

July 14, 2014

A meeting of the Town Board of the Town of Aurora took place on Monday, July 14, 2014, at 7:00 p.m. in the Town Hall Auditorium, 300 Glead Avenue, East Aurora, New York.

Members Present:	Susan A. Friess	Councilwoman
	Jeffrey T. Harris	Councilman
	Charles D. Snyder	Councilman
	Jolene M. Jeffe	Councilwoman
	James J. Bach	Supervisor

Others Present:	Ronald Bennett	Town Attorney
	David Gunner	Highway Superintendent
	William Adams	Planning Board
	Timothy Baily	Planning Board
	William Wheeler	CRA Engineer

Supervisor Bach opened the meeting at 7:00 p.m. with the Pledge of Allegiance to the Flag.

Councilwoman Friess moved to approve the minutes of the June 17, 2014 Town Board work session; seconded by Councilman Snyder. Upon a vote being taken: ayes – five noes – none Motion carried.

Action # 213  
6/17/14 work session minutes aprvd.

Councilwoman Jeffe moved to approve the minutes of the June 23, 2014 Town Board meeting; seconded by Councilman Snyder. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #214  
6/23/14 TB mtg minutes aprvd

AUDIENCE I: none

UNFINISHED BUSINESS: none

NEW BUSINESS:

Councilwoman Jeffe moved to amend tonight's agenda by adding Item 60 – sale of 44 Jewett Holmwood Road. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #215  
Item 60 – sale of 44 Jewett Holmwood added to agenda

Councilman Snyder moved to accept, with regret, the resignation of Jay Marshall from the Town of Aurora Zoning Board of Appeals and to thank Jay for his service on the ZBA. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #216  
J Marshall resignation from ZBA accepted

Councilwoman Jeffe moved to appoint Davis Heussler to the Zoning Board of Appeals to fill Jay Marshall's unexpired term ending 12/31/2015. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #217  
D. Heussler appointed to ZBA to fill unexpired term

Councilman Harris moved to establish the standard work day for the following elected and appointed officials as eight (8) hours and will report the officials to the New York State and Local Retirement System based on their record of activities or time keeping system records:

Supervisor	Town Historian
Councilman	Secretary to Supervisor
Town Clerk	Baseball Commissioner
Highway Superintendent	Deputy Town Clerk
Town Justice	Town Prosecutor

Action #218  
Standard work day for retirement reporting established

Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Councilman Snyder moved to approve the request from Planning Board Chairman Donald Owens to use up to \$100 from B8020.404 to purchase refreshments/food for the Erie County Environmental Management Council meeting on July 15, 2014 being hosted by the Town Planning Board. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #219  
Planning Brd  
funds for  
meeting  
refreshments

Councilman Snyder moved to approve the request from Highway Superintendent David Gunner to attend the 85<sup>th</sup> Annual NYS Association of Town Superintendents of Highways conference in Callicoon, NY, September 16-19, 2014. Funds in the amount of \$825 (room & meals \$726; registration \$99) will be disbursed from A5010.404 Highway Administration expense and travel. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #220  
Hwy Supt to  
attend  
NYSAOTSH  
conference.

Councilwoman Jeffe moved to approve to change the Civil Service titles for recreation department employees Dawn DiFilippo and Patricia Monroe from Clerk Typist PT Seasonal to Clerk Typist PT effective July 28, 2014. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #221  
Rec dept  
employees civil  
service titles  
changed  
(Monroe &  
DiFilippo)

Councilwoman Friess moved to approve the request from the Kiwanis of East Aurora to move, place on concrete piers, renovate and rename (to Kiwanis Snack Shack) the Town's concession stand at Community Pool Park. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #222  
Kiwanis to  
renovate and  
rename Town's  
concession  
stand.

Councilman Snyder moved to authorize the Supervisor to sign the 2014-2016 agreement between the Town of Aurora and CSEA, Local 1000 AFSCME, AFL-CIO. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #223  
Supv. auth to  
sign CSEA  
agreement for  
2014-16

Councilwoman Jeffe moved to adopt the following resolution to amend the lease agreement with Windham Professionals and authorize the Supervisor to sign same:

**RESOLUTION TO AMEND LEASE AGREEMENT  
WITH WINDHAM PROFESSIONALS**

WHEREAS, the Town, as Lessor, and Windham Professionals, as Lessee, have a Lease Agreement for 13,754 square feet at Glead Avenue, with a term of lease expiring on October 31, 2014, and

WHEREAS, the Lessee has requested an extension of the Lease for a 3-year term effective November 1, 2014, and

WHEREAS, the Lessor has requested an increase of 1,589 square feet, thereby increasing the leased premises to 15,343 square feet, and

WHEREAS, the increased square footage will increase the rental effective November 1, 2014 by the amount of \$21,817.00,

NOW, THEREFORE, be it

RESOLVED, the Town Board agrees, as Lessor, to increase the premises leased by Windham Professionals, as Lessee, by 1,589 square feet, and be it further

RESOLVED, the Town Board agrees, as Lessor, to extend the present Lease effective November 1, 2014 and terminating on October 31, 2017, with an increase of 3% plus \$21,817.00 for the additional 1589 square feet to be leased by Windham Professionals, payable on the 1<sup>st</sup> day of November, 2014, and be it further

RESOLVED, the terms and conditions of the present Lease Agreement with approved addendums shall remain in full force and effect during the period from November 1, 2014 to October 31, 2017.

Action #224  
Windham  
lease  
amendment  
and extension  
approved.

Duly adopted this 14<sup>th</sup> day of July, 2014.

Councilwoman Friess seconded the motion. Upon a vote being taken:  
ayes – five                      noes – none                      Motion carried.

Councilwoman Friess moved to approve the request from Windham Professionals to remodel an area on the second floor (1589 square feet area between the current Windham office area and the main north-south hallway) to be used for a break room according to the specs submitted. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five  
noes – none                      Motion carried.

Action #225  
Windham  
approval to  
remodel area  
on 2<sup>nd</sup> fl for  
break room

Quotes to repair the nosing on the exterior warehouse stairs at Southside Municipal Center were received from:

Alp Steel Corp.	\$1,275.00
Buffalo Iron Corp.	\$ 700.00
General Welding	\$ 945.00

Action #226  
Quote from  
Buffalo Iron  
approved for  
repair of  
SSMS  
warehouse  
stairs

Councilwoman Jeffe moved to approve the quote from Buffalo Iron Corporation, 461 Tonawanda Street, Buffalo, NY in the amount of \$700.00 to repair the nosing on the warehouse stairs at Southside Municipal Center. Funds will be disbursed from ER1621.422. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – four                      noes – none  
Supervisor Bach recused himself from voting due to a relationship with Buffalo Iron Corp.                      Motion carried.

Action #227  
Negative  
SEQR for  
Ellis Dr. ODA

Councilman Snyder moved to declare the Town as lead agency for purposes of SEQR for the one-lot Open Development Area project at SBL186.00-5-28.121 and 199.01-1-49.1 Ellis Drive, (PO West Falls) and issued a negative declaration (no adverse environmental effect) for the project. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five                      noes – none                      Motion carried.

Action #228  
Ellis Dr. one-  
lot ODA  
approved.

Councilwoman Friess moved to approve the one-lot Open Development Area application of William Heidt for SBL186.00-5-28.121 and 199.01-1-49.1 Ellis Drive (PO West Falls) Town of Aurora. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five                      noes – none                      Motion carried.

Action #229  
Negative  
SEQR for 992  
Olean site plan

Councilman Snyder moved to declare the Town as lead agency for purposes of SEQR for the Site Plan for a proposed building submitted by Donald Pressing, Jr. at 992 Olean Road, and issued a negative declaration (no adverse environmental effect) for the project. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five                      noes – none                      Motion carried.

Upon review of the site plan submitted for a proposed building at 992 Olean Road, it was determined that the plan does not include the 14' by 50', 3-sided/roof enclosure lean-to that is specified in the Restrictive Covenant Agreement for this property dated April 15, 2014.

Councilwoman Jeffe moved to table agenda item 6N to the next Town Board work session for further discussion and possible consideration. Supervisor Bach seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #230  
992 Olean site  
plan tabled to  
July work  
session.

Councilwoman Friess moved to authorize the Supervisor to sign the following leasing agreement with Century 21 Gold Standard:

**RIGHT TO LEASE AGREEMENT**

TOWN OF AURORA  
300 Glead Avenue  
East Aurora, New York 14052

hereinafter referred to as the “Town”, and

Century 21 Gold Standard  
164 Quaker Road  
East Aurora, New York 14052

hereinafter referred to as the “Broker”.

WHEREAS, the Town is the owner of premises located at 300 Glead Avenue in the Village of East Aurora, and

WHEREAS, the Town has issued a Request for Proposal for services in leasing portions of the property, and

WHEREAS, the Broker has submitted a proposal for such services,

NOW, THEREFORE, the parties agree as follows:

1. **OWNER’S AUTHORIZATION**: The Town grants to the Broker the right to lease the property located at 300 Glead Avenue in the Village of East Aurora identified herein and on the terms to which the Town may consent. The Town grants permission to the Broker to post a sign on the property subject to the prior approval of the Town. The Broker is authorized to market the property and cooperate with all other brokers to secure any tenants. The Broker may share the commission with any other cooperative agent authorized under law to receive a commission.
2. **TERM**: The term shall commence on the date of the Resolution of the Town Board to appoint the Broker and the execution of this Agreement by representatives of both the Town and Broker. The Agreement will be for a term of six (6) months and shall be automatically extended for periods of six (6) months with either party having the option to terminate the Agreement upon thirty (30) days’ notice prior to the determination of the original term or any extension thereof.
3. **BROKER’S ACCEPTANCE**: The Broker accepts and agrees, in consideration of the agreements by the Town, to use its best efforts to procure tenants for the real estate based upon the following terms:
  - A. Rent, payable monthly in advance, shall be as follows:
    - 1) Office space of 600-2,000 square feet marketed at \$15.00 to \$16.50 per square foot.
    - 2) Office space of 2,001-6,000 square feet marketed at \$14.00 to \$15.00 per square foot.

- 3) Office space of 6,001 square feet and up marketed at \$12.00 to \$14.00 per square foot.
- 4) Warehouse space of 10,000 square feet and up marketed at \$6.50 per square foot.

B. The rent shall include the utilities of gas, electric and water, and common area maintenance.

- 4. BROKER'S FEE: In consideration of the Broker's effort and service to procure tenants for the real estate, the Town agrees to pay the Broker a commission of 6% of the gross aggregate rent solely based upon the term of the Lease without renewals, payable in two equal payments. The first payment shall be on the first day of occupancy, the second payment on the first day of the second year.
- 5. COOPERATION WITH OTHER BROKERS: The Broker shall cooperate with other brokers and their agents to procure tenants. Accordingly, the Broker is authorized to offer compensation to cooperate with other brokers at a rate of 50% of the agreed commission.
- 6. INSPECTION: The Town agrees to cooperate with the Broker by making the subject property available for showing to prospective renters, and other authorized parties as necessary at reasonable hours. The Town shall disclose to cooperating brokers the existence of this contract upon their direct contact with the Town.
- 7. DISCLOSED DUAL AGENCY: The Broker may act as a dual agent by representing both the Town and the Tenant in this transaction only if both parties consent after having been informed of the dual agency relationship.
- 8. COMPLIANCE: The parties agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties.
- 9. REPRESENTATIONS OF AUTHORITY: The Town represents that the Town has the legal right to lease the property located at 300 Gleed Avenue.
- 10. INDEMNITY: The Town recognizes that the Broker is relying upon information provided herein or supplied by the Town, and agrees to indemnify and hold harmless the Town and its employees from any claims, demands, damages, lawsuits, liabilities, costs and expenses arising out of any misrepresentations made by the Broker.
- 11. SOLE CONTRACT: This contract constitutes the entire agreement between the parties hereto, and no oral or implied agreement, representation or understanding shall cancel or vary the terms of this Agreement. Action #231  
Right-to-lease  
agreement with  
Century 21  
approved.

Councilman Snyder seconded the motion. Upon a vote being taken:  
ayes – five      noes – none      Motion carried.

Councilwoman Jeffe moved to adopt the following resolution; seconded by Councilman Harris:

**RESOLUTION AUTHORIZING SUBMITTING OF CONTRACT  
FOR SALE OF REAL PROPERTY**

WHEREAS, the Town Board has declared real property owned by the Town located at 44 Jewett Holmwood Road in the Town of Aurora as surplus, and

WHEREAS, the property has been listed with JRS Morgan Realty, LLC, and

WHEREAS, the Town has been presented with an offer to purchase which it deems to be in the best interest of the Town, and

WHEREAS, the Contract provides for approval by the attorney for the purchaser within three (3) days following submission of a signed Contract, and

WHEREAS, the Board has reviewed said Contract and deems it in the best interest for the sale of the subject property,

NOW, THEREFORE, be it

RESOLVED, the Town Board does hereby approve the Contract for the sale of 44 Jewett Holmwood Road in the Town of Aurora, a copy of which is attached to the original of this Resolution, and be it further

RESOLVED, James Bach as Supervisor is authorized to execute the Contract on behalf of the Town, and be it further

RESOLVED, the Town Clerk shall submit the signed Contracts to JRS Morgan Realty, LLC, Stephanie Morgan, for submission to the purchaser, and be it further

RESOLVED, the terms and conditions of the Contract in accordance with the Freedom of Information Law will become available when the Contract is deemed approved both by the Town and the purchaser.

Action #232  
Supv. auth to  
sign contract  
of sale for 44  
Jewett  
Holmwood

Upon a vote being taken: ayes – five    noes – none    Motion carried.

COMMUNICATIONS – The following communications were received by the Board and filed:

- Town Clerk – June 2014 report
- Town Clerk/Tax – June 2014 report
- Water Clerk – June 2014 report
- Recreation Director – June 2014 report
- Senior Center – June 2014 report
- Building Department – June 2014 report
- Work Requisitions – June 2014 report

BUSINESS FROM BOARD MEMBERS:

Councilman Snyder noted how great the Independence Day Parade was.

Councilman Harris visited the Recreation department and reported that the target day for the new director to start working is July 28, 2014.

Supervisor Bach thanked everyone who worked on the Independence Day events and all who donated toward the fireworks display.

AUDIENCE II: none

STAFF REPORTS:

Bill Wheeler, CRA Engineer, reported that he will be forwarding a letter from the ECWA regarding the Emery Tank (in WD18) to the Supervisor for discussion at the next work session.

The June 27, 2014 Prepaid Abstract of Claims, consisting of vouchers numbered 1066 to 1085, was presented to the Board for audit and authorization of payment from the following funds:

General	\$92,233.18
Highway	2,834.55
Trust & Agency	326.28
Special Districts	<u>40,712.33</u>
Grand Total Abstract	\$136,106.34

The July 14, 2014 Abstract of Claims, consisting of vouchers numbered 1086 to 1237, was presented to the Board for audit and authorization of payment from the following funds:

General	\$45,177.32
Highway	12,486.11
Gleed/Enterprise	4,627.07
Capital/Baseball	38.73
Capital/Mill Road	24,981.27
Trust & Agency	12,802.32
Special Districts	<u>538,075.42</u>
Grand Total Abstract	\$638,188.24

Councilwoman Jeffe moved to approve the June 27, 2014 Prepaid Abstract of Claims and the July 14, 2014 Abstract of Claims as presented and to authorize payment of same. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none  
Motion carried.

Action #233  
6/27/14 prepaid  
& 7/14/14  
Abstracts of  
Claims aprvd.

Councilman Snyder moved to adjourn at 7:50 p.m.; seconded by Councilwoman Friess. Upon a vote being taken: ayes – five noes – none  
Motion carried.

Action #234  
Meeting  
adjourned.

Martha L. Librock  
Town Clerk