

REGULAR TOWN BOARD MEETING
July 17, 2013

A Regular Meeting of the Lansing Town Board was held at the Town Hall Board Room, 29 Auburn Road, Lansing, NY on the above date at 6:04 p.m. The meeting was called to order by the Supervisor, Kathy Miller and opened with the Pledge of Allegiance to the flag. Roll call by Darlene Marshall, Deputy Town Clerk, showed the following to be

PRESENT:

Kathy Miller, Supervisor	Katrina Binkewicz, Councilperson
Ruth Hopkins, Councilperson	Edward LaVigne, Councilperson

ABSENT: Robert Cree, Councilperson

ALSO PRESENT: Sharon Butler Bowman, Deputy Supervisor, Guy Krogh, Town Attorney, Cricket Purcell, Deputy Highway Superintendent, Steve Colt, Park Superintendent and Recreation Director, Pat Pryor, Tompkins County Representative, Dan Veaner, Lansing Star, Vic Rendano, Doug Baird, David Thompson, Rob and June Hall, Charlie Nedrow, Duane Ray, John Davis, Hurf Sheldon, Bill Cutting, Richard Inman, Marilyn and Roger Hagin, John O'Neill, Village of Lansing, Jeff Shepardson, Yvonne Weir, Gary Tyrrell, Ed Wagner, Irene Tyrrell, Mike Sigler, Randa Corwin, Ted and Martha Laux, Dave and Joyce Heck, John and Pamela Coil, Doug Myers, Diane Christopher, Connie Wilcox, Sabrina Knight, Claes Nyberg, Mary and James Sullivan, Barbara Hlywa, Chris Williams, Joyce Rendano, Laura Davis, Elizabeth Cook, Roger Hopkins, Lori Molinari, Donna Scott, Deb Myers, Kevin Wyszowski, Joe Koch and a few other attendees.

ANNOUNCEMENTS

Supervisor Kathy Miller made an announcement urging everyone to attend a Public Hearing on the repowering of the Cayuga Operation Company to a natural gas facility held by the PSC on Monday, July 29th at 6:00 pm at the Lansing Middle School Auditorium. The continuation of the operation of the COC Operating Plant is vital to the Town of Lansing's economy and the Lansing School District. If the plant is not repowered the average tax increase for Lansing residents for the average home would be about \$600 which would include town, county and school taxes. The Lansing Central School District will then be the highest taxed non city school in Tompkins County. Conversion of the plant to gas will create many temporary jobs during the conversion. There will be 30-35 jobs remaining at the plant after the conversion. Supervisor Kathy Miller indicated that it is vital the Town show support and asked people to write to the PSC in support of the repowering if they are unable to attend.

Councilperson Ruth Hopkins read the following statement regarding the Sewer District:

As you have heard us say, it is important to us to hear from a wide representation of property owners in the sewer district.

Therefore, Katrina and I, with Kathy's support, this past weekend, organized and conducted an informal opinion poll of residents in the proposed service area of the current sewer plan from Ladoga/Myers up to Peruville/Auburn Rd.

We contacted and gathered feedback from half of these residents and learned that 41% are in favor and 59% are not in favor.

Based on this information and other communication from residents in Tier 2. We propose that the sewer committee **not go forward with the current plan** but instead look at alternative scenarios in a central service area and ways to go forward constructively without divisiveness.

Specifically, we ask the sewer committee to investigate the following specific items and report their findings to the Town Board and the public:

1. Investigate ways that sewage can be treated economically and efficiently to serve the Town Center and commercial areas
2. Investigate ways to address critical needs for enhanced sewage treatment in targeted areas of the town such as Ladoga Park.
3. Work with the Economic Development Committee to identify specific ways to support the infrastructure needs of our local businesses.
4. Meet with the Comprehensive Planning Committee and the Planning Board to discuss strategies for meeting infrastructure needs of the Town Plan.

Councilperson Katrina Binkewicz indicated she supports this proposal and suggested that they discuss it further at the end of the meeting.

Supervisor Kathy Miller stated that basically what this does is discontinue 12C and 12A at this point until another plan is put in place if possible. The Board is asking the Sewer Committee to see if they can come up with a plan everyone can agree upon that is good for the Town of Lansing. This is in response to the poll and information from other members of the Town both in Tier 1 and Tier 2. Supervisor Kathy Miller indicated this would be discussed later in the meeting.

TOMPKINS COUNTY REPRESENTATIVE – PAT PRYOR

Pat Pryor asked if anyone had questions on her report which she provided to the public.

Pat Pryor also commented on the PSC's consideration of the repowering of the Cayuga Operation Plant. Based on comments that were made at the County Legislature meeting many people are concerned that repowering the plant to natural gas will increase the amount of fracked gas locally. This is a misunderstanding about how the power system works. We get our power from the New York State Power Grid and almost 31% of the power consumption in New York State in 2011 came from natural gas which comes from the Gulf of Mexico and thru Pennsylvania, Ohio and the states in between. Pat Pryor indicated that the repowering of Cayuga Operating Plant with natural gas would not change the amount of fracked gas as we get our power from the power grid not from the power plant. She wants everyone that worked hard to pass the moratorium in Lansing to rest assured that this is not a fracking issue.

Pat Pryor also addressed the Broadband agenda item 13. The Towns of Caroline and Enfield were cut out of the grant initially because of the nature of their topography. Clarity Connect reengineered the entire project and now most of the Town of Enfield will be covered but there still are parts of the Town of Caroline unserved. Pat Pryor introduced Hurf Sheldon and Vic Rendano from the Broadband Committee to give an update on the proposal for the Town of Caroline.

Hurf Sheldon indicated the committee has received a 2.2 million dollar grant which covers two or three townships in southern Cayuga County and most of the townships in Tompkins County. There will be a tower in Enfield that will reach most of western Lansing and 2 towers in Lansing. There will also be a tower in Moravia that will reach Lansing. Originally it was thought that 8 towers would be needed in Lansing. Prior to the grant the town had committed to paying for all of this installation at a cost of \$2,000 to \$5,000 per pole. Because this is covered by the grant there will be no expense to Lansing. Caroline was left out due to serious engineering problems. Caroline needs an additional 8 poles which comes to about \$42,000. There is a discount if all poles can be ordered at the same time. Victor Rendano has been working to help raise money for Caroline and there is the possibility that the entire pledge will not be needed because all Clarity Connect is looking for is a guarantee that they will get paid for the poles.

Victor Rendano indicated that Lansing has been very fortunate in getting funding to get broadband to come to our community. However, there were two communities in our county that were not funded. The remaining poles that are needed will cost \$42,000. If the money is not raised to install all the poles at the same time, it will not be cost effective to bring the Clarity Connect back to install the other poles. He and others from the Broadband Committee have been trying to raise the money from donations. Danby

and Cayuga Heights each committed to a pledge of \$6,000, Pat Pryor has committed to a pledge of \$3,000. Victor Rendano and his wife Joyce have committed to a pledge of \$5,000 and another couple of thousand has been raised by calling business men in the community. Each of these communities have put something in the pot and are allowing use of some common facilities even though they are not fully funded to ensure broadband comes our way. Victor Rendano would like to ask the Town Board to pledge \$6,000 if a shortfall exists to that amount. The money may not be needed, but if it is pledged the contractor can go ahead and put in those poles. If the pledge that Mr. Rendano and his wife have made is not needed they will donate it to Woodsedge for the elevator fund.

Supervisor Kathy Miller asked when it would be known if the pledge was needed.

Victor Rendano thought it may be within 90 days but Pat Pryor may have more information on this.

Pat Pryor indicated it would be longer than 90 days as they are going to try and raise funds to cover the \$42,000 as they will continue to look for other grant funding. Clarity Connect has given up to a year to get the funding to cover the \$42,000. She has asked Don Barber, Town of Caroline Supervisor to establish a dedicated fund for pledges and if the pledges are not needed due to the funds being raised from other alternative types of funding then pledges will be returned to whoever made the pledge.

Supervisor Kathy Miller asked if this could be budgeted for 2014. Pat Pryor indicated that is correct.

Councilperson Edward LaVigne is concerned that if the 2 poles for Lansing are not sufficient the Town will have to purchase more poles. He is concerned about the legal aspect of using taxpayer's dollars to pay for something that doesn't involve Lansing. He thinks it is a great idea to raise this money privately. He is uncomfortable using taxpayers' money when there might be other alternatives. Councilperson Edward LaVigne suggested go back to the committee and have this discussion in a month. He wants to know exactly what the Town of Caroline will pay for. He suggested taking an ad in the Lansing Star or in the Town newsletter to try and raise donations. He asked counsel if it is legal to give taxpayers' money to an entity that does not involve Lansing.

Attorney Guy Krogh indicated it is legal to make a gift to another public entity but it must be done by Local Law. The comptroller's guidelines are that you should be able to recognize the receipt of something of value for it. Although this is not required it is considered best practice. Attorney Guy Krogh indicated if the system is a DAS system, it is designed to increase throughput which means that wireless services are not dependent on upon geographical locations of macro towers (big cell towers). This type of system would have a direct benefit to the Town. The additional relay sites that our towers can see will enable Lansing to communicate with a tower in Enfield, which communicates with a tower in Ithaca and then Caroline. There would be a direct benefit to Lansing if this infrastructure exists in Caroline as it would increase everyone's speed and capacity in Lansing by increasing throughput in the system. Attorney Guy Krogh explained you still have to weigh the benefit and the risk and whether or not it is the right or wrong thing to do for the residents of Lansing, the residents of Tompkins County and the residents of New York State because those are the entities whose taxpayers are contributing to this system.

Councilperson Katrina Binkewicz thinks it is important to show a commitment as Lansing will receive benefits from towers in other towns. She thinks Councilperson Edward LaVigne's ideas are great. Katrina Binkewicz was concerned about how the money pledged would be returned if an excess existed.

Hurf Sheldon indicated that if money was raised through other grants, the pledges would not be needed, but pledges should be made based on the thought that the money would be needed.

Victor Rendano indicated that they are trying to get pledges to come up to \$42,000. The company that is putting in the poles will float the note for a year provided they knew if

the money wasn't available from additional grants or other sources that it would be available from pledges.

Pat Pryor indicated that they had just started fund raising and they expect the Town of Caroline to do their share.

Supervisor Kathy Miller indicated this would be discussed further before the resolution.

To: Lansing Town Board

From: Pat Pryor, Representative, TC Legislature, District 6

Re: July Report

Date: July 17, 2013

1. The Legislature unanimously approved the budget for TC-3 for 2013-14. The \$38.3 million budget includes a sponsoring community contribution of about \$4.4 million to be split between Tompkins and Cortland Counties. This represents an increase of 3% over the current year's budget. The funding formula, based on the proportion of students enrolled from each county, results in just under \$2.8 million or 63% of the operating budget. The 3% rise is an increase of about \$81,000. State aid for community colleges has decreased significantly in recent years. Proposed state legislation, if passed, would remove support for state community colleges from the property tax cap.
2. A new fund balance policy was unanimously adopted which raises the General Fund balance target from the current 5% to a level of 10%. 10% is regarded as a modest, but prudent level of reserves to address both cyclical and unanticipated cash flow needs of county governments. The county fund balance is currently at about 10%. Both Budget committee Chair, Jim Dennis and Legislator Brian Robison noted that the county has been able to weather very difficult times for county governments while preserving its fund balance.
3. Both the County Clerk's office and the Personnel Department recently received state recognition for distinguished service; the Clerk's office for its development of a records management system that has been extended to all towns in the county, and the Personnel Department for its online application system.
4. The Legislature approved changes to administrative policy that eliminates payments for accrued leave time when a member of County Management staff leaves county employment.
5. At its July 16th meeting the Legislature took a few minutes to reflect on its home of 80 years in the Tompkins County Courthouse. The Legislature has been required to move by the State Court System as the Courts have a need for more space. Previous Legislators were present and recognized for their contributions. The new chambers for the Legislature will be in the old courthouse building on Court St.
6. The Legislature, following a year of review, passed a new local law amending the County Code of Ethics.

Respectfully submitted,
Pat Pryor

MOTION TO OPEN PUBLIC HEARING – SEWER DISTRICT DISSOLUTION

Supervisor Kathy Miller moved to **OPEN THE PUBLIC HEARING FOR THE SEWER DISTRICT DISSOLUTION PLAN FOR WARREN AND CHERRY ROAD SEWER DISTRICTS** at 6:52 pm. Councilperson Katrina Binkewicz seconded the motion.

All In Favor - Aye 4 Opposed - 0

No one addressed the Board.

MOTION TO CLOSE PUBLIC HEARING

All persons desiring to be heard, having been heard, Supervisor Kathy Miller moved to **CLOSE THE PUBLIC HEARING** at 6:54 pm. Councilperson Ruth Hopkins seconded the motion.

All In Favor - Aye 3 Opposed - 1

PRIVILEGE OF THE FLOOR

LIMITED to 20 MINUTES with a MAXIMUM of 3 MINUTES PER SPEAKER

Seven residents addressed the Board. The topics of discussion were how taxpayers' money has been spent, the proposed sewer project, high density housing and the minutes of the June 19th meeting.

One resident was not opposed to sewer for those that need it but does not want to be forced to connect when they have no need to. One resident was opposed to sewer altogether. Two residents were concerned about the spending of taxpayers' dollars. One resident appreciated the survey that asked the people if they wanted sewer. One resident was concerned about the high density housing and the number of new students it will bring to the Town and what this will do to the school and town taxes.

A resident addressed the Board and indicated the reason for opposition to sewer is because they keep doing the same thing over again as well as the cost and submitted the following to the Town Board:

Comments and Questions on Engineer's Report

1. Why did the Town Board elect to use Article 12-C (whole town) instead of 12-A (solely for benefit area)?
2. Section 2.2 of the Engineer's report specifically targets development as key reason for the sewer with an emphasis on high density development.
3. Section 2.3 also targets development.
4. Given that 2 of the 4 points for justifying the sewer system target development who really benefits?
5. Section 2.4 overstates the potential threat of septic system failure which is only relevant in a specific area.
6. Section 3 overstates the benefit for all properties and does not address the cost of a forced hook up and abandonment of well-functioning septic system.
7. Section 4.4 points out the fact that bedrock depths in the improvement area are relatively shallow, which is also true for other areas in Lansing making installation of sewer lines problematic.
8. Section 4.5 Items D and E, identification of Shurger Glen as a protected stream and UNA?
9. Section 5.1 – water consumption estimate does not accurately reflect sewage flow rate, it does not take into account watering of gardens and lawns.
10. Section 5.2 Estimates of future flow cannot be reliably made. A significant under estimate (very possible) will force expensive upgrades.
11. Section 5.4 placing the treatment facility near a mining operation is inviting disaster. Potential sinkhole problems.
12. **Section 6.1 property owners will be forced to connect "unless a waiver is granted" within 8 years.** The conditions for granting a waiver must be well defined and the waiver must be granted before the sewer system is voted on so the cost of the waivers can be factored into actual EDU and Ad-Valorem rates.
13. Section 6.2 where is the sludge being discarded?
14. **Section 9.1 Tier 2 will be charged 40% of the cost but gets no benefit.**
15. Section 9.2 it was understood that when the Warren Road and Cherry Road area was setup that it was to be a standalone project and now it is becoming a town debt. What else will get changed in the future?
16. **Section 10.4 Cost of low pressure force main connection is a significant under estimate. Cost for 1868 East Shore Drive would be in the \$20,000 range and given bed rock conditions could be significantly higher.**
17. Grinder pumps and check valves are problematic; failure will result in basement becoming a cesspool. Who will bear the cost of the cleanup particularly in the case where it is a forced hookup?

A resident addressed the Board and suggested that the minutes of the June 19th meeting which stated "A resident witnessed more than two Town Board members and the Deputy Supervisor at a home of one of the Town Board members at 10:00 a.m. on June 7th, 2013. The resident reminded the board that under the Open Meetings Law there can't be

more than two board members present at one time." did not correctly reflect everything that was said at the meeting. The resident indicated that the rebuttal to the above comment was not included and asked to have the minutes of the June 19th meeting amended or the minutes of this meeting reflect the rebuttal comment. The resident submitted the following to be included in the minutes:

That resident's understanding of the Open Meetings Law is incorrect. As I said later in that same meeting, elected officials who are members of a political party may caucus (meet) for whatever reason at any time and any such meeting is exempt from the OML. Because my statement was not included in the minutes, someone reading the minutes may come away with the mistaken impression that some board members violated the OML.

Tonight I pointed out that omission in the minutes and requested that either the June 19 minutes or tonight's minutes reflect the correct information so no one is left with the wrong idea. Tonight, I read in part from Section 108 of the NY State Public Officers Law which states the exemptions for the OML as follows:

Public Officers

§ 108. Exemptions. Nothing contained in this article shall be construed as extending the provisions hereof to:

1. judicial or quasi-judicial proceedings, except proceedings of the public service commission and zoning boards of appeals;

2. a. deliberations of political committees, conferences and caucuses.

b. for purposes of this section, the deliberations of political committees, conferences and caucuses means a private meeting of members of the senate or assembly of the state of New York, or of the legislative body of a county, city, town or village, who are members or adherents of the same political party, without regard to (i) the subject matter under discussion, including discussions of public business, (ii)

the majority or minority status of such political committees, conferences and caucuses or (iii) whether such political committees, conferences and caucuses invite staff or guests to participate in their deliberations; and

3. any matter made confidential by federal or state law.

HIGHWAY DEPARTMENT REPORT

Cricket Purcell, Deputy Highway Superintendent reported they have been working on road improvements. The Highway Department has ordered a new plow truck and things are running smoothly.

PARK and RECREATION DEPARTMENT REPORT

Parks & Recreation Department

7/17/13

Town Board Meeting

RECREATION

- The majority of our programming is now underway. We are getting great participation numbers along with adding new programming. This year we are running well ahead with revenue figures for summer recreation programs. In June I reported \$65K in summer program fees collected which was a number that we hit last year in *July*. At this point in July we have now collected another \$26K to add to the \$65K we had in mid June.
- The camps are going well even with the early rains and now unbelievable heat and humidity. Our camp staffing is EXCELLENT and they are doing a great job. The "Mike Clark Baseball Camp" is new this year and is currently in the second session. It has received very good feedback!

- The Band & Orchestra Camp basically took over the Town Hall Campus last week. It was crazy but very well done. It turned out to be the largest B & O camp that we have ever run. It wrapped up with a concert here in the parking lot last Friday. I was very impressed with how well the kids handled this location and how talented they are!!
- Our summer travel baseball and softball teams will be finishing their seasons in a couple of weeks, and our older level teams will be going into end of season playoffs soon.
- Late summer and fall programs are being planned now and on August 7th I have arranged for a league wide YFL football coaches clinic to take place with the Ithaca College coaching staff. This clinic will be about teaching proper techniques for safety.

PARKS

- The fireworks show on July 3rd went well. We had to restrict some parking due to the wet conditions but bus shuttle seemed to work very well. The clean up the next morning was much better than the prior year.
- The new swim area location seems to be working. It allows a lot more room for patrons to spread out and also offers more shaded area too. It has been VERY BUSY lately.
- The concert season has started and last Thursday "Backtalk" sounded great and we had a very good crowd on hand to hear it. We have an excellent line up and just need good weather!!
- Local Eagle Scout Joe Koch has started his bocce court project in Myers Park near the "E" pavilion. It will be another very nice asset for the park.
- The next major event is the Harbor Festival on Saturday August 10th.
- Our department is VERY lucky to have Maureen Muggeo in our office and Pat Tyrrell and his crew outside. They are outstanding and we would not be where we are without them!
- I sent you an update about the osprey project from Candace Cornell along with her notes about Salt Point. *Pathways.....*

Steve Colt reported that the Emilie Jonas Falls Nature Trail is about 95 % done and should be completed in about a month.

Councilperson Katrina Binkewicz indicated that volunteers will be putting up bird boxes and signage around Salt Point.

Councilperson Edward LaVigne asked if the fireworks were a problem. Councilperson Katrina Binkewicz indicated the site seemed to work well. She also indicated they are working on more handicapped accessibility at Salt Point.

CONSIDER RESOLUTION TO AUTHORIZE THE TOWN CLERK TO ENTER INTO A 5 YEAR AGREEMENT WITH TSSERR

DISCUSSION

Supervisor Kathy Miller explained that the following resolution. She indicated that there will be two licenses for the Town at a cost of \$250 per license and the Town will also need a scanner.

RESOLUTION 13-105

**RESOLUTION AUTHORIZING THE TOWN CLERK
TO ENTER INTO A 5-YEAR AGREEMENT
WITH TOMPKINS COUNTY FOR THE
TOMPKINS COUNTY SHARED SERVICES ELECTRONIC
RECORDS REPOSITORY (TSSERR)**

The following Resolution was duly presented for consideration by the Town Board:

WHEREAS, Tompkins County has initiated and secured grants for the Tompkins County Shared Services Electronic Records Repository (TSSERR) which is a shared service hosted by the County and made available to all municipalities within the County; and

WHEREAS, the Town Board of the Town of Lansing by Resolution 12-44 authorized the Supervisor to sign the Local Grant Record Management Initial Form (LGRMIF) Grant Cooperative/Shared Services Agreement; and

WHEREAS, the Town of Lansing confirmed their partnership with Tompkins County and the Tompkins County Clerk's Office for the establishment of a shared electronic records management system funded by a 2012-2013 Shared Services Grant from the NYS Archives through the Local Government Records Management Improvement Fund; and

WHEREAS, the participating members of the TSSERR have drafted a set of By-Laws and a Group Agreement which have been presented to its members and the Tompkins County Operations Committee; and

WHEREAS the Town Clerk presented the TSSERR agreement and by-laws to the Town Attorney and Town Board on February 20, 2013; and

WHEREAS upon due deliberation thereupon, the Town Board of the Town of Lansing has

RESOLVED, that the Town of Lansing Town Board does hereby authorize the Town Clerk to enter into a 5-Year Agreement with Tompkins County for the Tompkins County Shared Services Electronic Records Repository (TSSERR) Group Agreement on behalf of the Town of Lansing.

The question of the adoption of such proposed Resolution was duly motioned by Supervisor Kathy Miller, duly seconded by Councilperson Katrina Binkewicz, and put to a roll call vote with the following results:

Councilperson Katrina Binkewicz –Aye
Councilperson Edward LaVigne - Aye

Councilperson Ruth Hopkins - Aye
Supervisor Kathy Miller - Aye

Accordingly, the foregoing Resolution was approved, carried, and duly adopted on July 17, 2013.

**CONSIDER RESOLUTION SUPPORTING THE TOMPKINS COUNTY
CLERK'S APPLICATION FOR FUNDING FROM THE NYS CONSOLIDATED
FUNDING APPLICATION FOR SHARED SERVICES UNDER THE LOCAL
GOVERNMENT EFFICIENCY GRANT**

DISSUSSION

Supervisor Kathy Miller explained the following resolution was to apply for more grants.

RESOLUTION 13-106

**RESOLUTION SUPPORTING THE TOMPKINS COUNTY CLERK'S
APPLICATION FOR FUNDING FROM THE NEW YORK STATE**

**CONSOLIDATED FUNDING APPLICATION FOR
SHARED SERVICES UNDER THE LOCAL
GOVERNMENT EFFICIENCY GRANT**

The following Resolution was duly presented for consideration by the Town Board:

WHEREAS the Tompkins County Clerk's Office intends to apply for funding through the New York State Consolidated Funding Application (CFA) for monies to continue its efforts to increase efficiencies through shared services and support related to records management systems; and

WHEREAS the Lansing Town Board has supported the Tompkins County Clerk's Office in previous funding applications and looks forward to future opportunities for shared services and intermunicipal cooperation which results in savings for its constituents; and

WHEREAS the Town of Lansing anticipates cooperating with and joining in future shared services offered and/or supported by the County whenever feasible; and

WHEREAS upon due deliberation thereupon, the Town Board of the Town of Lansing has

RESOLVED that the Lansing Town Board does hereby fully support the Tompkins County Clerk's Office in its pursuit and application for funding for shared services through a Local Government Efficiency Grant.

The question of the adoption of such proposed Resolution was duly motioned by Supervisor Kathy Miller, duly seconded by Councilperson Ruth Hopkins, and put to a roll call vote with the following results:

Councilperson Katrina Binkewicz - Aye
Councilperson Edward LaVigne - Aye

Councilperson Ruth Hopkins - Aye
Supervisor Kathy Miller - Aye

Accordingly, the foregoing Resolution was approved, carried, and duly adopted on July 17, 2013.

**CONSIDER RESOLUTION DESIGNATING THE TOWN CLERK TO RECEIVE
NOTICES OF CLAIMS SERVED UPON THE SECRETARY OF STATE BY
MAIL AND BY EMAIL**

DISCUSSION

There was no discussion.

RESOLUTION 13-107

**RESOLUTION DESIGNATING SECRETARY OF STATE AS LIMITED AGENT
FOR RECEIPT OF CERTAIN NOTICES OF CLAIMS AGAINST THE TOWN
OF LANSING, AND DESIGNATING LANSING TOWN CLERK TO RECEIVE
NOTICES OF FILINGS FROM SECRETARY OF STATE UNDER GENERAL
MUNICIPAL LAW § 53**

The following Resolution was duly presented for consideration by the Town Board:

WHEREAS, General Municipal Law ("GML") § 53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of certain notices of claims, mainly those arising under GML § 50-e; and

WHEREAS, GML § 53 requires the said certificate to include: (i) the applicable time limit for filing the applicable notice of claim; and (ii) the name, post office address, and electronic mail address of the officer or person designated to receive the transmittal of notices of claim from the Secretary of State whenever the same are served upon the Secretary of State as the Town's agent; and

WHEREAS, pursuant to GML § 50-e(1)(a) the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action 90 days from the appointment of a representative of the decedent's estate; and

WHEREAS, GML § 53 only applies to tort and related notices of claims servable under GML § 50-e and does not apply to other notices of claim that may relate to other claims against the Town, such as those sounding in contract as governed by Town Law § 65(3), pre-existing condition notices arising in relation to highway, culvert or bridge defects or conditions (Town Law § 65-a), or claims for damages for compensation for property taken by condemnation (see generally, Town Law § 67(3) and the NYS Eminent Domain Proceedings Law); and

WHEREAS, upon due deliberation thereupon, the Town Board of the Town of Lansing has hereby

RESOLVED, that the Town of Lansing designates Debbie S. Crandall, the Town Clerk of the Town of Lansing, and his/her successors in office, to receive notices of claims served upon the Secretary of State, as follows: (i) By mail at 29 Auburn Road, Lansing, New York 14882; and (ii) by electronic notice via email at townclrk@twcny.rr.com; and it is further

RESOLVED, that the Town Supervisor be designated to receive any funds from the State of New York relative to General Municipal Law § 53; and it is further

RESOLVED, that the Attorney for the Town was previously authorized to file the certificate required by GML § 53 (as the deadline was July 15, 2013), and in all respects the actions of the Attorney for the Town in effecting such filing be and hereby is ratified and approved.

The question of the adoption of such proposed Resolution was duly motioned by Councilperson Ruth Hopkins, duly seconded by Supervisor Kathy Miller, and put to a roll call vote with the following results:

Councilperson Katrina Binkewicz – Aye	Councilperson Ruth Hopkins - Aye
Councilperson Edward LaVigne – Aye	Supervisor Kathy Miller - Aye

Accordingly, the foregoing Resolution was approved, carried, and duly adopted on July 17, 2013.

CONSIDER RESOLUTION AUTHORIZING THE ENCROACHMENT AGREEMENT FOR 999 SALMON CREEK ROAD

DISCUSSION

Supervisor Kathy Miller indicated that the Town's gravel pit is encroaching on land that is adjacent to the gravel pit and someone has purchased the property. She indicated the Town will restore the property. Attorney Guy Krogh indicated that the repairs had already been made.

RESOLUTION 13-108

RESOLUTION APPROVING AND AUTHORIZING ENCROACHMENT AGREEMENT AND PERFORMANCE THEREUNDER RELATIVE TO OLD TOWN GRAVEL PIT ALONG SALMON CREEK ROAD

The following Resolution was duly presented for consideration by the Town Board:

WHEREAS, residents of the Town at 999 Salmon Creek Road have had their land surveyed by TG Miller in anticipation of a sale of their home and land, and such survey depicts a slight encroachment of the old town gravel pit onto such lands, such

encroachment being shown upon such survey as approximately 10' deep and 40' wide; and such gravel pit has not been used by the Town since the early 1990s; and

WHEREAS, as a solution to the potential real estate and title issues caused by such alleged and depicted encroachment the residents through their attorney and lender have proposed that the Town execute an encroachment agreement, which agreement was reviewed and substantially modified by the Attorney for the Town to allow the Town time to investigate and remediate the encroachment, if found to exist, including by re-filling and seeding that area of the gravel pit, all in exchange for a waiver of claims against the Town; and

WHEREAS, upon due deliberation thereupon, the Town Board of the Town of Lansing has hereby

RESOLVED, that upon final approval of the form of such encroachment agreement by the Attorney for the Town, the said Attorney for the Town, Guy K. Krogh, Esq. and the Town Supervisor be and each is hereby individually and severally authorized to execute such encroachment agreement by, for, on behalf of, and in the name of the Town of Lansing.

The question of the adoption of such proposed Resolution was duly motioned by Councilperson Edward LaVigne, duly seconded by Councilperson Katrina Binkewicz, and put to a roll call vote with the following results:

Councilperson Katrina Binkewicz - Aye
Councilperson Edward LaVigne - Aye

Councilperson Ruth Hopkins - Aye
Supervisor Kathy Miller - Aye

Accordingly, the foregoing Resolution was approved, carried, and duly adopted on July 17, 2013.

CONSIDER RESOLUTION TO PLEDGE SUPPORT FOR INSTALLATION OF BROADBAND TRANSMISSION POLES IN THE TOWN OF CAROLINE

DISCUSSION

Councilperson Edward LaVigne indicated again that he feels there are other ways to raise the money rather than have the taxpayers' money be the first option. Taxpayers' money should be the last resort and not the first. He indicated that donations should be asked for first and wait to make the pledge.

Councilperson Katrina Binkewicz indicated that the Town of Caroline will be paying at least \$6,000. With the donations at the level they are at she proposed that they pledge the money knowing they will not need to utilize that much. This is based on the Town of Lansing receiving value and bandwidth from other communities.

Supervisor Kathy Miller indicated they can pledge this money and ask for donations in the newsletter or try and raise money in other ways. She is in favor of this as it will be a benefit to all and it has been a big issue in the Town of Lansing. She thought there would be several people in Town that would be willing to donate to get better internet service.

Councilperson Ruth Hopkins indicated when they approved the grant the Town had committed to pay for the poles. At the time it was thought to be 2 to 3 poles costing between \$2,000 and \$5,000 each. This would have been between \$6,000 to \$15,000 total. From her point of view this is not a new commitment it is just being figured differently.

Pat Pryor indicated that all Towns will be approached and asked for the same commitment. She also reminded the board that the Town has already committed to support the project which was more than what is being asked for tonight. Pat Pryor indicated she is asking for the Town Board to make a commitment tonight. She will not come back next month and ask for the same thing again.

Pat Pryor indicated that the county has donated in kind and with direct funding. The County is allowing to have 2 transmitters on the County Towers. This is a significant donation. The County staff member assigned to the committee has a lot of contacts and this has allowed them to tap into state funding. The County has made an agreement with Clarity Connect to help pay for the last stage of the project. She believes this amount to be \$8,000.

Supervisor Kathy Miller asked how many Towns will have held their Board meetings before the Town of Lansing Work Session meeting on August 7th. Attorney Guy Krogh indicated Danby and the Town of Ithaca will be the only Towns to have a meeting before August 7th. Danby has already committed. Pat Pryor indicated the Town of Ithaca is not included in the project.

RESOLUTION 13-109

RESOLUTION TO PLEDGE SUPPORT FOR INSTALLATION OF BROADBAND TRANSMISSION POLES IN THE TOWN OF CAROLINE

The following Resolution was duly presented for consideration by the Town Board.

WHEREAS access to high-speed Broadband Internet service is regarded as a basic infrastructure necessity of the 21st century, providing a means of access to information and communication for citizens and businesses that is used by a growing percentage of the world's population, and

WHEREAS Broadband Internet access serves the public interest in that it is increasingly a requirement for: the provision of government services, for small, locally-owned businesses to be able to compete, for sustainable economic development and commerce, education at all levels, health care, and whereas a lack of access to Broadband Internet service may adversely impact property values, and

WHEREAS for all of the reasons cited above, the Tompkins County Broadband Initiative's goal was to provide the opportunity for broadband access to all households and businesses throughout Tompkins County, and

WHEREAS a grant proposal submitted by Clarity Connect to the State proposed coverage for all the un-served and underserved areas in Tompkins County and was supported by both the Tompkins County Legislature and all towns without universal broadband access, and

WHEREAS Clarity Connect received generous but not full funding from the State granting agency to build a broadband distribution system to many of the un-served and underserved households in Tompkins County, and

WHEREAS the Town of Caroline, due to its terrain – including steep slopes and deep valleys requiring installation of 16 poles and transmitters – was the most expensive town to which to provide coverage, and therefore portions of the town were excluded from the State's award, and

WHEREAS the Town of Lansing benefited fully from the State's grant to Clarity Connect, and will therefore achieve Universal Broadband access for its residents; and

WHEREAS Clarity Connect will begin installation of 2 State funded broadband transmission poles in the Town of Lansing this summer; and

WHEREAS accomplishing the Tompkins County goal of Universal Broadband may still be reached as Clarity Connect and the Town of Caroline apply for a further State grant in September 2013 to complete that Caroline build-out; and

WHEREAS it will be most cost effective to purchase and install transmission poles for Caroline this summer when other Town's poles are being installed; and

WHEREAS installing the transmitter poles will help Caroline's chance of success on future grant applications to install the broadband transmitters required to complete the build-out; and

WHEREAS the Town of Lansing supports the County's effort to achieve Universal Broadband access, and finds, for all the reasons cited above, that access to Broadband Internet is a necessity for every resident in every town in Tompkins County; and

WHEREAS upon due deliberation thereupon, the Town Board of the Town of Lansing has

RESOLVED that the Town Board of the Town of Lansing pledges to pay when invoiced by the Town of Caroline up to \$6,000 by July 2014, so that the infrastructure for Universal Broadband will be closer to reality and the opportunity for State grant funding will be that much closer, and it is further

RESOLVED, that this Resolution is adopted subject to the stipulation that the Town Board shall attempt to raise such pledged funds from private donations.

The question of the adoption of such proposed Resolution was duly motioned by Supervisor Kathy Miller, duly seconded by Councilperson Katrina Binkewicz, and put to a roll call vote with the following results:

Councilperson Katrina Binkewicz - Aye	Councilperson Ruth Hopkins - Aye
Councilperson Edward LaVigne - Nay	Supervisor Kathy Miller - Aye

Accordingly, the foregoing Resolution was approved, carried, and duly adopted on July 17, 2013.

CONSIDER RESOLUTION TO APPROVE BECOMING AN AMICUS CURIAE IN ACTIONS INVOLVING MUNICIPAL HOME RULE IN THE COURT OF APPEALS OF THE STATE OF NEW YORK

DISCUSSION

Councilperson Edward LaVigne asked for clarity that this resolution is not in support of a drilling ban. He wanted to make sure that this is about supporting Home Rule.

Supervisor Kathy Miller indicated yes, the resolution is about Towns making their own decisions.

RESOLUTION 13-110

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF LANSING TO APPROVE BECOMING AN AMICUS CURIAE IN ACTIONS INVOLVING MUNICIPAL HOME RULE IN THE COURT OF APPEALS OF THE STATE OF NEW YORK

The following Resolution was duly presented for consideration by the Town Board.

WHEREAS, the Towns of Middlefield and Dryden have recently revised their zoning laws to prohibit heavy industrial uses (including natural gas drilling) in their communities and such laws were challenged in court by opponents claims that the Towns did not have the power to regulate natural gas drilling as a land use through zoning; and

WHEREAS, the Town of Ulysses filed an amicus curiae or "friend of the court" brief in both lawsuits in support of its sister Towns in order to reassert the right of each municipality throughout New York State to determine what land uses are appropriate in

its community through municipal home rule law powers granted by the NYS Constitution and the NYS Municipal Home Rule Law; and

WHEREAS, the Town of Lansing joined with the Town of Ulysses and a coalition of over 50 other municipalities from across the State to file these amicus curiae briefs in the Appellate Division, Third Department in 2012; and

WHEREAS, the Appellate Division, Third Department, ruled in favor of the Towns of Dryden and Middlefield in the matters of Norse Energy Corporation USA v. Town of Dryden et al., and Cooperstown Holstein Association v. Town of Middlefield; and

WHEREAS, the Norse Energy Corporation and the Cooperstown Holstein Association (“Appellants”) recently filed motions for leave to appeal each decision to the Court of Appeals – the State’s highest court; and

WHEREAS, if the Appellants are granted leave to appeal to the Court of Appeals, the Town of Ulysses will seek leave to file amicus curiae brief(s) with the Court and will file such brief(s) if leave is granted; and

WHEREAS, the Town of Ulysses has requested that other municipalities in the State consider joining the municipal coalition supporting the Ulysses’ amicus brief(s) to send a powerful statement to the Court of Appeals, the NYS Department of Environmental Conservation and the NYS Legislature about the importance of protecting municipal home rule in New York State and a municipality’s right to decide, for itself, whether natural gas drilling - or any other land use - is appropriate for its citizens.

WHEREAS upon due deliberation thereupon, the Town Board of the Town of Lansing has

RESOLVED, that the Town of Lansing hereby determines that it is in the public interest of the citizens of the Town to support municipal home rule by joining in the amicus brief(s) being filed in the Court of Appeals by the Town of Ulysses and a coalition of municipalities from across the State.

RESOLVED, that the Town of Lansing hereby authorizes and directs the Supervisor to complete or cause to be completed any and all such further documents and papers in the name and on behalf of the Town as the Supervisor deems necessary or appropriate to carry into effect the foregoing resolution.

BE IT FURTHER RESOLVED that the Town Clerk will promptly send a certified copy of this adopted resolution to the Town of Ulysses, 10 Elm Street, Trumansburg, NY 14886.

The question of the adoption of such proposed Resolution was duly motioned by Councilperson Ruth Hopkins, duly seconded by Councilperson Katrina Binkewicz, and put to a roll call vote with the following results:

Councilperson Katrina Binkewicz - Aye
Councilperson Edward LaVigne - Aye

Councilperson Ruth Hopkins - Aye
Supervisor Kathy Miller - Aye

Accordingly, the foregoing Resolution was approved, carried, and duly adopted on July 17, 2013.

CONSIDER RESOLUTION AUTHORIZING EXECUTION OF EXCAVATOR LEASE FOR THE HIGHWAY DEPARTMENT

DISCUSSION

Councilperson Edward LaVigne asked about the term of the lease. Attorney Guy Krogh indicated the lease is for 3 years. Councilperson Edward LaVigne asked if this was with the option to buy. Cricket Purcell, Deputy Highway Superintendent indicated that is correct. He also indicated that this lease is in the best interest of the taxpayers' dollars.

RESOLUTION 13-111

RESOLUTION AUTHORIZING EXECUTION OF EXCAVATOR LEASE WITH ANDERSON EQUIPMENT AND KOMATSU FINANCIAL FOR HIGHWAY PURPOSES

The following Resolution was duly presented for consideration by the Town Board:

WHEREAS, General Municipal Law ("GML") § 103 requires acquisition agreements for goods and services to go through a competitive bidding process, but does not apply to true leases; and

WHEREAS, the distinctions between purchase agreements, leases, and lease finance documents in equipment purchases is often a gray area for which the NYS Comptroller has developed, through many opinions over the years and related guidance documents, guidelines for determining whether a particular agreement is actually a purchase subject to GML § 103 or a true lease; and

WHEREAS, Komatsu Financial has proposed an acquisition document that, subject to minor changes, is a true lease under such promulgated standards; and

WHEREAS, upon due deliberation thereupon, the Town Board of the Town of Lansing has hereby

RESOLVED, that, subject to final approval of the form of such lease by the Attorney for the Town, the Town Supervisor or Deputy Supervisor, and the Highway Superintendent or Deputy Highway Superintendent be and each is hereby individually and severally authorized to execute such lease by, for, on behalf of, and in the name of the Town of Lansing.

The question of the adoption of such proposed Resolution was duly motioned by Supervisor Kathy Miller, duly seconded by Councilperson Ruth Hopkins, and put to a roll call vote with the following results:

Councilperson Katrina Binkewicz - Aye Councilperson Ruth Hopkins - Aye
Councilperson Edward LaVigne - Aye Supervisor Kathy Miller - Aye

Accordingly, the foregoing Resolution was approved, carried, and duly adopted on July 17, 2013.

APPROVE AUDIT and BUDGET MODIFICATIONS

RESOLUTION 13-112

Councilperson Katrina Binkewicz moved that the Bookkeeper is hereby authorized to pay the following bills and to make the following budget modifications.

CONSOLIDATED ABSTRACT # 007

DATED 07/17/13

AUDITED VOUCHER #'s 631 - 795

PREPAY VOUCHER #'s 631 - 642
 AUDITED T & A VOUCHER #'s 47 - 55
 PREPAY T & A VOUCHER #'s 47 - 51

<u>FUND</u>	<u>TOTAL APPROPRIATIONS</u>
GENERAL FUND (A&B)	\$ <u>165,073.12</u>
HIGHWAY FUND (DA&DB)	\$ <u>77,065.49</u>
LANSING LIGHTING (SL1, 2 &3)	\$ <u>1,329.35</u>
LANSING WATER DISTRICTS (SW)	\$ <u>25,429.18</u>
TRUST & AGENCY (TA)	\$ <u>35,832.70</u>
LANSING SEWER DISTRICTS (SS1, SS3)	\$ <u>105.78</u>
DEBT SERVICE (V)	\$ <u>0.00</u>

**BUDGET MODIFICATIONS
 GENERAL FUND A
 7/17/2013 Board Meeting**

<u>FROM</u>	<u>TO</u>	<u>FOR</u>	<u>AMOUNT</u>
A1990.400	A5132.410 Reason	FROM CONTINGENCY ACCT TO GARAGE SUPPLIES&MAINT REPLACEMENT OF OVERHEAD DOOR	7,100.00
A1990.400	A1420.400 Reason	FROM CONTINGENCY TO ATTORNEY CONTRACTUAL UNANTICIPATED LEGAL EXPENSES	10,000.00
A1440.400	A1440.402 Reason	FROM ENGINEERING TO STORMWATER P&M UNANTICIPATED ENGINEERING	6,000.00
A1990.400	A1610.400 Reason	FROM CONTINGENCY TO TECHNOLOGY UNANTICIPATED TECHNOLOGY ISSUES	1500.00
A1990.400	A5182.403 Reason	FROM CONTINGENCY TO STREET LIGHTING- CONTRACTUAL APPROVED ADDITIONAL STREET LIGHTS	1387.50
A200	A232 Reason	FROM PARKS&REC EQUIP RES TO CASH TO COVER PURCHASE OF MOWERS	9000.00
A511	A7110.200R Reason	FROM APPROPRIATED RES TO PARKS&REC EQUIP TO COVER PURCHASE OF MOWERS	9000.00
A599	A7110.405 Reason	FROM FUND BALANCE TO PARKS-REPAIRS APPROVED REPAIRS TO MYERS & LUDLOWVILLE PARKS	5228.45

Councilperson Ruth Hopkins seconded the motion and it was carried by the following roll call vote:

Councilperson Katrina Binkewicz - Aye
 Councilperson Edward LaVigne - Aye

Councilperson Ruth Hopkins - Aye
 Supervisor Kathy Miller - Aye

Accordingly, the foregoing Resolution was approved, carried and duly adopted on July 17, 2013.

BOARD MEMBER REPORTS

Katrina Binkewicz

Salt Point

People using the point keep giving encouraging remarks about how enjoyable the point is. The Osprey are flourishing and were not bothered by the fireworks.

Edward LaVigne

Lansing Community Council

Youth Services received a grant from Lansing Community Council for \$4,000. The Recreation Department received \$2,000.

Seniors

The seniors are happy. The elevator project is moving along. There is concern about their rent if the sewer project goes through.

Ruth Hopkins Nothing extra to report.

Kathy Miller

Cayuga Power Plant

There was a press conference on July 19th and Senator Nozzolio was present. She urged everyone to come to the meeting on July 29th at 6:00 pm at the Lansing Middle School Auditorium to support the repowering of the Cayuga Operating Plant.

Councilperson Edward LaVigne asked if there were discussions about keeping the option of coal and natural gas. Supervisor Kathy Miller indicated that there are a number of options being discussed. The other coal fired power plant that would like to do this is Somerset and their town is really pushing for it. She indicated that we need to give positive feedback to keep the plant in Lansing.

Monthly Report

The Supervisor submitted her monthly report for the month of June, 2013 to all Board Members and to the Town Clerk.

TOWN COUNSEL REPORT

No report at this time.

CONTINUATION OF SEWER DISCUSSION

Supervisor Kathy Miller asked if there were any questions about the statement Councilperson Ruth Hopkins read earlier.

Councilperson Edward LaVigne asked if this was something that was going to be worked on at the Work Session meeting. He indicated that Councilperson Robert Cree should be here and be part of the discussion. He is also concerned about the grant and if there is a time limit on it, along with the engineering costs. He indicated that there has to be another factor involved if they go back to a 12-A to make the sewer project feasible.

Councilperson Ruth Hopkins indicated that she suggests not going forward and no vote. It should be sent back to the Sewer Committee to come up with a different scenario and do specific things.

Councilperson Katrina Binkewicz indicated they would not proceed with the 12-C sewer plan which included tier 1 and tier 2. They are not supporting going forward with the original 12-A as the service district cost was too expensive to be forced on some people who don't want sewer. There is a grant and there needs to be due diligence to find a way

to meet the needs of the Town and have a smaller localized area that does not infringe upon peoples' rights but allows the grant money to be utilized.

Supervisor Kathy Miller indicated they could still receive about a quarter of what the grant was. They are going to give the Sewer Committee another chance to come up with another plan. The Sewer Committee didn't like the 12-A plan as it was too expensive. Supervisor Kathy Miller indicated they could discuss this more at the Work Session meeting on August 7th.

MOTION TO ADJOURN MEETING

Councilperson Katrina Binkewicz moved to **ADJOURN THE JULY 17, 2013 TOWN BOARD MEETING AT 8:34 PM.** Councilperson Ruth Hopkins seconded the motion.
All In Favor – Aye 4 Opposed - 0

Minutes taken and executed by the Deputy Town Clerk.

Respectfully submitted,

Darlene Marshall