

Parma Town Board meeting held on Tuesday, August 17, 2010 at the  
Parma Town Hall, 1300 Hilton Parma Corners Road, Hilton, New York.

### **ATTENDANCE**

Supervisor	Peter McCann
Councilman	Carm Carmestro
Councilman	James Smith
Councilman	Gary Comardo
Councilman	James Roose
Highway Superintendent	Brian Speer
Building Inspector	Jack Barton
Recreation Director	Steve Fowler

### **OTHERS IN ATTENDANCE**

Park Foreman Joe Petricone; Bob Prince, Art Fritz, Mary Eichas Gavigan, Kenneth Gavigan, Tom Parizek, Don Stilson, Ed Arnold, Carol Kluth, Helen Ives, Barb Schwan, Shelly Giorgione, Carol Ann Zurick, Gene DeMeyer, Jim Cobia, Mike Weldon, Carol Weldon, Sharon Smith, Sandy Nelson, Rick Lemcke, Mike Piper, Sandra L. Dulmoge, Theresa Blodgett, Doreen Hoy, Stan Hoy, Pat LaBarbera, Carol LaBarbera, Robyn Sweeney, Danny Sweeney, Ron Basamania, Cindy Basamania, Carol Despos, Suzy Wilcox, Charles Lissow, Tim Hungerford, Bob White, Bob Crowley, Mary Crowley, Rich Witkowski, Sandra Witkowski, Gary Stont, Scott Copey, Darrell Stevens, Laurie Harris, Betty Sorensen, Peter Sorensen, Andrea Lingeman, Walter Horylev, Stacy Dean, Joadee Edwards, Ray Albright, Robert Mullen, Tom Bertrand, Pat Zukaitis, Rose Marciano, Jeanette Ophardt, Dan Ophardt, Therese Flannery, John Schultz, Jim Marino, Katy Ames, Carrie Webster, Sarah Burritt, Kathy Burritt, John Frillici, Christopher Flagg, Paul Loomis, Jennifer M. Brown, Kay Melvin, Amanda Tramonto, Beth Jamison, Sandra Boddy, Abbie Huchzermeier, Jon Boddy, Art Cosgrove, Duane Mault, Sean Herne, Chris Mills, Steve Mills, Jake Mills, Chance Hinzman, Jan Kuster, Rachel Mance, Mary Bourret, Richard LaForce, Donna LaForce, Frank Musso, John Chart, Mary Arnold, Mary Lou Clifford, Jeremiah Clifford, Bill Hess, Sr., Shirley Hess, Carol Raleigh, William Raleigh, Ruth Blodgett and other unidentified members of the public.

### **CALL TO ORDER**

Supervisor McCann called the meeting to order at 6:30 p.m. and lead those present in the Pledge of Allegiance to the Flag, followed by a moment of silence and emergency exit procedures were noted.

Supervisor McCann informed those present that two Town Attorneys would be present to discuss the pending litigation regarding contaminated soil at Town Hall Park. He indicated that the Town Board would enter into execution session when the attorneys arrived and move to the Town Clerk's office rather than have those in attendance leave the room.

In addition, Supervisor McCann noted that Tim Hungerford from H V Audit (Hungerford and Vinton, LLC) was in attendance to give the Town Board an overview of a proposed internal audit review. At the last meeting the Town Board had requested Mr. Hungerford to come to the next Town Board meeting.

Internal Audit Proposal – Timothy Hungerford explained why his firm is proposing an internal controls audit. He explained that the Town has four options: not to do an audit, have New York State Comptrollers Office come in to do an audit, have an outside CPA firm do a financial audit, or do an internal controls audit. A financial audit would provide information similar to what is currently being provided in the state report only with a management letter. Therefore he is recommending that the internal controls audit be done. He explained if the Town was to wait for an internal control audit by the State it could be some time before it would occur. It would provide a more extensive internal review than a financial audit but would cover items

that you would get from the State. It would identify any issues there might be, assist in working through solutions and the Town would have control over the information. There was discussion on how often an audit should be done. Mr. Hungerford recommended an external audit every other year by an external CPA. He would not do a financial audit as it would be an independence issue since he completed this year's state report. He felt very confident in the ability of the Finance Director and noted that a financial audit was warranted, one has not been done in a number of years and that when switching over administrations review of processes is appropriate. He felt reviewing internal controls this year and doing financial statements the next year should be done. Going forward opposite years to a financial audit would be sufficient or extending an additional year or two unless there are significant changes. It was expected that the first year would be a little more in depth. When asked how long and when the process would take place, Mr. Hungerford noted he would work with departments as it will depend on their schedules. He expected 60 to 90 days to complete and have report to the Town Board.

Supervisor McCann noted that this would not be acted on at this time. At this point the Supervisor indicated that they would adjourn into executive session.

### **ENTER INTO EXECUTIVE SESSION**

**RESOLUTION NO. 148-2010** Motion by Councilman Comardo, seconded by Councilman Roose, to enter into executive session to discuss pending litigation with the Town Attorneys regarding soil at Town Hall Park.

Motion carried: Aye 5 Nay 0

The Supervisor explained that rather than keep the attorneys for what could be an extended discussion the Town Board would move to the Town Clerk's office for the executive session so that those in attendance would not have to leave and come back. The Board retired into executive session at 6:46 p.m.

### **CLOSE EXECUTIVE SESSION**

**RESOLUTION NO. 149-2010** Motion by Councilman Comardo, seconded by Councilman Smith, to come out of Executive Session at 7:20 p.m. and return to regular session.

Motion carried: Aye 5 Nay 0

### **PUBLIC FORUM**

Supervisor McCann acknowledged many people were present to discuss the noise ordinance as it pertains to a complaint regarding "Blackie" the rooster. It was noted that there was also a business item on the agenda to change the noise ordinance. Those in attendance were asked to speak in the public forum or the business item but not at both and to limit comments to a couple of minutes. Individuals who signed up to speak were asked to come to the podium to speak when they were called. Numerous people spoke in favor of Blackie being allowed to crow. An overview of opinions, questions and comments included:

Who determines what a reasonable person of normal sensibilities is; what are the dates, times and decibels of the offending noise.

Nothing more than one person's interpretation of a law with a tremendous amount of grey area; one person's opinion versus another

If this is a conservation agricultural district then why are residential codes being applied  
Finds a rooster call pleasant, not offensive; felt that the Blodgetts would not intentionally inconvenience anyone.

Lawnmowers are loud and irritating; felt rooster crow could not be that long; felt a noise ordinance has a place but application to farm animals needs to be rethought

Supportive of those that came out tonight; two individuals would like to trade what they have to listen to for the rooster's call

Farming is also a way of life not just a commercial income

Very proud of this community; rooster was here before the neighbor; keep the neighborhood rural

Farming should be a practice not based on an income level but on a way of life

Disagreed that someone from the state is being relied on to make this decision for our town

Public referendum should be held

The code should be clearer so there is no need for interpretation based on how the code is written

The lawyer is not interpreting the code as it should be for the nature of this Town

There are other roosters in the town; will all roosters be eliminated

The Town has disregarded other opinions from the state why are we agreeing with this opinion

If local zoning issue, why can't it be resolved locally; understands that it can't be addressed tonight

Would like the Town Board to listen to what the people who have elected them are saying

What was the actual violation that occurred?

The Board is doing a public service; first time they have heard; try to work together to redefine the definition and get the local code changed to reflect that farming does not have to produce income

It is difficult for employees who have to deal with code that is not always black and white. Consideration should be given on wording for farm animals that are permitted and must comply with other sections of code pertaining to farms. Felt it is in the code but not clear. Many changes are being made to the Town Code that are supportive of agriculture.

Ruth Blodgett, owner of the rooster, thanked the Board for the opportunity to speak and consideration on this topic; and the public and media support of her rooster. She felt that the definition from the Department of Agriculture and Markets is not reflective of the ambiance of an agricultural community and that all forms of agricultural - large and small - should be welcome in Parma. She noted that Blackie is not a pet; although he is domesticated he was kept for reproductive purposes which support a strong agricultural basis for him. He is not territorial or aggressive. She expressed concern that if complaint is allowed it will set a precedent for other to complain and could set grievous implication in the future.

She reviewed how she was informed of the complaint and the timeline for what has taken place. She felt very strongly that she is not in violation of the Town Code and that their rights are not being considered. She believes that they are classified as a farm by the Town of Parma and regardless of the Ag & Markets definition Blackie should be excluded from the noise ordinance based on the Town Code exception of "Noise generated by usual farm and agricultural operations". She did not agree with the Town Attorney's interpretation that the exemption refers to noise of farm machinery nor does the Town Code state that they have to be personally working the farm or that any form of income from the farm must be reported to the Town. She shared that they rent their land to other farmers, sell firewood and asparagus and breed Golden Retrievers for which they have a purebred license as required by Ag & Markets. She and her husband are interested in keeping their land an agrarian place, using it for agricultural purposes and felt that how they use their land is reflective of this.

By Parma's definition, she believes they are in full compliance of the code and is concerned that an inappropriate precedent will be set. She suggested that sections of the Code are not in agreement and should be reviewed so that they are in sync thus requesting that they be changed. She reiterated that although the Town's interpretation of the code is different than hers, she does not feel she is in violation of the current code and is protesting the Town interpretation. She stated that she has every confidence that the Town Board can see what needs to be done and that they are excluded from the noise ordinance.

Supervisor McCann allowed all those wishing to be heard an opportunity to speak. After additional comments and opinions were taken, Supervisor McCann closed the public forum. He noted that this was a sensitive issue, a lot of information was provided and emotions expressed.

He indicated during the various times in the discussion that alternatives will be looked into; that they will talk with the Town's Building and Zoning people; the Town attorney will be consulted; that the current interpretation has been applied properly but can be reviewed to see if there are other options for interpretation; and that the Town has relied on the opinion of Ag & Markets to guide them. He noted that later in tonight's meeting Town Code changes would be addressed. These have already been reviewed, public notice given, a public hearing was held and the next step was to make a decision on those changes. He noted that tonight's discussion could not be incorporated into those changes as they are not specific to the proposed changes and must be subject to public notice.

Mrs. Blodgett was asked if she had anything else to add and if her request regarding the noise ordinance had been covered. She felt that the topic had been discussed. Supervisor McCann indicated that the issue would be addressed soon.

### **MINUTES – JULY 20, 2010**

**RESOLUTION NO. 150-2010** Motion by Councilman Comardo, seconded by Councilman Smith, to accept the Minutes of the July 20, 2010 meeting with an amendment to Resolution No. 141-2010 indicating the maximum number of days that can be reported to the New York State Retirement System is 20 and the inclusion of reporting for the Conservation Board Secretary.

Motion carried: Aye 5 Nay 0

### **TOWN CLERK REPORT**

The Town Clerk and VFW Summary Reports for June have been submitted.

The Board of Elections held a meeting for Town Clerks on August 12, 2010 to address logistics as they move to the new voting machines. Use of the new machines will start with the primary on September 14, 2010. All polling locations will be open in Parma. We will be looking at having a Town employee and a Town vehicle pick up ballot containers which must get to the Board of Election after the polls are closed.

Update on Dog Licensing – The legislation passed is somewhat different from what was presented by the Department of Agriculture and Markets at the Clerk's Conference. Recommendations have been made for budgeting. The impact is minimal but a local law will have to be passed in the fall to establish that the town oversees dog licensing starting the first of the year.

### **HIGHWAY DEPARTMENT REPORT**

Supt. Speer reported the last project is being completed for the school district and County work is starting. An information meeting presentation is scheduled on August 31<sup>st</sup> for the shared service project. The first of the two trucks that were purchased has been received.

### **BUILDING DEPARTMENT REPORT**

The Building Department report for July has been submitted. The Building Department Inspectors, Code Enforcement and Fire Marshalls have completed training covering the 2010 updates to the Building Codes.

### **RECREATION DEPARTMENT REPORT**

Mr. Fowler reported that the department's summer playground program just finished up. Participation for this program was very similar to last year's overall registration for each of the six weeks. This year the playground program was divided into three active sites, compared to

the traditional two sites. In addition this year, staff completed the expansive process to bring the program in compliance with the Monroe County Health Department 2010 regulations.

The fall brochures will go to print this Friday. There will be several new opportunities and registration will begin on September 7, 2010.

The Town's Active Aging Week will run September 20-24. The theme is "Be active your way, changing the way we age". Several special events are planned for that week.

Supervisor McCann noted that lots of compliments have been received on the Parma Celebration. He thanked Recreation and the Parks Department for the good job done.

## **PARKS DEPARTMENT**

Mr. Petricone reported that he has been researching upgrades to the security system. He estimated the cost to be \$3,000 and will provide more information for the next Town Board meeting. It was noted pheasants were released on Monday on the NYS DEC land on Bennett Road. Pathway sealing at the Town Hall Park is almost complete.

## **BUSINESS ITEMS**

### **INTERNAL CONTROLS AUDIT REVIEW**

There was discussion on having a forensic audit performed by Hungerford Vinton, LLC to review internal controls. Discussion included that this type of audit has not been done in a number of years; the cost is estimated between \$8,250 and \$11,000; is this cost worthwhile when the state might come and perform an audit as well; should be performed to make sure we are doing things correctly, identify opportunities to correct any indentified issues now rather than waiting for a state audit; possibly save money; and it is common practice to regularly perform an audit.

**RESOLUTION NO. 151-2010** Motion by Councilman Comardo, seconded by Councilman Roose, to enter into agreement with Hungerford and Vinton, LLC to perform an internal controls audit with the cost to be capped at no more than \$11,000.

Motion carried: Aye 4 Nay 1 Voting Nay Councilman Carmestro

### **RESCIND RESOLUTION NO. 96-2009 AUDIT HIGHWAY PAYROLL RECORDS**

There was discussion and debate on whether the resolution authorizing an audit of highway payroll records should still be done. It was felt this would be redundant and that the just approved internal controls audit will cover this as well as other departments. There was discussion that the original resolution was not followed through on, that this is a procedural action, concern was expressed that Mr. Hungerford would not address the specific concerns which prompted the original resolution. There was further debate on what had occurred and what should be covered in the internal controls audit. Supervisor McCann will bring to the attention of the auditors that the former Supervisor asked that they pay particular note to the Highway payroll records.

**RESOLUTION NO. 152-2010** Motion by Supervisor McCann, seconded by Councilman Comardo, to rescind Resolution No. 96-2009 as it will be redundant now that the Town has entered into agreement for the internal controls audit.

Motion carried: Aye 3 Nay 2 Voting Nay Councilman Carmestro  
Councilman Smith

### **NOISE ORDINANCE CHANGE REQUEST – BLODGETT**

This was addressed during the public forum.

**HIGHWAY PAY RATE APPROVAL - MEO TO HMEO**

There was discussion on whether the second half step pay increase for Greg Speer and Dan Eichas had been given. There was a resolution passed in 2007 for the first step increase. There were varying opinions on whether this had already been paid. The question has been raised whether it had already been done and discussion on whether the involved employees had requested this be looked into. It was noted that the Finance Director had researched and compiled the figures provided and that the involved employees had asked about the status of these increases. It was suggested to table a decision until the next meeting to research further.

**RESOLUTION NO. 153-2010** Motion by Councilman Carmestro, seconded by Councilman Smith, to table any decision on approval of Highway pay rate increases for Dan Eichas and Greg Speer from MEO to HMEO for two weeks until the next meeting.

Motion carried: Aye 4 Nay 1 Voting Nay Supervisor McCann

**RECREATION DEPARTMENT TITLE CHANGE REQUEST**

The Recreation Commission has recommended that the individual in the present position of Recreation Supervisor be reclassified into the Recreation Leader position. This falls within Civil Service for Monroe County and it is an established competitive exempt position. There is not a current listing for this position with Monroe County; testing will be offered in February, at which time the employee must take the test, pass and be reachable. In the interim the position would be considered provisional.

**RESOLUTION NO. 154-2010** Motion by Councilman Comardo and seconded by Councilman Carmestro, to reclassify the position held by Shannon Balbi with the Town of Parma to Recreation Leader.

Motion carried: Aye 5 Nay 0

**SPECIAL EVENT PERMIT – CHRISTMAS TREES**

Mr. Case was unable to attend tonight's meeting. This has been tabled to the September 7, 2010 meeting.

**INTERMUNICIPAL AGREEMENT WITH VILLAGE FOR BUILDING INSPECTION SERVICES**

Mr. Baton indicated there had been some previous minor revisions and that it addresses compensation to the Town from the Village but the agreement does not address compensation to the inspector. He noted the process used with the Town of Ogden compensates the Inspector at his current rate of pay. Supervisor McCann noted this has been passed by the Village of Hilton.

**RESOLUTION NO. 155-2010** Motion by Councilman Carmestro and seconded by Councilman Comardo, to enter into an Intermunicipal Agreement with the Village of Hilton for the Town of Parma to provide building and/or fire inspection services on an emergency basis and/or at such times as Village of Hilton personnel are unavailable.

Motion carried: Aye 5 Nay 0

**PARMA TOWN CODE REVISIONS**

Supervisor McCann noted the public hearing was held and we now have the current version of the Town Code revisions. This has been established as a Type I action and Part I of SEQR has been reviewed by the Town Board. Mr. Barton asked that the Town Board ask questions on

any responses to the Environmental Assessment items that were not clear. The Town Board proceeded to review Part II of the Full Environmental Assessment Form. It was noted that this information was sent to Monroe County Planning and Development and returned with no comments. In addition, project review reports were done by Monroe County Department of Transportation and the Monroe County Health Department and resulted with no comments. This will be a local action and can be acted on tonight.

**TOWN BOARD RESOLUTION ISSUING THE NEGATIVE DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE FOR PROPOSED REVISIONS TO THE PARMA TOWN CODE**

**RESOLUTION NO. 156-2010** Motion by Councilman Roose and seconded by Councilman Comardo,

WHEREAS:

1. The Parma Town Board (hereinafter referred to as Town Board) has reviewed the Environmental Assessment Form and narrative for the adoption of amendments to the Parma Town Code;
2. The Town Board has considered the Environmental Assessment Form and narrative and the proposed Negative Determination of Environmental Significance.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Town Board declares that the actions to adopt amendments to the Parma Town Code will not have a significant adverse effect on the environment.
2. The Town Board further declares that the reasons supporting this negative declaration include:
  - a. Compared with the criteria listed in Section 617.11 of SEQR regulations, all indications are that the proposed action will not cause substantial adverse change in community character, aesthetics, design and natural features; and,
  - b. Review of the proposed zoning amendments, as well as the Environmental Assessment Form and narrative, has indicated that the proposed zoning amendments will not have a significant adverse impact on the environment of the Town of Parma.
3. The Supervisor is directed to sign page 1 of the Full Environmental Assessment Form to indicate that a Negative Determination of Environmental Significance has been issued.
4. The Town Clerk is directed to file a copy of the Negative Determination of Environmental Significance and Attachment thereto in the Town Office and with the NYS Department of Environmental Conservation.

Motion carried: Aye 5 Nay 0

**LOCAL LAW NO. 1-2010 - TOWN BOARD RESOLUTION TO ADOPT AMENDMENTS TO THE PARMA TOWN CODE**

Councilman Smith expressed concern regarding wording as it pertains to Agriculture and Markets Law; specifically whether it will lock us into a situation that would make it more difficult to address the concerns expressed tonight regarding the rooster. There was further discussion resulting in the desire to table the vote. It was felt that the Blackie issue could not be addressed as part of this action but enough concern was expressed that the ability to address in the future might be restricted. Therefore, the Board would like to hold off until the next meeting before approving. Because there was a motion and second a vote would be taken.

**RESOLUTION NO. 157-2010** Motion by Councilman Comardo and seconded by Councilman Roose,

1. The Parma Town Board has received a final draft of proposed amendments to the Parma Town Code and is considering action herewith to adopt said amendments.
2. Appropriate public notice of the proposed amendments to the Parma Town Code has been made, as well as referral to the Monroe County Planning Department for review and comment; and
3. The Parma Town Board has considered comments made by the public and interested agencies at the Public Hearing held on July 20, 2010; and
4. The Parma Town Board, as the only involved agency, has completed the Environmental Review of the adoption of said Code revisions and issued a "Negative Declaration" of significance, pursuant to the State Environmental Quality Review (SEQR) regulations; and

NOW THEREFORE BE IT RESOLVED THAT:

1. The Parma Town Board hereby adopts the above described amendments to the Parma Town Code.
2. The Clerk is directed to notify the Monroe County Planning Department of this action and to file the appropriate notices as required by NYS law.
3. This resolution shall take effect immediately.

ROLL CALL VOTE:

Motion failed: Aye 0 Nay 5      Voting Nay      Councilman Carmestro  
    Councilman Smith  
    Councilman Comardo  
    Councilman Roose  
    Supervisor McCann

**RESOLUTION TO TABLE REVISIONS TO THE PARMA TOWN CODE**

**RESOLUTION NO. 158-2010**      Motion by Councilman Carmestro and seconded by Councilman Smith, to table revisions to the Parma Town Code to the September 7, 2010 Town Board meeting.

Motion carried: Aye 5 Nay 0

**BUDGET TRANSFERS**

TRANSFERS TO BUDGET

Aug-10

FROM			TO			REQUESTED
ACCT #	DESCRIPTION	AMT.	ACCT #	DESCRIPTION	AMT.	
AOO570731049022	SWIM EXPENSE	1200.00	AOO570731049532	GYMNASTICS	1200.00	FOWLER
AOO570731049022	SWIMMING EXPENSE	1500.00	AOO57073104842	OTHER PROGRAMS	1500.00	FOWLER

**RESOLUTION NO. 159-2010**      Motion by Councilman Smith and seconded by Councilman Comardo, to approve the budget transfers as submitted.

Motion carried: Aye 5 Nay 0

**MISCELLANEOUS**

Meeting Dates - Supervisor McCann noted that meeting dates will return to the first and third Tuesday of the month starting in September.

**LIAISON REPORTS**

\*\*Councilman Smith reported he has attended the last two meetings of the Historical Society. Their attendance continues to grow and they will be looking at use a room at the Town Hall for their meetings.

\*\*Councilman Carmestro reported that he had followed up on soccer fields being used without permission. The issue has been resolved and should not be a problem in the future. The Village of Hilton has accepted a bid to start their DPW addition. The Fireman's Carnival was a success – no tornados.

\*\*Councilman Comardo reported he was unable to attend the Recreation Commission meeting. The Special Police have provided coverage for the Dog Control Officer when he is away. There have been questions on how they should handle dog control calls in the Village as they are not to provide police action. They are fulfilling the duties of dog control and are not wearing the Special Police uniform.

\*\*Councilman Roose reported there is an upcoming Zoning Board meeting this Thursday and he was out of town for previous meetings.

### **CORRESPONDENCE**

Town of Greece

Notice was received regarding changes to their zoning code as it pertains to a sunset provision where an extension can be granted by the Town Board.

### **WARRANT**

**RESOLUTION NO. 160-2010** Motion by Councilman Carmestro and seconded by Councilman Comardo, to approve payment of the warrant as submitted below.

AOO	General Fund	\$ 75,819.68
BOO	Part Town	\$ 3,215.10
DAO	Highway, Townwide	\$ 666.45
DBO	Highway, Part Town	\$ 8,342.02
HCO	Park Lighting Capital PR.	\$ 25,322.40
HDO	Town Bridges	\$ 41,224.55
S17	Wilder Road 1 Sewer	\$ 305.64
SDO	Townwide Drainage	\$ 12,901.32
TAO	Trust & Agency	\$ 3,237.19
	GRAND TOTAL:	\$171,034.35

Motion carried: Aye 5 Nay 0

### **MISCELLANEOUS**

Wilder Road Sewer District – clarification of items purchased. Mr. Speer thought the charges to the Wilder Road Sewer District were for a cleanout snake.

Zoning Code Changes – Trustee Horylev shared the process the Village of Hilton used in reviewing their sign code. He suggested a variety of parties be included in looking at the Town Code so input from diverse stakeholders would be included.

There being no further business brought before the Town Board, Councilman Carmestro made a motion to adjourn the meeting at 9:50 p.m., seconded by Councilman Comardo and all were in favor.

Respectfully submitted,

Donna K. Curry  
Parma Town Clerk