

REGULAR MEETING
TOWN OF SHELBY
March 14, 2017 7:04PM

Present: Dale Stalker, Deputy Supervisor
Kenneth Schaal, Councilman
William Bacon, Councilman
Darlene Rich, Town Clerk
Dan Wolfe, Codes & Zoning Officer
Claude Grimes, Constable

Excused: Merle Draper, Supervisor, Out of Town
Stephen Seitz, Jr., Councilman
Karl Essler, Council for Bond, Schoeneck & King
Trisha Laszewski, Assessor
Michael Fuller, Highway Superintendent
Kirk Myhill, Planning Board Chairman
Traci Culver, Bookkeeper
Paul Gray, Constable

Others: Jerry Velesko Jacob Velesko
Bryce Wickham Paul Grabowski

Meeting was called to order at 7:04 PM
Pledge to the flag
Public forum regarding agenda items only – none

Highway Report – (Mike Fuller) – No report. Due to snow storm Mike is working tonight.

Assessor Report – (Trisha Laszewski) – No report. Excused due to snow storm.

Planning Board Report – (Kirk Myhill) – No report. Excused due to snow storm.

Zoning Board Report – (Dan Wolfe) – Will have report next week. He is just getting back from being off last week. Councilman Schaal asked Dan about the resolution on the agenda setting up a public hearing regarding the rezoning of the Rt. 63 and West Ave. Ext. and were we ready for that. Dan said the Town of Shelby initiated a zoning change in the hamlet of Rt. 63 and West Ave. Ext. Planning Board recommended zoning change. It went to County Planning Board with no objections. Recommended that no stipulation and went back to planning board to set public hearing. Dan has all the addresses and will have them mailed out to residences that are within 500 feet. Zoning would be changed from hamlet to General Business.

Note- Supervisor is out of town on business, and snow storm is going on but will have business as usual as we do have a quorum.

RESOLUTION 36-17

RESOLUTION TO APPROVE MINUTES OF PREVIOUS MEETINGS MINUTES

Motion, Schaal; second, Bacon

Ayes–3, Opposed-0, Absent-Draper, Seitz Jr. Carried

RESOLUTION 37-17

RESOLUTION TO APPROVE THE TOWN CLERK'S REPORT

Motion, Bacon; second, Schaal

Ayes-3, Opposed-0, Absent-Draper, Seitz Jr. Carried

RESOLUTION 38-17

RESOLUTION TO APPROVE THE SUPERVISOR'S REPORT

Motion, Schaal, seconded, Bacon

Ayes-3, Opposed-0, Absent-Draper, Seitz Jr. Carried

RESOLUTION 39-17

RESOLUTION TO APPROVE PAYMENT OF BILLS

Motion, Bacon; second, Schaal

Ayes-3, Opposed-0, Absent-Draper, Seitz Jr. Carried

General	\$	108,584.54	Highway	\$	35,291.65
Water No. 1	\$	770.65	Water No. 2	\$	87.24
Water No. 3	\$	496.29	Water No. 4	\$	348.95
Water No. 4B	\$	348.95	Water No. 5	\$	29.08
Water No. 6	\$	397.92	Water No. 7	\$	391.35
Water No. 8	\$	194.25	Water No. 9	\$	203.56
Water No. 10	\$	145.40	Water No. 11	\$	12,074.48

RESOLUTION 40-17

RESOLUTION TO INCREASE BUDGET LINE FOR MISCELLANEOUS EXPENSES FOR WATER DISTRICT NO. 12 BY \$1000-\$2000.

Motion, Schaal; second, Bacon

Ayes-3, Opposed-0, Absent-Draper, Seitz Jr. Carried

This was a recommendation of our engineer

RESOLUTION 41-17

RESOLUTION AUTHORIZING THE SUPERVISOR TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF ORLEANS REGARDING PREPARATION OF THE WESTERN ORLEANS COMPREHENSIVE PLAN

Motion, Bacon; second, Schaal

Ayes-3, Opposed-0, Absent-Draper, Seitz Jr. Carried

Donation of police radios to court- The Orleans County Motorcycle Association donated three radios and accessories to the Justice Court of the Town of Shelby. This should have been announced at last month's meeting however was overlooked.

RESOLUTION 42-17

RESOLUTION SUPPORTING COUNTY RESOLUTION NO. 62-217-SUPPORTING AN INCREASE IN THE SHARE OF REVENUE COUNTIES RETAIN FOR PROVIDING STATE DMV SERVICES

Motion, Schaal; second, Bacon

Ayes-3, Opposed-0, Absent-Draper. Seitz Jr. Carried

County Resolution No. 62-217
SUPPORTING AN INCREASE IN THE SHARE OF REVENUE COUNTIES RETAIN FOR PROVIDING STATE DMV SERVICES

WHEREAS, in New York State 51 of 62 counties are mandated to operate a local Department of Motor Vehicles (DMV) office; and

WHEREAS, local DMV Offices provide customer service and process many no-fee transactions on behalf of New York State; and

WHEREAS, under current law the State of New York takes 87.3% of all fees collected from the work performed by the county operated DMV's; and

WHEREAS, the remaining 12.7% county share has not been increased since 1999, yet the amount of work required by local DMV offices has increased in the same time period; and

WHEREAS, the Governor and the State Legislature have repeatedly stated that lowering the property tax burden on local residents is a key priority; and

WHEREAS, increasing the county DMV revenue sharing rate with the state will not result in any increased cost or fees to local residents or taxpayers and will provide counties with the needed revenue to continue to provide necessary local government services; and

WHEREAS, there is a clear inequity present when a county DMV provides all the services including overhead and staffing to fulfill these DMV needs for state residents, yet the State takes 87.3% of the revenue generated from providing said services; and

WHEREAS, the New York State Association of County Clerks strongly supports Bill numbers S1908 and A3397, which would increase the DMV revenue to counties and provide a more equitable share in order to run DMV offices and help offset county property taxes; and

RESOLVED, that the Orleans County Legislature, calls upon Governor Andrew M. Cuomo and members of the State Legislature to support Senate Bill Number S.1908 and Assembly Bill A.3397 that relates to increasing the retention percentage for certain motor vehicle service fees; and be it

FURTHER RESOLVED, that certified copies of this resolution be forwarded to Governor Andrew Cuomo, Senator Robert G. Ort, Assemblyman Steve Hawley, Assemblyman Michael J. Norris, NYSAC, New York State Association of County Clerks (NYSACC), and all others deemed necessary and proper.

RESOLUTION 43-17

RESOLUTION SUPPORTING COUNTY RESOLUTION NO. 71-217- URGING NEW YORK STATE TO FUND PROBATION DEPARTMENTS AND OTHER IMPACTED COUNTY DEPARTMENTS AND AGENCIES THE FULL COST ASSOCIATED WITH RAISING THE AGE OF CRIMINAL RESPONSIBILITY TO 18 YEARS OF AGE

Motion, Bacon, second, Schaal

Ayes-3, Opposed-0, Absent-Draper, Seitz Jr. Carried

County Resolution No. 71-217

URGING NEW YORK STATE TO FUND PROBATION DEPARTMENTS AND OTHER IMPACTED COUNTY DEPARTMENTS AND AGENCIES THE FULL COSTS ASSOCIATED WITH RAISING THE AGE OF CRIMINAL RESPONSIBILITY TO 18 YEARS OF AGE.

WHEREAS, Governor Cuomo signed Executive Order 131 on April 9, 2014 to establish the Commission on Youth, Public Safety and Justice instructing the Commission to develop a concrete plan to raise the age of criminal responsibility in New York State and make specific recommendations on how the juvenile and criminal justice systems can better serve youth, improve outcomes and protect communities; and

WHEREAS, the Commission completed its report on December 31, 2014 recommending raising the age of criminal responsibility from age 16 to age 18 over a two year period to be completed in a phased in approach; and

WHEREAS, Division of Criminal Justice Statistics reveal the number of arrests among 16 and 17 year olds statewide in calendar year 2015 was 27,281 and that under the proposed change these youth will now be shifted from the criminal courts to local Probation Departments for Intake and Diversion services; and

WHEREAS: The Governor's proposal recommends that the violation level offenses of Harassment, 2nd Degree and Disorderly Conduct shall also be diverted to Probation Departments for Intake and Adjustment services, thus adding substantially to the workload of Probation staff; and

WHEREAS, the Governor's proposal recommends Probation Departments provide a continuum of diversion services that range from minimal intervention for low risk youth and evidence based service for high risk youth; and

WHEREAS, Probation Departments will not be able to absorb the influx of youth requiring Intake and Diversion services at current staffing levels and will require additional staff to perform these duties; and

WHEREAS These added burdens to county Probation Departments come as the state share of probation costs has fallen from 46.5% in 1990 to 9% in 2016; and

WHEREAS, other County Departments and agencies may be similarly affected by the increase in the age of criminal responsibility in areas that range from juvenile detention to

community support services, and do not have alternative sources of income to support the cost of additional responsibilities and services, and

WHEREAS, Counties cannot absorb the financial cost associated with raising the age without 100% funding of the additional staff and services required by the Governor's proposal; and

WHEREAS, the funding proposal stipulates that only counties who do not exceed the 2% tax cap and can demonstrate to the Division of Budget that funding related services is a fiscal hardship may apply for a waiver of the local share requirement of an expense otherwise incurred; now therefore be it

RESOLVED, that the Orleans County Legislature insists the State Legislature enact legislation that fully, permanently and unambiguously obligates the State to pay for 100% of all new costs incurred by Probation Departments and other county departments and agencies affected by raising the age of criminal responsibility; and be it

FURTHER RESOLVED, that language be included to set aside designated funds from which Counties can draw, eliminating the need for Counties to exceed their 2% tax cap; and be it

FURTHER RESOLVED, that the Clerk of the Legislature shall forward copies of this resolution to Governor Andrew Cuomo, Senator Ortt, Assemblyman Hawley, Assemblyman Norris, the Senate Majority and Minority Leaders, the Assembly Majority and Minority Leaders, Congressman Collins, New York State Counties and NYSAC.

RESOLUTION 44-17

RESOLUTION SUPPORTING COUNTY RESOLUTION NO. 81-217-SUPPORTING LEGISLATION TO PARTIALLY REPEAL THE NEW YORK SECURE AMMUNITION AND FIREARMS ENFORCEMENT (SAFE) ACT OF 2013 FOR AREAS OUTSIDE NEW YORK CITY

Motion, Schaal; second, Bacon

Ayes-3, Opposed-0, Absent-Draper, Seitz Jr. Carried

Senator Ortt, Assemblyman Hawley, Assemblyman Norris support SAFE ACT for New York City.

County Resolution No. 81-217

SUPPORTING LEGISLATION TO PARTIALLY REPEAL THE NEW YORK SECURE AMMUNITION AND FIREARMS ENFORCEMENT (SAFE) ACT OF 2013 FOR AREAS OUTSIDE OF NEW YORK CITY

WHEREAS, Senate bill S879B has been introduced to the New York State Senate by Senator Robert Ortt, which would repeal part of the New York Secure Ammunition and Firearms Enforcement Act of 2013; and

WHEREAS, this Legislative Body has long advocated for the protection of the rights afforded our citizens under the Constitution, which has for generations guided our Nation and served as a framework to our republic and society; and

WHEREAS, the Second Amendment of the United States provides for the “right of the people to keep and bear arms” and further states that this right “shall not be infringed”; and

WHEREAS, members of the Orleans County Legislature, being elected to represent the people of Orleans County, are duly sworn by their oath of office to uphold the Constitution of the United States; and

WHEREAS, members of the New York State Assembly and the New York State Senate, being elected by the people of New York State, are duly sworn by their oath of office to uphold the Constitution of the United States; and

WHEREAS, the Civil Rights Law of the State of New York states in Article 2 Section 4, “Right to keep and bear arms. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms cannot be infringed.”; and

WHEREAS, the lawful ownership of firearms is a recreational benefit to our residents through hunting and target shooting, along with an economic and environmental benefit to our region with several locally owned and operated gun/sporting businesses; and

WHEREAS, the New York State Secure Ammunition and Firearms Enforcement (NY SAFE Act) of 2013 which was rushed to passage by the New York State Senate, Assembly and Governor, will have a detrimental effect on hunters, sportsmen and legal gun owners, creating a hostile environment both for them and for the sale and manufacture of legal firearms; and

WHEREAS, the legislation unconstitutionally prohibited the sale of firearm magazines with a capacity larger than seven (7) rounds and, those firearm magazines with a capacity larger than seven (7) rounds, which were authorized to be retained by existing owners, could only be loaded with seven (7) rounds and eventually must be permanently altered to only accept seven (7) rounds or be disposed of; and

WHEREAS, the seven round limit contemplated in the legislation was found to be unconstitutional upon judicial review; and

WHEREAS, the legislation severely impacts the possession and use of firearms now employed by the residents of Orleans County for the defense of life, liberty and property; and

WHEREAS, the legislation severely impacts the possession and use of firearms now employed for safe forms of recreation including, but not limited to hunting and target shooting; and

WHEREAS, while there are some areas of the legislation that the Orleans County Legislature finds encouraging, such as the strengthening of Kendra’s Law and Marks’s Law, as well as privacy protections for lawful permit holders, we find the legislation fails to offer little meaningful solutions to gun violence and places undue burdens where they don’t belong, squarely on the backs of law abiding citizens; and

WHEREAS, there are many parts of this legislation that place an unfunded mandate on the local Sheriff Departments, County Clerk's Office and County Judges, while tax payers are crying out relief; and

WHEREAS, there will be significant financial impact due to the approximately 5,000 Orleans County pistol permits that will have to be renewed requiring additional manpower and computer systems; and

WHEREAS, requiring law-abiding gun owners to verify ownership of certain types of firearms every five years, in addition to registering them on permits, which now also must be renewed every five years, does not increase the safety of the public and is unnecessarily burdensome to the residents of New York State; and

WHEREAS, this legislation effectively treats countless New York State law abiding gun owners as criminals; and

WHEREAS, the enactment of the NY SAFE Act has engendered significant controversy over both the process by which it was enacted and certain provisions contained within; and

WHEREAS, the manner in which this legislation was brought forward for vote in the State Legislature is deeply disturbing to the Orleans County Legislature; and

WHEREAS, this legislative body unanimously voted to oppose the New York Secure Ammunition and Firearms Enforcement Act of 2013 for all reasons stated above in Resolution No. 82-213 of the Orleans County Legislative proceedings of February 13, 2013; now be it

RESOLVED, that the Orleans County Legislature does hereby support Senator Robert Orrt's bill (S879B) to repeal part of the New York Secure Ammunition and Firearms Enforcement Act of 2013, limiting the application of the "S.A.F.E. Act" to the five boroughs of New York City; and be it

FURTHER RESOLVED, that this Legislature supports the introduction of an Assembly bill which calls for the repeal or partial repeal of the New York Secure Ammunition and Firearms Act of 2013; and be it

FURTHER RESOLVED, that this legislature supports efforts by the New York State Legislature to remove funds for enforcement of the New York Secure Ammunition and Firearms Act of 2013 from the New York State Budget; and be it

FURTHER RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the Governor of the State of New York Andrew Cuomo, Senate Majority Leader John Flanagan, Senator Robert Orrt, Speaker of the New York State Assembly Carl Heastie, Assemblyman Stephen Hawley, Assemblyman Mike Norris, New York State Association of Counties, InterCounty of Western New York, all Orleans County Towns and Villages, and all others deemed necessary and proper.

RESOLUTION 45-17

RESOLUTION AGREEING TO ACCEPT THE CONVEYANCE OF MOUNT PLEASANT CEMETERY EFFECTIVE MARCH 14, 2017

Motion, Bacon; second, Stalker

Ayes-3, Opposed-0, Absent-Draper, Seitz Jr. Carried

Mount Pleasant Cemetery ran out of funds. As a result it is turned over to the Town. Paperwork is done. Town as a legal entity has to accept the cemetery. Town will maintain and run it.

RESOLUTION 46-17

RESOLUTION TO SET PUBLIC HEARING FOR APRIL 11, 2017 AT 7:00 PM (THE NEXT BOARD MEETING) FOR REZONING WEST AVE. EXT. AND ROUTE 63 FROM HAMLET TO GENERAL BUSINESS

Motion, Bacon; second, Schaal

Ayes-3, Opposed-0, Absent-Draper, Seitz Jr. Carried

Board Comments –Councilmen Schaal and Bacon audited the Bookkeeper books and found in good order.

Councilmen Stalker and Schaal audited the justice books and found in good order.

Councilmen Bacon and Stalker audited the clerk's books and found in good order.

Public Comments –Jerry Velesko had questions regarding the SAFE Act. Councilman Schaal said Legislation is doing all that it can. NY City has problems with pistols-not upstate NY. It's just a matter of time to see what happens.

Motion by Councilman Bacon and seconded by Councilman Schaal to adjourn meeting at 7:19 pm

Respectfully submitted,

Darlene A. Rich, MMC, RMC
Town Clerk