

**TOWN BOARD MEETING
JULY 18, 2013**

A regularly scheduled Town Board Meeting was held on Thursday, July 18, 2013 in the Town Hall 284 Broadway, Port Ewen, New York with the following persons in attendance:

**Supervisor John Coutant
Councilperson Gloria VanVliet
Councilperson Wayne Freer
Councilperson Donna McAuley
Councilperson Kyle Barnett**

Administrative Recorder: Diane L. McCord, Town Clerk

Pledge to the Flag

Supervisor John Coutant called the meeting to order at 7:35 PM.

Public Comment:

Michael Minor – 176 Minturn St. Port Ewen spoke about trying to fix his deck. This was originally a Spinnenweber house and the deck was not constructed properly. \$244 was paid to the Town of Esopus for a building permit. When the property was inspected the Building Inspector, Tim Keefe, was on vacation and his assistant Sal Moriello filled in. Usually what happens is the Building Permit is brought to you. How come when I am re-building and I ask if the deck could be saved I was told no. I do not know why this is considered new construction? If I cannot get through to Sal Moriello tomorrow, my contractor will not be able to start on Monday. Thank you for your perseverance.

Supervisor Coutant said in the month of June there was Fathers' Day and my son gave me the gift of a fishing trip causing me to miss the June Town Board Meeting. I want to thank Deputy Supervisor Donna McAuley for her help. I caught a lot of fish and thoroughly enjoyed myself.

1. RESOLUTION – SOLAR PROJECT GRANT

The Town of Esopus was awarded by New York State a grant for our solar panels. Our solar advisor has come up with another grant possibility within the state. We have a resolution to join with the Town of New Paltz, Village of New Paltz, and with the Town of Woodstock to obtain a consolidated grant. We need \$189,000 to place the solar panels across our Town of Esopus Landfill.

ESOPUS TOWN BOARD RESOLUTION

WHEREAS, the Town of Esopus has been involved with developing Municipal Solar Facilities since the earliest planning discussion in late 2008, And

WHEREAS, in 2009, the Town held a state-wide competitive Solicitation for a 78 Kilowatt Solar Array, to be installed adjacent to the recently completed Town Hall, and

WHEREAS, the selected Vendor began the installation in the fall of 2009, with final completion in February, 2010, after which the PV System was given the New York Solar Industries Association (NYSEIA) 2010 Award for Ground-Mounts, and

WHEREAS, our Town Library then received a grant through the American Recovery and Reinvestment Act (AARA), and

WHEREAS, the state-wide competitive Solicitation resulted in the lowest cost-per-installed-watt for any Municipality at that point in time, and

WHEREAS, that installation was visited by the US Department of Energy and cited for its design and cost-effective use of ARRA funds, and

WHEREAS, to scale up to the production of the Town's entire annual requirement of electricity for all Municipal uses, the Town Board in April 2012 authorized a Solicitation for a Solar Generating Facility located at the closed, capped landfill, and

WHEREAS, during the succeeding planning process, Central Hudson Gas & Electric Company conducted a Coordinated Electric Service Interconnection Report (CESIR), and

WHEREAS, the cost of utility-side interconnection costs to the Town was determined to be approximately \$189,000 (One-hundred eighty-nine thousand dollars), and

WHEREAS, the impact of those interconnection costs on the ultimate price points in a Power Purchase Agreement has been a disincentive to proceeding with the proposed PV-on-Landfill Project, and

WHEREAS, neighboring Ulster County Municipalities Town of New Paltz and Village of New Palz also have planned a precedent-setting joint Project located at the closed, capped Town landfill property, and

WHEREAS, a similar situation regarding utility-side electric service up-grade costs has held up the New Paltz Project, and

WHEREAS, the Municipalities now have the opportunity to present a combined Proposal, requesting Priority Project status from the MHREDC, and

WHEREAS, each Municipality's Consolidated Funding Application (CFA) will be for its own infrastructure investment grant, but considering them together as a group will make it possible for the MHREDC to demonstrate to the other 9 Regional Economic development Councils a replicable example of Regional Multiple-Municipality collaboration, and

WHEREAS, it is necessary that each Municipality's CFA be submitted by July 30,

NOW, THEREFORE BE IT RESOLVED, that the Esopus Town Board hereby authorizes the Supervisor to sign a CFA prepared by our Solar Project Manager, with copies provided to the Town Board before submittal on July 30.

**RESOLUTION OFFERED BY COUNCILPERSON WAYNE FREER
RESOLUTION SECONDED BY COUNCILPERSON DONNA MCAULEY**

Supervisor John Coutant	Aye
Councilperson Gloria VanVliet	Aye
Councilperson Wayne Freer	Aye
Councilperson Donna McAuley	Aye
Councilperson Kyle Barnett	Aye

RESOLUTION DULY ADOPTED.

Councilperson Wayne Freer said our actions in providing solar panels at the Town Hall have paid off greatly. Councilperson Gloria VanVliet asked about getting a copy of the Resolution by July 30?

2. RESOLUTION – JOHN BURROUGH’S ASSOCIATION

Joan Burroughs was in attendance at our meeting and handed out copies of the John Burroughs Association Trail Guide as well as three maps:

1. Proposed Black Creek Trail
Black Creek Wild Forest
John Burroughs Nature Sanctuary
2. Greater Walkway Region – Regional Rail Trail Network
3. Burroughs/Black Creek Corridor Trail Concept

She requested applications in support of a grant application for two long trails and our trail map. Joan is proposing a trail from south of the Burroughs property to the Black Creek under the control of DEC. They would also like to restore two old trails which have footings that are not safe. They also need replacement signs. Joan is working with the DEC but they have to go through the approval process also.

The second set was how this project is part of the larger vision along Black Creek to have a hiking travel trail. We are leveraging public funds with DEC and Scenic Hudson funds. We are very grateful. Councilpersons Donna McAuley and Gloria VanVliet did attend our hike on the trails and we lunched at the Global Palate. Councilpersons McAuley and VanVliet said they were very impressed with the Indian Pot and a wood frog and the waterfall was beautiful. They really enjoyed themselves. Joan Burroughs said they also visited the Gordon property.

Ed Walsh is a man of few words, however, he was very impressed with the trails and with being next to the creek but not within the flood plain.

**RESOLUTION IN SUPPORT OF A GRANT APPLICATION
BY THE JOHN BURROUGH'S ASSOCIATION**

BE IT RESOLVED, THE TOWN OF ESOPUS, COUNTY OF ULSTER, STATE OF NEW YORK IS IN SUPPORT OF A GRANT APPLICATION BY THE JOHN BURROUGH'S ASSOCIATION TO NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION TO CONSTRUCT A NEW TRAIL ALONG BLACK CREEK, RESTORE THE OVERLOOK TRAIL AND THE AMASA MARTIN TRAIL AND BUILD AND INSTALL NEW ENTRANCE SIGNS.

THE TOWN BOARD HEREBY AUTHORIZES THE SUPERVISOR TO SIGN A LETTER IN SUPPORT OF THIS GRANT APPLICATION.

OFFERED BY Councilperson Donna McAuley

SECONDED BY Councilperson Wayne Freer

SUPERVISOR JOHN COUTANT	AYE
COUNCILPERSON GLORIA VANVLIET	AYE
COUNCILPERSON WAYNE FREER	AYE
COUNCILPERSON DONNA MCAULEY	AYE
COUNCILPERSON KYLE BARNETT	AYE

RESOLUTION DULY ADOPTED.

3. CERTIFICATE OF DESIGNATION OF NOTICE OF CLAIM (DEPT. OF STATE)

Supervisor John Coutant explained if someone has damage to their property they give a Notice of Claim to the Town Clerk and she gives copies to the Town Board and to our Town Attorney. Now anyone can go with a Notice of Claim to the Dept. of State. There is a \$250 charge by the state. If we do pass the following resolution the town will received \$125 from the state out of the \$250 charged. If we do not pass the resolution the town will not receive any money.

Resolution No. 3 2013, Town of Esopus

WHEREAS, General Municipal Law, sub-section 53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim: and

WHEREAS, General Municipal Law sub-section, 53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary as the town's agent; and

WHEREAS, pursuant to General Municipal Law, sub-section 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; Now there be it

Resolved, the Town Board of the Town of Esopus, County of Ulster designates Diane L. McCord in her capacity as Town Clerk, to receive notice of claims served upon the Secretary of State by mail at PO BOX 700 Port Ewen, NY 12466 and email at townclerk@esopus.com.

BE IT FURTHER RESOLVED, that the Town Board hereby directs the Town Clerks to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before July 14, 2013.

General Municipal Law, sub-section 53
Alternative service of notice of claim upon the Secretary of State

1. In lieu of serving a notice of claim upon a public corporation as provided for in section fifty-e of this article, a notice of claim setting forth the same information as required by such section may be served upon the Secretary of State in the same manner as if served with the public corporation. All the requirements relating to the form, content, time limitations, exceptions, extensions and any other procedural requirements imposed in such section with respect to a notice of claim served upon a public corporation shall correspondingly apply to a notice of claim served upon the Secretary of State as permitted by this section. For purposes of this article, the Secretary of State shall be deemed to be the agent for all public corporations upon whom a notice of claim may be served prior to commencement of any action or proceeding subject to the requirements of this article.

2. All public corporations entitled to have served upon them a notice of claim as a condition precedent to commencement of an action or proceeding shall, no later than thirty days after the date upon which this section shall take effect, file a certificate with the Secretary of State designating the secretary as the agent of service of notice of claim and shall in such statement provide the secretary with the name, post office address and electronic mail address, if available, of an officer, person or designee, nominee or other agent-in-fact for the transmittal of notices of claim served upon the secretary as the public corporation's agent. Any designated post office address or electronic mail address to which the Secretary of State shall mail transmit a copy of the notice of claim served upon him or her as agent shall continue to be the address to which such notices shall be transmitted until the public corporation sends a notice to the secretary informing him or her of a new post office address or electronic mail address to which such notices shall be transmitted. The initial filing with the Secretary of State shall also contain the applicable time limit for filing a notice of claim upon that public corporation, or if later changed by statute, a new filing shall be made detailing the new time limit. Any public corporation that does not have a current and timely statutory designation filed with the Secretary of State shall not be entitled to the portion of the fee to which it would otherwise be entitled pursuant to subdivision four of this section. Failure of the public corporation to so file with the Secretary of State will not invalidate any service of notice of claim upon the public corporation which has been received by the Secretary of State.

3. The Secretary of State is hereby empowered to accept properly transmitted notices of claims on behalf of a public corporation, with the same effect as if served directly upon a public corporation. The Secretary of State shall accept such services upon the following terms and conditions:
 - (a) The Secretary of State shall set and notify the public, on his or her Web site of times, places and manner of service upon him or her of notices of claims necessary to comply with the provisions of this section;
 - (b) upon receipt of a notice of claim, the Secretary of State shall issue a receipt or other document acknowledging his or her receipt of such notice, and such receipt shall contain the date and time of receipt of the notice, an identifying number or name particular to the notice received, and the logo or seal of the department of State embossed upon it. Such receipt shall be prima facie evidence of service upon the Secretary of State for all purposes;

(c) nothing in this section shall be deemed to alter, waive or otherwise abrogate any defense available to a public corporation as to the nature, sufficiency, or appropriateness of the notice of claim itself, or to any challenges to the timeliness of the service of a notice of claim. Timely service upon the Secretary of State shall be deemed timely service upon the public corporation for purposes of instituting an action or proceeding or other requirement imposed by law.

4. The Secretary of State may impose a fee upon any person who serves a notice of claim with the department. Such fee shall not exceed two hundred fifty dollars for each such notice filed. One-half of the fee imposed shall be retained by the Secretary of State as payment for its services provided in accordance with this section. The remaining one-half of such fee shall be forwarded to the public corporation named in the notice of claim provided, however, if more than one such public corporation is named, each public corporation shall be entitled to an equal percentage of the one-half amount.
5. The Secretary of State shall within sixty days after the effective date of this section post on the departmental website a list of any public corporation, including any public authority, public benefit corporation or any other entity entitled to receive a notice of claim as a condition precedent to commencement of an action or proceeding and that has filed, pursuant to this section, a certificate with the Secretary of State designating the Secretary as the agent of service of a notice of claim. The list should identify the entity, the post office address and electronic mail address, if available, of the public corporation to which the notice of claim shall be forwarded by the Secretary of State, and any statutory provisions uniquely pertaining to such public corporation and the commencement of an action or proceeding against it.
6. The Secretary of State is authorized to promulgate any rules or regulations necessary to implement the provisions of this section.

The Secretary of State may be served with notices of claim for public corporations beginning Monday July 15, 2013.

<http://www.dos.ny.gov/corps/noticesofclaims.html>

Resolution offered by Councilperson Kyle Barnett
Resolution seconded by Councilperson Donna McAuley

Supervisor John Coutant	Aye
Councilperson Gloria VanVliet	Aye
Councilperson Wayne Freer	Aye
Councilperson Donna McAuley	Aye
Councilperson Kyle Barnett	Aye

Resolution duly approved.

**4. SPIT GATE INSTALLED - “sign will say – When Gate is Open Park is Open
When Gate is Closed Park is Closed
Emergency No. 339-3612**

The Supervisor stated the gate has been installed at Sleightsburgh Spit and is set in concrete. The gate will be used to close the area to residents when the town designates. The sign will be attached stating “When Gate is Open – Park is Open When Gate is Closed – Park is Closed Emergency No. 339-3612”. Residents will still be able to acquire a key to open the gate for fishing and hunting. Councilperson Gloria VanVliet asked at this time of year the gate will be always opened? Yes. The gate is made of steel and it was made by Steve Cross.

5. TIRE SWING – ROSS PARK

The Recreation Dept. has installed the new tire swing at Ross Park. The old one was replaced because it was in disrepair. The cost of the swing is \$2,700. It is important to have safe equipment. It is a good looking unit.

6. BUDGET/BOOKKEEPING UPDATE- COUNCILPERSON WAYNE FREER

The Town Board has to come up with the town budget. Councilperson Wayne Freer has a plan to better manage money than our previous budget. When we look into the budget

we need timely information showing where our money has been spent. Harris System provides the bookkeeping software/maintenance program. Harris also provides software for our Port Ewen Water and Sewer Billing. This system could be upgraded to provide software if we purchased meters that could be read remotely and record the data into our computer system, however, this would be too costly at this time.

Harris will provide training for their software/maintenance for we are only using a portion of their bookkeeping capabilities. This training will bring us up to date on our budgeting system. Harris is located in Niagara Falls. Training could be given here in Esopus or the training could be televised.

Councilperson Kyle Barnett appreciates Councilperson Freer's stepping up to the plate and he looks forward to seeing the results when everyone is up to speed. Councilperson Gloria VanVliet said we will also have more information for our budget. The system is now able to create the reports we need but we need the training. Supervisor Coutant said this would represent a change and this is a new innovation, a first among towns.

7. STORM DAMAGE REPORT

a. Tree/House: Supervisor Coutant said the recent storm damage caused a tree to fall through a house on the corner West Stout and Bayard Street. The Highway Dept. removed the tree and fixed the pavement that was torn up as a result of the storm. They even placed a tarp on the damaged roof.

b. Park: In Ross Park we had trees come down but we were still able to open our Summer Park Program.

c. Leased Property: Across the street from Ross Park on the property owned by the Church six trees had to be removed.

d. Tilden Street: Overflow of the storm water drain on Tilden Street caused the Highway Dept. to put in a new catch basin and re-design the drainage at this location. It is working fine now. The Highway and Recreation Employees have been cutting trees and cleaning up and they have done a good job. We are looking a lot better and we finally have it together. We are dealing with the drainage issues that keep popping up. We are now enjoying the heatwave!

8. BUDGET ADJUSTMENTS – None

10. PAYMENT OF VOUCHERS

**PAYMENT OF VOUCHERS
July 18, 2013**

Be it Resolved, by the Town Board of the Town of Esopus, County of Ulster, State of New York as follows:

Whereas, the Town of Esopus has been presented with vouchers for payment and those vouchers have been examined and approved by the Town Board,

Therefore, Be it Resolved, that the following vouchers be approved for payment:

General Fund	131305 - 131364	\$41,548.32
Highway Dept.	132134 - 132157	\$115,388.18
Port Ewen Sewer	133086- 133096	\$ 6,626.46
Port Ewen Water	134166 - 134189	\$12,980.16
Street Lighting	136007	\$ 5,924.41
Total.....		\$182,467.53

**Resolution offered by Supervisor John Coutant
Resolution seconded by Councilperson Kyle Barnett**

Supervisor John Coutant	Aye
Councilperson Gloria VanVliet	Aye
Councilperson Wayne Freer	Aye
Councilperson Donna McAuley	Aye
Councilperson Kyle Barnett	Aye

Resolution duly adopted.

11. APPROVAL OF MINUTES

A MOTION TO APPROVE THE MINUTES OF THE PREVIOUS MEETINGS WAS MADE BY COUNCILPERSON DONNA MCAULEY AND SECONDED BY SUPERVISOR JOHN COUTANT. ALL TOWN BOARD MEMBERS VOTED IN FAVOR. MOTION CARRIED.

12. COMMUNICATIONS AND REPORTS OF OFFICIALS, BOARDS AND COMMITTEES

Communications for July and the following reports of officials, boards and committees are available in the Town Clerks' Office:

Town Clerks' Report for June 2013
Minutes of the June 18th Town Board Meeting
Planning Board Minutes dated May 8, 2013
The monthly report of the Building Inspector dated June 2013
Planning Board Minutes dated June 12, 2013
Environmental Board Minutes dated March and April 2013
Waterfront Advisory Board Minutes dated June 2013
Assessors' Report dated June 16, 2013

A MOTION TO ADJOURN THE MEETING WAS MADE BY COUNCILPERSON WAYNE FREER AND SECONDED BY COUNCILPERSON GLORIA VANVLIT. ALL TOWN BOARD MEMBERS VOTED IN FAVOR. MOTION CARRIED.

Respectfully submitted,

**Diane L. McCord
Town Clerk, CMC, RMC**