

Catskill Town Board Committee Meeting
Palenville Fire House
September 19, 2012 6:30 pm

Attendance: Joseph Leggio, Supervisor; Robert Antonelli, Councilman; Pat Walsh, Councilman; Kevin Lennon, Councilman; Elizabeth Izzo, Town Clerk

Absent: Gary Carlson, Councilman

Supervisor Leggio opened the meeting with a moment of silent prayer and the Pledge of Allegiance.

Resolutions:

General A Fund Budget Transfers: Motion made by Councilman Antonelli seconded by Councilman Walsh. Voted: 4 Yes, 1 Absent (Carlson) Motion adopted.

Justice Court Grant Application: Motion made by Councilman Antonelli seconded by Councilman Lennon. Voted: 4 Yes, 1 Absent (Carlson) Motion adopted.

Schedule Public Hearing for Fire Protection District Contract with Village of Catskill: Motion made by Councilman Antonelli seconded by Councilman Walsh. Voted: 4 Yes, 1 Absent (Carlson) Motion adopted.

Authorize Supervisor sign approval plans bank stabilization NRCS Project No D12-016-017 (Kaaterskill Creek): Motion made by Councilman Lennon seconded by Councilman Walsh: Voted 4 Yes, 1 Absent (Carlson) Motion adopted.

Authorize Supervisor sign approval plans bank stabilization NRCS Project No D12-016-017 (Mill Lane): Motion made by Councilman Lennon seconded by Councilman Walsh. Voted: 4 Yes, 1 Absent (Carlson) Motion adopted.

Supervisor Leggio presented the floor to Rich Praetorius in regards to the bid for the wall replacement. Mr. Praetorius gave a copy of the bid results for the Woodstock retaining wall. The low bidder was Leo Boice & Sons of Kingston NY in the amount of \$857,640. Upon review it was determined he had used a previously issued bid form and there was a mistake on the bid. The next low bidder is Kingston Equipment Rental also know as Baker Bros of Kingston NY. Their bid was \$891,948.45. There have been conversations with the Town Attorney. He has had experience with both contractors and they are both good. The only problem is the low bidder made a mistake on his bid and if we take the unit price of the quantities he is now the fourth low

bidder. He stated the second low bidder should be awarded the contract because of the potential problems of the low bidder.

Supervisor Leggio spoke with the Town Attorney. He stated it is not a question of accepting the low bid but that the bid was not correct and he is no longer the low bidder with the quantity changes. He does not want to put the town in jeopardy knowing there is a problem. Mr. Praetorius stated there is an issue if the bid can be amended before the contract being signed and the other issue is time.

Supervisor Leggio stated the purpose of providing bids is to make sure the bid is correct. Delays will push the project back. He asked Mr. Praetorius the time frame of getting into the stream. Mr. Praetorius stated they wanted the contractor started in the stream so we may have an extension with DEC past September 30th. Since we have had the last rain storm he is unsure how quickly the stream will recede and is wondering if the contractor will want to delay. Supervisor Leggio asked if there any delays of getting the project started and then delays weather related, do we wait until the spring. Mr. Praetorius stated that will need to be discussed because no matter what we do the road will not be open anytime this year. A lot of it depends on the winter. Pouring concrete will be until December 30th but January and February it is impossible to work with concrete. It is prohibitively expensive so there will be a delay. If we have a winter like last we may be able to work through it but if it is bad, we have to plan for a winter delay. Supervisor Leggio asked the duration of the project start to finish. Mr. Praetorius stated 150 days.

Councilman Walsh stated we should go with the second lowest bidder. We cannot justify him being awarded the bid to the now fourth lowest bidder. Supervisor Leggio stated the attorney can maybe speed the process along for us with the bidder options. Mr. Praetorius stated even if the low bidder agreed to revise his unit price, his bonding company may not issue him a performance and payment bond on the revised amount and there would there be a delay with that. It is a possibility.

Michael Smith, Town Attorney, addressed the board and audience. The lowest bid by Boice, there is elements of the bid that this bidder did not fill out, such as a bidder qualification statement. They also did not provide a financial statement. It was not completed in accordance with what the engineer required. It is not a statement based on his lack of qualifications but based on his experience in terms of doing work in our community. You look at the bid with a broad view and if the bidder has a good experience and if the bid is not totally complete you want to look at in terms of whether a low bid can be addressed despite the fact that minor inconsistencies are not there. In connection with Boice, that wasn't the case. The engineer determined there was a fatal flaw in the bid process. Upon reviewing all the bids, he determined it was too dangerous to accept the lowest bid. The second bid is by a contractor that our engineer has determined as a highly regarded professional experience in our community. It is no longer

the second bid but the lowest bid in his review. What is absent from the second bid that is required by the bid process is a financial statement. He suggests that in the event the board determined the second bidder was going to be the bidder of choice, as a condition precedent to the board moving forward, that they immediately submit a financial statement for review which is required by the bid.

Mr. Praetorius stated Michael recommends we move to the next low bidder. When this project is finished and FEMA goes through the books for audit we have established that this bid is not a proper bid and moved to the next. There is one item in this bid that is the Town's responsibility which is the aluminum railing. That bid item for the second low bidder is \$17,068.

Supervisor Leggio asked Rich is he is comfortable with this bidder. Rich stated yes. He stated he should call him and tell him it is conditional on the financial statement and a resume of projects. Mike Smith stated a list of projects is in the bid already.

Councilman Lennon stated all the contractors that bid on this did not give the financial aspects and asked Michael if that was true. Mr. Smith stated no that is wrong. There were two who did. Mr. Praetorius stated the town board has the right to waive any and all aspects of the bid.

Councilman Lennon stated there are time lines we need to be in. We have to be in the stream by September 30th unless we get some changes from DEC which we are working on right now. The second issue was the bid was defective and it is unavoidable that we have to go with the next bid. The third process is we have to stay within the scope of work that FEMA wrote out for us which was reviewed by the engineer. Those values are within that and we have no choice but to go with the next bidder. Since we should keep the same standards as we did with the previous bidding he would like to make a motion and have the attorney review the contract.

Motion made by Councilman Lennon and seconded by Councilman Walsh to award Kingston Equipment Rental the bid in the amount of \$891,854.45. Voted: 4 yes, 1 Absent (Carlson) Motion accepted.

Supervisor Leggio asked Mr. Praetorius the time frame of when the project will begin. Mr. Praetorius stated since the second lowest bidder thought he lost the bid it will come as a surprise that he has been awarded. They will scramble.

Supervisor Leggio asked Mr. Praetorius about the cross sections. He stated Bruce is finishing and they will be done by the end of the week. He will email to Andy at Army Corps. Councilman Lennon asked that a copy be sent to Jeff Flack of Soil and Water and the asked for an update on Mill Lane and Kaaterskill Rd.

Mr. Praetorius stated he is not comfortable with NRCS's design idea of the stone retaining wall, drill and pin. They came up with a rip raft slope design. It was designed and submitted to NRCS and we have their approval. We put it out to bid and those are due in September 27th. The two projects are bid as one. We will start by the November deadline but we will need an extension of the deadline. Councilman Lennon has been working with DEC for extensions of permits.

Councilman Lennon asked about the project on Route 23A. Mr. Praetorius stated construction started today. There was water in the pipe and they are waiting till Friday and hopefully by then it will be dry enough to move forward.

Councilman Lennon stated the town board has done a great job and credit goes to all in regards to everything that has been happening with the projects to remediate the storm damage.

Supervisor Leggio stated there was an added, unexpected treat to have Assemblyman Lopez here tonight. He was here last night walking up and down the creek in the rain with some of the residents. Assemblyman Lopez stated he received a call from some of the residents expressing concern for erosion of the stream and he had a chance to look at it. There has been aggressive work being done in regards to stabilization. He phoned the Supervisor and Emergency Management Office. He found the bridge effectively compromised. It was almost overtaken and the water was flowing as quickly as it was during Irene. We had 7.2 inches of rain from Hunter. Part of the challenge has been his whole district was hit. There are thousands of miles of streams that haven't even been touched and are still waiting for assistance or have been rejected for assistance.

There may be a need to step back now and look at the work that has been done in the stream and consider other alternatives. Part of the challenge has been to try to take some of the energy out of the streams and let natural flood plains work and try to protect homes and businesses were you can to protect from erosion. There is a small berm that separates Route 32A and the homes and businesses and there was maybe two feet or twenty-four inches, before that berm was entirely compromised and water flowed and hit those properties again. He is here to reinforce that the stream needs further attention and he gives Jeff tremendous credit because like him he has been a field medic. There is more need than to possible respond to. There is more expense than money available on a national or state level. The good news is the State has been willing to pick up, to date, the local share. The Emergency Watershed Protection Program funded 75% Federal 25% local and the State is covering the local share. We are trying to make the projects successful otherwise they will not happen. We need to do more work and another engineering analysis of the stream dynamics and then determine other options to take the energy out and to protect the homes and properties. The number may be startling and it may not be in reach. He encourages the community to keep working with the board and if we need to bring in others he would be happy to pursue that.

Supervisor Leggio stated in the course of a meeting we take some time for people to address their concerns and if anyone wants to address the Assemblyman while he is here to but he asks that we keep it short and to not rehash the same issue.

An audience member stated he lives on Pennsylvania Avenue and described where his house is. He stated his house is where the Kaaterskill will be going soon. There are two relief culverts and the reason the river was so high was that neither one of them was wet. It hadn't broken through the drains. His problem is the downstream drain is right at his house. If this is the main course of the Kaaterskill he will have river front property. There is a second culvert near Pine and it stayed dry during this last event and even during Irene it was relatively dry. If we are to release the energy and let it go there is lots of unoccupied territory there and is it possible to get into the second drainage.

Councilman Lennon stated when he made his rounds last night to make sure residents are protected he made his way to Mr. Krom's property and where before the storm there was 12 to 15 feet of bank stabilization. That broke through at 10:30 pm and started filling the culvert system. During Hurricane Irene the same thing happened and went through his property down into that direction. There is more water on Pine Avenue and Pennsylvania then he has ever seen living here because it went that way. He will be speaking to the Highway Superintendent because where we had it opened up it has been filled in with two feet of silt and branches have blocked the culvert. We tried to get FEMA to pay for an open culvert system but because the cost was prohibitive and it wasn't damaged during what they called the storm storm.

Assemblyman Lopez stated what we don't want to do is take someone else's threat and put it on someone else's door step. He doesn't believe any of us would want to be in a position and your point is well taken and his sense as we look at the options if the second culvert is threatening you and the first culvert seems to be the most logical that should be part of the discussion to try to find an outlet. From what he saw based on the work in progress there was some question as to what the height of the relief channels should be. The question is does it need to be looked at again from an engineering standpoint.

Mr. Krom stated the bridge at Drummond Falls road is subject to flooding. It was closed yesterday. Assemblyman Lopez stated that was at his request. The other part, that section of the Drummond Falls Bridge is under contract with NRCS to be cleaned out. What happens though is there is so much sediment coming off the mountain; the question becomes who becomes responsible if it becomes a maintenance issue.

An audience member stated this is in back of his property and he gets to pay taxes on 3.6 some acres and each year the back of his yard gets smaller and smaller. Approximately there is three

quarters of an acre he can utilize because every year the stream bed gets closer to his house. All the money he has put in seems to disintegrate as he takes it and puts it out of his pocket for refurbishing his ground and topsoil and barns and gardens. He has spoken with Jeff not too long ago and his words were we may not have another storm like this. The berm on the corner is 7 feet higher than coming down the stream bed. That is putting pressure on everything. Last year he lost \$30,000 and he is not eligible for anything. If he tries to block it off from the water destroying his back yard he will be fined \$10,000.

Jeff stated there are two sides to the stream and we do not want to protect someone and hinder someone else. That is the dilemma. Lee will tell you he doesn't want any water on his side and Al will tell you the same thing. The town has hired an engineer to look at the flood shoots to see what elevation they should be. The work that was done held up pretty well and there is a little bit of erosion by the hotel.

An audience member stated that is gone. It is way back to where those little rocky things are. The town spent thousands of dollars and it has been washed away in two weeks. Jeff stated there is one section near them and part of that is because the flood shoot that they wanted to keep blocked off would have relieved that pressure. Councilman Lennon stated the first aspect, Phase A, was to get in and take care of the infrastructure, protect the livelihoods of our residents and remove the hazmat material. Phase B was a remedial aspect that we just went through. The long term solution, Phase C, we haven't even touched it yet but the storm has told us where we will have some problems. We need to wait on the cross section that our engineer is in the process of doing.

Supervisor Leggio stated no one wants to see anyone lose property. No one wants to see any of the damage that we have seen whether it is here or Prattville or anywhere. The fact of the matter is to do any of these repairs we need money and to go back farther, the town has spent in excess of \$250,000 in this stream and they didn't have to go in on any private property and do anything last year. They could have just as easily said you take care of your trees, you take care of yours, and you take care of yours. They didn't say that and went the extra mile and did it. Right, wrong, or indifferent we are not going to beat Mother Nature. She will do whatever she wants. We have to come up with a plan and figure something out. He publically thanked Jeff Flack for being here tonight. He stated Assemblyman Lopez called him about the problem the other night. We understand it is frustrating but we are trying to do the best we can.

And audience member stated the berms that were originally done and the height of the berms kept both sides pretty well protected and then someone came in and said the berms have to come down and now we are back to zero. Supervisor Leggio stated last night's storm the water didn't go over the top of any of those berms. That storm last night ate the sides of the banks. It eroded

the berms out from underneath so no matter how big those banks are the water is going to just eat them away.

An audience member stated all the stuff in the creek is coming from the landslides in the mountain and we need to plant trees up there. We can have inmates do the work. The trees will keep the side of the mountain out of the creek.

Assemblyman Lopez stated after the flood he had an opportunity to look at the mountain top (Windham) and where nature met nature you couldn't tell where the hurricane hit but when nature met manmade structures it was devastation. Part of the strategy needs to be protecting the areas that are developed and armoring those areas. Councilman Lennon stated bringing NRCS in we walked from the Palenville line to Ulster and Hunter to try to bring in projects yet the value was less than one so some of those areas didn't fall within the guidelines. Assemblyman Lopez clarified then so index of one is the value of the property being protected versus the value of improvement. Councilman Lennon stated correct. Assemblyman Lopez then stated to make a translation the Federal government looks at the value of your properties and then decides is there enough there to warrant putting public funds in to protect it. That is part of the challenge we have in trying to get the Federal government saying yes to a project. What has been happening instead of just looking at one or two houses it is a stretch, a stable reach to a stable reach. In his home county in the Schoharie creek, in the emergency they dug it too deep and too straight so it was affecting the next homeowners and the walls were caving in. They de-activated the flood plain so they are spending twelve million dollars to rebuild the base of the stream so the flood plains work again. Every one of these sections require their own treatment but maybe looking at this issue we look at a longer stretch and of protecting 32a and some other things that the Federal government would acknowledge as valuable to bring that ratio up and then there would be an issue of a local match.

An audience member feared that the banks of the creek on Mill Lane which are littered with tree trunks and debris, in a rain storm will take all that debris and jam up the bridge and then there will be a hellacious problem. A question arose as if community volunteers were asked to go in with saws and stuff to do it. The other audience member stated that side of the creek is owned by a gentleman who does not want anyone on his property. Councilman Lennon stated some of that was addressed with FEMA during the initial storm and the debris is on private property, the landowner would have to give us permission and most of those have. There will need to be a grass roots approach to get some of that stuff out. Assemblyman Lopez stated there may be an opportunity to come back in.

Paul Brown asked about deadlines on FEMA and reimbursement from FEMA. Supervisor Leggio stated as of today FEMA has all the paperwork and everything was in order. The only thing they are waiting for is the cross section of the engineering of the stream. That should be to

them by Friday and then we have the question of the willow stakes which should be resolved shortly. Assemblyman Lopez stated we have had this issue throughout the region. We met with the Governor's office, FEMA receives the project and certifies it as complete and then it goes to SEMO who reviews and then to the Dept. of Budget for reimbursement. Things were getting blocked with the DOB but now all the payments are on a fast track which adds the States piece which includes the local share.

Ron Garrison stated the Palenville Fire Department submitted all their bills and the last check was received by them about a month ago.

An audience member asked about what might be done about the bridge down because there has been a huge address given to both sides of the creek. Some people had to help themselves and fill in the hole from the hurricane and another retaining wall was built. She has been told that the people who live on the creek are responsible for their property so she has taken responsibility for hers but her neighbor lost her home and there was tremendous erosions. Her property is still exposed even though she put a new wall in because the erosion was just eating away. There is nothing being done from the bridge to her. Her wall is holding back the people below her but if the wall goes above her we will be talking about an awful amount of Palenville. We need to address from that bridge down. The erosion will come near Garrison's, Tracy's house, all the way. It is a serious problem and much more than anyone is actual considering. Unless the work is done from the bridge down with serious rip rafting there is no protection.

Assemblyman Lopez said it gets back to the issue of identifying where the velocity is impacting and again putting dollars on it and then testing it out with Federal and State resources. We will need to have a concept plan to best protect homes and properties and reduce erosion from Helena Falls to Drummond. This is where the action is and the question is what can be done with stable reach to stable reach. Once the water reaches Drummond Falls it opens up. Councilman Lennon stated if towns above us and below are not aggressive the same way we are, even if it is dissipated and jams up it still has no place to go. Assemblyman Lopez stated it gets back to the issue of is there a maintenance component and who is responsible for it. He stated all options should be on the table as much as we can afford to do the analysis and then make intelligent decisions. He stated he isn't afraid to ask. All they can do is say no. He stated the Governor's office is sensitive to this. Nothing ventured nothing gained.

Supervisor Leggio asked if there was further comment. He stated he had a couple more items of business. He stated we need a resolution to appoint George June, administrator for the ambulance. There is no effective start date just yet: Motion made by Councilman Walsh seconded by Councilman Lennon. Voted 4 Ayes, 1 Absent (Carlson). Motion accepted.

Councilman Lennon presented an expenditure of highway funds. He stated he has CHIPS money available for the two additional roads of Bethel Ridge \$30,100 (oil & stone) and Hobbs Lane (black top) \$16,800. Supervisor Leggio asked the Highway Supervisor if he had the money. Mr. Beers stated he has \$90,000 left. Motion made by Councilman Lennon and seconded by Councilman Walsh. Voted: 4 Ayes, 1 Absent (Carlson). Motion accepted.

Councilman Lennon asked if there needed to be a motion to have the justice clerks go for training. Supervisor Leggio stated since the first of the year any employee who wanted to go for training we would pay for training classes. If it was out of town it would require authorization from the board. The Assessor's office has asked to go to classes and he approved them and other departments, the Code, in the past six seven months, and he isn't talking about overnight stays, there has never been any issues. The Judges sent a memo to ask if the court clerks could go and he didn't see a problem and ran it by some of the board members. Councilman Lennon stated there is a policy and procedure we have to follow. Supervisor Leggio stated then why don't we take that motion for the highway then and pull it and rescind it because before you spend \$60,000 it should go before this board. Councilman Lennon agreed money spent should go before the board. Supervisor Leggio stated you are talking policy and procedure and you are worried about two court clerks going to a class. They take in close to \$800,000 a year in revenue and the only reason they are going to class is to do their job better. We do not have any discussion about any other department heads sending their clerks to class and now it is an issue with the courts. He doesn't want to get into an issue with the courts. If it is an overnight stay then the whole board should be aware of it. Councilman Lennon stated he is just bringing it up as conversation.

Supervisor Leggio asked if there were any other issues or items. Councilman Lennon stated at this time in previous years we have froze expense accounts to help budget concerns and he is wondering if that is to be done again this year. Supervisor Leggio stated he has already sent memos to all board members that they need prior approval for any spending. This was sent two to three months ago. Any spending would need authorization from three board members.

Supervisor Leggio polled the rest of the board. An audience member asked about the fence. The Supervisor asked if the Code office got back in touch with her and she stated he didn't. He stated he spoke to him about the fence and the Code Officer told him to cut it down. He placed a stop work order on the fence and the gentleman cut another six eight inches off. He apologized because he didn't follow up. The audience member stated he did cut the fence on the corner but she is talking about the fences behind her niece's house and Ronnie Dowd's house. They are almost ten feet high. He has blocked off any view that anyone has had. It is a spite fence. We will be asking for our taxes to be reduced because her niece lost \$5,000 on her home because they view isn't there. Supervisor Leggio stated he will speak with the Code tomorrow and will stop by over the weekend.

With no further business a motion to adjourn was made by Councilman Antonelli and seconded by Councilman Walsh and Lennon. Meeting ended 8:11 pm.

Respectfully submitted,
Elizabeth Izzo
Town Clerk