

**DATE:** MAY 10, 2018

**KIND OF MEETING:** TOWN BOARD

**WHERE HELD:** SCHODACK TOWN HALL

**CLERK:** DEBRA L. CURTIS

**PRESIDING OFFICER:** DAVID B. HARRIS

**MEMBERS PRESENT:** JAMES E. BULT  
MICHAEL KENNEY  
SCOTT SWARTZ  
TRACEY REX

**MEMBERS ABSENT:**

**ATTORNEY:** RYAN P. MULLAHY, ESQ.  
**COMPTROLLER:** PAUL HARTER, COMPTROLLER  
**OTHERS PRESENT:** KEN HOLMES, SUPERINTENDENT OF HIGHWAYS

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Supervisor Harris called the May 10, 2018 Town Board Meeting to order at 7:01 p.m. with the Pledge of Allegiance and dispensed with roll call. All present as noted above.

### **Review of Resolutions**

The Supervisor gave a brief overview of the resolutions. With regard to resolution 2018-153, S. Harris explained the Tri-County Banjo Band was unable to perform at Music in the Park this year. He had spoken to another local band, Play Back, who was available and was able to negotiate a lower rate. All other resolutions were self-explanatory.

**Board Discussion/Agenda:** None.

### **Public Comment**

**Distribution Center/Route 9:** Several residents spoke in regards to the proposed sales distribution center. S. Pollard of Silver Bridge Road asked for an update on the proposed warehouse for Route 9. S. Harris said plans had been submitted for the Distribution Center and he welcomed all to view them. She asked if the prospect was known. S. Harris said no. B. Jansing read an excerpt from the Schodack website. He stated the board was ethically bound to state on the website what the proposed distribution center would mean to the town and how it would change the neighborhood. C. Swinton thanked the Supervisor and N. Fuda for taking the time to explain the distribution center to her. She expressed her concern for Scannell Properties view of the impact the project would have on the traffic pattern. She felt the traffic study, which stopped at Maple Hill Road, should be extended beyond to exit twelve and worried that the increased traffic on Route 9 would be disruptive to the residents. She also expressed concern for the light pollution that would be emitted from the location. She said she might be supportive of the project if the benefits would outweigh the cost to the residents and stated she understood that the Town was most likely

receiving pressure from the County and State to approve the project. R. Fedigan said he would like to see justice for the residents of the neighborhood that would be directly affected by this project. He felt the Town and Planning Board were not being fair by placing time limits for public speaking. S. Harris said they were still learning about the project. C. Rex explained the board had discussed the time limit after the meeting and it was decided to refrain from the practice. Atty. Mullahy said there seemed to be confusion about the board's role regarding the project. He explained the decision to approve the project was solely on the Planning Board and the Town Board would only approve any need for upgrades to the infrastructure. A resident said the plans for the Dollar Tree project were placed on the website for residents to view and asked the same be done for this project. She asked the Supervisor to clarify his previous comment about the residents seeking their own engineers. She could not understand if the Planning Board (PB) Attorney and Engineer should be acting on their behalf why they needed to hire professional counsel. S. Harris said his comments were only intended for anyone who had questions. C. Bult said it's the job of the PB Attorney and Engineer to review the project and have the best interest of the residents in mind. K. Stokem said he viewed the Town and Planning Boards as advocates for the residents but after attending many Planning Board Meetings, he felt not enough questions have been asked to fully understand the scope of a project.

**Resolution [2018-155]:** M. Sherwood said the end of Schuurman Road by Route 9 & 20 was getting worse every year and was again requesting that it be added to the list of repairs for this year. K. Stokem asked if the town was experiencing difficulties funding road maintenance. He noted other municipalities had stated they had to extend the cycle between resurfacings as well as having to put a thinner surface down which does not last as long. K. Holmes assured M. Sherwood that repairs would be made to Schuurman Road. He said due to the harsh winter, his crews have been out repairing lawns and dirt road surfaces causing a two week lag in repairing/resurfacing paved roads. To answer the questions posed by K. Stokem, Mr. Holmes stated the town was not experiencing the same issues as other municipalities in regards to taking short cuts. In terms of resurfacing the town roads, he was not aware of thinner surfaces being applied. He noted he had seen areas where the state had micro-surfaced had been done on highway ramp which was not lasting past the second year of it being applied. He explained when roads are resurfaced by hot-asphalt mix, he tries to return the following year and chip seal it for protection. He stated that chip seal could not be applied in developments though. Many residents have expressed their dislike for chip sealing but he noted this process has extended the life of the resurfacing. He stated in the twenty years he has been Superintendent; he still had not paved all the roads in town.

**Resolution [2018-161]:** K. Stokem asked if a decision to allow the landfill would be based on the town law. Atty. Mullahy said Town Law §137 was outdated and does not meet standards of the NYS Environmental Law. He noted changes needed to be made as town law cannot supersede state law. As town law currently reads, Mr. Keller and Mr. Krug were requesting to operate sanitary landfills not clean fill sites. He had recommended the town board refer the applications to the planning board which would also require input from DEC. The decision to approve the applications would then be based upon those recommendations.

**Dunkin Donuts:** K. Stokem asked for an update on the sewer issue with Dunkin Donuts. S. Harris said both attorneys were in negotiations. Unfortunately, the judge that had first overseen the process has since resigned but it has been set in front of another judge. C. Bult explained a plan had been provided but they needed to hash out details for the remediation. It is up to the judge to decide. Mr. Stokem asked what has caused the low pH in the system. K. Holmes explained the yeast and by products from the bakery have caused the decrease in the pH which was being tested weekly by the town's water/sewer department. The low pH has damaged two pumps so far. C. Bult said once the issue is resolved, the goal is to disconnect the two inch pipe that is currently connected and hook up to the six inch pipe that was also installed but not yet used.

**Drumm Property:** M. Sherwood suggested, when looking into upgrades for the heating or electrical system for the town hall, the town look into purchasing solar electricity from National Grid or placing free standing solar on the Drumm Property. S. Harris thanked her for the suggestion and noted the board was reviewing ideas for the property. So far there has been talk of a veteran's memorial or dog park. M. Sherwood asked that a sign be incorporated to thank the family for the generous donation. S. Harris said he would look into that and noted he was working with the highway department to start cleaning up the brush on the property.

**Zoning:** K. Stokem stated he was concerned with the secrecy for the changes being made to the zoning code. He noted that many years ago the comprehensive plan had been presented and passed in a rushed manner and worried the same would happen for the code changes. C. Bult said the board does not normally receive updates on the progress from the zoning committee. He had spoken to N. Fuda who informed him that as one change is made, an adjustment is needed for a different part of the code causing delays. Mr. Stokem asked who the committee must report to. C. Bult said the Supervisor oversees the committee which was assembled by the previous Supervisor. Atty. Mullahy explained updates have not been made; therefore, he had spoken to the counsel for the zoning committee and urged the committee that they needed to move towards completion. He stated the end product would go before the board for final approval. Mr. Stokem urged the board to keep the residents informed. C. Bult assured him that there would not be one public hearing but many to address changes. C. Rex said the board has just as many questions as the residents do. C. Kenney said he would like to see the hearings conducted similar to when the solar code was enacted. He felt the process was informative and interactive. He suggested asking N. Fuda, Director of Planning & Zoning, to come to the next meeting and give an update to the board and added that this would be a living document that would be evolving over time to suit the needs of the town. Mr. Stokem stressed his concern that the committee said they were working in the best interest of the residents but was not sure that was the case. S. Harris stated they are professionals and he had the confidence in them to do the right thing.

M. Sherwood asked if any progress had been made for the list of properties with unregistered cars submitted by herself and J. Hughes. S. Harris said he was working with the Building Inspectors for solutions for removing the junk cars. They were proposing to work with local towing companies to take the vehicles away for free. The problem they face is the property owners must ask for the cars to be removed as they are located on private

property. M. Sherwood reminded the Supervisor that town code limits the number of unregistered vehicles on a property to two. S. Harris said it would be up to the court system to enforce the law. He added that 19 Overlook Drive had been taken down and another structure on Nantasket Road was in the process of being taken down as well. He said the town was making efforts to clean things up. M. Sherwood also inquired if there were any developments for selling the site of the old town hall. The Supervisor said potentially but he could not comment further.

K. Stokem said each year the public only has ten to twelve opportunities to speak in front of the board and was disappointed by the limit of two minutes set at the previous meeting for public comment. He also felt it was unnecessary and intimidating to have the police present. He asked the Board to take the time to listen to the residents.

**Departmental Reports:** The following monthly departmental reports were read and/or posted and filed in the Office of the Town Clerk: Historian, Town Clerk, and Building Department.

**Review of Abstracts of Claims and Budget Amendments:** The Board reviewed claims #18-0645 to #18-0811 on Abstract No. 2018-05 in the amount of \$378,547.26, including the claims paid prior (\$233,399.10).

### **Adoption of Resolutions**

The resolutions voted upon reflect additions, deletions and amendments approved by the consensus of the majority Board.

**EXPLANATION: Bracketed and strikethrough indicates language that was stricken from the resolution when adopted. Underlined indicates language that was added to the resolution when adopted. A WITHDRAWN resolution is so noted and italicized.**

S. Harris made a motion to adopt the following resolution, seconded by C. Bult:

#### **NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD OF THE TOWN OF SCHODACK DOES HEREBY:**

**2018-152)** Approve listing the following as surplus items and authorize Kenneth Holmes, Highway Superintendent to post said item on [www.AuctionsInternational.com](http://www.AuctionsInternational.com) at no cost to the Town. (Bidders must be registered to bid. Cost of registration is \$10.00):

2003 Chevy Silverado 2500 Pick Up Truck (Transfer Station)  
5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Kenney made a motion to adopt the following resolution, seconded by C. Bult:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

- 2018-153)** Amend resolution 2018-103 as adopted on March 8, 2018 as follows:  
Authorize Supervisor Harris to contract with musicians to perform at the 2018 Music in the Park as follows:

Peaceful Country Band	June 5 <sup>th</sup> (rain date 6/6/18)	\$500.00
Gone Grey	June 12 <sup>th</sup> (rain date 6/13/18)	\$400.00
Triskele	June 19 <sup>th</sup> (rain date 6/20/18)	\$800.00
<del>Tri-County Banjo Band</del>	<del>June 26<sup>th</sup> (rain date 6/27/18)</del>	<del>\$400.00</del>
Play Back	June 26 <sup>th</sup> (rain date 6/27/18)	\$599.00
Yankee Doodle Band	July 3 <sup>rd</sup> (rain date 7/10/18)	\$600.00

5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Swartz made a motion to adopt the following resolution, seconded by C. Rex:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

- 2018-154)** Appoint Melissa Knights and Dawne M. Kelly as part-time Board of Assessment Review Secretaries with compensation of \$43.00 per meeting per 2018 Adopted Budget.  
5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Bult made a motion to adopt the following resolution, seconded by C. Kenney:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

- 2018-155)** To approve the 2018 Road Program as proposed by the Superintendent of Highways to resurface with hot-mix asphalt on Irish Hill Road, Shufelt Road, Sand Road, and Maria Drive. Further, Crack Fill/Single Chip Seal treatments shall be applied on Lape Road, Beaver Road, Schoolhouse Road, Poyneer Road, Rice Road, Sagendorf Road, Palmer Road and Knickerbocker Road.  
5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Rex made a motion to adopt the following resolution, seconded by C. Bult:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

- 2018-156)** Authorize Karen Justus, Sole Assessor to attend a course entitled Agricultural Issues Facing Assessors, June 5 and 6, 2018 at Cornell

Cooperative Extension in Voorheesville, New York, at an estimated cost (\$249.00) and estimated cost for mileage (\$28.88) for a total estimated cost of \$277.88. [This is a budgeted item A1355.4.]

5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Swartz made a motion to adopt the following resolution, seconded by C. Bult:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

**2018-157)** Authorize Supervisor Harris to submit a 211 Waiver Application for Receiver of Taxes Katherine E. Lubbers to the New York State Civil Service Commission for approval.

5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Kenney made a motion to adopt the following resolution, seconded by C. Rex:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

**2018-158)** Authorize full refund of Site Plan/SP application fee in the amount of \$600.00 to Wusheng Yin, Ph.D dba Yincae Advanced Materials, LLC for Planning Board #2018-14, as Dr. Wusheng withdrew his application prior to consideration.

5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Swartz made a motion to adopt the following resolution, seconded by C. Bult:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

**2018-159)** Approve the following applications under Town Code § 147-5 and authorize the Town Clerk to issue the trailer renewals:

<u>Owner</u>	<u>Location</u>	<u>No. of Units</u>
Pine Haven Mobile Court	1428 Route 9	77
c/o Teton Management Group		
Saville, Rich & Rita	46 Miller Road	1

5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Kenney made a motion to adopt the following resolution, seconded by C. Rex:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

- 2018-160)** Authorize the sale of the 2002 Chevrolet Silverado used by the Highway Mechanics from the Highway Part-Town Fund (DB) to the General Town-Wide Fund (A) for use by the Transfer Station in an amount of \$2,000.00, effective May 11, 2018.  
5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Bult made a motion to adopt the following resolution, seconded by S. Harris:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

- 2018-161)** Refer the applications of William Krug and John Keller made pursuant to Town Code §137 et seq. to the Planning Board and request that the Planning Board review such applications and timely render to the Town Board a non-binding recommendation regarding the same.  
5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Swartz made a motion to adopt the following resolution, seconded by C. Rex:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

- 2018-162)** Authorize closure of capital project for Highway Garage Fuel Canopy (H048) with an inter-fund transfer to General Fund (A) of \$21,149.89 and a repayment of inter-fund loan of \$296,450.00 to General Fund (A), effective May 31, 2018.  
5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Kenney made a motion to adopt the following resolution, seconded by C. Swartz:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

- 2018-163)** Authorize the Comptroller's recommendation to direct the Town Supervisor to pay the claims #18-0645 to 18-0811 on Abstract No. 2018-05, in the amount of \$378,547.26, including the claims paid (\$233,399.10) since the previous town board meeting.  
5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Bult made a motion to adopt the following resolution, seconded by C. Rex:

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN BOARD  
OF THE TOWN OF SCHODACK DOES HEREBY:**

**2018-164)** Authorize the following budget modifications, interfund loans and interfund transfers as recommended by the Comptroller:

**BUDGET MODIFICATIONS**

	<b>Fund/ Department #</b>	<b>Fund / Department Name</b>	<b>Increase</b>	<b>Decrease</b>
<b>2018</b>				
<b>11</b>	A-960-3120.1012	Police Grant - PTS	424.65	
	A-509-4320.9999	Federal Aid Public Safety	424.65	
	To modify the budget for PTS grant awards			
<b>12</b>	B-960-3650.4000	Demolition Unsafe Buildings - Contractual	2,500.00	
	B-509-1570.9999	Demolition Unsafe Buildings -	2,500.00	
	To modify the budget to cover 3047 Rte 150 (Fire) & 19 Overlook Dr. Demolitions			
<b>13</b>	DB-960-5130.1400	Machinery - DB Highway Police Work	177.31	
	DB-960-5130.1000	Machinery - Personal Services		177.31
	To modify the budget to cover Work performed on Police Department Vehicles			
<b>14</b>	DB-960-5142.1000	Snow Removal - Personal Services	813.52	
	DB-960-5110.1000	Road Repair - Personal Services		813.52
	To modify the budget to cover Work performed during April 2018			
<b>15</b>	SS6-960-8130.1008	Personal Services - Dunkin Donuts	174.66	
	SS6-960-8130.4008	Contractual - Dunkin Donuts	153.00	
	SS6-960-9030.8008	Social Security - Dunkin Donuts	13.36	
	SS6-960-9060.8008	Benefits - Dunkin Donuts	-	
	SS6-509-5031.9999	Exit 10 Sewer - Sewer Charges	341.02	
	To modify the budget for reimbursement of Dunkin Donut pH testing by St. Peter/Bender Labs, and personal services plus FICA for Shawn Zinzow time in district.			
	5 Ayes 0 Noes. <b>MOTION CARRIED.</b> Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.			

Atty. Mullahy stated the Board would be entering into two separate executive sessions. They would be exiting the first session and then enter into the second as they pertain to separate sections of the law.

### **Executive Session #1**

C. Kenney made a motion at 8:03 p.m. to enter into the first executive session to discuss the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof. Seconded by C. Swartz.

5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

S. Harris made a motion at 8:09 p.m. to adjourn the executive session. Seconded by C. Swartz.

5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

### **Executive Session #2**

C. Swartz made a motion at 8:09 p.m. to enter into the second executive session for the purpose of discussing legal advice and counsel per Public Officers Law §105(1)(h) and Public Officers Law §108. Seconded by C. Bult.

5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

C. Kenney made a motion at 8:50 p.m. to adjourn the executive session. Seconded by C. Rex.

5 Ayes 0 Noes. **MOTION CARRIED.** Ayes – J. Bult, M. Kenney, S. Swartz, T. Rex, D. Harris. Noes – 0.

### **ADJOURNMENT**

As there was no further business before the Board, C. Swartz made a motion to adjourn the 05/10/18 Town Board meeting at 8:50 p.m., seconded by C. Bult. Meeting adjourned.

Respectfully Submitted,

Debra L. Curtis  
Schodack Town Clerk

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