

# TOWN OF LLOYD TOWN BOARD

## SPECIAL MEETING

MARCH 29, 2011

**Present:** Councilmember Nancy Hammond  
Councilmember Kevin Brennie  
Councilmember Herbert Litts, III  
Councilmember Jeffrey Paladino

**Also present:** Sean Murphy, Attorney  
Rosaria Peplow, Town Clerk

**Absent:** Supervisor Raymond Costantino

**6:00 PM** – Deputy Supervisor Hammond opened the meeting and led the Pledge of Allegiance.

### 1. OLD BUSINESS

### 2. NEW BUSINESS

**A.** Bill Crowder Construction – demolition of two buildings on River Road.

Bill Crowder explained that the contract was old. He had submitted a new contract to the Supervisor which included a \$500 surcharge for fuel.

Litts was concerned that the charges for the additional tonnage increases the bid amount above the second lowest bidder.

Paladino asked if Crowder anticipated the roll-offs going over 7 tons.

There was discussion as to the number of roll-offs and the estimated additional tonnage.

It was agreed that the additional tonnage would not exceed a cost of \$2500.

Crowder would like to start the demolition on Thursday afternoon.

Sean Murphy, Town Attorney, will prepare a contract for Crowder to sign on Thursday, March 31<sup>st</sup>.

Crowder will provide a certificate of insurance.

### 3. PUBLIC COMMENTS

### 4. RESOLUTIONS

**A. RESOLUTION** made by Brennie, seconded by Paladino, to approve and accept proposal from Bill Crowder Construction for the demolition of two houses at 26 and 34 River Road, Highland. 1. Removal of all wood and metal debris from houses 2. House foundations, all above grade, will be excavated and removed. 3. Contractor will not be responsible for the removal of any contaminated soil or fuel tanks. 4. There will be an additional charge of \$100.00 per ton for each roll-off over 7 tons. The Town Board authorizes the Supervisor to sign the contract for \$12,600.00, plus \$500 fuel surcharge and the extra tonnage, not to exceed \$2,500.

**Roll call:** Paladino, aye; Hammond, aye; Litts, aye; Brennie, aye.

**Four ayes carried.**

Hammond explained that the Town wishes to purchase property from Ulster County. There are no funds in the Purchase of Land budget line. The following resolution will provide for the \$529.41 purchase price and any filing fees.

**B RESOLUTION** made by Paladino, seconded by Brennie, to approve the following budget amendment:

Purchase of Land	00-01-1940.40	+\$1,000.00
Contingency	00-01-1990.40	-\$1,000.00

**Roll call:** Brennie, aye; Litts, aye; Hammond, aye; Paladino, aye.

**Four ayes carried.**

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**C. RESOLUTION** made by Brennie, seconded by Litts, to approve and authorize the purchase of SBL 95.12-1-46, a 50 foot wide parcel on Mayer Drive; from an existing Hudson Hills subdivision, which the Town will use for a future roadway connecting two abutting subdivisions and drainage easements; the Town by letter asked the County to remove the parcel from the Ulster County auction list for unpaid taxes whereas they approved the Town's request to remove it from auction and the Town of Lloyd to purchase it for the unpaid taxes in the amount of \$529.41; and upon receipt of this resolution the County will send it to the County Legislature for approval of transferring the deed. The Town Board authorizes the Supervisor to pay the County \$529.41 and any additional Ulster County Clerk filing fees.

**Roll call:** Paladino, aye; Hammond, aye; Litts, aye; Brennie, aye.

**Four ayes carried.**

**D. RESOLUTION** made by Paladino, seconded by Litts, to approve request by residents of Roberto Road for a street light to be installed on existing pole #154917 at the cul-de-sac for safety and authorize Supervisor to request installation by Central Hudson.

**Roll call:** Paladino, aye; Hammond, aye; Litts, aye; Brennie, aye.

**Four ayes carried.**

**E. RESOLUTION** made by Brennie, seconded by Paladino, to hire Garrett Stoutenburgh as laborer at \$17.20 per hour for emergency snow removal on the day of March 23, 2011, due to lack of staff at the Highway Department.

**Roll call:** Brennie, aye; Litts, aye; Hammond, aye; Paladino, aye.

**Four ayes carried.**

Sean Murphy, Town Attorney, explained that the Pleasant View subdivision, A & T Property Holdings, LLC. was approved in 2007. The developer entered into a road improvement agreement, giving the Town a two-year letter of credit which expired in 2009. They then entered into an extension agreement and letter of credit for two years, which is due to expire March 30, 2011. In the past month, the Board approved an agreement with the understanding that an additional letter of credit would be provided by Pleasant View. They have had difficulty getting the letter of credit in the amount of \$811,000.

The lawyer from Pleasant View asked him what the ramifications would be if they could not provide a letter of credit and Murphy told him the Town would either call the present letter of credit or the subdivision would have to be dissolved.

Litts asked if in 'calling' the letter of credit the Town has would be calling their bond and why the Town would want to do that.

Murphy answered affirmatively and said that the Town may not want to do that.

Litts said if the bond is called, the Town gets the money and would be responsible for building what is in the agreement which may cost \$1.2-million and the bond is only \$800,000.

Paladino said that it was his understanding that the Town is only responsible to build as far as the amount of the bond takes it.

Murphy cited pursuant to Town Law 277 9E, says that if the bond is called the Town is obligated to build the improvements commensurate with the development at the site. The problem in this case is that there is no development at the site so there is case law that says nothing can be built.

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Litts said that the developer is to come back and say that the site cannot be developed because there is not an approved road and he cannot get a building permit until there is an improved road; it is a Catch-22.

Barton added that all of the stormwater and roads could not be built for that number and the question is if the Town would be responsible to build out the whole site.

Murphy replied that the Town is not. He has been in email contact with both Barton and Teresa Bakner, land use attorney. If the Town takes the bond, it will be sued and he quoted the law, "(if they are in default), the Town upon receipt of the proceeds of the bond or letter of credit, the Town shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place".

Barton noted that there is no development that has taken place and if the bond is supposed to protect the citizens of the Town from being obligated to build out the road at taxpayer expense. He feels that the Town should not take the bond if there is no development as the bank will probably not want to renew it and it will expire in a month.

Murphy if the developer is willing to enter into an agreement, in which the parties acknowledge that there is no bond, nothing is built and 'if you buy here, you are not getting a building permit'. The developer said that they would do this.

Barton asked how that could be pulled once the road gets built.

Murphy answered that the agreement could always be terminated but the possible danger is if someone does buy property there, this is an approved plat filed with Ulster County Clerk, and this person cannot get a building permit unless he builds the road to the purchased property. They could sue the Town.

Litts felt that if you let the agreement expire, the developer does not have a bond for the road and he cannot sell lots.

Barton interjected that the developer can sell the lots.

Litts stressed that the subdivision is contingent upon the improvement has to be made in order to get a building permit, that is incumbent upon the seller; the Town of Lloyd is not selling that property, the developer is.

Murphy said that as a matter of law, he does not believe that the Town can be made to build the road.

Litts said if the Town takes the bond, then the Town becomes the owner.

Murphy quoted Town Law 277 again; in taking the bond, the developer will say, "go ahead, build commensurate with the development, there is none, give the bond back to us".

Litts offered that the Court looks at the reasonable man; the reasonable man would say if the Town takes the bond, the only reason they would take the bond is to build the improvements; he feels that if the Town takes the bond, they are incumbent to take the road.

Brennie asked what transpired between last week's meeting and tonight.

Murphy responded that he received a request, this afternoon, for an extension of a letter of credit for one month.

Brennie asked if the Town Board has done this before and if there was any harm in signing the 30-day extension.

Murphy said there is no harm in that. If the developer does not provide an extended letter of credit at the end of thirty days; the Town Board has to decide if they want to take the bond because it will expire.

Litts said that a bank would be willing to buy into a project if the developer was working on the project. He feels that he would like to make a resolution at this meeting to so that it expires April 30, 2011.

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**RESOLUTION** made by Litts, seconded by Paladino, to accept the request for an extension of the letter of credit dated March 28, 2011 from A&T Property Holdings LLC, which will expire April 30, 2011.

**Roll call:** Brennie, aye; Hammond, aye; Paladino, aye; Litts, aye.

**Four ayes carried.**

**MOTION** made by Brennie, seconded by Paladino, to adjourn the meeting at 6:50 PM.

**Four ayes carried.**

Respectfully submitted,

Rosaria Schiavone Peplow  
Town Clerk