEMBER REPORTS:**

**Water District Committee:**

The Town Board is meeting with an Engineer from Chazen to provide the Board with an engineering opinion as to the pros and cons related to the Lucas Estates Water Company's request that the Town consider taking over their facility.

The Town Board will meet with Nancy Clark, engineer from Chazen on 10/15/04 at 8:00am at the Town Hall.

**FEE SCHEDULE REVISED:**

**Resolution #110 - 2004**

**A Motion** was made by Councilman Ryan that the Town Board accept a recommendation from the Planning Board to revise the fee schedule for Site Plan Approvals and Special Use Permits from the current \$75.00 fee to a \$150.00 fee and a .10 per square foot in order to offset costs associated with the Planner.

Seconded by: Councilman Santosky

Motion withdrawn by Councilman Ryan and Santosky

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**TRAFFIC FINE RESTORATION RESOLUTION:**

Resolution #<sup>111</sup>110 - 2004

A **Resolution** was made by Councilman Ryan, seconded by Councilman Santosky that

WHEREAS, Vehicle and Traffic Law, 1803 governs the disposition of fines and penalties collected in connection with convictions pursuant to the Vehicle and Traffic Law; and

WHEREAS, Chapter 56 of the Laws of 2004, effective August 20, 2004, changed the distribution of the fines, taking them away from municipalities and placing them in the State Treasury; and

WHEREAS, this change in the fine and penalties distribution formula will result in a loss to local taxpayers of more than \$20 million in fine monies - monies which have historically been used to fund justice court operations; and

WHEREAS, the Town of Rochester will likely lose \$25,000.00 in anticipated fine revenues; and

WHEREAS, this State Budget provision with its immediate effective date will result in significant 2004 deficits and will negatively impact town property tax rates for 2005; NOW, THEREFORE BE IT

RESOLVED, that the Town of Rochester calls for the restoration of the original fine distribution formula in order to provide towns with necessary revenues to fund justice court operations; AND BE IT FURTHER

RESOLVED, that the Town of Rochester urges the passage of legislation introduced by Senator Bonacic (S.7757) and Assemblyman Cahill which amends the Vehicle and Traffic Law to restore this source of revenue to local governments; AND BE IT FURTHER

RESOLVED, that a copy of this resolution be sent to the Governor, George E. Pataki; Joseph L. Bruno, Majority Leader of the Senate; Sheldon Silver, Speaker of the Assembly; Senator Elizabeth Little, Chair of the Local Government Committee; Assemblyman Robert Sweeney, Chair of the Local Government Committee; Senator Owen Johnson, chair of the Finance Committee; Assemblyman Herman D. Farrell Jr., Chair of the Ways and Means Committee; Senator John A. DeFrancisco, Chair of Judiciary Committee; and Senator John Bonacic and Assemblyman Clifford W. Crouch.

Resolution carried 4-0  
Gray absent

**ROAD MAINTENANCE AGREEMENT/ HORNBECK:**

Resolution #<sup>112</sup>111 - 2004

A **Resolution** was made by Councilman Ryan that the Town Board accept the Road Maintenance Agreement with Randy S. Hornbeck for private road, Sandy's Way and authorize the Supervisor to sign said document.

Seconded by: Councilman Santosky

Motion carried 3-0  
Hornbeck - recused himself  
Gray - absent

**ELECTRICAL UNDERWRITER:**

Resolution #<sup>113</sup>112 - 2004

A **Motion** was made by Councilman Ryan that the Town Board accept a request from the Code Enforcement Officer that the Electrical Underwriters of N.Y., LLC conduct business in the Town of Rochester. This firm has provided all legal documentation required to conduct electrical inspection in the State of New York.

Seconded by: Councilman Santosky

Motion carried 4-0  
Gray - absent

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**NEW BUSINESS:**

Discussion was held on the possibility of having an Amnesty Day at the Transfer Station. The liaison will discuss this with the Transfer Station Attendants and report back to the Board.

**OLD BUSINESS:**

Discussion was held on evaluating the amount of business held during the lunch hour in the Town Clerk's Office. Town Clerk Sommer said that most of the traffic was for other offices and that there is no need to keep the office open. It was felt that the 35 hours per week was sufficient.

**SECOND PUBLIC COMMENT PERIOD:**

Resident, Terry Bernardo thanked the Board for her appointment to the Historic Commission and spoke to the Board reconsidering the appointment of individuals on various board/commissions.

Resident, Stanley Hudson spoke to letting the person coming off boards/commissions the right of first refusal before advertising the position.

Resident, Leonard Bernardo spoke to the fact that standards should be set by the Town Board.

Resident, Zali Win spoke to the fact that the boards/commissions serve members of the community, by law, obligations to the citizens of the Town.

Resident, Max Finestone asked who determines how good the job has been done, Town or Planning Board?

Resident, Michael Baden spoke to the process of appointing and that the public needs to be aware of possible position openings.

Resident, Leonard Bernardo spoke to democracy.

Resident, Frank Kortright spoke to the procedures as they stand now, that if they work why change?

Resident, Kathy Kuthy spoke to the fact that if we don't look at open appointments, then it becomes a lifetime position and why have terms. She also thanked Sharon Hornbeck for her help with the 911 numbers.

Wayne Kelder, Highway Superintendent spoke to the Town regarding receiving funds from the State with regards to the damage done by the various storms.

Resident, Ron Bonner, spoke to the Board to resubmit a resolution on the procedures of appointments to boards/commissions.

Resident, Michael Baden spoke to what's at issue is the process not giving opportunity, to open up possibilities.

**ADJOURNMENT:**

**A Motion** was made by Councilman Hornbeck to adjourn the meeting at 9:06pm.

Seconded by: Councilman Santosky

Motion carried 4-0  
Gray - absent

Respectfully submitted,

Veronica I. Sommer  
Town Clerk/RMC

October 14, 2004

3132

The Public Hearing regarding proposed Local Law # 6 of 2004 was held on October 14, 2004 at 7:00pm at the Town Hall.

**PRESENT:**

Supervisor Duke	Councilman Gray	Councilman Hornbeck
Councilman Ryan	Councilman Santosky	Town Clerk Sommer
Attorney Christiana		

Supervisor Duke led us in the Pledge of Allegiance to the Flag.

Supervisor Duke welcomed everyone and opened the meeting to the public and explained that this hearing is regarding establishing a Manufactured Housing District Zone, amending the establishment and operation of manufactured housing parks in the Town of Rochester, and amending Chapter 99 (Mobile Homes) of the Code of the Town of Rochester.

Resident, Marty Roberge urged the Town Board to consider affordable housing in our Town and suggested they contact Kevin O'Connor from Rural Preservation Company who feels our Town could be a model for middle income housing.

Resident, Jean Alywood is totally against trailer parks.

Resident, Zali Win said the committee worked hard and studied issues and did a fabulous job, it is well thought out and he urged the Board to pass the law as drafted.

Resident and committee member, Kandy Santosky said she is not 100% behind the outcome of the committee. Trailer parks are affordable and this would make it difficult for future owners and current owners to own or open a trailer park. Feels the existing 50' buffer is enough and more open space is not necessary.

Resident, Thea Harvey said there is a need for affordable housing, but it should be other than trailers. She expressed her support for the law and locating parks on county or state roads.

Resident, Michael Baden reiterated his feelings supporting this proposed law. Thanked the Board for allowing the committee to revise the proposed law. Everything was carefully thought out and there is a good overview of the committee's recommendations.

No further comments.

**PUBLIC HEARING CLOSED:**

**A Motion** was made by Councilman Santosky to close the hearing at 7:15pm.

Seconded by: Councilman Hornbeck Unanimously approved

**ADJOURNMENT:**

**A Motion** was made by Councilman Hornbeck to adjourn the meeting at 7:15pm.

Seconded by: Councilman Ryan Unanimously approved

Respectfully submitted,

Veronica I. Sommer  
Town Clerk/RMC

October 15, 2004

3133

A Town Board Meeting was held on October 15, 2004 at 8:00am at the Town Hall with Nancy Clark, Engineer from Chazen regarding Lucas Estates Water Company.

PRESENT:

Supervisor Duke                      Councilman Gray                      Councilman Hornbeck  
Councilman Santosky

ABSENT:

Councilman Ryan

OTHERS PRESENT:

Nancy Clark, Engineer from Chazen

The purpose of the meeting was for the Town Board to have the opportunity to discuss with Nancy Clark, an engineer from Chazen to provide the Town Board with an engineering opinion as to the pros and cons related to the Lucas Estates Water Company's request that the Town consider taking over their facility.

Discussion was held and questions asked.

Residents, Otto Frey and Zali Win had some comments to add to the discussion.

ADJOURNMENT:

A Motion was made by Councilman Hornbeck to adjourn the meeting at 9:45am.

Seconded by: Councilman Gray                      Unanimously approved

Respectfully submitted,

Veronica I. Sommer  
Town Clerk/RMC



October 28, 2004

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The Audit/Workshop Meeting was held on October 28, 2004 at 4:30pm at the Town Hall.

**PRESENT:**

Supervisor Duke	Councilman Gray	Councilman Hornbeck
Councilman Ryan	Councilman Santosky	Town Clerk Sommer

Supervisor Duke welcomed everyone and led the Pledge of Allegiance to the Flag.

**APPROVAL OF BILLS:**

A Motion was made by Councilman Gray to approve the following bills as audited this date.

General Fund	\$76,782.62
Highway Fund	84,820.60
Lighting	262.77

Seconded by: Councilman Santosky Unanimously approved

**CHAZEN ENGINEERING/PLANNING BOARD/TOWN BOARD DISCUSSION:**

Discussion was held with principles from Chazen, several Planning Board Members and the Town Board regarding the Planner Contract with the Chazen Engineering & Land Surveying Co., P.C.

**Resolution #114 - 2004**

A Resolution was made by Councilman Gray, seconded by Councilman Ryan that the Town Board accept the following agreement made the 28th of October, 2004, by and between the Town of Rochester (hereinafter "the Town"), a municipal corporation with offices at 50 Scenic Road, PO Box 65, Accord, NY 12404 and Chazen Engineering & Land Surveying Co., P.C. (CELS), and Chazen Environmental Services, Inc. (CES), or EnviroPlan Associates, Inc. (EPA), each existing under the laws of the State of New York (hereinafter referred to collectively as the Chazen Companies or TCC), with its principal place of business at 21 Fox Street, Poughkeepsie, NY 12601.

WHEREAS, the Town is interested in hiring a Planner to assist in review of all applications before the Planning Board and that within a six month period (April 2005) thresholds will be established with the Planner and the Planning Board, and

WHEREAS, TCC has offered to assist the Town in review of applications and projects as described in TCC's proposal dated August 18, 2004, revised October 28, 2004, annexed hereto as Exhibit A;

NOW, THEREFORE, in consideration of the promises and mutual covenants expressed herein, it is agreed to by and between the parties as follows:

1. The Town hereby enters into an agreement with TCC to perform the services as outlined more particularly on Exhibit A.
2. For the above services as outlined, TCC will receive the fees set forth on Exhibit A upon the submit of the appropriate voucher to the Town for audit and payment.
3. With the exception of codes of ethics, no rules, requirements or customs of any society or association of professional engineers or any similar association shall affect this agreement in any way whatsoever or be binding upon the Town.
4. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, TCC is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement, or of its right, title or interest in this agreement, or of its power to execute this agreement, to any other person or corporation without the previous written consent of the Town.
5. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted into this contract shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party, this contract shall be physically amended forthwith to make such insertion. In particular, the consultant shall among other things, fully comply with:

- (a) Labor Law 220-e and Executive Law 292-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
  - (b) Affirmative Action as required by the labor law.
  - (c) Preference in employment of persons required by Labor Law 222.
6. TCC, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as, nor claim to be an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including but not limited to; Workers compensation coverage, unemployment insurance benefits, Social Security benefits, or retirement membership or credit.
  7. TCC shall carry and maintain Workers Compensation, General Liability, Automobile Liability and Professional Liability insurance. TCC shall provide the Town with certificates of insurance. TCC agrees to indemnify and hold the Town harmless against loss caused by negligent actions of TCC, its employees and officers.
  8. No waiver of any breach of condition of the Agreement shall be binding unless in writing and signed by the party waiving the breach. No such waiver shall in any way affect any other term or condition of this agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.
  9. In the event of the substantial failure by either party to perform under this Agreement, the aggrieved party may terminate this agreement upon seven (7) days written notice.
  10. If any provision of the Agreement is held invalid such provision shall have no effect, but all remaining provisions shall continue in full force and effect. Each provision shall be interpreted so as to render it valid.
  11. All notices given hereunder shall be writing and delivered by first class mail, overnight mail, or hand, to the addresses first above written.
  12. This Agreement and any Exhibits identified herein represent the entire agreement between the parties. Any changes thereto must be agreed upon between the parties in writing.
  13. This Agreement shall be governed by the laws of the State of New York. For purposes of any legal action or suit related to or arising out of this agreement venue shall be in Ulster County, NY.
  14. This Agreement shall be executed in quadruplicate, with one original being filed in the office of the Town Clerk of the Town of Rochester.
  15. The parties state that they have full power and authority to make, execute and perform this Agreement. The Supervisor of the Town has received authority to execute this document by resolution of the Town Board of the Town of Rochester.

Schedule of fees are effective January, 2004 and are filed with the Town Clerk.

Roll call vote	
Councilman Gray	aye
Councilman Hornbeck	nay
Councilman Ryan	aye
Councilman Santosky	nay
Supervisor Duke	aye

Motion carried 3-2

**TOWN WEB SITE PRESENTATION BY JOHN SLOAN:**

John Sloan presented an overview of how and what this company does regarding establishing a WEB site for the Town of Rochester.

Resolution #115 - 2004

**A Resolution** was made by Councilman Gray that the Town of Rochester accept the Virtual Town Hall Agreement, for the purposes of establishing a WEB site for the Town of Rochester; whereas, a one time fee of \$4000.00 (payment to be split \$2000 in 2004 and \$2000 in 2005) for WEB creation and analysis and on site consulting and training; and a Recurring Fee \$2,700 for year 2005, for annual and Customer Service assistance and on-line reports.

Unanimously approved

**BUDGET UPDATE:**

Supervisor Duke reported that the Preliminary Budget has been turned over to the Town Clerk. There also was discussion with Brian Belile representing the Kerhonkson Accord First Aid Squad, and discussion with Wayne Kelder regarding the Highway budget.

**Resolution #116 - 2004**

**A Resolution** was made by Councilman Ryan authorizing the Supervisor to transfer \$4602.44 #5110.4 General Repairs to #5112.2 Improvements.

Seconded by: Councilman Gray Unanimously approved

**UPDATE ON AUDIT:**

Supervisor Duke met with our accounting firm requesting their services to perform a review of the Town Clerk's accounts from January 1st to the present time. This will cost \$3500. The Supervisor is checking other sources to perform this process. The Supervisor also met with the EOS Software Company representative for Point of Sale software for the Town Clerk's office.

**Resolution #117 - 2004**

**A Resolution** was made by Councilman Ryan that effective December 1, 2004 no cash will be received for services except that of the Town Clerk's office. All payments due to the Town shall be made by check or money order. In addition, checks shall be made payable to the "Town of Rochester" and no individuals name shall appear on the "payee" line of any check or money order, except that of the Tax Collector, Veronica I. Sommer. Further, Town employees are not permitted to accept any check or money order unless the payee line has been filled out by the check writer or money order ~~reindeer~~ remitter. *and Town Court*

Seconded by: Councilman Gray Unanimously approved *for tax purposes only.*

**PERMIT FEES PRO RATED:**

**Resolution #118 - 2004**

**A Motion** was made by Councilman Ryan that the 2004 Transfer Station Permits be pro rated to \$5.00 for the remainder of the year.

Seconded by: Councilman Gray Unanimously approved

**PLAYGROUND SAFETY INSPECTOR**

The Board decided they would not pay for Buddy Hornbeck to take the Playground Safety Inspector Certification Course. If this service is needed, the Town will pay him accordingly.

**INDOOR POOL MEETING REMINDER:**

Town Board members are invited for discussions on an indoor pool in our community with John McIlhargy, Director, Aquatics USA Swimming, on November 3, 2004 at 7:00pm at the Marbletown Community Center.

**FUEL BIDS:**

**Resolution #119 - 2004**

**A Motion** was made by Councilman Santosky to accept the sole bid submitted by Kosco to supply #2 fuel oil to the Town Hall, GLF Road, Transfer Station and the First Aid building on Rt. 209 for the \$.179 over the No. 2 low New York Tank consumer posting on the day of delivery, as posted in the Journal of Commerce. Effective 11/1/01 to 10/31/05.

Seconded by: Councilman Gray Unanimously approved

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**Resolution #120 - 2004**

**A Motion** was made by Councilman Ryan to accept the sole bid submitted by Kosco to supply regular 87 octane unleaded gas to the Town Garage for the \$.189 over the average NY Reseller Rack on the day of delivery. Effective 11/1/04 to 10/31/05.

Seconded by: Councilman Gray Unanimously approved

**Resolution #121 - 2004**

**A Motion** was made by Councilman Gray to accept the sole bid submitted by Kosco to supply winter Low Sulfur Diesel to the Town Hall and Rescue Squad for the \$.189 over the LSD Tank consumer posting on the day of delivery as posted in the Journal of Commerce. Effective 11/1/04 to 10/31/05.

Seconded by: Councilman Santosky Unanimously approved

**Resolution #122 - 2004**

**A Motion** was made by Councilman Gray to accept the sole bid from Kosco to supply propane to the Town Garage, First Municipal Building and Transfer Station for the \$.32 over the Selkirk rack posting and that price is subject to change on a weekly basis. Effective 11/1/04 to 10/31/05.

Seconded by: Councilman Santosky Unanimously approved

**EXECUTIVE SESSION:**

**A Motion** was made by Councilman Hornbeck to enter into executive session at 7:30pm regarding the secretary's position for the Highway Superintendent.

Seconded by: Councilman Santosky Unanimously approved

**A Motion** was made by Councilman Santosky to reconvene the meeting at 7:50pm, with the Supervisor reporting no action was taken nor monies expended.

Seconded by: Councilman Gray Unanimously approved

**Resolution #123 - 2004**

**A Motion** was made by Councilman Gray that Merci M. Walsh for the position of Secretary to the Highway Superintendent for the starting salary of \$10.54 per hour, 35 hours a week effective November 1, 2004.

Seconded by: Councilman Santosky Unanimously approved

**Resolution #124 - 2004**

**A Motion** was made by Councilman Gray that the Town Board authorize the Highway Superintendent to hire his retired secretary Crystal Gazlay as needed for purposes of training his new secretary at the rate of \$12.86 per hour.

Seconded by: Councilman Ryan Unanimously approved

**CHAZEN WATER REPORT DISCUSSED:**

Discussion was held regarding the engineering report from Chazen regarding the Lucas Estates Water Company.

**PARKING LOT USE REQUEST:**

**Resolution #125 - 2004**

**A Motion** was made by Councilman Santosky that the Holy Cross Church may use the Courthouse Parking lot for the purposes of a checkpoint in a Poker Run on November 20, 2004 to raise monies for a person with cancer.

Seconded by: Councilman Gray Unanimously approved

