

Parma Town Board meeting held on Wednesday, December 4, 2007 at the  
Parma Town Hall, 1300 Hilton Parma Corners Road, Hilton, New York.

### **ATTENDANCE**

Supervisor	Richard Lemcke
Councilman	Kenneth Blackburn
Councilman	Joseph Reinschmidt
Councilman	Carm Carmestro
Councilman	James Smith
Highway Supt.	Brian Speer
Recreation Director	Steve Fowler
Building Inspector	Jack Barton

### **OTHERS IN ATTENDANCE**

Jim Christ, Jim Zollweg, Gene DeMeyer, Gary Comardo, Steve Fowler, Michael Adams and other unidentified members of the public.

### **CALL TO ORDER**

Supervisor Lemcke called the meeting to order at 7:00 p.m. and lead those present in the Pledge of Allegiance to the Flag, followed by a moment of silence. Supervisor Lemcke noted emergency exit procedures. It was noted that the meeting is being digitally recorded.

### **PUBLIC FORUM**

Supervisor Lemcke asked if there was any citizen present who would like to address the Town Board on any topic not on the agenda. Hearing none the meeting proceeded.

### **MINUTES – NOVEMBER 20, 2007**

**RESOLUTION NO. 307-2007** Motion by Councilman Carmestro, seconded by  
Councilman Smith, to accept the Minutes of the November 20, 2007 meeting.

Motion carried: Aye 5 Nay 0

### **TOWN CLERK REPORT**

The Town Clerk Report and VFW Summary Report for November have been submitted. The resignation of Laurie Fillion from the Recreation Department has been received and filed. A Notice of Completion of Draft Generic Environmental Impact Statement was received today from the Town of Greece regarding the property off Manitou and Ridge. Copies have been distributed to all board members, the Supervisor, Mr. Barton and posted on the Town Hall Bulletin board.

### **HIGHWAY DEPARTMENT REPORT**

#### **HYDRO-TURN SNOWPLOW BLADE FOR CAT LOADER**

Supt. Speer noted that two trucks used to plow sub-divisions were older and he is not sure how dependable they are going to be. He has explored pricing on a hydro-turn plow blade for the CAT loader, has found a used one for \$6,400.00, and asked permission to proceed with the purchase from the surplus in the DA fund.

**RESOLUTION NO. 308-2007** Motion by Councilman Smith, seconded by Councilman Blackburn to approve the purchase of a used 10 foot hydro-turn snowplow blade for not more than \$6,400.00 from the surplus in the DA Highway Townwide Fund.

Motion carried: Aye 3 Nay 2

Voting Nay: Supervisor Lemcke  
Councilman Carmestro

**AMENDATORY AGREEMENT BETWEEN MONROE COUNTY AND THE TOWN OF PARMA FOR SNOW REMOVAL AND ICE CONTROL SERVICES**

Superintendent Speer presented the 2007-2008 amendatory agreement between Monroe County and the Town of Parma for snow and ice removal. The dollar amount of \$225,074 is a little less than budgeted due to jurisdictional swapping and lane mile reductions. He did not believe that a resolution was required, but the board has done so in the past.

**RESOLUTION NO. 309-2007** Motion by Councilman Smith, seconded by Councilman Blackburn to accept the Monroe County Amendatory Agreement for Snow Removal and Ice Control Services between Monroe County and the Town of Parma for the 2007-2008 season.

Motion carried: Aye 5 Nay 0

**HIGHWAY DEPARTMENT EMPLOYEE TERMINATION**

Supervisor Lemcke asked for clarification from the Highway Superintendent if he had informed Mr. Christ that he would not have a job as of December 31<sup>st</sup>. Supt. Speer confirmed that this was correct. Supervisor Lemcke noted as a matter of public record that the actions of the Town Board had nothing to do with Mr. Christ losing his job and that the cuts made were for non-essential personnel. He also noted that no cuts were made to union employees or Highway Equipment Operators.

Councilman Blackburn stated that he would like to respond to an email sent by the Supervisor and recapped conversations he had with the Highway Superintendent and Mr. Leone. He noted that in this meeting there was discussion on possible ways to keep Mr. Christ's position if funding were available and some things that had occurred between the Supervisor and the Highway Department during the past 2 to 3 years. There was discussion, clarification, opinions and alternate ideas expressed on these points.

**RECREATION DEPARTMENT REPORT**

Mr. Fowler noted that the Winter Brochure is going to print next week and will be distributed mid-December to residents. He is in the process of meeting with the Village Clerk regarding space used by the Recreation Department at the Village Community Center. There was discussion on the 5% increase in June which was absorbed into the 2007 fiscal budget; however, the 2008 budget will have a shortfall based on current space usage. Negotiations are to reduce square footage, not the price per square foot. There was discussion. Mr. Fowler will bring final recommendations to the board.

Councilman Reinschmidt asked for clarification on a reference made in the October 24, 2007 Recreation Commission minutes, regarding lighting at the Town Hall Park. Mr. Fowler explained this was a future proposal regarding a triangle of lights covering the multi-purpose field, field #8 and the fenced in baseball field. He would be seeking alternate funding sources such as grants or aid. Councilman Reinschmidt also inquired about an unbudgeted full-time hire in 2008. Mr. Fowler noted that this was something he hoped to accomplish.

Mr. Fowler also noted that one of the two part-time employees in recreation had resigned to take a full-time job with benefits at the school. Laurie Fillion's last day is 12/5/07 and they wished her well.

## **PARKS DEPARTMENT**

Joe Petricone, Park Foreman, had nothing to report. Councilman Carmestro noted that the Town Board was in receipt of a memo regarding cleaning services for the Town Hall and VFW building. He felt we are overpaying. He suggested RFPs be obtained before signing a new contract. There was discussion which included the addition of a cleaning fee for the VFW. The Town Clerk requested, if fee changes were going to be made at the Organizational meeting, consideration be given to raising the cancellation fees for VFW and Pavilion rentals from \$3.00 to \$30.00 to more reasonably reflect the cost of processing. Councilman Blackburn asked if the cleaner was aware of his responsibilities and if when issues arose were they resolved to the Park Foreman's satisfaction which was affirmed by Mr. Petricone.

## **BUILDING DEPARTMENT REPORT**

Mr. Barton reported that he had just received the Town Park Wastewater System Improvements Phasing Plan proposal from Larsen Engineers. Copies were passed out to the Town Board for review. Mr. Petricone noted that the Parks Department had not been included in the needs assessment and felt they should be for future improvements that affect the Park.

Mr. Barton reported that the Building Report for November has been distributed and that he would be on vacation the third week in December and therefore would not be at the next Board meeting.

## **BUSINESS ITEMS**

### **GEOGRAPHIC INFORMATION SYSTEM (GIS)**

Professor Jim Zollweg, SUNY Brockport Earth Sciences Department, introduced himself and noted his goals were to educate the Town Board on the GIS Software and its benefits for local government and to have the Board create an official position of GIS Coordinator similar to other towns in Monroe County. Professor Zollweg presented slides regarding the benefits and functions of the GIS system, the function of a GIS coordinator, and the benefits of having one in the Town. There was discussion.

### **FOIL REQUEST – APPEAL FOR DENIAL OF RECORDS**

There was discussion and review of Supervisor Lemcke's FOIL request for copies of Daily Work Logs for January 1, 2007 through November 16, 2007 and copies of the monthly vacation calendar for the Highway department. The Highway Superintendent's refusal to provide the information and the Supervisor's appeal of said request was also noted.

The Town Clerk reviewed the steps in the FOIL appeal process. A memo dated December 3, 2007 from the Town Clerk to all Town Board members was reviewed. It included excerpts from the Committee on Open Government's website and their "Your Right to Know" publication pertaining to the appeal before the Town Board.

There was extensive discussion and opinions expressed regarding in what capacity the Supervisor was making this request, if there were privacy issues or other reasons for denial, the reason for the request and how the appeal came about.

It was noted by the Town Clerk, that until the records are obtained, that a determination of what should or should not be provided cannot be determined. The Town Clerk suggested that an opinion from the Committee on Open Government be sought as a compromise. There was no action taken on this suggestion. There was continued discussion. Councilman Blackburn felt that they should go back to the original purpose for the request and indicated that it was for personal reasons. He felt that if the Supervisor wanted to make a recommendation to the Town Board at the Organizational meeting that he should do so. The Board would vote and that the

foiled records were not needed. Supervisor Lemcke started to poll the Town Board on their opinion as to whether the Highway Superintendent needed to provide the records requested in order to deny or uphold the appeal request. Councilman Blackburn was in favor of denying the appeal and asked if the Supervisor intended to recuse himself. Supervisor Lemcke indicated that he did not intend to vote. Councilman Reinschmidt indicated that he had not heard anything to change his mind and proceeded to make the following resolution.

**RESOLUTION NO. 310-2007** Motion by Councilman Reinschmidt, seconded by Councilman Blackburn,

**WHEREAS**, the request is for a very extensive time period and is devoid of any reason or specificity, and

**WHEREAS**, such a broad request could infringe on the rights of privacy with regard to a medical situation such as sick leave time covered and other things covered by HIPPA laws, and

**WHEREAS**, there are pending EEOC claims and possible litigation regarding discrimination and denial of vacation time, and

**WHEREAS**, the employees whose work records are being requested should at least know about the request;

**NOW THEREFORE, BE IT RESOLVED**, that the request be denied.

Discussion: Councilman Smith expressed that there was too much personality involved in how these issues are looked at and that he felt that the information should be provided with any privacy information removed. He cited examples of why he felt this information was of value as a Town Board member. Councilman Reinschmidt commented on the Board receiving information from the Highway Superintendent in the past on how much money was being spent and whether the information would really be useful. He also expressed that if specific information was requested rather than all the records of what the Highway Department did for the past year it would be better. Supervisor Lemcke responded that the denial of this request should not be made on the reason for the request. He cited other FOIL requests that have been, the size of those requests and the steps he took to make the request appropriately. Councilman Blackburn felt there was no correlation between prior requests and the current request.

Roll Call Vote:	Councilman Smith	Nay
	Councilman Carmestro	Nay
	Councilman Reinschmidt	Aye
	Councilman Blackburn	Aye
	Supervisor Lemcke	Abstain

Motion denied: Aye 2 Nay 2 Abstain 1

There was discussion that this was a denial because no decision was made. Supervisor Lemcke noted that he would be calling the Freedom of Information Coordinator, asking for an opinion and then bringing it back to the Town Board at the Organizational meeting in January.

**INTER-MUNICIPAL AGREEMENT BETWEEN THE TOWN OF PARMA AND MONROE COUNTY FOR PROVISION OF FUNDS BY MONROE COUNTY SUCH THAT THEY EXPERIENCE NO LOSS AS A RESULT OF ELECTION UNDER SECTION 2 OF CHAPTER 58 OF THE LAWS OF 2005**

Supervisor Lemcke noted that all Board members had a copy of the Intermunicipal Agreement with Monroe County. The agreement has been presented to all towns in the County and upon checking with other Supervisors it has been ratified by other Town Boards. In addition it was presented to the Town's attorney for review. The Supervisor stated that the Town Attorney had no comments and felt that it was a standard agreement. There was discussion.

**RESOLUTION NO. 311-2007** Motion by Supervisor Lemcke, seconded by Councilman Carmestro, authorizing an inter-municipal agreement with the Town of Parma and the County of Monroe for provision of funds by Monroe County to the

Town of Parma such that the Town of Parma experiences no loss of revenue as a result of election under Section 2 of Chapter 58 of the Laws of 2005.

Discussion: Councilman Smith asked for clarification on whether the Town Attorney had reviewed and formally responded with feedback. There was discussion about this between Councilman Blackburn and Supervisor Lemcke. Councilman Blackburn was not in favor. It was his opinion that you have no way of knowing what you are going to get in return and would be giving the money away. Councilman Reinschmidt was not clear on what Exhibit A was. It was determined that Exhibit A was the County's Resolution No. 350 of 2007 adopting the agreement. He felt there should be more information.

Roll Call Vote:	Councilman Smith	Aye
	Councilman Carmestro	Aye
	Councilman Reinschmidt	Nay
	Councilman Blackburn	Nay
	Supervisor Lemcke	Aye

Motion carried: Aye 3 Nay 2

### **2008 MEDICAL INSURANCE**

Supervisor Lemcke quickly reviewed the memo from the Finance Department and asked that due to the length of the current meeting and the amount of information to be reviewed to hold this for a future meeting.

### **DEPARTMENT OF LABOR/HIGHWAY DEPARTMENT**

Supervisor Lemcke distribute copies of a memo from the Department of Labor citing notice violations and an order to comply based on their November 13 – 21, 2007 visit. Supt. Speer noted that there might be some remodeling and funding needed to make the necessary corrections to the upstairs office ingress and egress and fire escapes for the second floor. There was discussion.

### **DUNBAR ROAD TAX LEVY**

Supervisor Lemcke read a memo from Mary Gavigan, Finance Director regarding the debt service schedule for the Dunbar Road East Sewer District.

**RESOLUTION NO. 312-2007** Motion by Councilman Blackburn, seconded by Supervisor Lemcke, to accept the tax levy for Dunbar Road East Sewer District to be \$3,549.98.

Motion carried: Aye 5 Nay 0

### **INFORMATIONAL ITEMS**

#### **ARBITRATION FACT FINDER – HIGHWAY UNION**

Supervisor Lemcke noted that no report has been received from Mr. Stevens the union arbitrator.

#### **MISCELLANEOUS**

#### **HILTON SNO-FLYERS**

Supervisor Lemcke read a request from the Hilton Sno-Flyers to ride along Collamer and Curtis Road due to the inability to obtain permission from farmers to use the fields because the land has been planted with winter wheat. It was noted that Curtis Road is not a Town road.

**RESOLUTION NO. 313-2007** Motion by Supervisor Lemcke, seconded by Councilman Blackburn, to allow the Hilton Sno-Flyers to use Collamer Road to Curtis Road.

Motion carried: Aye 5 Nay 0

### **DYMINSKI PROPERTY- 4247 RIDGE ROAD WEST**

Supervisor Lemcke reported that he attended a meeting with the Judge, the Town's attorney Peter Rogers, the attorney for Mr. Dyminski, and Art Fritz, Code Enforcement Officer on November 27, 2007. Mr. Dyminski's attorney requested a plea bargain and asked for terms for a plea from the Town.

The Town's attorney recommended that a plea be accepted and suggested terms which were reviewed. The plea bargain would include:

- A plea of guilty to the outstanding charges.
- The plea to be made with the Corporation that owns the property, not with Mr. David Dyminski personally.
- A fine of \$250.00 per week for 104 weeks totaling \$26,000
- With the court to assess the penalty between \$10,000 to \$15,000 and the assessment to be at the discretion of the court.
- A recommendation that the Town be paid within 90 days.

There was discussion on possible scenarios that might occur by taking this action and further legal options if correction were not made.

**RESOLUTION NO. 314-2007** Motion by Councilman Smith, seconded by Councilman Blackburn to accept the recommendation of the Town Attorney for a plea bargain in the Dyminski property litigation.

Motion carried: Aye 5 Nay 0

### **LIAISON REPORTS**

\*\*Councilman Smith reported that the Recreation Commission is interested in the outcome of the joint meeting with the Village of Hilton when it occurs.

### **JOINT VILLAGE AND TOWN BOARD MEETING**

Supervisor Lemcke noted that the proposed date of December 18, 2007 for the joint Village and Town meeting is not going to work because there would not be a quorum from the Village. There was discussion.

**RESOLUTION NO. 315-2007** Motion by Supervisor Lemcke, seconded by Councilman Smith to reschedule the joint Village and Town meeting to another date to be mutually agreed on.

Motion carried: Aye 5 Nay 0

\*\*Councilman Carmestro reported the Assessor's Office is taking pictures of properties. He noted that the Planning Board and the Fire Department will be meeting later this week. He has received a call from a resident on Judd Lane regarding a light pole issue. He is working with staff and RG&E to resolve.

\*\*Councilman Reinschmidt had nothing to report.

\*\*Councilman Blackburn reported the code enforcement officer is issuing non-compliance tickets.

**BUILDING DEPARTMENT - BAS SOFTWARE**

Mr. Barton noted that training for the new BAS software would be taking place on January 7 and January 8, 2008.

**ORGANIZATIONAL MEETING**

The Town Clerk, requested a date be set for the annual Organizational Meeting. It was agreed that it would be on Wednesday, January 2, 2008 at 7:00 p.m.

There was discussion and clarification on the last bill paying session which will be held December 28, 2007 at 9:00 a.m. at the Town Hall.

There being no further business brought before the Town Board, Councilman Carmestro made a motion to adjourn the meeting at 9:00 p.m., seconded by Councilman Smith and all were in favor.

Respectfully submitted,

Donna K. Curry  
Parma Town Clerk