

Town of Nanticoke

Board Meeting 09/13/2022

The Town of Nanticoke held their September Meeting on Tuesday, September 13, 2022. The meeting was held at 7:00 p.m. in the Nanticoke Town Hall, 755 Cherry Valley Hill Road Maine, NY 13802.

Present:

Roy Willis	Town Supervisor
Daniel Baker	Town Councilman
Michael Holden	Town Councilman
Scott Whittaker	Town Councilman
Ron Zielewicz	Town Councilman
James Shear	Highway Superintendent
Renny Zanker	Town Clerk
Sue Williams	Deputy Clerk
Robert McKertich	Town Attorney

Guests: James Lamb, Robert Hoag, Andy Jackson, Lewis Jackson, Anthony Slack, Molly Willis, Cheryl Brady, David Yankow, Doug Reichert, Curt Zanker, Mike Clark, and Josh Clark.

Meeting was opened at 7:00 p.m. by Supervisor Willis. All joined in the Pledge of Allegiance.

Motion was made to accept the minutes from the prior meeting on August 9, 2022.

Motion was made by: Councilman Scott Whittaker

Seconded by: Councilman Mike Holden

Roll call vote: Dan Baker: aye, Ron Zielewicz: aye, Mike Holden aye, Scott Whittaker: aye, motion carried.

New Business:

Motion to approve the Supervisors Report.

Motion was made by: Councilman Ron Zielewicz

Seconded by: Councilman Dan Baker

Roll call vote: Scott Whittaker: aye, Mike Holden: aye, Ron Zielewicz: aye, Dan Baker: aye, motion carried.

Motion was made to retroactively approve the transfer of \$1,807.47 from Nanticoke checking account ending in 3748 at NBT to Broome Volunteer Account ending in 4943 per our agreement with Broome Volunteer Ambulance.

Motion was made by: Councilman Scott Whittaker.

Seconded by: Councilman Ron Zielewicz.

Roll call vote: Mike Holden: aye, Ron Zielewicz: aye, Dan Baker: aye, Scott Whittaker: aye, motion carried.

Motion to approve the bills as audited.

General(A) Fund... Vouchers 151-168 in the amount of \$10,678.08.

Highway (DA) Fund... Vouchers 88 -103 in the amount of \$60,052.15.

Motion was made by: Councilman Dan Baker

Seconded by: Councilman Scott Whittaker

Roll call vote: Mike Holden: aye, Ron Zielewicz: aye, Dan Baker: aye, Scott Whittaker: aye, motion carried.

Department Head Reports:

Code Enforcement Officer - Mark See

- Supervisor Roy Willis reported in the absence of Mark See that he had been in contact with Supervisor Willis that he would not be able to attend the meeting.

Town Clerk - Renny Zanker

- Renny stated Hunting Licenses are being sold.
- The phone system has intermittent problems. Upgrades continue to be a work in progress.

Dog Control Officer – William Holmes

- Supervisor Willis spoke with William in regards to a few small issues one in Nanticoke and another on Rabbit Path Rd.

Councilmen:

Councilman Holden brought forth any bids received in regards to pressure washing and staining the Salt Barn.

Motion was made to approve the Bid with Lukim Construction LLC for \$8,250.00 to pressure wash and stain the Salt Barn.

Motion made by: Councilman Ron Zielewicz

Seconded by: Councilman Mike Holden

Roll call vote: D. Baker: aye, S. Whittaker: aye, M. Holden: aye, R. Zielewicz: aye, motion carried.

Highway Superintendent, James Shear:

- Highway Superintendent, James Shear brought forth a proposal for a new tractor. Councilmen reviewed the proposal and answered all questions. This would be a request for the future.
- The salt has been delivered and is ready for this winter.

A Resolution regarding the Abandonment of a Portion of Fairbanks Road was brought to the table.

Councilman Mike Holden questioned who had brought forth the Resolution of Abandonment of a Portion of Fairbanks Road. The land owners had requested Highway Superintendent, James Shear to abandon that portion they own.

Town Attorney Robert McKertich explained the proper procedures needing to be taken to bring a resolution to the attention of the councilmen for review and approval.

Councilman Ron Zielewicz asked Mr. Yankowy and Mr. Reichert if they would like to share their thoughts and concerns.

David Yankowy and Doug Reichert principals of the LLC are land owners of a portion on Fairbanks Road introduced themselves and discussed the concerns they had regarding the road being built without their knowledge. Along with concerns of drainage and any other liabilities that may arise.

Resident Lewis Jackson had questions for Mr. Yankowy and Mr. Reichert regarding the deed for a portion of the Fairbanks Road. Lewis shared a map with the councilmembers to give a better idea of what he is trying to explain showing the Jacksons' Property along with Broome County Property showing it as a landlocked parcel.

Supervisor Willis explained the resolution was to release the town of any responsibility from this day forth. He went on to question if the property had been maintained by the town and if so, who was maintaining this property? Lewis Jackson stated it had been mowed. Landowners Mr. Yankowy and Mr. Reichert were not aware of anyone on the property and said it looked like a walking path.

Councilman Holden questioned if it was or was not a road? Had Jake Slack been asked if he had done any maintenance in the last six years. Supervisor Willis was told it took a few weeks not a few days to build a road, as others were told. And it was no more than a walking path 3 feet wide.

Attorney McKertich responded to Councilman Holden that a letter had been sent to Mr. Slack last September with questions. Mr. Slack did not respond to the attorney's letter.

Attorney McKertich explained what constitutes a road to be a road. A road must be opened, worked, and traveled within six years or it would become abandoned as a matter of law.

Attorney McKertich went over a couple of ways to acquire a road:

- A deed that goes from the property owner to the municipality that states we are deeding you this road it is owned by the municipality and it is recorded in the registry and it sets forth boundaries to the road. There is no deed like that in our municipality.
- Or a Prescriptive Easement which gets created over time, most of our roads are done that way. They're done by virtue of it being laid out, used, opened and maintained by the town.
 1. If it hasn't been opened, worked, or maintained within six years.
 2. Traveled, or used as a public right away within those six years it becomes abandoned as a matter of law.

Anthony Slack asked if a road was added to the towns inventory of roads, wouldn't the town benefit from the road, with state funding or CHIPS Money, with it being considered taxable road? In his opinion he would think the town would benefit by having the road.

Resident Lewis Jackson asked for clarification of a portion of Section 205 that states a Qualified Abandonment of such highway is proper and will not cause injustice or hardship to occupant of any land that adjoins any highway. Attorney McKertich explained that is a Qualified Abandonment and is different from a Full Abandonment.

Qualified Abandonment is different from a Full Abandonment or a Discontinuance. With this case it would be considered a Full Abandonment.

Supervisor Willis gave an example to Anthony of a property owner in the Town of Maine, who was looking to build a road for a housing development. The town only gave him the standards to which the road should be built, the property owner paid to put the road in, then submitted what they did.

Councilman Holden asked to table this resolution until next month in order get more information.

Highway Superintendent James Shear was asked if he had given permission to mow Fairbanks Road. He had not given anyone permission to mow Fairbanks Road. Superintendent Shear replied he had not.

Landowners Mr. Yankowy and Mr. Reichert stated that since they owned the property from 2011 there had never been a road, nor had they been contacted about it being maintained as a road. They questioned why anyone would even build a road to nowhere?

Councilman Zielewicz commented that from the beginning none of this was handled properly. He asked if the property had been surveyed, and who paid for it? He feels under the law we have no choice but to abandon the road.

Resident Josh Clark, inquired as to whom would he ask for specs to build a road? He builds roads and asked why a certain material had been used and why.

Councilman Zielewicz and Councilman Baker asked further questions regarding the road.

Councilman Baker asked if we have a formal definition for maintenance for a town road? Attorney McKertich clarified it has to be done by the town. It can not be someone doing it without direction of the town. Superintendent Shear stated there had been a stop work order.

A factual question is, was it opened and maintained by the town? If it wasn't cleared and paved, on the docket or even traveled on by public it wouldn't be considered as a road.

A further definition was given, as to what can be considered a seasonal road. It, has to be posted under NYS Law as a seasonal road and the Highway Superintendent every November 1st has to certify it as being a seasonal road. None of these were found to have been done.

Motion was made to except the Resolution Regarding the Abandonment of a Portion of Fairbanks Road Under Section 205(1) of the Highway Law of the State of New York.

Motion was made by: Councilman Dan Baker

Seconded by: Councilman Ron Zielewicz

Roll call vote: Supervisor R. Willis: aye, motion carried.

Anthony Slack introduced himself and spoke to the other landowners explaining what happened from the beginning. The research done and how it had been brought to the board and proceeded from there to where it is now. The landowners appreciated the explanation at the same time they were not happy how it had been handled.

The landowners listened and appreciated Anthony giving them the history of what and how things evolved with the matter of the road with what he knew.

Superintendent Shear asked if this could be overturned if the other landowners decided to sell to the other parties. It would be between parties to sell the land or sell them an easement.

Clarification was asked what date it was considered an abandon road. Then later there were subsequent minutes to abandon the road in the 1930's and when any discussion was brought to the table regarding Fairbanks Road. It had been discussed in the meeting minutes in 2006. Then July of 2021 it had been brought up in discussion due to a complaint had brought to the Dog Control Officer in regards to a complaint with a dog.

Councilman Holden asked if the District Attorney would be in contact with the councilman or any of the parties involved? Supervisor Willis was asked for contact information only. He is not involved with whatever the District Attorney has on his agenda.

July of 2021 it had been brought up in discussion due to a complaint had brought to the Dog Control Officer in regards to a complaint with a dog.

Councilman Holden asked if the District Attorney would be in contact with the councilman or any of the parties involved? Supervisor Willis was asked for contact information only. He is not involved with whatever the District Attorney has on his agenda.

Supervisor Willis informed the councilmembers that the Glen Aubrey Fire Station has requested an increase with this year's budget. This will be discussed at the next board meeting in October.

Motion was made for a Preliminary Budget Review for Tuesday, September 27, 2022 at 7:00 p.m.

Motion was made by: Councilman M. Holden

Seconded by: Councilman Scott Whittaker

Roll call vote: D. Baker: aye, R. Zielewicz: aye, M. Holden: aye, S. Whittaker: aye, motion carried.

Motion was made for a Public Hearing on Tuesday, October 11, 2022 at 7:00 p.m. for the 2023 Budget.

Motion was made by: Councilman Dan Baker

Seconded by: Councilman Scott Whittaker

Roll call vote: R. Zielewicz: aye, M. Holden: aye, D. Baker: aye, S. Whittaker: aye, motion carried.

Supervisor Willis went around the room thanking all who attended and asked each guest if they had any questions or other comments at this time. All denied.

Motion was made to close the meeting at 8:15 p.m.

Motion was made by: Councilman Ron Zielewicz

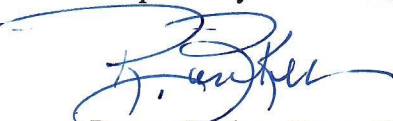
Seconded by: Councilman Dan Baker

Roll call vote: Mike Holden: aye, Scott Whittaker: aye, Ron Zielewicz: aye, Dan Baker: aye, motion carried.

The next Nanticoke Town Board Meeting will be held on Tuesday, October 11, 2022 at 7:00 p.m. at the town hall.

Respectfully Submitted,

Date approved: November 10, 2022


Renny Zanker, Town Clerk