

REGULAR MEETING
TOWN OF DAYTON
WEDNESDAY, SEPTEMBER 11, 2019
7:00 P.M.

PRESENT: Angie Mardino-Miller, Supervisor, Thomas Chupa, Bruce Drajem, Diana Clabeaux, Dennis Ackley, Town Council, Ruth Bennett, Town Clerk, Frank Watson, CEO, Dan Gabel, Paul Luce, Brian Taber, Highway Superintendent, John Grennell, Attorney, Frank Watson, CEO, Arnold Andolsek, Ray Troutman, Kathy & Ken Gens, Dan Martonis, Cattaraugus County Real Property Services, Jeff Beightol, J M Lesinski, Observer

CALL TO ORDER: Supervisor Mardino-Miller called the meeting to order at 7:04 p.m. All stood and said the Pledge to the Flag. Then the Supervisor called for a moment of silence in memory of those who died and honor of those who worked to find their remains.

MINUTES: Clerk Bennett gave each member of the Board a copy of the minutes to be read before the meeting. A motion to accept the minutes was made by Councilman Drajem, seconded by Councilman Chupa. A vote was taken on the motion, Carried.

HIGHWAY: The Highway Department mowed all of the roads for the second time this year. We have done a lot of Shared Service with the County and neighboring Town's. and we did some road chipping. The Board needs to keep in mind that the price of oil is climbing, two years ago we paid \$2.25 a gallon and this year we are paying \$2.99 a gallon, which means that we have to do less. We had to bring the gravel screen in the shop for repairs before it falls apart, this is the County's that they let us use. We have been cutting shoulders and cutting brush back on the roads.

Eric Estes gave his resignation letter on the night of the August Board meeting, this leaves two people in the Highway Department. We received two applications, one didn't have a CDL license and the other one was not interested due to the starting rate of pay. Winter is right around the corner, we can't expect new employees to learn how to plow roads overnight, as there is a lot of training that goes into learning how to plow roads.

I have had numerous applications come across my desk, however the problem is the rate of pay. I have a couple of guys who want the job but they are real green and will take a lot of training.

I am requesting that Larry Miller stay on, I may go over the part-time budget line. Supervisor Mardino-Miller responded there is no problem with that you have been down one man for a long time. Larry will stay on until we get the salt and sand hauled and mixed.

We had storm recovery from 2015 and I have heard nothing. The work was done in 2017 because we didn't have the pipe or anything, we had a band aid on it until we could do the repair. The paperwork on it was submitted and it came back it just needed a letter from you (Supervisor) and John (attorney). The attorney has spoken with Sarah and we are moving forward on it, their attorney wants some different language so we have to get on the same page.

Councilman Drajem asked Brian how many he had in the shop right now, Brian responded, myself, Dan and Larry who is part time. He then asked how may Brian was going to hire, Brian responded two one will start next week, the second one is very hesitant on the pay and they are the best ones I have. Councilman Ackley asked if it was in the paper, Brian responded probably should have last month. If this don't work out do you want to put an ad in the paper? A motion was made by Councilman Drajem, seconded by Councilman Ackley to put an ad in the paper if the hires don't work out. A vote was taken on the motion, Carried.

Councilman Chupa asked what the starting rate of pay for the Town is, Brian

responded \$14.25, Councilman Drajem asked what the County rate is, Brian responded \$18.23, he then asked how many lost to the County, Brian responded two. Supervisor stated we are beginning the budget process and that is where the raises come from, last year we had to put a freeze on all wages to help balance the budget. If you haven't started your list for the budget, get a hold of Laura and get that started.

Councilman Clabeaux asked if we raised the pay per hour in the next budget will these employees get the new rate? Supervisor responded absolutely, going forward they would get the new rate.

- CLERK: Clerk Bennett reported the Court heard 14 Vehicle and Traffic, 1 Penal Law, 2 Town Law, 1 Civil Law for a total of 18 cases and collected \$2,827.00. Also read a letter from Judge Linda Frost asking permission from the Town Board to apply for a JCAP Grant to purchase a water cooler, furnace and roof over the Court Room. A motion was made by Councilman Chupa, seconded by Councilman Ackley to allow the Court to apply for a JCAP grant. A vote was taken on the motion, Carried.
- RESOLUTION #3: Read a letter from James Mayers asking that he again be considered as a South Dayton Fire Commissioner, as his term is expiring.

Read a letter from the Dayton Fire Company asking if the Town of Dayton could plow and sand their parking lot with their one-ton plow this winter 2019-20 season. Dan Gabel told the Board they had to junk their plow truck as the compensation board would not allow it as it was out of compliance, so now they have nothing to plow with. Highway Superintendent Taber responded that South Dayton Fire Department is in the Town of Dayton also, if I do for one I will have to do for the other. Why can't they hire someone to plow their driveway? Councilman Ackley said they need to look at other avenues to do this before they come to the Town. A motion was made by Councilman Clabeaux, seconded by Councilman Chupa to have Attorney John Grenell to send them a letter stating our concerns. A vote was taken on the motion, Carried. Councilman Drajem abstained from the vote.

- ASSESSOR: Kate Herrington, Assessor, reported that school tax bills were mailed out on September 1. The release of school taxes, the first to be issued from the new tax roll, can make some assessment errors obvious, ex. missing STAR exemption. If you notice an error has been made, notify the assessor immediately.

NYS is continuing to mail a new customized good cause form and instructions to certain seniors across the State, these homeowners do not have complete Income Verification Program enrollments on file with NYS and are at risk of losing their Enhanced STAR exemptions. If you have received this form, please complete it and send it along with any required documentation to the address listed on the letter as soon as possible. If you have questions, call the NYS Homeowner's STAR hotline.

We are continuing to collect data for the 2020 Reassessment, this data collection includes verifying inventory and land types, updating conditions, and taking pictures. To date, we have visited 1,105 of the 1,244 parcels.

The assessing office corresponded with several property owners about their assessments, tax bills, and exemptions. There were five property transfers added in July.

- CEO: I have processed four building permits for a work shop, storage barn, shed and a barn that may turn into a business, and an addition. The Cattaraugus County Sheriff is going to deliver a notice for a non-compliant property, I am currently half way thru getting demo permits for two trailers, just did 8 hours of training, sent two notices for right of way issues, sent notices for inspection fees for telecom towers, still working on a property who is trying to build a house without

a permit, and I'm still waiting on Gernatt's to get us something on the roads for their proposed special use permit on Wolfe Road.

SUPERVISOR: We still have not heard anything back from the NYS Comptroller's Office about what the final findings will be.

Supervisor asked Dan Martonis to come and speak about the assessing department who is now doing the assessing for the Town. Dan spoke about selling your property and the process from the time you decide to sell to the time it gets to the assessor. There are two kinds of deeds—a warranty deed and a quit claim deed—the warranty deed goes thru the bank who warrants that the person owns it and there are no liens on it. A quit claim deed is they are just quit claiming it over to you and hopefully you have done your due diligence to be sure the person selling it to you is the owner and doesn't have any liens on the property. The RP5217 from the assessor's point of view is the selling price. The market is saying that is what the property is worth, don't include personal property purchased as part of the purchase price. The RP5217 is then taken to the County Clerk where it is filed for a fee, which is then divided among NYS, Towns and Counties. A survey is not necessary but is recommended for property lines, a title search is done when buying property. Dan then goes to the Clerk's office and picks up the deeds and the tax mapper in my office then changes the tax map parcel lines if something has changed in the deed. It is then entered by the County then once a month they go to the assessors.

Dan Gabel asked how much we are paying the County to do the assessing work. The Supervisor and Dan Martonis responded that they were getting the same amount as the Roxanne got, which is \$9600, and whatever is left in the contractual in December will be sent to the County. You are going to make money because of the Shared Service grant and we put in for \$75 per parcel, so the Towns we had last year will get about \$30,000 for the reval, and for next year's grant I put in for data collection and that is \$10 per parcel, so in a couple years you will get about \$12,000, this money will come from the State.

We received \$9546 increase in CHIPS money the increase is going into DB3501 and DB5112.2

LOCAL LAW #2: A motion was made by Councilman Chupa, seconded by Councilman Drajem to pass Local Law #2-2019, a local law amending local law #2-2016 granting a partial exemption on real property taxation to certain senior citizens. A vote was taken on the motion, Carried

We need to have a public hearing next month to approve the cable television agreement between the Town of Dayton and Time Warner Cable Northeast LLC. A motion was made by Councilman Clabeaux, seconded by Councilman Ackley. A vote was taken on the motion, Carried.

BILLS: A motion was made by Councilman Chupa, seconded by Councilman Ackley to pay General Funds claims #148-159 in the amount of \$11,651.04 as set forth in Abstract #9, dated September 11, 2019, Highway Fund claims #84-93, in the amount of \$50,891.42 as set forth in Abstract #9 dated September 11, 2019. A vote was taken on the motion, Carried.

PUBLIC: Ray Troutman asked about the assessment being different in other Towns, Dan responded that you have to make sure you are looking at the full market value, we just took over Perrysburg and Perrysburg is in bad need of a reval, hopefully when we are done everyone will be at 100%. I have had one employee who spent one month just breaking out land, because it wasn't done in the last reval. You have a 100 acre piece that was listed as a primary and the rest residual and that is not how it is done. It should be how much is woodland, tillable, pasture, wetlands, they all have different values assessed to them.

Dan Gable asked the name of the cable company, Supervisor responded Time Warner Cable Northeast LLC, Ika Charter communications, Spectrum.

Arnold Andolsek asked Councilman Chupa you are running for Highway Superintendent, Chupa answered yes. Mr. Andolsek then asked should you win are you going to resign your seat on the Council so the Supervisor can appoint someone to your seat? Chupa responded, yes I have to resign my Board seat I can't have two elected positions.

Ray Troutman said his name came up at last month's Board meeting, he asked Frank I'm running an illegal farm operation out of a building. Frank responded are you selling goods out of that barn you built? Troutman responded the customers come up just inside the door, the produce is inside the door out of the weather. Frank said you just answered my question, yeah you're doing business out of that barn. Troutman responded, well as of today, I have closed the doors, they are no longer to be open. Frank responded, did you receive any notice from me? I told you no business out of that barn without a special use permit. Troutman response probably not (rest of response unintelligible). Frank responded I have asked you nicely for two years to get a special use permit. Troutman responded, I asked you a few years ago if you're over restricting the farmers. In other Towns – Leon don't have no special use permits, Perrysburg there's a guy up there on 39 who sells sweet corn right out of his garage, over here on 39 and 20 there is a farm stand right there that's right on the right of way, you're over harassing and restricting the farmers. Frank responded – you live in Dayton, so forget about Perrysburg and everyone else, you live here, Ray interjected yeah, Frank went on we have Chapter 140 which is in the zoning book, Ray interjected yeah, it's a bogus law – Frank responded the State doesn't seem so, nor does the Town seem so and it was adopted and it was looked over by the attorneys and it is valid, so there is a line crossed on that, if you stay low and slow we don't ask for a permit, you want to make a big building with public entry your selling your products, that goes above and beyond the low and slow, so that's why we created Chapter 140 to make sure we have a safe scene, with large numbers of people entering, we also make sure that you don't turn it into a grocery store without us figuring out the Code and figuring out the building for more than just a farm stand, this has gone above and beyond the farm carts, tables and the few pumpkins you used to sell. You got bigger, which is great, that is a sign of success. Ray responded yeah bigger and you're going after, Frank cut in, the Town has invited you to say look let's get you certified and qualified and based on that permit you can get bigger and we can get you to a standard that there is no restriction for you. Okay, now you're done, I'm probably not going to mention that Ray Troutman should be getting a special use permit for what he is doing. Ray responded back in 2006 you sent me a notice that I owed \$100, I paid \$100 for that building permit and I asked you what is going in there, if I could park in there and you said anything I wanted to. Frank answered no, the Clerk is my witness to the conversation we had when you built that barn, if you want to build a barn, build a barn, because right now I can't prove you are going to do business out of that barn, but back there in that office I said you do your farm stand or your business out of that barn will you come in for a special use permit—your answer was yes. And then you came in two months later with another subject, and I asked, during and open meeting, is Ray Troutman's word good and your said yes.

So now I have a witness that said you were going to get a special use permit, you changed your mind, you're word isn't good. So if your word is good you're shut down, I'll make sure you're shut down. If you want to open up again, I'm going to be asking for a special use permit. Ray interrupted (unintelligible), Frank then asked again is Ray Troutman's word still good, Ray responded not for a special use permit. Frank then told the Board you just heard it so if we have non-compliance agai, Mr. Troutman is basically telling you that he is going to be non-compliant, in my opinion you're hearing it not from me but from Mr. Troutman's own mouth. So I would be putting him under the same protocol as I have been putting him under request, violation and then he sees the Judge for it. And right

now, we haven't pushed envelope of the point of seeing the Judge but if he gets to the point where Mr. Troutman get this adamant of what's legal and what's not, I'll be sure and introduce him to the law. Right now the Code says, as long as he's closed, I don't have to deal with him, but if he wants to open up and sell things out of that barn, he's in violation of Chapter 140 which has been the Town Law. It's not my opinion, in 2009 it was adopted, so this is now why Ray is in here upset. He's upset because obviously the assessment but if he's shut down and we all heard him in this room, then fine hopefully he keeps his word. But if he wants to open it up, you're going to hear me express it again at this meeting, Ray Troutman is running his business out of his barn as a violation of Chapter 140. Ray responded how come you don't ever send any other growers in this Town of Dayton for a special use permit besides me? Nobody, they never received anything from the Town, nothing from the Code Enforcer. Frank responded, because no one has the set up that you have, name me another farm stand that is as big as you. Ray responded, down in East Leon, Frank said that's not Dayton. Ray responded yes it is, it's on this side of the four corners on County Road 5. Frank asked Ray who he was talking about. Ray responded top of (unintelligible), Councilman Chupa said the Amish lady, Ray stated their stand is right on the County right of way, Frank said that's over on Mosher Hollow Road, that has been there way before Chapter 140, Chapter 140 states that the building has to be bigger than 12'x12' and that farm stand is not bigger than 12'x12'. Chapter 140 has been set upon the basis we allow for low and slow but when you get too big, too many people that's when I comes back to the operation. We don't count the population, we count the building, the setup, the operation, the process. Mr. Gens sitting next to you at one time was approached, we reviewed the zoning, we found he has an exception and we got thru it. Councilman Clabeaux ask Ray why he didn't get a special use permit—what's the big deal? Ray responded you shouldn't have to have a special use to grow produce. Councilman Clabeaux responded the Board made a law, why can't you go along with it? Frank has done his best to try and get you to get a special use permit? Supervisor Mardino-Miller said your problem is your assessment, Skip and Kathy Gens would like to have your \$30,000 assessment on their property. Discussion then ensued about assessments and Mr. Troutman got up and came up to the Board waving papers and shouting. I lost at the grievance day twice, so I hired an appraiser and had to pay \$350. Frank responded you can pay \$350 but you can't pay \$100 for a special use permit.

The Town Clerk and Supervisor reports for August, 2019 was received by the Board.

ADJOURN:
A motion to adjourn was made by Councilman Chupa, seconded by Councilman Clabeaux, at 8:00 p.m., Carried. The next meeting will be October 9, 2019 at 7 p.m.

Respectively submitted,

Ruth Bennett

LOCAL LAW NUMBER 2-2019

TOWN OF DAYTON, NEW YORK

Pursuant to Section 467(1)(b) of the Real Property Tax Law.

**A LOCAL LAW AMENDING LOCAL LAW 2-2016 (INTRO. NO 2-2016)
GRANTING PARTIAL EXEMPTION ON REAL PROPERTY
TAXATION TO CERTAIN SENIOR CITIZENS**

BE IT ENACTED by the Town Board of the Town of Dayton as follows:

SECTION I. Legislative Intent. It is the intent of this legislation to amend Local Law No. 2-2016 (Intro No. 2-2016) is here by amended by adding the following new section and consecutively renumbering the remaining section thereafter:

"SECTION 4. Offset for Medical Expenses. Any income used in the determination of applicants' eligibility for the exemption hereby granted shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance.

SECTION 3. Local Law No. 2-2016 (Intro No. 2-2016). Except to the extent that it hereby amended, Local Law 2-2016 (Intro No. 2-2016) shall be and remain in full force and effect.

SECTION 4. Severability. If any provision of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, then such adjudication, shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the particular provision directly involved in the controversy in which such judgment shall have been rendered.

SECTION 5. Effective Date. This Local Law shall take effect January 1, 2020.