

**THE TOWN OF CHENANGO TOWN BOARD MET MONDAY, MAY 7, 2018, AT 7:00 P.M. IN THE TOWN OFFICE BUILDING, 1529 N.Y. ROUTE 12, BINGHAMTON, N.Y.**

**PRESENT:** James DiMascio, Deputy Supervisor  
Russ Hemedinger, Councilperson  
Gene Hulbert, Councilperson  
Terry Kellogg, Councilperson

**ALSO PRESENT:** Donald G. Walls, Town Attorney  
Kathy Rudy, Deputy Town Clerk

**PLEDGE OF ALLEGIANCE TO THE FLAG -**

Mr. DiMascio asked everyone present to stand and join in the Pledge of Allegiance to the Flag, which is in the rear of the room.

**APPROVAL OF MINUTES –**

Mr. Hemedinger moved, seconded by Mr. Kellogg, that the minutes of the previous meeting be approved as prepared and presented. Motion carried.

**BID OPENINGS-**

None

**PUBLIC HEARINGS –**

None

**OPEN HEARING - GENERAL TOWN BUSINESS –**

Mr. DiMascio asked if anyone wished to address comments to the Town Board, to please give their name, address and limit their remarks to five (5) minutes.

Jay O'Brien - Brotzman Rd. - Since Jim DiMascio offered to finish off the rest of the year as Deputy Supervisor; he feels that the Town should continue in that perspective.

Jim O'Brien – E. Hill Rd. – He agrees with Jay on this matter. He feels the Board should remain like it is until the election and let the people decide who they want in there.

Jamie Szenher – Clark Ave. – He has been a resident of the Town of Chenango for two (2) year now but he has been coming to the Town for about twelve (12) years as his girlfriend has lived in the Town for a long period of time. He has seen how the Town runs and his girlfriend is also the Dog Control Officer. He does know a lot of people in the Town. With Hal's passing, he has decided to make a decision as he has just retired from the NYS Police after 31 years, to make a run for the Town Supervisor's Position. He also agrees that you should not make an appointment now because it would give an unfair advantage to someone. Even though he wouldn't mind getting appointed to that position!

Luke Tokarz – Brooks Rd. – He agrees with everyone here. He feels it would be best for the Town to stay just the way it is. He feels that Hal appointed a Deputy for a reason and thinks it is important to see that through. He also feels that there is a huge issue with the Zoning Board and he hopes that care has been taken and the process to follow through to make sure it gets resolved. He feels with the distraction of the Appointing of a Supervisor would collude and cloud that process. So he agrees with the others to leave it how it is.

Vic Giurastante – Badger Dr. – He would like to address this Board on the issue of Temporary Supervisor that we are in and keep in mind that we have elections coming up in the very near future. He was under the impression, as with others in the room, that this was settled until the elections comes along. Why are we not leaving this issue alone? He feels that we have good, smart people on the Board and if any issue were to come up they would be handled without any problem with the way the Board sits right now. He feels we would be going backwards to try and

bring another Board Member on and up to speed for what? Too much valuable time is being spent on nonsense. Negativity is being spent on this position of Temporary Supervisor. Let us promote a positive atmosphere for the Town and let us move forward. It is about the Town people and not what some people want for themselves. Again, elections are coming up in the near future and we do not need negative energy spent on this matter. Remember we are the Town of Chenango not Manhattan. We have also hired an attorney for Legal Counsel and direction in this matter. I would think that since we went through the additional expense we would consider their recommendation which he believes is to keep the Board the way it is until the elections in November. Thank you.

Roxann Lumsden – E. Hill Rd. – She had a speech prepared but feels that everyone else has addressed most of her points. She is just going to read the first paragraph as she was not at the last work session. At the last work session Russ Hemedinger asked his fellow Board members to vote him in as Town Supervisor overtaking Jim DiMascio as Deputy Supervisor. His reasoning for this was that he would give up his seat as Board Member would be Supervisor and vote in a councilman to replace his seat. He stated that he was not going run another term as councilman and he was not going to run as Supervisor. Gene Hulbert commented that he thought they should get back to a five (5) member Board as soon as possible. Terry Kellogg stated that this would be a huge distraction considering what they already had going on and whoever was put in the Supervisor's seat would have an advantage at election time in November. Jim DiMascio stated that he did not see what the difference would be if he stayed on as Deputy or if Russ got voted in as most of the important issues that they were currently dealing with were half way through the process and the difficult decisions had already been made. Prior to this work session the Board members brought in an outside Attorney to explain to all of us the proper procedures that are available to the Town with the unforeseen passing of our Supervisor, Hal Snopek. The bottom line was that the Board as it stands today – the four (4) members that are up there – they have all the power to make the decision on whether to replace the Supervisor or let the Board stay the way it is until the elections in November. We don't have a say in this matter per say. After all the Attorney's explanations, Oliver Blaise's opinion was that the best solution was to keep the Board as is from now until November. She would have to say that she agrees with the Attorney, Oliver Blaise. She believes that the four (4) members currently sitting on the Board are very strong and knowledgeable. Although they are a diverse group you have the experience of working together and coming up with a conclusion. She thinks that the four (4) of them can keep our Town together and on track until the elections in November. Even if you voted in a new Supervisor today, it would be a minimum of a few months that a five (5) member Board come into play. That puts us well into July or later. That would be just a few months that we need a new member whether as a Supervisor or council person. She does not feel that for such a short period of time we would need to go through this process, effort and training and add even more work to your already full plates. She would hope that you keep all your energy focused on the current items that you are already working on including and improving our ZBA Board and its processes. She has been coming to meetings quite regularly for over a year when there was a five (5) member Board I she only knows of one (1) time when she was here that was not a unanimous vote from the Board on any of the various subjects that you were working on. She feels that the four (4) Board Members are very capable of being able to agree and come to a majority vote on the issues for our Town. We would not have elected you all if we felt otherwise. She believes that Hal was voted into office for two (2) terms by the constituents of this Town. Hal made Jim DiMascio Deputy Supervisor for a reason. She feels we should respect his decision and make it until November the way things are currently set up and let the people pick our next Supervisor and Councilman. Thank you for your time and she hopes that they will take this into consideration.

David Fendick – W. Chenango Rd. – He agrees with a lot of the wording that was said here. One of things he would like to say is to remind everybody that this Town Board is a governing body which is run for the people by the people. Which basically states that we voted you all in to office. Now to appoint two (2) people for Supervisor and Town Councilman and to bring both of those in as new. He believes could be a mistake. Again, Mr. Blaise suggested leaving the Board the way it is. Mr. DiMascio was appointed as the Deputy Supervisor by the Supervisor that we elected into office. The position of Deputy Supervisor is to take over in the absence of the Supervisor. We are in the absence of a Supervisor so the Board is good to stay in his opinion, the way it is. He understands that Mr. Hemedinger suggested that he could be appointed to the position. He is strongly against that. One of the reasons is that when he was not even present at a meeting, Mr.

Hemedinger brought his name into a meeting. He brought my name and cases up into a Town Board meeting without myself being there to defend myself. Which he believes is kind of against the policy of the Town. It was in the grounds that we skip over going to local criminal courts with our issues that we were having with Code Enforcement Office and taking them right to Supreme Court. He believes that someone made a statement that a lot of people cannot afford to go to Supreme Court, hire an attorney and everything else that goes with it. He said well that's fine they'll do what we want them to. That is not someone who is diverse who is going to be there for the people. It sounds like someone who is power hungry. He does not agree with that position. Also Mr. Hemedinger, very recently, he made the statement that he does not think that there is a problem with the ZBA because we have never been sued. Just because we have not been sued doesn't mean that there is not a problem. There are still issues there and he sees that they are being worked on. With all this being said, it is his opinion that we should let Mr. DiMascio stay in the seat of Deputy Supervisor and leave the Board the way it is as that is the way Mr. Snopek wanted it to be. It was his choice made as Supervisor. This is not about someone's personal gain but it's for the Town. What benefit would it be for the people in appointing Mr. Hemedinger for the position when in a few short months we will have the elections? Let the people vote who they want in office.

Jo Anne Klenovic – River Rd. – Announcing her candidacy for the office of Supervisor. She and her husband ran the Red & White for 36 years. She has lived here for 40 yrs. and raised her children. She has served on the Chenango Valley School Board for 15 years. She has the skill set to take this to the next level. Her business experience-she has negotiated contracts, dealt with the public for 35 years and loved every minute of it. So she hopes you will consider voting for her and learning more about her if you already don't know her.

Mike Lumsden – E. Hill Rd. – He was not going to speak. He wants to thank all for being involved in their community. These guys have worked hard and they have a lot more work to do. He urges the Board that we have a serious problem with our ZBA. That is part of our Court System that is part of the due process for these people and he thanks everyone again for coming out. Please pay attention – we have to fix the ZBA of the Town of Chenango! Thank you.

Laura Holmes – Hospital Hill Rd. – She wants to re-iterate what everyone else has said. It is us that get to vote you in. We are the ones who voted you into the slots you are in and it should stay that way until the elections.

As no one else wished to be heard Mr. DiMascio closed the public comment section of the Board Meeting.

### **COMMUNICATIONS: Kathy Rudy, Deputy Town Clerk**

Kip Herner from Chenango Forks Fire filed their quarterly report with the Town Clerk's Office on April 5, 2018.

The Chenango Fire Department has submitted a new membership application for the Town Board's approval for Osasio Damascus. Terry Kellogg moved, seconded by Gene Hulbert. Motion carried to approve this new membership.

### **COMMITTEE REPORTS:**

#### **Russ Hemedinger – Public Works**

##### Public Works Report

The Town officially took over ownership of the Chenango Disposal sewer plant (in Chenango Heights) and collection system. A 20 yard dumpster was brought in and filled with debris left behind. The Public Works staff is working on getting the building and facility into better operational and cosmetic condition. Town personnel developed a laboratory area within the upper structure of the barn.

There was a pump replaced at the Prentice Road sewer lift station

The Bishop Road lift station was converted to 3 phase electric, which will enhance the operation of the pumps.

The 2017 Annual Water Quality Report was approved by Broome County Health Dept., and is posted on the Town's website for public review

All the fire extinguishers throughout the town owned properties and vehicles were inspected and certified

Staff cut and removed several large trees that fell across the Hillside Road water tank entrance road during one of the wet snow falls

Staff trimmed and removed trees throughout the town owned cemeteries and parks properties

There were 10 after hour call-outs

### **Mr. Kellogg – Planning and Zoning**

#### **Planning Board – Monday, April 9, 2018**

##### **NEW BUSINESS-**

There was no new business brought before the Planning Board.

##### **ADVISORY OPINIONS/REFERRALS**

1. David & Susan Hogan – 10 William Road – Tax Map No. 078.15-1-27 – Application for an area variance to construct a garage with less than required front yard setback from 30' to 18' in a residential zone.

The Planning Board voted unanimously to forward the Application to the Zoning Board of Appeals with a favorable advisory.

#### **Zoning Board of Appeals – April 24, 2018.**

At the start of the meeting, there was a discussion regarding the February 27, 2018 Meeting Minutes. Mrs. Kinne questions the absence of the comments made by Mr. Mike Lumsden at the conclusion of the meeting that were not included in the Minutes. Mrs. Kinne questioned Town Attorney Donald Walls and Mr. Walls indicated that the comments should be part of the Minutes. The February Minutes were approved pending inclusion of the written statement furnished to the Clerk by Mr. Lumsden.

##### **New Business/Public Hearings**

David & Susan Hogan – 10 William Road – Tax Map No. 078.15-1-27 – Application for an area variance to construct a garage with less than required front yard setback from 30' to 18' in a residential zone. The Public Hearing was held and the Town Attorney asked questions regarding the proposed Area Variance.

The Ordinance Office recommended approval of the Variance with a Building Permit being required.

The Zoning Board of Appeals unanimously approved the Area Variance with Mr. Ruston abstaining.

## **New Business**

Big E Tire & Auto Service – Erwin Kost – 1434 Upper Front Street – Tax Map No.112.05-3-35 – An application for a use variance to allow a free standing LED sign. A motion was made and seconded to schedule a Public Hearing on the matter at the May 22, 2018 ZBA Meeting.

Kost Property Management – Michael Kost – 1235 Upper Front Street – Tax Map No. 111.20-2-1 – An application for a use variance to allow Kidz Kingdom, off site advertising. A motion was made and seconded to schedule a Public Hearing on the matter at the May 22, 2018 ZBA meeting.

## **Mr. Hulbert – Highway Department**

### **April – 2018**

Winter finally ended for the Highway Department on Friday April 20, 2018. The Highway Department performed snow removal services 6 times during the month. April of 2018 tied the previous record for measurable snowfall which was set in 1961. It was also the 2<sup>nd</sup> coldest April on record.

The department has however begun spring operations. The street sweeper as well as the tow behind broom has been dispatched to begin cleaning the winter debris from the roads.

The department has been busy digging out and patching water breaks. Water breaks on Chenango St, Fuller Rd, Johnson Rd and Woodland were repaired after the blacktop plants opened. Bad spots on Matthew Dr. were also dug out and repaired with hot mix. Pothole repairs also began with potholes being repaired on Country Knoll Dr., Dimmock Hill Rd, East Hill Rd, Fuller Rd and Terrace Ave.

Lawn damage was started. Crews turned over disturbed sod. The hay and seeding portion will be completed in May.

Reported mailboxes that were damaged during snow removal were repaired.

Trees were removed on Brotzman Rd, Hillside Dr. and Willette Park Rd.

The yard waste program also resumed on Monday, April 2<sup>nd</sup> and it will continue to run through the end of October.

## **Mr. DiMascio – Insurance & Safety/Special Events**

Music in the Parks Program is completed which will start on July 5<sup>th</sup>. The schedule is available on our website. Schedules are also available in the Clerk's Office. We are looking forward to a good season.

## **RESOLUTIONS:**

**Resolution Authorizing Contracts to Repair/Replace Fencing at the Northgate Wastewater Treatment Plant (Atlas Fencing/\$11,597.00)**, offered by Russ Hemedinger, seconded by Terry Kellogg and carried by the following roll call: 4 Ayes, 0 Nays.

**Resolution Authorizing Contract for Purchase of a New Server (Dell/\$3,971.54)**, offered by Terry Kellogg, seconded by Gene Hulbert and carried by the following roll call: 4 Ayes, 0 Nays.

**Resolution Setting Date for a Public Hearing Regarding Winter/Snow Parking**, offered by Gene Hulbert, Seconded by Terry Kellogg and carried by the following roll call: 4 Ayes, 0 Nays

**Resolution Setting Date for a Public Hearing Amending Chapter 56 – Sanitary Sewers for Sewer District #12**, offered by Russ Hemedinger, seconded by Terry Kellogg and carried by the following roll call: 4 Ayes, 0 Nays.

**Resolution Authorizing Employment of Legal Firm Coughlin & Gerhart**, offered by Terry Kellogg, seconded by Gene Hulbert and carried by the following roll call: 4 Ayes, 0 Nays.

#### **UNFINISHED BUSINESS:**

Russ Hemedinger – He wanted to finish the discussion on trying to bring the Board back to a five (5) member Board as opposed to four (4). Who would like to go first on this? We did say we would finish it tonight.

Jim DiMascio – First and foremost, he would like to thank everyone for coming tonight. This is a great public dialogue and this is Democracy in action. With that being said he is also personally gratified for everyone's support during his temporary time as Deputy Supervisor. As he spoke in the past, he is going to run as Councilman in the November Elections. Hal Snopek was our Supervisor. He was honored and grateful for his honoring of Jim as his Deputy and also unanimously voted by this Board. For him it is more personal. There were things that Hal and he started. There were specific agenda items that we wanted to complete in 2018. Many of those agenda items are now set on the table. It is his desire to want to finish completing those agenda items. It will take three (3) positive votes for anyone who wants to be appointed since no other name has been raised. The person that has suggested it – I will absolutely be a "No" vote and it will take all three (3) of us. I respect every one of my councilman's positions. With that being said, he is wishing to finish the season. One of the things we talk about all the time is dates. Currently we will sound like, per the petitions, that is a formal process to get nominated for Supervisor or future council people. There is a good chance that we may have a primary or that a new supervisor could be elected by a September date. Again our system, whether it is Republican or Democrat primary that is done in September and we may know who the winner is by then. If there is a Democrat and a Republican then we would have a General Election and that would be done by November. One of the pledges he would make is that if there is a Primary Winner and there is no General Election that person can be nominated as early as September. That is now only four (4) months away. By that time they have earned the right to be Supervisor and can get a head start and he has no problem with that with the approval of his fellow Board Members. That being said, it is his desire to stay on as Deputy Supervisor.

Russ Hemedinger – he would like to add his feelings on this. In all due respect to the people that spoke and he respects everyone's opinion. His goal is to make the Board a five (5) member board again. The problem we all work full time jobs and sometime we can't make meetings. We had an incident a few weeks ago when someone could not make a work session and we had to hold something up because that had occurred. It is important no matter how hard we try something always seems to come up-people get sick, they take vacations and if we cannot move on with the Town's business then that is a problem. This trying to appoint a Supervisor has nothing to do with the job that Jim has been doing. If there is a way that we could just get someone in there and Jim keep doing what he is doing that would be great but the reality is that the Attorney, Oliver Blaise, we can't name another person to the Board without naming a person to the Supervisor's Position. Despite some of the things that were said, this is hardly a power grab. He only offered that he could do it for the next seven (7) months because he is not running for any other position. He is not running for Town Board and he is not running for Supervisor. Everyone at the work sessions has been saying to leave it so there wasn't anyone in there and effectively a new person would be going in there in January. So that is why he offered that so no one would have an advantage going into the seat. In approximately the last twenty (20) years there have been four (4) openings on this Town Board and every time they have been filled usually after about a month of the opening. The openings have occurred for various reasons-deaths, people retiring or whatever, that is why the openings have occurred. There is a history of this Board appointing people because the past Boards have always know that we need to be a five (5) member Board. Even our current County Legislature was appointed when there was an opening and no one said that shouldn't happen. All the governing bodies know that everyone should be represented and this is the way we do it. It is unfortunate sometimes that we cannot always be here. We are

charged with doing the Town's business and he feels it is important that if for some reason we have a meeting and we don't have enough people to vote a certain way then we can't do the Town's business. That is his motivation for naming a Supervisor. It's for nothing else and to get things done. Because, it really can occur within the next seven (7) months. We have NY Rising money that we haven't hired an Engineer for and we have not accepted bids for that yet. We have to accept bids for the work that gets done and if the bids come in and we cannot accept them because we don't have enough people that is a big problem, we jeopardize a lot of money. There is action items that we need to act on from and audit was conducted recently. We can't take action if we are not here. That is the kind of thing that we need to handle and take care of. He really can't stress that enough that we need to be a five (5) member board and the only way to do that is to name a Supervisor. If someone can think of another way in doing it or want to hire someone else to be Supervisor, it doesn't have to be Russ. But we should be a five (5) member Board. If he was to become the Supervisor for the next seven (7) months, he would have office hours during the day that unfortunately it is difficult to have now. He would be able to be here for the staff and if anyone wanted to come in to discuss anything with the Supervisor. That is his case for it and he doesn't know how everybody else feels but that is the motivation that he has to get this back to a five (5) member Board.

Gene Hulbert – His position on this is that we took an Oath after we were elected and that is to do our job the best that we can do and carry out this office and that means running it like the way it was intended and the way it was legislated to run. It is a five (5) member Board – we need five (5) people to do our jobs properly and efficiently and for no other reason than that is good enough for him to want five (5) people as soon as possible. So that is the direction in which he would like them to go and they could do that before December, then this Town is better off. Not anyone of us that is sitting here but the Town itself. There have been a lot of things said both ways and he doesn't necessarily disagree with any one side of it but he just wants the Board to be functional. There has been numerous times – he knows one of the comments was that there was only one time when it hasn't been unanimous – he knows that has not been the case over the history of his term as councilman and that fifth vote needs to be a fifth vote so that we can either close off a path and move on or move on a path that was decided to go forward. Seven (7) months is a long time in a Town's operational year and to have that kind of dysfunction is not going to serve anybody, at the Town, in their best interest. He would prefer to see a five (5) member Board.

Terry Kellogg – He has given the current vacancy in the Town Supervisor's Position significant thought over the past few weeks. As you know at the start of the year Supervisor Snopek selected Board member DiMascio to serve as his Deputy. Due to the unfortunate passing of Supervisor Snopek, Deputy Supervisor DiMascio has found himself bearing the work load of the Supervisor which none of us has done other than on an interim basis for a week or more when Mr. Snopek may have been out of Town. Mr. Hemedinger and Mr. Hulbert have indicated that they believe that it is important to this Board to have an acting Supervisor until the position is filled in January after a special election is held in November. Their concerns included the possibility that important business may be held up, a quorum may be difficult to achieve for the remaining 2018 meetings and that there needs to be an acting Supervisor who is able to have office hours during the regular business hours of the Town. He unfortunately does not see these as major concerns that would warrant change at this time. It is his position that despite Mr. DiMascio being the newest member of the Town Board, he was the one chosen by Supervisor Snopek to perform duties of the Supervisor in his absence. Absent any action or actions that lead to a loss of confidence in his role as Deputy, he believes that Mr. DiMascio should be given credit-the credit he deserves for stepping up immediately after Supervisor Snopek's passing and fulfilling his duties as Deputy Supervisor. Moving forward he should be given our support and afforded the opportunity to fulfill his duties in his current role as long as he desires to do so up until such a time when a new Supervisor is elected. He would like to express his appreciate to Mr. Hemedinger, who despite said he would not be seeking re-election to this Board, expressed interest in serving as Town Supervisor for the remainder of the year so that a new Councilperson could be appointed. His decision does not support such a change and has been re-affirmed by the public input that he has received both publically and privately over the past few weeks. It indicated that many of our constituents would prefer to see things remain as they are.

Russ Hemedinger – I guess the question that he has for Terry is that you were appointed to the Board and now it is not ok to appoint someone?

Terry Kellogg – Yes. He feels that what we have in front of us – the Town is operating smoothly, he believes. He knows that there are issues in the Zoning Board that we already have started the wheels in motion to resolve. He thinks that with the liaison structure with Department Heads and the people who are here currently doing that he knows that there is some slack to pick up on things that Mr. Snopek was dealing with on his own but he thinks that we all can handle that and he is committed to doing it.

Mr. Hemedinger – There is one more point that he would like to make and would like to think it may change some minds but it probably won't but right now with the way Town Law is written, Jim is our Deputy Supervisor, we don't have a backup or a safety net that if somehow he became incapacitate for whatever reason, we don't have a means to have someone else in that position. He would like to think that that may have some weight too. We could really be in trouble for a lot of reasons and he just does not feel that it is in the best interest to keep it this way. We just better hope that things go well because we could have problems.

Jim DiMascio – So lastly to just reaffirm his position it has not changed and he does respect everyone's opinions especially Gene and Russ's – he doesn't take them lightly but he has thought about this very long and he is very committed to finishing this process. Again a new Supervisor could be on board, with Board approval, as early as mid-September. Based on that timeline bringing in someone new and having them brought up to speed, he feels it is a waste of time and that being said if he is at fault – he is up for re-election-they can vote him out. He will leave it in the Community's hands. That is his position. He is a "No" vote and that should kill the subject right there.

Jim asked if anyone had anything else to add.

No one else wished to speak so the meeting concluded at 7:45 p.m.

Respectfully submitted,

Kathy Rudy, Deputy Town Clerk  
Town of Chenango