

A regular meeting of the Town Board of the Town of Sweden was held at the Town Hall, 18 State Street, Brockport, New York, on Tuesday, December 14, 2004.

Town Board Members present were Supervisor Buddy Lester, Councilperson Rob Carges, Councilperson Patricia Connors, Councilperson Tom Ferris, and Councilperson Danielle Windus-Cook. Also present were Building Inspector Bill Weber and Town Clerk Karen Sweeting. Visitors present were Jane Klimek from Clarendon and Frank and Julie Lapinski from 4016 Sweden Walker Road.

Supervisor Lester called the meeting to order at 7:30 p.m. and asked everyone present to say the Pledge to the Flag. Supervisor Lester then acknowledged the presence of the visitors and asked if there was anyone that would like to speak. There was no one.

APPROVAL OF MINUTES

Councilperson Connors made a motion that was seconded by Councilperson Windus-Cook to accept the minutes of the Regular Town Board Meeting held November 23, 2004. All voted in favor of the motion. Motion adopted.

SUPERVISOR'S CORRESPONDENCE

2004 Received From:	Comments:
1. Marleen Cain, Deputy Town Clerk	Board Appointment Term Expirations
2. James J. Oberst, Town Engineer, MRB Group	Hazard Mitigation Funding – East Canal Road Drainage
3. Mark R. Aesch, Chief Executive Officer, Rochester Genesee Regional Transportation Authority	Discontinued Service – Route #20
4. David Scott, Sweden/Clarkson Recreation Director	Recommendations for Clerk Part Time positions.
5. James Bell, Town Attorney	Resolution – Defense of Town Officers and Employees
6. Fred Perrine, Highway Superintendent	Snow Removal Equipment Purchases
7. Brian Caterino, Educable Communications Corporation	Franchise Fees
8. Monroe County Department of Planning and Development	Land Use Decision-Making Training Program
9. Edward Lehman, Campbell Road	Request to obtain excess hardwoods.
10. Kevin N. Hill, President and Chief Operating Officer, Excellus BlueCross BlueShield	Rate increases
11. Shawn R. Bray, Airport Engineering Manager, Passero Associates	Eisenhauer Drive Dedication – Ledgesdale Airpark

Supervisor Lester addressed Correspondence Number 1 (one) by stating that he had not heard of anyone not interested in continuing their position.

REPORTS

William Weber requested permission to attend the Finger Lakes Building Officials Association conference in March 2005 held at the RIT conference center. Mr. Weber will be checking with Town of Livonia to see if they will pick up half the registration cost. Councilperson Carges made a motion that was seconded by Councilperson Ferris to grant Mr. Weber permission to attend the Finger Lakes Building Officials conference in March 2005. The

Board agreed to cover the full registration cost if necessary. All voted in favor of the motion. Motion adopted.

Mr. Weber reported that the sign enforcement is continuing. The construction of Tractor Supply is moving along and commented on how nice it has been to deal with all the individuals involved in that construction. Also Spurr's parking lot expansion is moving along well.

Councilperson Carges reported that new lights have been installed in the SCCC gymnasium. They are more efficient and should save on the cost of electricity. Monroe Piping to submit an estimate for the duct work over the kitchen area at the center. Credit card processing for payment of programs has begun and seems to be working well. Also the on-line registration is increasing in use. Mr. Carges brought up the concern that the SCCC is missing out on potential customers from the Bergen, Clarendon and Murray/Holley areas. Talked with Suburban News to see what extra expense it would be to advertise to these areas. It would cost approximately \$3,000 per year to reach an additional 4,200 potential customers. That cost would be offset with 80 new customers. Motion to increase the advertising area and take on the additional cost made by Councilperson Windus-Cook and seconded by Councilperson Connors. All voted in favor of the motion. Motion adopted.

Councilperson Windus-Cook reported that she and Councilperson Connors met with General Code Publishers. The proposal was received and copies given to all board members for review by the Town Clerk. Ms. Windus-Cook feels strongly with committing to the proposal as a whole and asked for the remaining members support.

Councilperson Ferris reported he attended a Brockport Community Museum meeting. They voted down the possibility of 60 Clinton Street as a potential museum site. Also had discussion regarding improvements and an energy audit for the Emily Knapp Museum. Mr. Ferris met with RPAC and went over the recommendations for the by-laws. Informed the Board of the new skateboarding laws that will become effective January 1, 2005. All persons under the age of 14 must wear a helmet while skateboarding. The signs for the skate park will have to be changed to include the requirement. Monroe County Sheriff to enforce and remove if necessary.

Supervisor Lester reported a list of meetings he has attended in the past month. They are working on the formation of a water district on Colby Street. The development of a time line for the purposes of funding is in the works. The sewer construction to the park is going well. SUNY Brockport is developing a housing unit for a maximum capacity of 250 students.

RESOLUTIONS

RESOLUTION NO. 138

Authorizing Supervisor to Enter Into
Agreement Extending Catering
Services to the Town of Ogden

WHEREAS, the Town of Ogden and the Town of Sweden did heretofore execute a certain Catering Services Contract, and

WHEREAS, both parties desire to extend such agreement for an additional period of one (1) year.

BE IT HEREBY RESOLVED, AS FOLLOWS:

Sec. 1. That the Supervisor be and he hereby is authorized to enter into an agreement with the Town of Ogden extending catering services.

Sec. 2. That this resolution shall take effect immediately.

MOTION for adoption of this resolution by Councilperson Connors
Seconded by Councilperson Ferris

Discussion:

VOTE BY ROLL CALL AND RECORD:

Councilperson Carges	<u>Aye</u>
Councilperson Connors	<u>Aye</u>
Councilperson Ferris	<u>Aye</u>
Councilperson Windus-Cook	<u>Aye</u>
Supervisor Lester	<u>Aye</u>

Submitted –December 14, 2004

Adopted

RESOLUTION NO. 139

Authorizing Supervisor to Enter Into
Agreement for Dog Kennel Services
To Town of Ogden

WHEREAS, The Town of Sweden and the Town of Ogden desire to enter into a Dog Kennel Services Contract,

WHEREAS, Said agreement shall continue to and through December 31, 2005 and may be renewed each year.

NOW, THEREFORE BE IT RESOLVED:

Sec. 1. That the Town Board of the Town of Sweden does hereby authorize the Supervisor to sign the Agreement with the Town of Ogden for Dog Kennel Services.

Sec. 2. That this resolution shall take effect immediately.

MOTION for adoption of this resolution by Councilperson Connors
Seconded by Councilperson Windus-Cook

Discussion: Supervisor Lester clarified that is was for kennel services only and not dog control services

VOTE BY ROLL CALL AND RECORD:

Councilperson Carges	<u>Aye</u>
Councilperson Connors	<u>Aye</u>
Councilperson Ferris	<u>Aye</u>
Councilperson Windus-Cook	<u>Aye</u>
Supervisor Lester	<u>Aye</u>

Submitted: December 14, 2004

Adopted

RESOLUTION NO. 140

Authorizing Supervisor to Enter Into
Agreement Extending Dog Control
Services to Town of Clarkson

WHEREAS, The Town of Sweden and the Town of Clarkson did heretofore execute a certain Dog Control Services Contract, and

WHEREAS, both parties desire to extend such agreement for an additional period of one (1) year.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

Sec. 1. That the Supervisor be and he hereby is authorized to enter into an agreement with the Town of Clarkson extending dog control services.

Sec. 2. That this resolution shall take effect immediately.

MOTION for adoption of this resolution by Councilperson Connors
Seconded by Councilperson Ferris

Discussion:

VOTE BY ROLL CALL AND RECORD:

Councilperson Carges	<u>Aye</u>
Councilperson Connors	<u>Aye</u>
Councilperson Ferris	<u>Aye</u>
Councilperson Windus-Cook	<u>Aye</u>
Supervisor Lester	<u>Aye</u>

Submitted – December 14, 2004

Adopted

RESOLUTION NO. 141 Appoint Nutrition Aide – Heubusch

WHEREAS, a vacancy exists at the Sweden Senior Center for a Nutrition Aide, Part Time; and

WHEREAS, The Senior Center Director recommends appointing Judy Heubusch.

NOW, THEREFORE BE IT RESOLVED:

Sec. 1. Upon recommendation of the Senior Center Director, the Sweden Town Board hereby appoints Judy Heubusch as Nutrition Aide at the Senior Center effective December 11, 2004.

Sec. 2. This position is for a four-hour work day with a rate of pay at \$5.50 per hour.

Sec. 3. That this resolution shall take effect immediately.

MOTION for adoption of this resolution by Councilperson Connors
Seconded by Councilperson Carges

Discussion:

VOTE BY ROLL CALL AND RECORD:

Councilperson Carges	<u>Aye</u>
Councilperson Connors	<u>Aye</u>
Councilperson Ferris	<u>Aye</u>
Councilperson Windus-Cook	<u>Aye</u>

Supervisor Lester

Aye

Submitted – December 14, 2004

Adopted

RESOLUTION NO. 142

Appointing Clerk Part Time – Grossman

WHEREAS, A vacancy exists at the Sweden Clarkson Community Center for a Clerk Part Time; and

WHEREAS, The Recreation Director recommends appointing Jessica Grossman.

NOW, THEREFORE BE IT RESOLVED:

- Sec. 1. That the Town Board of the Town of Sweden hereby appoints Jessica Grossman to the position of Clerk Part Time at the Sweden Clarkson Community Center.
- Sec. 2. That she will be paid at an hourly rate of \$6.00 starting on December 11, 2004.
- Sec. 3. That for Clerk Part Time at the Community Center, the maximum hours per week will be 20.
- Sec. 4. That this resolution shall take effect immediately.

MOTION for adoption of this resolution by Councilperson Connors
Seconded by Councilperson Carges

Discussion:

VOTE BY ROLL CALL AND RECORD:

Councilperson Carges	<u>Aye</u>	
Councilperson Connors		<u>Aye</u>
Councilperson Ferris	<u>Aye</u>	
Councilperson Windus-Cook	<u>Aye</u>	
Supervisor Lester	<u>Aye</u>	

Submitted – December 14, 2004

Adopted

RESOLUTION NO. 143

Appointing Clerk Part Time – Dolby

WHEREAS, A vacancy exists at the Sweden Clarkson Community Center for a Clerk Part Time; and

WHEREAS, The Recreation Director recommends appointing Anna Dolby.

NOW, THEREFORE BE IT RESOLVED:

- Sec. 1. That the Town Board of the Town of Sweden hereby appoints Anna Dolby to the position of Clerk Part Time at the Sweden Clarkson Community Center.
- Sec. 2. That she will be paid at an hourly rate of \$6.00 starting on December 11, 2004.
- Sec. 3. That for Clerk Part Time at the Community Center, the maximum hours per week will be 20.
- Sec. 4. That this resolution shall take effect immediately.

MOTION for adoption of this resolution by Councilperson Connors

Seconded by Councilperson Windus-Cook

Discussion:

VOTE BY ROLL CALL AND RECORD:

Councilperson Carges	<u>Aye</u>
Councilperson Connors	<u>Aye</u>
Councilperson Ferris	<u>Aye</u>
Councilperson Windus-Cook	<u>Aye</u>
Supervisor Lester	<u>Aye</u>

Submitted – December 14, 2004

Adopted

RESOLUTION NO. 144

Providing for the Defense of Town Officers and Employees

WHEREAS, The Sweden Town Board is desirous of providing for the defense of certain employees in any civil action or proceeding, State or Federal, arising out of any alleged act or omission which occurred or allegedly occurred while the employee was acting within the scope of his/her public employment or duties, and

WHEREAS, The Sweden Town Board is desirous of providing said defense and indemnification pursuant to Public Officers’ Law Section 18 and the Laws of the State of New York.

NOW, THEREFORE BE IT ENACTED BY THE SWEDEN TOWN BOARD AS FOLLOWS:

- Sec. 1. As used in this Resolution, unless the context otherwise requires:
- a) The term “employees” shall mean any person holding a position by election, appointment or employment in the service of the Town but shall not include a volunteer or an independent contractor. The term “employee” shall include a former employee, his estate or judicially appointed personal representative.
 - b) The term “town” shall mean the Town of Sweden.
- Sec. 2.
- a) Upon compliance by the employee with the provisions of Section 3 of this Resolution, the Town shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting or in good faith purporting to act within the scope of his/her public employment or duties. Such defense shall not be provided where such civil action or proceeding is brought by or on behalf of the Town.
 - b) Subject to the conditions set forth in this Resolution, the employee shall be represented by the Town Attorney or an attorney employed or retained by the Town for the defense of the employee. The Town Board shall employ or retain an attorney for the defense of the employee whenever:
 - i. The Town does not have a Town Attorney;
 - ii. The Town Board determines based upon its investigation and review of the facts and circumstances of the case that representation by the Town Attorney would be inappropriate; or

- iii. A court of competent jurisdiction determines that a conflict of interest exists and that the employee cannot be represented by the Town Attorney.
- iv. Reasonable attorney's fees and litigation expenses shall be paid by the Town to such attorney employed or retained, from time to time, during the pendency of the civil action or proceeding subject to certification by the Town Board that the employee is entitled to representation under the terms and conditions of this Resolution. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the Town. Any dispute with respect to representation to multiple employees by the Town Attorney or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the court.
- c) Where the employee delivers process and a request for a defense to the Town Attorney or the Town Supervisor, as required by Section 3 of this Resolution, the Town Attorney or the Supervisor, as the case may be, shall take the necessary steps including the retention of an attorney under the terms and conditions provided in paragraph b) of this section on behalf of the employee to avoid entry of a default judgment, pending resolution of any questions relating to the obligation of the Town to provide a defense.

Sec. 3 The duties to defend provided in this Resolution shall be contingent upon:

- a) Delivery to the Town Attorney or, if none, to the Town Supervisor of the original or a copy of any summons, complaint, process, notice, demand or pleading within five (5) days after he/she is served with such document; and
- b) The full cooperation of the employee in the defense of such action or proceeding against the Town based upon the same act or omission and in the prosecution of any appeal.

Such delivery shall be deemed a request by the employee that the Town provide for his defense pursuant to this Resolution unless the employee shall state in writing that a defense is not requested.

Sec. 4 The benefits of this Resolution will inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this Resolution be construed to affect, alter or repeal any provisions of the Worker's Compensation Law.

Sec. 5 The benefits of this Resolution shall be extended to an employee of a negotiating unit for which an agreement has been negotiated pursuant to Civil Services Law, Article 14, only if such agreement expressly so provides.

Sec. 6 The provisions of this Resolution shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

Sec. 7 As otherwise specifically provided in this Resolution, the provisions of this Resolution shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the Town, or any right to defense provided for any governmental officer or employee by, in accordance with, or by reason of any other provision of state or federal statutory or common law.

Sec. 8 The provision of the Resolution shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this Resolution.

Sec. 9 This Resolution shall take effect immediately.

MOTION for adoption of this resolution by Councilperson Connors
Seconded by Councilperson Ferris

Discussion:

VOTE BY ROLL CALL AND RECORD:

Councilperson Carges	<u>Aye</u>
Councilperson Connors	<u>Aye</u>
Councilperson Ferris	<u>Aye</u>
Councilperson Windus-Cook	<u>Aye</u>
Supervisor Lester	<u>Aye</u>

Submitted – December 14, 2004

Adopted

RESOLUTION NO. 145

Authorizing Settlement In the Matter of the Application of Marian M. Farash, as Trustee, Petitioner vs. The Assessor of the Town of Sweden, Respondent, Monroe County Supreme Court, Index No. 8584/01

WHEREAS, Marian M. Farash, as Trustee, has previously initiated a review of a tax assessment under Article 7 of the Real Property Tax Law entitled Marian M. Farash, as Trustee, Petitioner vs. The Assessor of the Town of Sweden, Respondent, and

WHEREAS, The aforesaid lawsuit is currently pending in Monroe County Supreme Court, Index Number 8584/01, and

WHEREAS, The parties have reached a settlement for the one year that is pending in relationship to this matter.

NOW, THEREFORE BE IT RESOLVED:

Sec. 1. The assessment on the petitioner’s real property known as tax account 083.08-2-9 for the tax year 2001-2002 be reduced to \$1,027,000.00

Sec. 2. The Assessor for the Town of Sweden shall correct the assessment rolls to indicate that the assessment of the petitioner’s said real property for the tax year 2001-2002 has been changed to \$1,027,000.00.

Sec. 3. The Town of Sweden, the Brockport Central School District and the County of Monroe shall refund to the petitioner a sum equal to the Difference between the real property taxes paid for the tax year 2001-2002 and the tax which would have been paid if the assessment had been in the amount of \$1,027,000.00, together with interest on said overpayment at 9% from the date the taxes were paid to the date of payment of said refund.

Sec. 4. The Attorney for the Town of Sweden is hereby authorized to execute a Stipulation of Settlement and to approve an Order of the Court to be entered based upon this Stipulation.

Sec. 5. That this resolution shall take effect immediately.

MOTION for adoption of this resolution by Councilperson Connors
Seconded by Councilperson Windus-Cook

Discussion:

VOTE BY ROLL CALL AND RECORD:

Councilperson Carges	<u>Aye</u>
Councilperson Connors	<u>Aye</u>
Councilperson Ferris	<u>Aye</u>
Councilperson Windus-Cook	<u>Aye</u>
Supervisor Lester	<u>Aye</u>

Submitted – December 14, 2004

Adopted

RESOLUTION NO. 146

Authorizing Fire Protection District
Contract for 2005

WHEREAS, the proposed contract between the Village of Brockport, the Brockport Fire Department and the Town of Sweden Fire Protection District has been received; and

WHEREAS, the Town Board held a public hearing on December 14, 2004 at 7:15 PM. on the proposed contract and all persons desiring to be heard were heard; and

WHEREAS, the Town Board deems it to be in the best interest, safety and welfare of the residents of the Sweden Fire Protection District to enter into the proposed agreement.

NOW, THEREFORE, BE IT RESOLVED:

Sec. 1. That the Town Board of the Town of Sweden, acting as Commissioners for the Sweden Fire Protection District, does hereby approve the proposed contract between the Village of Brockport, the Brockport Fire Department and the Town of Sweden Fire Protection District for fire protection in the amount of \$291,366.00 for the calendar year 2005.

Sec. 2. That this resolution shall take effect immediately.

MOTION for adoption of this resolution by Councilperson Connors
Seconded by Councilperson Ferris

Discussion:

VOTE BY ROLL CALL AND RECORD:

Councilperson Carges	<u>Aye</u>
Councilperson Connors	<u>Aye</u>
Councilperson Ferris	<u>Aye</u>
Councilperson Windus-Cook	<u>Aye</u>
Supervisor Lester	<u>Aye</u>

Submitted: December 14, 2004

Adopted

APPROVAL OF PAYMENT OF BILLS

All of the Board members reviewed the invoice audit journal. Councilperson Carges made a motion that was seconded by Councilperson Connors authorizing payment of the bills in Abstract 12a dated December 15, 2004. All voted in favor of the motion. Motion adopted.

General Fund: In the amount of \$38,050.81 as set forth in Abstract 12a dated December 15, 2004.

Highway Fund: In the amount of \$23,468.03 as set forth in Abstract 12a dated December 15, 2004

Special Districts: In the amount of \$136,114.99 as set forth in Abstract 12a dated December 15, 2004

DISCUSSION AND ANNOUNCEMENTS

There will be a workshop meeting Tuesday, January 4, 2005, at 7:00 p.m.

ADJOURNMENT

As there was no further business to come before the Board, Supervisor Lester moved to adjourn the December 14, 2004, meeting of the Sweden Town Board at 8:10 p.m. Councilperson Carges seconded the motion. All voted in favor of the motion. Motion adopted.

Respectfully submitted,

Karen M. Sweeting
Town Clerk