

Village of Owego Board of Trustees Meeting
Minutes of December 20, 2010

The regular meeting of the Village of Owego Board of Trustees was held on Monday, December 20, 2010 at 56 Main Street, Owego, NY, starting at 7:00 p.m. The following people were in attendance:

Mayor:	Ed Arrington
Trustees:	Jane Woody
	Ann Lockwood
	Connie Sternberg
	Jim Legursky
	Tom Clark
Clerk-Treasurer:	Rod Marchewka
Police Chief:	Rick McCulskey
Village Attorney:	Irene Graven
DPW Supt.:	Jeff Soules
WWTP Supt.:	Ron Horton

Absent: Fire Chief: Ed Bidwell

Visitor's List
Insert "A"

At 7:00 p.m. the meeting was called to order by Mayor Arrington followed by the pledge of allegiance and invocation.

Motion by Trustee Clark, seconded by Trustee Lockwood, for the following Resolution:

WHEREAS the Village of Owego Board of Trustees (Board) proposes to undertake the sale of the Village of Owego Wastewater Treatment Plant Effluent to Inflection Energy, LLC; and

WHEREAS pursuant to the State Environmental Quality Review Act (SEQRA) the Board must cause to be prepared an Environmental Assessment Form to effect such sale; and

WHEREAS the Board is desirous of retaining outside legal expertise to assist the Board and Village Attorney in preparing all necessary forms and documents to comply with the SEQRA process;

NOW THEREFORE BE IT RESOLVED by the Board, in regular session duly convened, that the Board retain the legal services of Hancock and Estabrook on an "as needed" basis to assist the Board and the Village Attorney in ensuring compliance with the SEQRA process for the proposed sale of effluent; and it is further

RESOLVED, that this Resolution shall take effect immediately.

Motion by Trustee Legursky, seconded by Trustee Clark, to amend the above Resolution to hire Coughlin and Gerhart instead because they are a local firm that pays taxes in Owego. Trustees Clark, Lockwood, Sternberg, and Woody voted no. Trustee Legursky voted yes.

Motion Failed 4-1

VBM 12-20-2010

Vote on original motion to retain Hancock and Estabrook. Trustees Clark, Lockwood, Sternberg, and Woody voted yes. Trustee Legursky abstained.

Motion Passed 4-0-1

Privilege of the Floor

Earl Hartman – 444 North Avenue – Village should stay on topic of waste water topic only.

Tom Thompson – 39 West Avenue – What is the definition of commercial property? Can they run 24 hours a day? Village Attorney will research this question.

Superintendent Jeff Soules – on SEQR for 444 Front Street, he sees no adverse affect.

Motion by Trustee Clark, seconded by Trustee Lockwood, to approve the SEQR for 444 Front Street.

Unanimously Approved

- Supt. Jeff Soules – no adverse affect (Site Plan Review)

Motion by Trustee Woody, seconded by Lockwood to approve SEQR for Site Plan Review.

Unanimously Approved

- Supt. Jeff Soules – no adverse affect for 200 West Avenue (sand storage)

Motion by Trustee Legursky, seconded by Trustee Lockwood declaring the Village of Owego as lead agency for the short form SEQR for the Transload/McConnell Real Estate, LLC sand storage facility project and permit at 200 West Avenue. Trustees Clark and Woody abstained. Trustees Lockwood, Legursky, Sternberg and Mayor Arrington voted yes.

Motion Passed 4-0-2

The Public Hearing on Local Laws No. 7 was called to order at 7:14 – no input from public.

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

Local Law Filing
Village of Owego
Local Law No. 7 of the year 2010

A local law re-zoning all of the property located at 444 Front Street and identified by Tax Map No. 129.05-4-13 from R-2 (Residential) to R-4 (Residential).

**Section I
Purpose and Findings**

This local law is enacted to change the zoning of the property commonly known as 444 Front Street and identified by Tax Map No. 129.05-4-13 from R-2 District (Residential) to R-4 District (Residential).

**Section II
Statutory Authority**

This local law is enacted pursuant to the provisions of the Village Law of the State of New York, and the provisions of the Municipal Home Rule Law of the State of New York.

Section III

The Village of Owego Amended Zoning Map is hereby amended so as to change the zoning of the property located at 444 Front Street and identified by Tax Map No. 129.05-4-13 from R-2 District (Residential) to R-4 District (Residential).

**Section IV
Effective Date**

This local law shall take effect immediately upon its passage by the Village of Owego Board and its filing with the Secretary of State.

Motion by Trustee Clark, seconded by Trustee Lockwood, to close the public hearing on Local Law No. 7.

Unanimously Approved

Motion by Trustee Woody, seconded by Trustee Sternberg, to approve Local Law No. 7 to change the zoning of the property commonly known as 444 Front Street and identified by Tax Map No. 129.05-4-13 from R2 (residential) to R4 (residential).

Unanimously Approved

The Public Hearing on Local Law No. 8 - Parking on East Avenue opened for public comment at 7:20.

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

Local Law Filing
Village of Owego
Local Law # 8 of the year 2010

A Local Law amending a provision of Chapter 187 of the Village of Owego Code entitled: "Vehicles and Traffic" to create a restricted parking zone.

**Section I
Purpose and Findings**

After a review of safety issues related to the parking of vehicles on the south side of East Avenue during snow removal season, it is determined that the safety of the residents of the Village of Owego will be served by creating a restricted parking provision as set forth herein.

**Section II
Statutory Authority**

This Local Law is enacted pursuant to the provisions of the Village Law of the State of New York, and the provisions of the Municipal Home Rule Law of the State of New York.

Section III

A new section of Chapter 187 of the Village of Owego Code is hereby added as follows:

The parking of any vehicle on the south side of East Avenue at any time between November 1 and March 31 of each year is hereby prohibited.

**Section IV
Effective Date**

This local law shall take effect immediately upon its passage by the Village of Owego Board and its filing with the Secretary of State.

Melody Patterson, resident of East Avenue – residents in that area have not been notified. It would be a hardship for people visiting on East Avenue since there is no alternative place for parking.

Motion by Trustee Woody, seconded by Trustee Legursky, to close the Public Hearing on Local Law No. 9 at 7:22.

Unanimously Approved

Motion by Trustee Woody, seconded by Trustee Clark, to approve Local Law No. 8 that parking of any vehicles on the Southside of East Avenue at any time between November 1st and March 31st of each year be prohibited.

Unanimously Approved

The Public Hearing on Local Law No. 9 – Site Plan Review opened for public comment.

PROPOSED LOCAL LAW-REVISION 12/7/10

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

A Local Law adding a new section to the zoning code entitled "Site Plan Review".

Section I

Purpose and Findings

This local law is enacted to add a new section of the zoning code to implement site plan review procedures and processes for applicants desiring to initiate a project or proposal in certain zoning district within the Village of Owego.

Section II

Statutory Authority

This local Law is enacted pursuant to the provisions of the Village Law of the State of New York, and the provisions of the Municipal Home Rule Law of the State of New York.

Section III

Site Plan Review

All permitted uses in zoning districts defined under the Village zoning code as Sections 195.83-CB; 195.88-CBA; 195.92-B; 195.99-I and 195.125-HD/MU shall require site plan approval by the Planning Board and shall have prior site plan review and approval before a building permit is issued for the alteration or construction of any building. The site plan and required related drawing shall first be submitted by an applicant or agent thereof to the Code Enforcement Officer of the Village. Upon full review for sufficiency and completeness of the application by the Code Enforcement Officer, the application shall be submitted to the Village Planning Board and shall be reviewed in accordance with the following procedures and standards and shall be subject to a public hearing.

- A.** Submission of site plan and supporting data. An applicant or agent thereof shall submit a site plan and supporting data which has been prepared by a certified architect, landscape architect, engineer, land surveyor or planner (may be waived at the Planning Board's discretion on minor projects upon consent of the Code Enforcement Officer), and shall include the following information presented in drawn form and accompanied by a written text:
1. Survey of the properties showing existing features of the property, including contours, buildings, structures, trees over four inches in trunk diameter, streets, utility easements, rights of way and land use.
 2. Site plan showing proposed building locations and land use areas.
 3. Traffic circulation, parking areas and pedestrian walks.
 4. Landscaping plans, including site grading and landscape design and screening.
 5. Preliminary architectural drawings for buildings delineated to be constructed, including floor plans, exterior elevations and sections.
 6. Preliminary engineering plans and proposed construction materials regarding street improvements, drainage system, and public utility extensions.
 7. Engineering feasibility studies, if deemed necessary by the Code Enforcement Officer, of any anticipated problems which might arise due to the proposed development.
 8. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.
 9. A description of the proposed uses including hours of operation, number of employees, expected volume of business, and type and volume of traffic expected to be generated.

- B. Site plan approval. The Planning Board shall review the site plan and supporting data and shall hold a public hearing within 62 days of submittal before approval or approval with stated conditions is given, and taking into consideration the following objectives:
1. Harmonious relationship between proposed uses and existing adjacent uses.
 2. Maximum safety of vehicular circulation between the site and the street network.
 3. Maximum adequacy of interior circulation, parking and loading facilities with particular attention to vehicular and pedestrian safety.
 4. Adequacy of landscaping and setbacks in regard to achieving maximum compatibility and protection to an adjacent residential district. Should changes or additional facilities be required by the Planning Board, final approval of the site plan shall be conditional upon the satisfactory compliance by the applicant to the changes or addition. An applicant wishing to make changes to an approved site plan shall submit a revised site plan to the Planning Board for review and approval before making application for a building permit.
 5. If the Planning Board determines that the services of an outside consultant are necessary for review of the site plan, the applicant shall be informed, in writing, of such determination and of the ceiling on reimbursable costs for such services. Cost or fees incurred by the Village of Owego for necessary consultant services or other extraordinary expense in connection with the review of a proposed site plan shall be paid by the applicant provided that the necessity of such services and a ceiling upon which such fees or expense have been determined by the Code Enforcement Officer and the applicant has been informed of the fee ceiling in writing. No building permit shall be issued for any proposed construction for which fees or reimbursable costs are lawfully due to the Village and unpaid.
 6. The Planning Board shall inform the applicant that additional reviews, referrals, submissions or notifications may be required pursuant to federal, state or local laws or regulations, including but not limited to SEQRA review and approvals from all relevant departments within the Village of Owego.
 7. The Planning Board may recess the site plan review to provide for appropriate site visits by its members or consultants, to determine the necessity and/or cost of reimbursable consultant services or to gather or receive additional information. In such cases, when the Planning Board reconvenes the site plan review, it shall be considered a continuation of such review.
 8. The Planning Board shall consult with the Code Enforcement Officer and the Superintendent of Public works and may consult with the Fire Chief, the Village Board of Trustees and the Village Attorney to assist in the review of the site plan.
 9. When required by General Municipal Law sections 239 - l and 239-m the Board of Trustees shall submit notice of the public hearing along with a complete description of the application to the Tioga County Planning Board for review.
 10. Pursuant to Village Law Section 7-725(a) (5) the Planning Board is authorized to waive any requirement for the approval, approval with modifications or disapproval of site plans submitted for approval when such waiver would be reasonable. Any such waiver may be exercised in the event any such requirements are found not to be in the interest of the public health, safety or general welfare or inappropriate to a particular site plan. Without limitation, the authorization to grant waivers does not include authority to waive use or dimensional requirements otherwise required by the Zoning code of the Village or the NYS Building and Fire Code or any requirements outside of requirements specific to a site plan.
 11. No certificate of occupancy shall be issued by the code Enforcement Officer until all improvements shown on the approved site plan are installed and in accordance with all applicable requirements.
 12. The Planning Board may waive the site plan review for a change from one commercial use to another commercial use in the same building, provided that the existing building will not be expanded and the existing site complies with the applicable sidewalk, landscaping and lighting requirements of this code.

13. The Code Enforcement Officer may issue the zoning permit and building permit without site plan review for any use in the Central Business District otherwise permitted, provided that no building demolition, new building construction, or expansion of building footprint is included in the proposed use.

C. Changes. An owner wishing to make changes in an approved site plan shall submit a revised site plan to the Code Enforcement Officer and Planning Board for review and approval before making application for a building permit.

PERFORMANCE STANDARDS

A. Standards. In all districts specified herein, uses are not permitted which exceed any of the following standards measured at the individual's property line:

1. Emit noise in violation of the provisions of Chapter 146 of the Village of Owego Code.
2. Emit dust or dirt which is considered offensive as determined by all state regulatory agencies, including but not limited to the NYS Department of Environmental Conservation.
3. Lighting or signs which create glare which could impair the vision of a driver of any motor vehicle.

Effective Date

This local law shall take effect immediately upon its passage by the Village of Owego Board and its filing with the Secretary of State.

Kevin Millar – spoke in favor of new proposed Local Law.

Motion by Trustee Sternberg, seconded by Trustee Woody, to close the Public Hearing on Local Law No. 9.

Unanimously Approved

Motion by Trustee Sternberg, seconded by Trustee Woody, to approve Local Law No. 9. Trustees Clark and Legursky voted no. Trustees Lockwood, Sternberg, Woody, and Mayor Arrington voted yes.

Motion Passed 4-2

Discussion of Fire Department Contract Money Resolution:

Note – because this is a redo of an old resolution a super majority of 5 votes will be needed to amend original motion of 1985.

Motion by Trustee Clark, seconded by Trustee Woody to reverse the original motion made on June 3, 1985 which determines how the fire contract money will be distributed. For the fiscal years of 2011 through 2015 the new allocation will be 10% to the Fire Companies, 10% to the General Fund, \$39,770.00 for the payment of the Pumper Truck and the total payment of the Rescue Truck as shown on the attached schedule. In fiscal year 2016 the distribution of the fire contract money will be reverted back to the original motion of June 3, 1985

Motion by Trustee Clark, seconded by Trustee Legursky, to table the motion of the Fire Department Contract Money Disbursements. Trustees Clark, Legursky, Lockwood, and Sternberg voted yes. Trustee Woody voted no.

Motion Passed 4-1

VBM 12-20-2010

Vacancy of 2nd ward trustee - there were 5 people who showed interest in the vacant 2nd ward trustee position. Each prospective candidate was given an opportunity to address the board. Those present were:

- Jack Evans
- Earl Hartman
- Melody Patterson
- Kelly Turner

Richard Kidney – was absent

The mayor and the board were given a ballot by the clerk with each of these names on it. They were to pick one name and then pass it on. Candidates would need 4 votes to be appointed to the board.

There was a re-vote with the exact same results. Consensus of the board was that the position would be left vacant until the March election.

Charles Lohmeyer – 75 Spencer Avenue – addressed the board concerning a property he bought at the tax sale (53 Spencer Avenue) that he would like to be able to tear down.

Village Attorney, Irene Graven, said the Village must have a determination from the OHPC before the village board can act on any requests.

Insert “B”
 Letters from Mark Trabucco
 Letter from McElwain Engineering to Charles Lohmeyer

The mayor will contact the OHPC and inform them that a decision should be made by the next village board meeting (Monday, January 3, 2011).

Motion by Trustee Sternberg, seconded by Trustee Clark, that OHPC be contacted and have a decision before the next village board meeting on January 3, 2011.

Unanimously Approved

Motion by Trustee Lockwood, seconded by Trustee Sternberg, to ratify the mayor’s appointment of Melody Patterson to REAP (Rural Economic Area Partnership) for a two year term starting January 1, 2011.

Unanimously Approved

Motion by Trustee Legursky, seconded by Trustee Lockwood, that the Minutes of November 15, 2010 be approved with corrections. (Woody spelling; motion on page 10; recess for lost paperwork not found).

Unanimously Approved

Motion by Trustee Clark, seconded by Trustee Woody, to the Minutes of December 6, 2010 with corrections. (Page 6, add “Green Tag Interior Fire Fighters).

Unanimously Approved

Trustee Reports

Tom Clark – thanked all prospective candidates for addressing the board.

Motion by Trustee Legursky, seconded by Trustee Woody, to approve the following transfers:

FROM/TO	ACCOUNT#	ACCOUNT NAME	AMOUNT
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VBM 12-20-2010

FROM:	A.9040.80.070	CLERK WORKERS COMP	\$6,381.00
TO:	A.9010.80.080	CLERK RETIREMENT	\$6,381.00

Unanimously Approved

Trustee Sternberg – request an attorney client executive session

Motion by Trustee Lockwood, seconded by Trustee Woody, to hold an executive session for personnel and contract negotiations.

Unanimously Approved

Department Heads

No reports.

Privilege of the Floor

Nathan Kennedy - lunar eclipse tonight at 1:30 p.m. – has not happened since 1638.

Kevin Millar – on contract with Inflection – will contract be made available to the public before it is voted on? Attorney Graven answered no. they are considered attorney work papers and also may impair contract negotiations.

Bob McDonald – 82 Southside Drive – would these papers (contract) be available after it is signed? Attorney Graven answered yes.

Walter Cumm, Southside Drive, is the village confident in their ability to negotiate and write a contract with the gas companies? Mayor Arrington responded yes.

Adjourn for Executive Session at 8:08.

Back in regular session at 10:03.

Motion by Trustee Woody, seconded by Trustee Lockwood, to adjourn.

Unanimously Approved