

A regular meeting of the Lysander Town Board was held at 7:00 p.m. on June 9, 2014 at 8220 Loop Road, Baldwinsville, New York.

MEMBERS PRESENT: John A. Salisbury, Supervisor
Melinda Shimer, Councilor
Andrew O. Reeves, Councilor
Robert Geraci, Councilor
Roman Diamond, Councilor

MEMBERS ABSENT: None

OTHERS ATTENDING: Anthony Rivizzigno, Town Attorney; Al Yager, Town Engineer; David Rahrle, Comptroller; Timothy Wolsey, Code Enforcement; Lisa Dell, Town Clerk; Pac-B and several residents.

PUBLIC HEARING
PROPOSED LOCAL LAW #1 of 2014
AMENDING CHAPTER A148 ENTITLED ‘STREET SPECIFICATIONS’
AND
AMENDING CHAPTER 117 ENTITLED ‘‘SUBDIVISION OF LAND’’
OF THE TOWN CODE OF THE TOWN OF LYSANDER

Notice of said Public Hearing was duly published in The Baldwinsville Messenger on May 21, 2014 with same being posted on the Town Clerk’s sign board at the Town Hall and on the Town’s website on May 5, 2014, for the purpose of hearing all persons for and against the adoption of Local Law No. 1 of 2014, a law which would amend certain provisions of the Town Code regarding the construction of streets within the Town.

The Public Hearing was called to order at 7:04 pm.

Engineer Yager read the proposed local law which is included in these minutes. Engineer Yager added that they are increasing the asphalt binder section to three inches from 2 ½. He said that they are included temporary and permanent hammerhead detail in the attachments to the highway specifications. HE stated currently that there are several hammerheads in the Town that are in developments that are too narrow for snowplows to maneuver in and out of without making a 12 point turn.

Jim Stirushnik, Dinglehole Road, asked Engineer Yager to explain the last paragraph in section 4.

Engineer Yager said essentially the punch list or performance bond requirement currently allows for the developer to take up to three years to replace the asphalt top course and that period can be extended at the Town Board’s discretion. He said that they are changing that so that the Town Board shall assure the complete installation of the required improvements within such period, not longer than one year for the placement of the asphalt top course or three years for all other improvements, as shall be fixed by the Town Board. He stated that will be included in the resolution accepting dedication and setting the punch list security going forward.

Jim Stirushnik, Dinglehole Road, stated the last sentence, when will that notification be made to the Town Clerk.

Engineer Yager stated it’s up to the developer to do it, there is no time period set, but it would have to be at the Board meeting before the securities expire if they want to extend it. He said the Town Clerk does a very good job at staying on top of what securities expire, sets out notifications to the Town Attorney, myself and the Town Board when they are about to expire. He stated at that point in time it is the Board’s discretion if they want to pull the bond or see if the developer wants to ask for an extension or what they want to do.

Jim Stirushnik stated that it just seems to him that the Town Clerk should be notified in a timely fashion so that the Town Engineer and the Town Council and the Town Board can act in a timely fashion before the expiration of the monetary item. He said that knowing these contractors they typically wait until the very last minute and then demand they want it done now. He said that he would suggest a 30 or 60 or 90 or even a 180 day period of notification that they are going to want an extension.

Town Clerk Dell said that she is pretty much notified maybe a month or month or so out before it expires, if not sooner, and then she notifies the Board about 30 days out.

Engineer Yager said he thinks all the bonding companies send letters at 60 days so they do send notification to the Clerk plus the Clerk has a spreadsheet going with the securities dates on them so we do keep pretty close

tabs on them. He stated that Lisa sends us calendar reminders when things are about to expire and she does keep up with it in a timely fashion.

Jim Stirushnik stated all he is interested in is that it is done in a timely fashion. He said these things sometimes are always in a rush at the end.

The Public Hearing was closed at 7:10 p.m.

APPROVAL OF MINUTES

RES. #93/2014

Motion by Shimer, seconded by Diamond to approve the minutes of the regular Town Board meetings of April 28, 2014, May 5, 2014 and May 19, 2014.

VOTE:

Supervisor Salisbury	Aye	Councilor Shimer	Aye	Councilor Geraci	Aye
Councilor Reeves	Aye	Councilor Diamond	Aye		

All Ayes, motion carried and adopted.

SUPERVISORS COMMENTS:

Supervisor Salisbury read aloud the following:

The Town Clerk at the Town Board's meeting of May 19, 2014 made a number of comments which require clarification. A lot has been said about the letter sent from Toomey Residential and Community Services on March 18, 2013. My comments are stating what I know and have discovered during my review of the letter in various files. I am not making any accusations and I am not making excuses, just stating what I was able to learn on my own. Remember as I move through the dates it is my findings and the facts as I have been able to uncover them. I am not going to pursue this matter any further.

1. The first of the two letters, sent by Toomey, was dated Monday, March 18, 2013
2. That letter was sent certified mail and was signed for in the Clerk's office by the Deputy Clerk on Wednesday, March 20, 2013
3. I spoke with the real estate agent, representing the seller of the property, who had come into the office on Monday, March 25, 2013. He had received a copy of the March 18th letter from the Real Estate agent representing Toomey. This had to be in the afternoon, as Karen Rice and I, along with a number of other people, were in the Camillus Town Hall having been subpoenaed to testify in an action before the Town of Camillus Justice Court. We were there until after lunch time. The buyer's real estate person is the person who gave Karen Rice her copy of the letter.
4. Fast forward to Monday, April 9, 2014. I viewed Karen Rice's copy of the March 18, 2013 letter given to her by the real estate agent and it did not have the Supervisor's received stamp on it.
5. On April 28, 2014, I asked the Deputy Town clerk for a copy of the Toomey letter that was in the Town Clerk's office. The original was in that office with the Supervisor's stamp "Received March 25, 2013"
6. I then asked my secretary to look in our files for a copy and found a copy, in a folder in the back of the file, with no received stamp on it.

This is where my investigation ended and enough has been said about the March 18th letter.

Let's look at the purchase offer:

1. A purchase offer for the Doyle property was signed by Toomey on March 5, 2013
2. The seller accepted the purchase offer on March 14, 2013
3. There were two contingencies:
 - a. Buyer successfully completes the Community notification site selection process with the Town of Lysander (completed with the letter of March 18, 2013)
 - b. Purchaser obtains New York State Office of Mental Health approved financing
 - c. Date which (b) must be completed was September 6, 2013 and then extended to December, 2013 and then March, 2014

Nothing was said about the Town having any ability to stop the transaction. Again this history explains only the sequence of events which is lacking in the comments of the May 19th Town Board meeting.

Let me now address the accusation of an illegal meeting. We have never had an illegal meeting. The meeting of April 24, 2014 was called by the Town's attorney at which all Town Board members were in attendance. The meeting was called to discuss items covered under attorney/client privilege. As such, it is not a public meeting, no minutes are to be taken and no notice is required. Robert Freeman, Executive Director of the New York State Committee on Open Government has stated that Open Meeting Laws do not apply to attorney/client privilege interactions and therefore are exempt from Open Meeting Laws. I also want to quote from an article from the *"Board of Ethic: Public Disclosure"* which was originally published in the Spring 2008 issue of the *Municipal Lawyer*, and I quote, *"Often relevant to the functions of boards of ethics in Section 108(3), which exempts from the OML (Open Meetings Law), any matter made confidential by federal or state law. When an attorney-client relationship has been invoked, it is considered confidential under Section 4503 of the Civil Practice Law and Rules. Therefore, if an attorney and Client establish a privileged relationship, the communications made pursuant to that relationship would be confidential under state law and, therefore, exempt from the OML (Open Meetings Law).* For someone to have received information from a person who attended the meeting means that the person revealing information from that meeting violated the attorney/client privileged communications. I cannot comment further because I am bound by ethical considerations which the person who gave the information seemingly was not concerned. I hope that this clears up questions which were raised in a previous Town Board meeting. Thank you.

TOWN BOARD COMMENTS

Councilor Diamond stated that he is also not looking for a debate or an argument. He said these are merely his opinions. He stated that since the majority of this Town Board took office they have purposefully taken responsibilities away from the Town Clerk. He said that have taken the ability to do the agendas from the Town Clerk. He said they have taken FOIL requests away from the Town Clerk. He stated they continue to make arguments and statements that the minutes are inaccurate and that things are being done inappropriately yet they are not giving clear examples. He said in a newspaper article, in an interview, Supervisor Salisbury said he walked the letter from Doyle Road down to the Code Enforcement Officer now he is denying seeing the original copy until he went to the Town Clerk and received it from the Deputy. He stated he doesn't believe this makes sense and he thinks that the Town Supervisor should make an apology for either missing the letter, accepting that mistakes happen, or not reading it all together. He said as for an illegal meeting that happened April 24th there were certain items discussed that was confidential but not everything discussed was confidential. He stated he wanted this to be very clear.

Supervisor Salisbury said not to continue this discussion and please no comments from the audience. He said this is a Town Board meeting and that's what the Board has to talk together about. He stated that they will have an opportunity to ask questions on agenda items and then on recognition of citizens.

Supervisor Salisbury then addressed Councilor Diamond and said he did admit to walking down to the Codes Office because he was told that was what he did. He stated in his research he found out that he didn't do that because he wasn't at the Town Hall until that afternoon.

Councilor Diamond asked Supervisor Salisbury who told him this.

Supervisor Salisbury said that they were not going to continue this discussion. He said to Councilor Diamond that he made his comments; he will make his and its done. He stated doing research he just found out that he did not walk down to the Codes and the letter was given to Karen Rice by the real estate agent and no more needs to be said about it.

Councilor Shimer stated she liked to give a shout out and congratulations to Julia Goodwin and Scott Blewett, two Baker High School students, who recently had some pretty amazing accomplishments. She said Julia was on the television show, America's Got Talent and Scott just got picked in the second round by the Kansas City Royals to pitch for them. She said she gives kudos to both of them for reaching for the stars and doing good things. She stated she also wanted to thank Supervisor Salisbury, Claude Sykes and Joe Saraceni for contacting the DOT and lighting a little fire under them because the roads are getting actually paved in Baldwinsville. She also wanted to give kudos to the Town's Codes Department as they heard quite a list of accomplishments of areas that have been remedied since 2013 and one property was a 17 years problem that they managed to come to a very satisfactory conclusion. She stated that they talked quite a bit in the work session about the Land Use Planning Committee and what they are looking to do for the Town. Councilor Shimer said she just reviewed Chairman Bill Lester's latest report and found it very enlightening. Councilor Shimer read a portion of the report for the audience. (The complete report is available for public review in the Planning Department.)

Councilor Shimer then addressed Councilor Diamond and asked him if he had a chance to review the 35 hours of security video that he requested from Mr. Boccardo.

Councilor Diamond stated he has not completely viewed the security footage and he will let her know when he has.

Councilor Shimer asked Councilor Diamond to let the people know what the security footage involves.

Councilor Diamond stated that he requested the security footage of the Town Hall of all the camera angles and was given information that the Supervisor and two Councilors were behind closed doors and this came from a reliable source within the Town who will remain anonymous because the Town still does not have a whistleblower policy in place and this employee was concerned for their job. He said that he was informed that there was an illegal board meeting taking place and he responded. He stated he is reviewing the footage right now and when he is done reviewing the footage he will let her know.

Councilor Shimer said that he basically requested the footage and heard that Councilor Diamond did not call her, Councilor Reeves or Supervisor Salisbury and ask them what was going on and said by the way she can be at the Town Hall any time she wants to. She stated she was actually at work that day and she said she called Councilor Diamond and said to him that she heard he called the newspaper to say that they were having an illegal meeting but she was at that time at work and had been there all day. She stated Councilor Diamond told her that he still wanted to look at the camera because he wasn't sure that what she said was true.

Councilor Diamond stated that he wanted to do his due diligence and take a look at the recording.

Councilor Shimer said she was in school all day and had she been at the Town Hall that would be okay because she can be.

Councilor Diamond stated that she can be at the Town Hall as long as the Supervisor and another board member is not present in the same room.

Councilor Shimer said that the Town Clerk's Office has told her that when they request an audio recording of the minutes to review minutes that we are wasting the taxpayers money.

Councilor Diamond then asked Town Clerk Dell if she ever said that statement.

Town Clerk Dell said she never made that statement. She told Councilor Shimer that she gives her the digital recordings all the time when she asks for them and it takes a minute to do.

Councilor Shimer asked Councilor Diamond if he thought it is a wise use of the tax payer's dollars to take three and a half hours for Mr. Boccardo to do 35 hours of security camera video which is for security purposes right and that she is not a security risk and she was not there.

Councilor Diamond stated that they are paying him to do something, he is doing a job, and he does not believe it was a waste of money or time or he wouldn't have done it. He said that although he may believe that the Bookkeeper to the Supervisor is a waste of a position and a waste of a salary.

Supervisor Salisbury stated that he was out of line.

Councilor Diamond said he is a Town Board member, he wants to speak, he wants to say it. He stated he is not saying anything against the individual, he is holding him in the highest respect, but the position in itself he believes is wasting tax payer dollars.

Councilor Reeves asked Councilor Diamond why would he call Tami at the Messenger as a Town Board member concerned about an illegal meeting instead of calling the Supervisor or one of the Councilors. He said Tami made the statement that Councilor Diamond said if we ask who called he wants us to know it was him.

Councilor Diamond said he was not commenting.

Supervisor Salisbury stated that the Onondaga County Election Board has ruled that Councilor Shimer, Councilor Reeves and himself, because they are a political committee they can meet in a caucus at any time just like the Town Board before us when they were all Republicans held meetings before every town board meeting that was closed and that was a caucus. He said that there was nothing wrong with that.

Councilor Diamond stated that Supervisor Salisbury is a registered Democrat, Councilor Shimer is a registered Democrat and Councilor Reeves is a Republican.

Councilor Reeves stated that they all belong to Lysander First which is a committee and is registered with New York State.

Supervisor Salisbury said that maybe he doesn't believe it.

Councilor Reeves said let's get 35 hours of footage from the State and maybe he will believe it then.

Councilor Shimer stated she thinks what is important that she knows when she joined the Town Board that she joined it thinking that everybody brings their experience, their knowledge together, what they know and to work collectively and collaborately to gain more knowledge and understand things and make decisions to move the Town forward.

Councilor Diamond said correct.

Councilor Shimer stated she is having this feeling that rather than be collaborative he is being a little more obstructive and she wished that they would just work together a little bit more.

Councilor Diamond stated he would like that. He said in fact Councilor Shimer, he wanted to thank the Supervisor for putting on the agenda a resolution that he brought up the last meeting and he would hope that Councilor Shimer would vote with him and vote with anybody else to help reduce some services, consolidate some positions and to consolidate responsibilities. He said he would appreciate her support for resolution E.

Councilor Diamond stated Councilor Geraci...

Supervisor Salisbury said are you Deputy Supervisor?

Councilor Diamond asked if he was going to appoint him.

Supervisor Salisbury said no. He stated he will direct the meeting, he didn't know he was going to direct it.

Councilor Diamond said no, he was trying to bring up back on track.

Supervisor Salisbury said thank you.

Councilor Geraci stated he hopes that they can move from here. He said so much of what they do is based on perception as opposed to the dotting the I's and crossing every T of every law. He stated it is difficult to get things done in a five member board when you can't talk together. He said knowing what's going on with open meetings law and things like that, back to the April 24th meeting, he was there. He stated it was after the Toomey meeting, it was pretty intense the night before. He said with hindsight he would probably have asked can they make it a public meeting because there really wasn't much discussed that was really confidential between the attorney and the Town. He stated it was just what do they do from this point forward. He said it was a good conversation but following the rules of the open meetings if he could have done it over again he would have either said let's not meet until we can let the public know what was going on because they really didn't talk about anything that had to be kept confidential. He said in the future they just have to keep moving ahead positively.

DEPARTMENT HEAD REPORTS

Tim Wolsey, Code Enforcement Office presented an activity report for the months of April and May 2013. The reports are available for public review in the Code Enforcement Office.

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Town Clerk Lisa Dell reported the following:

The Town Clerk's Office has received a limited supply of mosquito control kits from the Onondaga County Soil and Water Conservation District. This product is only for use on residential property owns or leased by the resident. The product controls mosquito larvae and is only for use in containerized water, such as:

- Old tires
- Bird baths
- Defunct swimming pools
- Ornamental ponds
- Flower pots
- Rain barrels

Any questions, please call NYS DEC Pesticides Compliance in Albany (518) 402-8727

CITIZEN COMMENTS ON AGENDA ITEMS

Chris Patrick, Ashington Drive, stated he wanted to make a comment on agenda item E that he is completely against changing the FOIL Officer back to Ms. Dell. He said additionally he kind of curious why Councilor Diamond was allowed video footage when he foiled similar footage and it was denied to him.

Supervisor Salisbury stated that there was one difference as his request was footage of the court which is not allowed that he knows of.

OLD BUSINESS

None

NEW BUSINESS

2014 Budget Transfers

RES. #94/2014

Lysander Town Board regular meeting
June 9, 2014

All Ayes, motion carried and adopted.

BOARD DISCUSSION BEFORE VOTE:

Supervisor Salisbury stated that these are budget transfers that must be made. He said when you do a budget; you budget so much for expenditures. He stated when you overspend in one account and underspend in another and it's all within either full town or part town or highway they move funds from one account to the other not between whole town, part town or highway but within each of those.

.....
Adopt a new Business Associate Agreement with RBS-RMSCO, Inc.

RES. #95/2014

Motion made by Reeves, seconded by Diamond to adopt a new 'Business Associate Agreement' with RBS-RMSCO, Inc., that reflects recent changes in federal law by the Department of Health and Human Services.

VOTE:

Supervisor Salisbury	Aye	Councilor Shimer	Aye	Councilor Geraci	Aye
Councilor Reeves	Aye	Councilor Diamond	Aye		

All Ayes, motion carried and adopted.

BOARD DISCUSSION BEFORE VOTE:

Supervisor Salisbury stated this was adopted because of the recent changes in the Federal law on health insurance.

.....
ADOPTION OF LOCAL LAW NO. 1 OF 2014

RES. #96/2014

Motion by Salisbury, seconded by Shimer

Local Law No. 1 of the year 2014.

.....
A LOCAL LAW AMENDING CHAPTER A148 ENTITLED 'STREET SPECIFICATIONS' AND AMENDING CHAPTER 117 ENTITLED "SUBDIVISION OF LAND" OF THE TOWN CODE OF THE TOWN OF LYSANDER
.....

Be it enacted by the Town Board of the Town of Lysander as follows:

Section 1. Section A148-2, entitled "Plans to be submitted for approval," of Chapter A148 of the Town Code of the Town of Lysander is hereby amended by deleting the last sentence of subsection (A) and replacing it with the following sentence:

No construction shall commence until plans have been approved and the developer has entered into agreement with the Town to construct the work included in the construction plans. Said agreement will be filed in the County Clerk's Office.

Section 2. Section A148-5, entitled "Inspection of Work," of Chapter A148 of the Town Code of the Town of Lysander is hereby amended by adding a new subsection (F) as follows:

F. The contractor shall have a NYSDOT approved independent testing laboratory provide Nuclear Density Gauge testing using the 70 series compaction method, in accordance with NYSDOT Materials Procedure 96-01 during placement of all asphalt concrete.

Section 3. Section A148-14, entitled "Underdrains," of Chapter A148 of the Town Code of the Town of Lysander is hereby deleted in its entirety and replaced with the following new section A148-14 with the same title:

§ A148-14 Underdrains.

Six-inch perforated HDPE pipe underdrains shall be installed as shown in the Town standard roadway sections or as indicated on the approved plans, using pipe and

granular filter material furnished or installed in accordance with Section 605 of the New York State Department of Transportation Standard Specifications.

Section 4. Section 117-8, entitled "Major Subdivision Procedure," of Chapter 117 of the Town Code of the Town of Lysander is hereby amended by deleting the current subsection and subdivision (M)(1) of Section 117-8 and replacing it in its entirety with the following new subsection and subdivision (M)(1):

M. Performance bond.

(1) Any performance bond furnished in lieu of the installation of the required improvements shall be in the amount fixed by resolution of the Town Board, shall be secured by such cash deposit of the developer or issued by such bonding or surety company as shall be approved by the Town Board and shall be approved by the Town Board as to form, sufficiency and manner of execution. The bond shall assure the complete installation of the required improvements within such period, not longer than one year for the placement of the asphalt top course or three years for all other improvements, as shall be fixed by the Town Board. The Town Board, with the consent of all parties to the bond, may extend such period upon written application of the developer filed with the Town Clerk prior to the expiration of such period or upon its own motion at any time prior to a declaration of a default in the bond by the Town Board.

Section 5. This Local Law is effective upon filing with the Secretary of State.

VOTE:

Supervisor Salisbury	Aye	Councilor Shimer	Aye	Councilor Geraci	Aye
Councilor Reeves	Aye	Councilor Diamond	Aye		

All Ayes, motion carried and adopted.

.....
Blue Cross/Blue Shield Health Insurance Plan

RES. #97/2014

Motion made by Shimer, seconded by Geraci to authorize the Town Supervisor to sign the contract with Excellus Blue Cross/Blue Shield Inc. for the Platinum Medical Insurance Plan. This plan is to be offered to eligible non-bargaining unit employees and retirees under the age of 65 currently enrolled in NYSHIP. This plan will become effective July 1, 2014.

VOTE:

Supervisor Salisbury	Aye	Councilor Shimer	Aye	Councilor Geraci	Aye
Councilor Reeves	Aye	Councilor Diamond	Abstain		

Four Ayes, motion carried and adopted.

BOARD DISCUSSION BEFORE VOTE:

Supervisor Salisbury stated that the Town health insurance for non-union employees is up June 30th and they have been looking at other health insurance plans. He said they met last week with the two insurance consultants and they are recommending to the Board that the Blue Cross Blue Shield Health Insurance Plan be adopted for the non-union employees.

Councilor Diamond stated that his employer contacted him to come into work last minute the date that this was discussed so he was not at the initial presentation however he did meet with the Comptroller to discuss this in detail. He said after a discussion in the work session he has decided he would abstain from this vote because he was not at the initial presentation but he has no problems supporting this resolution.

.....
RECORDS ACCESS OFFICER (F.O.I.L)

RES. #98/2014

Motion made by Diamond, seconded by Geraci to have Lisa Dell, the Town Clerk, reappointed as the Town's FOIL Access Officer at no additional compensation.

VOTE:

Supervisor Salisbury	No	Councilor Shimer	No	Councilor Geraci	Aye
Councilor Reeves	No	Councilor Diamond	Aye		

Three Noes, motion defeated.

BOARD DISCUSSION BEFORE VOTE:

Supervisor Salisbury stated at the last meeting this motion was made by Councilor Diamond and seconded by Councilor Geraci. He said it was tabled and they have now brought it back to this meeting and it is a motion on the floor.

Councilor Diamond stated that he believes, and he stated this at the last board meeting, it is important to have an independently elected official serving as the FOIL access officer because they need to have people that are able to make independent decisions that are not concerned about their jobs. He stated if you have an employee who is doing this responsibility they have to be concerned on how their employer wants them to respond to a certain request. He said if they don't respond in the correct way, worst case scenario in other Towns their job might be on the line. He stated that he is not saying that this is the case in this Town. He said what he is saying is it is an important check and balance. He stated that every Town in New York State the Town Clerk is the FOIL Access Officer. He said there is absolutely no reason why our Town Clerk should not be the FOIL Officer. He said she is a Town elected official and she is on a salary. He said from a business perspective we would want to put on our elected officials more responsibility because they are receiving a salary. He stated they should want to take responsibilities away from employees that are paid by the hour so they will not be costing the Town more money. He said that he doesn't see any reason why the Town Clerk was removed from this responsibility and he would hope that every single board member, including the Supervisor, will support this resolution and it is his hopes that this would pass unanimously.

Supervisor Salisbury stated it is important for the audience to know that it's not a requirement that an elected official be a FOIL Officer. He said they changed this two and a half years ago and he for one does not see a need to visit it at this time.

Councilor Reeves asked Dan Boccardo (who was present at the meeting) as long as he been the FOIL Officer at any time did he believe there was any pressure at all put on him by Supervisor Salisbury, himself, Councilor Shimer or any board member in his decision handling FOIL.

Dan Boccardo said no.

Councilor Reeves asked if there was even close of a hint of pressure.

Dan Boccardo said one time he was confused and was seeking others opinions but he never really got a consensus of an opinion so he just sent a denial letter.

Councilor Reeves stated to Councilor Diamond that he attacked Mr. Boccardo as the Bookkeeper and that is about as intimidating as one can get to the FOIL Officer. He said the only person that intimidated the FOIL Officer that made an attempt was him.

Councilor Diamond stated that he has nothing against the individual that holds this position and he holds him in the highest esteem. He said he disagrees with the position that he holds and does not agree with the position. He stated that he agrees that the responsibility belongs to the Town Clerk as do quite a few other responsibilities but today they are discussing the FOIL Officer position.

Supervisor Salisbury said that the FOIL Officer position is appointed at the every Organizational Meeting which is the first meeting in the new year. He stated that Mr. Boccardo was appointed at that time so he would like to have a roll call vote.

Councilor Geraci stated that he would just urge the Board to consider the resolution positively. He said that everything that went on this evening so far is a good reason to divest the FOIL which is Freedom of Information for the people who don't know what that means. He said it is basically when someone makes a request for information from the Town. He stated that the Town has an agent and throughout the rest of New York State it is the Town Clerk that makes that decision and if there is anything that is confusing or suspicious most Town Clerks, if not all, go to the Town Attorney and in this case Mr. Rivizzigno. He said it would divest us from any implication that the word, perception, that he used before that something is going on. He stated give it to someone that it totally independent of the Board. He said that most of the requests for information are harmless and again if they are not they would go to Mr. Rivizzigno who is an attorney, that is why they hire him to guide

us in our decision making. He stated let's get out from under this cloud of perception. He said he is not comfortable sitting here being a part of this. He said to Councilor Reeves that his question to Mr. Boccardo was a good question but how is he going to answer it sitting there in terms of not being intimidated.

Councilor Reeves said they can't discuss the reason why they took it away from the Clerk because it was discussed in Executive Session.

Town Clerk Dell then asked Councilor Reeves why it was taken away from her.

Councilor Reeves said he doesn't think she will get an answer.

Town Clerk Dell stated she would like an answer because she was never told. She said she was surprised when they changed the local law to remove the Town Clerk as Records Access Officer and was surprised at the organizational meeting for 2013 when first Ann Smiley was appointed then Dan Boccardo. She said she was never ever told from anybody on this Board and from the two previous board members if she processed a FOIL request wrong because she has always gone to the Town Attorney who has referred her to the Committee on Open Government for decisions that were made. She stated she would like to know why the Town Clerk, the position, was removed as FOIL Officer.

Supervisor Salisbury stated he was not going to answer that.

Town Clerk Dell asked why not. She stated this is a public meeting, it was brought up, the public is here and asked why doesn't he tell her.

Supervisor Salisbury said he is not going to in a public meeting.

Town Clerk Dell stated just like he won't tell her what is wrong with her minutes.

Councilor Reeves said if you want to get into minutes he reviewed a set of minutes for the 18th of November last year. He said you are right you can do your minutes the way you want to do them.

Town Clerk Dell asked Councilor Reeves if he gave her any corrections from those November minutes in 2013.

Councilor Reeves said to Town Clerk Dell that he can't because it is all policy. He stated it is the policy that she set there was nothing wrong with what she wrote.

Town Clerk Dell stated when she completes the minutes she sends them out for review.

Councilor Reeves said that she missed 35 minutes of Councilor exchange on the 18th of November in between resolutions, nowhere in the minutes because that was your policy.

Town Clerk Dell stated that all of this is nonsense, it's all ridiculous, we are all elected officials, that they all need to grow up, behave, and lets work together.

Town Clerk Dell then addressed Supervisor Salisbury and stated that she has done nothing but help him since he has been in office and she has gone out of her way to help him so let's put this all in the past like Councilor Geraci was referring to, the perception, and lets all work together.

Councilor Geraci said he was not finished with his comments and said if you could just see the validity of making everyone up on this table looking much better by voting for this resolution he thinks that is what you will accomplish. He said there is no points for him, no points for Councilor Diamond. He stated this is doing the right thing in the eyes of the people out there.

Supervisor Salisbury said to Councilor Geraci, no, that is your opinion, and he is not being held hostage by that.

Town Clerk Dell stated that she didn't think they wanted her to publically say the reasons why he removed her as FOIL Officer but she will be more than happy and read a statement if he wants her to. She said that she thinks that the Town Attorney would advise that this conversation end.

Supervisor Salisbury said he agrees and requested a roll call vote.
A roll call vote was then taken and motion was defeated.

ANNOUNCEMENTS:

Supervisor Salisbury made the following announcements:

Lysander Town Board regular meeting
June 9, 2014

- Informational Meeting
Monday June 16, 2014
Proposed Lamson Road Water District
7:00 pm Baker High School Auditorium
- Committee Meeting
Thursday June 19, 2014
9:00 a.m. Town Hall Conference Room
Government Affairs: *(Responsible for matters involving internal governmental affairs and internal consolidation of services, town fees, and others matters deemed appropriate by the Supervisor.)*

OTHER BUSINESS:

EXECUTIVE SESSION

RES. #101/2014

Motion by Reeves, second by Diamond to adjourn to Executive Session to discuss matters relating to proposed sale and transfer of real estate and pending litigation.

VOTE:

Supervisor Salisbury	Aye	Councilor Shimer	Aye	Councilor Geraci	Aye
Councilor Reeves	Aye	Councilor Diamond	Aye		

All Ayes, Motion Carried

RECOGNITION OF CITIZENS:

Supervisor Salisbury said that this is a Town Board meeting and it's not a place to make political comments, so he will stop them if they are doing that.

Bob Wicks, W. Genesee Street, said that he would agree that this is not a place for political comments although he did enjoy the 20 minutes of political bickering and since he is on vacation he has plenty of time. He stated that one of the things that he didn't hear them discuss after they discussed the letter was what have they done to ensure that this won't happen again. He stated he has been at several meetings and he hasn't heard about what their resolution is to not receiving that letter and what are they going to do moving forward. He said also when he comes to these meetings he tries to find out what is going on in the Town but all he hears is bickering back and forth. He stated that he would also like to know what they are doing to address the 37 percent tax increase. He said that they might not think that is very much but he does and most of the people that he has talked to does as well. He asked what are they doing to address the problems with the new snowplow and he understands that there are several issues with that. He asked what is being done to address the issue of the mental health housing in Lysander. He said although he is not necessarily against mental health in Lysander, there are several people that are, and nobody has addressed that issue asking moving forward, what are they going to do to address that. He stated also that the Board has a fiduciary responsibility for the Town and as their taxes go up he said it would have been nice to know the cost of this platinum medical insurance compared to the insurance that it was replacing. He stated that it would have been fair to at least discuss with the Town residents what it is replacing.

Supervisor Salisbury said it is a tax savings to the residents. He said he can't say it is a large tax savings.

Comptroller David Rahrle stated to give a little history about the insurance the present insurance expires June 30th for non-bargaining unit employees. He said that back in 2011 when the NYS Comptroller's Office and did an audit one of the things they wanted to see if the Town was shopping around for insurance and not only just the health and dental insurance benefits, but also liability insurance, workman's compensation insurance. He said he had to show them proof that the Town was doing their due diligence and getting quotes from other organizations. He said he explained to the auditor at the time that they were tied into the union contract with the health insurance because the participation agreement for non-union bargaining employees tied in with the union's contract timeframe. He stated that so obviously with the June 30th date approaching they acquired a couple of insurance consultants and asked them to go out and find the Town an insurance program that either matched or was better than the current plan that is being offered to the non-bargaining unit employees and in the process hopefully save the Town some money. He said that they looked at a couple of different plans and they decided on the platinum plan and by switching the non-bargaining unit employees the Town will save approximately \$11,000. He stated that in addition to the non-bargaining employees they have four retirees who are sort of in between. He said in January of this year the Town switched all of the retirees who were over the age of 65 from the NYSHIP insurance plan to MVP Health Plan and the Town saved thousands of dollars to address the issue about the tax increase. He stated they are trying to spend money wisely. He said in addition

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to that the Town has these four employees who are kind of in between. He stated they can't be covered under the Teamsters Plan and they were not old enough to be put in the MVP Plan so they had to be kept in NYSHIP. He stated by going to this other insurance plan they have agreed they will take on these four people along with the non-bargaining unit employees. He said those four people alone will save the Town as much as the other people that are being moved to this new plan. He stated by making the switch, they are talking \$20,000 so \$20,000 is \$20,000 that the Town is saving.

Supervisor Salisbury stated that the Teamsters insurance that the Town has had for the past 5 years has gone up 50 percent over the 5 years which is an average 10 percent increase per year. He said that it is the high increase which was in the first year which was 12 to 13 percent. He stated the low was this year which was 2 ½ percent. He said everybody who has health insurance knows it goes up every year but this plan that they adopted they feel will serve the employees at a reasonable cost.

Councilor Reeves said one thing he wanted to comment on was the truck will be answered very shortly, not here tonight, but there are other issues with the truck. He said the truck is functioning and functioning fine and it has nothing to do with the fact that he okayed it and bought it. He said there is some information that will come out when they discuss the next truck before then. He stated they have already had some preliminary discussions on it and he thinks that everyone will understand soon as the Highway Superintendent gets the numbers.

Councilor Shimer addressed Mr. Wicks and said he had a question about mental health issues in the Town and she thinks he was referring to the group home that is proposed on Doyle Road. She told him that she is the liaison so any questions, general or specific, to come to her and she will get the answers for him. She said she is in regular contact with Toomey.

Norm Ashbarry, Hidden Lake Drive, said just today he talked to a town employee who told him that in fact that truck is under power to this day so there is some conflict here in where the facts lie. He said he would like to get some facts and not just rely on what Councilor Reeves is saying.

Councilor Reeves said he will have those facts.

Jim Stirushnik, Dinglehole Road, stated that in reference to new business E on the agenda he noticed the rather casual way that someone named Roman is referred to not Councilor Diamond and Councilman Geraci is simply referred to Geraci and how Lisa Dell is just referred to as the Town Clerk. He said that he feels the format should be improved.

Councilor Diamond stated that he actually notified the Town Supervisor of this and he asked that at least his last name be mentioned just for consistency and the Town Supervisor responded to him that he copied it verbatim from the minutes. He said he wasn't asking that he change it but to correct the wording in the resolution.

Supervisor Salisbury said the minutes have been changed.

Councilor Diamond stated the Town Clerk yes she changed it and it was never corrected. He said the minutes were changed and they actually got a copy of those minutes

Supervisor Salisbury said I'm sure it will be.

Councilor Diamond stated he wasn't going to make an issue out of it but he wanted to respond to Mr. Stirushnik's statement.

Mr. Stirushnik stated that he thinks it is appropriate that elected officials be presented in their appropriate title.

Supervisor Salisbury asked Mr. Stirushnik if he understood that he copied this from the minutes. He said in the computer he highlighted it, he copied it and pasted it. He stated that then he noticed it had Roman versus Diamond so he copied it from the minutes that is all he did.

Bob Wicks, W. Genesee Street, stated that the question about the mental health housing was just that hasn't been addressed. He said he is not for or against mental housing in the Town of Lysander but there are a number of people obviously at several meetings that were. He stated that the point he was making it was that was never addressed. He asked what are they doing moving forward to address that issue so that letters are not misplaced, that these issues with the mental health housing, if there are going to be other mental health housing in the Town of Lysander so it is addressed appropriately so they don't have the type of meetings like they have had. He stated if this was in the 1800's, some people would have been tarred and feathered. He said that was his point. He stated that the bickering, the term, Supervisor, infers that there is some leadership. He said that his point is that if the Supervisor is in the position of leadership, a leader doesn't generally throw other subordinates

under the bus or other employees under the bus. He stated these types of issues should be dealt with in private and not in public like that. He said that is what leadership is.

Supervisor Salisbury said that there is no employee that threw him under the bus. He stated as they sit up here, they are elected, and have one vote on the Board. He stated he has no control over other elected officials, like the Town Clerk or the Highway Superintendent.

Mr. Wicks stated he understood that but he runs the meetings and has certain responsibilities, fiduciary responsibilities in the Town and his point is the Supervisor takes ownership of things. He said if a mistake was made, fine, other people don't have to be thrown under the bus.

Supervisor Salisbury stated he is not throwing anyone under the bus.

Mr. Wicks said okay, but that's how he sees it. He stated he was just making a comment.

Supervisor Salisbury said to Mr. Wicks his comment asking how they were going to approach mental health in the future he had tried to explain that by the time that letter was sent to the Town Board there was no getting out of that purchase offer. He said they could not have done anything and they do not need to discuss it further.

Lisa Dell, Town Clerk said regarding the FOIL Officer that Councilor Diamond's motion he brought up, it's just important, the perception, she takes her job very important, and as a former law enforcement officer she tends to follow the law and she applies that to her job here as Town Clerk.

She said in February of 2012 a letter was given to only the Town Supervisor from her and her Deputy Clerk expressing their fears of a certain individual as it relates to workplace violence. She stated it should be noted that this individual is a friend, associate of Councilor Reeves, Supervisor Salisbury and Councilor Shimer and worked on their campaigns. She said approximately two weeks later she received a FOIL request from this feared individual requesting a copy of hers and her Deputy Clerk's letter to the Town Supervisor. She stated when she saw the FOIL request she was greatly concerned because obviously somebody on the Board at that time told the feared individual about their concerns at the workplace and violence. She said she did not know if she could release it or not, it was not clear cut to her, so she consulted with the Town Attorney and also confirmed it with the Committee on Open Government and it was not subject to disclosure as it was considered an intra-agency document. She stated furthermore last year, she has it recorded, she doesn't have the date, that Councilor Reeves admitted to her and her Deputy Clerk that he told the feared individual about the letters. She said shortly after this she received an order of protection in favor of her against this feared individual and the Town Board as well as the Town Attorney was notified and they were given a copy of the order of protection.

She stated on June 25, 2012 at approximately 4:20 p.m. she received a phone call from a concerned citizen who told her that he just kicked off his property this person that she has an order of protection against. She said the property is adjacent to the Town Hall and the citizen said this person had been ranting and raving about her. She stated the citizen asked her if the Town Supervisor notified her about this because he had called him about twenty minutes before that. She said she told him no, the Town Supervisor never notified her. She said as she left that day she approached the Supervisor and asked him why he didn't tell her. She stated she wouldn't get into the conversation and the next day the Town Supervisor asked her to meet with him to discuss this personal incident, the conversation between him and her. She said she was extremely upset that the Town Supervisor has a responsibility for workplace safety and did not notify her that a person she had an order of protection against was near the property.

She stated shortly after this incident she sent a certified letter to the Town Supervisor and a copy to all Town Board members documenting incidents that occurred at the workplace, especially regarding this feared individual. She said that soon after she received more FOIL requests from people who are associates and friends of the Town Supervisor, Councilor Shimer and Councilor Reeves. She stated once again she didn't know if she had to honor these requests. She stated one request was for a recording of a conversation the Supervisor and she had the next day. She said she recorded it on the advice of her private counsel. She stated she told Supervisor Salisbury when he asked and he had every opportunity to record it. She said she received FOIL requests for the recording and for the other letter she sent regarding her concerns. She stated she was not sure and talked to the Town Attorney and the Committee on Open Government. She stated it was decided that they did not have to be disclosed. She said on July 30th she received a letter from John Salisbury demanding as Appeals Officer that she release the documents. She stated she respectfully asked him for a copy of any appeal letter and he did not provide her with them. She said the matter went to the Committee on Open Government and in the end the Committee on Open Government, although they only offer advisory opinions confirmed the decision of her and the Town Attorney. She said this is why she feels she was removed as FOIL Officer.

Supervisor Salisbury said most of that he would not respond to.

ADJOURNMENT:

At 8:07 p.m. The Board adjourned to Executive Session.

This is a true and complete recording
of the action taken at this meeting.

Lisa Dell, Town Clerk