

MINUTES
TOWN BOARD
May 22, 2013

The Town of Manlius Town Board assembled at the Town Hall, 301 Brooklea Drive, Fayetteville, New York, with Supervisor Edmond Theobald presiding and the following Board members present:

John R. Loeffler, Councilor
David M. Marnell, Sr., Councilor
Nicholas J. Marzola, Councilor
Jason Cassalia, Councilor
Vincent Giordano, Councilor
Karen Green, Councilor

The following Town Officers were present:

Timothy Frateschi, Attorney for the Town	Allison A. Edsall, Town Clerk
Fran Marlowe, Manlius Police Chief	Doug Miller, Town Engineer
Ann Oot, Town Manager	Rob Cushing, Highway Superintendent

Other persons attending:

Ellen & Mike McGrew, Manlius. Dorothy & Nicholas Agrippino, Manlius. Ken Balamnt, Syracuse. Peter & Joan Colman, Manlius. Jennifer Snyder, Syracuse. Beth Piston, E. Syracuse. John Sears, Minoa. Arielle Maciag, Chittenango. Julia Walberger, Manlius. Russell King, Manlius. Lloyd Small, Minoa. Mark Mossman, Manlius. Samantha Marra, E. Syracuse. Kendall Richer, Syracuse. Jordan O'Reilly, Manlius. Cody, E. Syracuse. Ron & Kay Dimon, Manlius. Nick Lobello, E. Syracuse.

1. The Pledge of Allegiance

Supervisor Theobald called the meeting to order at 7:00 pm. Officer Snyder led the Pledge of Allegiance. Supervisor Theobald welcomed everyone and thanked all for attending.

Fran Marlowe, Chief of the Manlius Police Department, made a brief presentation introducing Police Officer Gregory Snyder to the Town Board. Officer Snyder was sworn in by Town Clerk Edsall. Supervisor Theobald thanked Chief Marlowe, and congratulated Officer Snyder.

2. Approval of Minutes – May 8, 2013

Councilor Marnell made a motion, seconded by Councilor Giordano, to approve the minutes of May 8, 2013 as submitted by Town Clerk Edsall.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green,
Councilor Marnell, Councilor Cassalia, Councilor Marzola

Nayes: 0

All in Favor.

Motion Carries.

3. Approval of Abstract # 10

Councilor Marzola made a motion, seconded by Councilor Marnell, to approve Abstract # 10 as submitted by Town Clerk Edsall.

TOWN OF MANLIUS
Fund Summary
Abstract # 10 - 2013

<u>CODE</u>	<u>FUND</u>	<u>TOTALS</u>
A	General Fund Townwide	\$134,885.62
B	General Fund Town	\$ 9,411.24
CM1	Police Trust	\$ 519.99
DA	Highway Fund Townwide	\$168,024.41
DB	Highway Fund Town	\$ 49,537.37
SS1	Manlius Con Sewer District	\$ 3,344.11

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green,
Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nayes: 0

All in Favor.

Motion Carries.

4. 7:05PM – Pubic Hearing – Special Permit , Dorothy Agrippino, 5040 Palmer Rd. (tax map # 116.-01-22.6) for a dog & cat groom shop with additional services

Ken Balamnt gave a brief overview of the proposed Special Permit application. Mr. Balamnt stated that there will be a grooming and waiting area with a kennel that will have 13 cages. There will be an animal bathing area along with office space and business storage. The Boarding that occurs will happen mostly during seasonal times that people would travel such as Christmas and Thanksgiving.

Dorothy Agrippino, applicant, stated that she would not leave the dogs outside unattended.

Councilor Marzola asked the applicant how she planned to address the modifications raised by the Onondaga County Planning Board:

- The Onondaga County Health Department must formally accept or approve, respectively, any existing or proposed septic system to service this property.
- The applicant must obtain a commercial driveway permit form Onondaga County Department of Transportation, and adequate vehicle turn-around space must be

provided on-site to ensure no backing into the County right of way per the Onondaga County Department of Transportation

Mr. Balamnt stated that the modifications outlined by the Onondaga County Planning Board were boilerplate modifications that will be addressed. Mr. Balamnt stated that the septic plans are in the hands of the Onondaga County Health Department and there will be a 1000 gallon septic tank.

Councilor Green asked the applicant about the small animals she plans to board.

Mrs. Agrippino stated that she plans on boarding birds, rabbits and other small household pets for clients while the clients are out of town.

Councilor Giordano asked if the Town Board could even approve the special permit without approval of the septic system from the Onondaga County Health Department.

Attorney Frateschi stated that the Town Board could issue an approval conditioned upon the septic system receiving approval from the Onondaga County Health Department.

Attorney Frateschi stated that the applicant has applied for a special permit on a parcel that is zoned Restricted-Agricultural. The grooming shop and boarding facility is an allowed use in the Restricted-Agriculture zone. The presumption is made that this use would fit in with the character of the community and the special permit process allows the Town Board to review the project and hear the concerns of the neighborhood.

Councilor Marnell made a motion, seconded by Councilor Marzola, to waive the reading of the public notice in the matter of the – Special Permit, Dorothy Agrippino, 5040 Palmer Rd. (tax map # 116.-01-22.6) for a dog & cat groom shop with additional services.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nays: 0 All in Favor. Motion Carries.

Councilor Giordano made a motion, seconded by Councilor Marnell, to open the public hearing at 7:25pm in the matter of the – Special Permit, Dorothy Agrippino, 5040 Palmer Rd. (tax map # 116.-01-22.6) for a dog & cat groom shop with additional services.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nays: 0 All in Favor. Motion Carries.

Peter Colman, 4921 Palmer Road, gave a brief overview of the neighborhood in the Palmer Road area and stated that he has lived on Palmer road for more than 25 years. Mr. Colman described the area as “in transition”, with new and older homes on a windy hill in

a quiet area. Mr. Colman stated that people move into the area despite the lack of sewer lines, waterlines and cable lines, for the peacefulness and there is not a lot of background noise to drown out the noise of a barking dog. Mr. Colman spoke in opposition of the special permit and stated that there are cognizable legal reasons that this special permit should be denied. These reasons are not personal. Mr. Colman discussed case law from Indiana (Scott V. Marshall County Board of Zoning Appeals) where the Boards findings that a 10 dog kennel in an agricultural setting would be injurious to the use and enjoyment of the properties in the vicinity and diminish and impair the property values within the neighborhood.

Mr. Colman asked for more time to speak after others had been heard.

Russell King, 8696 Hale Road stated that he lives within 2500 feet of the proposed project and while he is a dog lover he is concerned about noise and the effect of this project on the neighborhood. Mr. King stated that when dogs are boarded they bark due to anxiety and that sound travels so well in this quiet neighborhood that the train whistles can be heard from East Syracuse. Mr. King offered the applicant free consultation of his services.

Julia Walberger, 5080 Palmer Road stated that she will be living downwind of the proposed project that is currently a quiet beautiful area that the locals call "Top of the World". Mrs. Walberger stated that she is very concerned about the traffic issue on the road as people speed through the neighborhood and come up over a blind hill. Mrs. Walberger stated that if the project does go through the speed limit would have to be lowered on Palmer Road to prevent accidents. Mrs. Walberger stated that while she is okay with a grooming business in the neighborhood, she believes that a kennel will not have any positive effects on the neighborhood.

Conversation ensued regarding the 5:00pm curfew for letting the dogs into the outside run. Mrs. Walberger stated that she is concerned that there will be no one to call regarding barking dogs if the problem happens after normal office hours. Attorney Frateschi stated that she could document and record the situation and call the next day. Chief Marlowe stated that the neighbors could call the police who would document the situation.

Ron Dimon, 4911 Palmer Road, stated that he believes in property rights but in his line of work he has applied for permits that have been denied because they may not fit into the character of the community. Mr. Dimon stated that he does not want to have to call the dog warden or police department for a report on barking dogs because we are all busy and a dog barking is something that you cannot control.

Mark Mossman, 5060 Palmer Road, stated that he is speaking in objection to the dog kennel. Mr. Mossman stated that he built the house of his dreams in a serene peaceful place and noise is a big issue. Mr. Mossman stated there are many other issues and there was a leash law violation at 6:24 am this morning. There were two dogs running loose in his backyard. Mr. Mossman stated that the applicant has been investigated for animal cruelty at their residence and he has adopted cats that were unfed in the applicant's barn.

Mr. Colman requested more time to speak on the special permit. Mr. Colman stated that he feels this dog kennel would reduce the value of his home. Mr. Colman described the location of the facilities in relationship to the applicant's property line and requested that the Town Board issue a binding commitment that this facility would not become a doggy daycare. Mr. Colman began to describe the photos that were submitted by the applicant and the discrepancies he felt were not accurately represented by the application and the photos.

Supervisor Theobald stated that Mr. Colman's time to speak had been granted and he had gone well over the allotted time. Mr. Colman asked that the minutes reflect that he was denied the opportunity to give his full statement. A copy of Mr. Colman's statement is available in the Office of the Town Clerk.

With there being no further comments from the public, Councilor Marnell made a motion, seconded by Councilor Giordano, to close the public hearing at 7:53pm in the matter of the – Special Permit, Dorothy Agrippino, 5040 Palmer Rd. (tax map # 116.-01-22.6) for a dog & cat groom shop with additional services.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nays: 0

All in Favor.

Motion Carries.

Nicholas Agrippino, applicant, asked for the opportunity to respond to the comments made by the public during the public hearing. Mr. Agrippino stated that he does live in a beautiful area and at times dogs in the neighborhood do bark. Mr. Agrippino stated that his neighbors always take care of their barking dogs and that he would do the same as the building is being constructed right next to his own home. Mr. Agrippino stated the walls will be double insulated for sound and that he will not tolerate barking dogs himself. Mr. Agrippino stated that he is a good neighbor and that if they cannot do boarding then he will not do boarding.

Mr. Agrippino stated that he will make sure that all of the customers that use their facility will know that they cannot back out onto Palmer Road, there will be turnarounds available and the driveway will have signs to that effect as well.

Dorothy Agrippino, applicant, stated that there were no citations issued in the Village of Chittenango where she currently has a grooming facility. Mrs. Agrippino also stated that all of the cases of alleged animal cruelty were alleged and unfounded and that she feels this is a defamation of her character.

Attorney Frateschi stated that this is not the first time the Town Board has faced this issue regarding special permits for dog facilities. Attorney Frateschi stated that the Town Board has a good sense of the concerns of the neighbors and the Town Board needs to consider what types of measures should be considered to mitigate those concerns.

Mrs. Walberger stated that the special permit has to be in harmony with the neighborhood. Conversation ensued regarding the special permit application process.

Councilor Loeffler stated that there are two thresholds to be considered and the zoning is the primary point where a person would evaluate whether or not this land is appropriate for the use requested. The special permit handles the variables that exist related to the special permit and the land.

Attorney Frateschi stated if the zoning did not allow for the use requested the threshold would be raised.

Mr. Agrippino stated that his current business is located in the middle of the Village of Chittenango and the neighboring buildings are quite close.

Attorney Frateschi stated that the Town Board has 62 days after the public hearing to make a decision and he will prepare a draft resolution for the next meeting.

Mr. Agrippino asked whether he could begin construction on the property. Attorney Frateschi advised Mr. Agrippino to wait to begin construction until the Town Board has given approval.

5. Correspondence/New Business

A) Highway Superintendent – No New Business

B) Planning & Development

Annexation to the Village of Minoa Tax Map # 068.-02-02

Councilman Marnell made a motion, seconded by Councilor Giordano, to declare the Village of Minoa lead agency for SEQR purposes in the matter of Annexation to the Village of Minoa tax map # 068.-02-02 and ratify the SEQR resolution made by the Village of Minoa in the matter of Annexation to the Village of Minoa tax map # 068.-02-02.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nayes: 0

All in Favor.

Motion Carries.

Councilor Marnell made a motion, seconded by Councilor Marzola to approve the Annexation to the Village of Minoa, pursuant to New York State General Municipal Law Article 17 requesting certain territory situated in the Town of Manlius and described as Tax Parcel No. 068-02-02.0 on the Town Tax Map as set forth in the resolution prepared by the Town Attorney and presented to the Board.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nayes: 0 All in Favor. Motion Carries.

C) Attorney – No New Business

D) Town Clerk –

Town Clerk Edsall stated that due to the “Uniform Notice of Claim Act” any person considering suing a municipality can now serve a notice of claim upon the Secretary of State in addition to the Town Clerk and the Attorney for the Town. If a plaintiff chooses to serve a municipality in this manner they must pay a fee of \$250 which will be divided between the Town and the State. In order to be eligible to receive these funds the Town must file a certificate with the Secretary of State designating the Secretary of State as an agent that may be served on behalf of the Town.

Conversation ensued regarding the serving of notices.

Councilor Marzola made a motion, seconded by Councilor Giordano to approve the designation of the Secretary of State as an agent to be served upon on behalf of the Town “Uniform Notice of Claim Act” as set forth in the resolution prepared by the Town Attorney and presented to the Board.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nayes: 0 All in Favor. Motion Carries.

E) Police Chief

Chief Marlowe stated the new lease for the Harley Davidson Motorcycle must be signed. Chief Marlowe explained that this lease is paid for with the STOP DWI funds that the Town receives.

Councilor Marnell made a motion, seconded by Councilor Loeffler, to authorize Chief Marlowe to sign the 2013 motorcycle lease with Harley Davidson.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nayes: 0 All in Favor. Motion Carries.

Chief Marlowe stated that the interview and hiring process has been completed for Todd Duval.

Councilor Loeffler made a motion, seconded by Councilor Green, to approve hiring Todd Duval as a Police Officer with a start date of June 9, 2013.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nayes: 0

All in Favor.

Motion Carries.

F) Town Board

Councilor Cassalia stated that he would like to compliment Highway Superintendent Cushing for his hard work during the recent storm cleanup. Councilor Cassalia stated that residents had contacted him and indicated that the highway department provided excellent service and exceeded their expectations.

Councilor Marzola stated that he has received the Village fire budgets and would like to schedule a presentation for June 26, 2013. Discussion ensued regarding the fire budget calendar.

Councilor Marnell gave a brief update on the forensic audit of the Justice Court.

Councilor Giordano stated that the telephone contract and pest control contracts have to be renewed for Town Hall.

Councilor Loeffler made a motion, seconded by Councilor Marnell, to approve the annual contract for the telephone services with All-Mode with an increase of \$5.55 per month.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nayes: 0

All in Favor.

Motion Carries.

Councilor Marnell made a motion, seconded by Councilor Green, to approve the annual pest control contract with Ehrlich Pest Control.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nayes: 0

All in Favor.

Motion Carries.

G) Supervisor

Supervisor Theobald stated that the Trash and Brush contract with Syracuse Haulers will expire in October. Conversation ensued regarding current service and cost.

Councilor Marnell made a motion, seconded by Councilor Green, to extend the Trash and Brush contracts with Syracuse Haulers for one year, pursuant to the contract dated January 1, 2010.

Ayes: Supervisor Theobald, Councilor Loeffler, Councilor Giordano, Councilor Green, Councilor Marnell, Councilor Cassalia, Councilor Marnell

Nayes: 0

All in Favor.

Motion Carries.

7. Executive Session

With there being no further business to come before the Board, upon motion duly made by Councilor Giordano and seconded by Councilor Loeffler, the Board unanimously voted to adjourn regular session at 8:29 pm to enter into executive session to discuss contract negotiations with the Town of Manlius PBA.

Submitted by:

Allison Edsall
Manlius Town Clerk

EXECUTIVE SESSION MEETING MINUTES

Executive Session

May 22, 2013

Upon motion duly made by Councilor Marnell and seconded by Councilor Giordano, the Board unanimously agreed to close Executive Session and re-enter Regular Session.

The Town Board re-entered Regular Session at 9:05 p.m.

There being no further business to come before the Board, upon motion duly made by Councilor Green and seconded by Councilor Cassalia, the Board unanimously voted to adjourn the Regular Session at 9:06 p.m.

Submitted by:

Allison Edsall
Manlius Town Clerk