

At a regular meeting of the Town Board of the Town of Farmington held in the Town Hall of said Town on the 22nd day of June, at 7:00 PM, there were:

PRESENT: Theodore Fafinski – Supervisor
Peter Ingalsbe – Councilman
Timothy P. Mickelsen – Councilman
Michael Casale – Councilman
Steven Holtz – Councilman
Michelle Finley – Town Clerk

Also present were: **Floyd Kofahl** – Code Enforcement Officer, **James Crane** – Water & Sewer Superintendent, **Jim Morse** – Code Enforcement Officer, **Dotti Mickelsen, Reginald and Mary Neale, Patricia Eddy, Edward McLaughlin**- Highway/Parks Superintendent, **Dean Litcherman**- Victor Herald, **Fred Schuhle**- Daily Messenger, and **Paul Conrad**-Farmington Fire Chief.

PUBLIC HEARINGS: 1. Bowerman Road Encroachment

At 7:00 PM, on this date, a Public Hearing was called to order to hear all persons/citizens, in interest, concerning the Bowerman Road Encroachment. The Town Clerk read the Legal Notice, as published in the Town's designated newspaper.

Supervisor Fafinski opened the public hearing. Patricia Eddy who lives on the corner of Bowerman Road and Allen Padgham Road stated that the barn has been there since she moved in 39 years ago and she hardly knows it there due to the greenery around the barn. She has no problem with the barn being there. Bob Kalbach who lives at 5944 Allen Padgham Road stated that he did not have an issue with the barn.

Supervisor Fafinski gave a little history regarding the road stating it was probably a path at one time and then as more houses went up and people used the path it became more of a trail then as more wagons and eventually automobiles came and it became some sort of a road. He added that the road was dedicated by use.

The Town Clerk read an email from resident Peg DeJohn who stated that she and her husband had no issue with the barn. Councilman Ingalsbe stated that he also talked with two neighbors that live across from the barn and they have no objections either.

Councilman Mickelsen stated that he thought that maybe there was some misunderstanding that people thought the Board wanted to get rid of the barn and that was never their intention, they are trying to find away to make it work and allow the barn to stay where it has been for over 100 years. Supervisor Fafinski added that it was the title company from the interested buyers who questioned the barn therefore the Board looked at the options. Councilman Ingalsbe commented on the realtor's comments in the newspaper stating that the Town refused to issue a variance to allow the barn which was not true and that a variance is not applicable by law for this situation.

Supervisor Fafinski asked if anyone else wished to speak for or against. No one else wishing to be heard, for or against the foregoing subject matter, the hearing was declared closed at 7:08 PM.

A motion was made by Councilman Ingalsbe, seconded by Councilman Casale, that the minutes of the May 25, 2010, meeting, given to members for review, be approved. **Carried.**

A motion was made by Councilman Ingalsbe, seconded by Councilman Casale that the minutes of the June 8, 2010, meeting, given to members for review, be approved. Councilman Mickelsen abstained. **Carried.**

PRIVILEGE OF THE FLOOR: Wesley Pettee- 6147 Amber Drive – Patio homes in the Auburn Meadows Subdivision. Mr. Pettee appeared on behalf of residents regarding accessory structure restrictions imposed on the Incentive Zoning District. He acknowledges that the town spent a great deal of time and resources towards the project but he would like to offer several thoughts for consideration that may reduce or eliminate the frequency of individuals appealing to the Town Board for relief from restriction number 6 of resolution number 178-2004, which prohibits accessory structures within the patio home portion of Auburn Meadows. He suggested allowing special use permits or an abbreviated site plan. He submitted a Neighborhood Parcel Analysis that included data on existing residential neighborhoods within the Town. He also submitted a petition containing 64 signatures from property owners and residents within the Auburn Meadows who are in support of amending, modifying, or rescinding the establishment of restriction number 6 of resolution number 178-2004.

Code Enforcement Officer Kofahl stated that where accessory structures are allowed there is a site plan review for its location and such. Mr. Pettee stated that the Town could set the design guidelines and the nature of materials to be used and require landscaping to buffer the structures. Councilman Ingalsbe commented that he liked the overhead pictures that were used.

REPORTS OF STANDING COMMITTEES:

Public Works Committee: Councilman Mickelsen reported:

Water & Sewer:

1. Resolution-see bids for new truck with utility box (replaces 1998 truck).
2. Update on Billing Software problems – lawyers are involved.
3. Highway Complex- RFP for engineering design.

Highway & Parks:

1. CHIPS money was approved by the State.
2. Request for speed reduction on Hook Road.
3. Request for speed bumps on King Hill Drive.
4. Discussed replacing old CAD software.
5. Discussed the need for a town wide drainage district.
6. EAP training-MS4 requirements to go town wide.
7. Farmbrook Park total cost- \$103,000.
8. Discussed the closer of Farmbrook Park for safety issues.
9. Discussed putting a new topcoat at Mertensia Park.
10. Meet with Town Engineers regarding their roll with the new Highway Campus Complex.

Town Operations Committee: Councilman Holtz reported:

1. Discussed the difference between major and minor home occupations. All are being tracked.

Town Finance Committee: None

Town Public Safety Committee: Councilman Holtz reported:

1. Discussed workplace safety policy. David Frasco from the Sheriff's Office will tour all buildings and conduct a safety review.

REPORTS OF TOWN OFFICIALS:

Supervisor Fafinski:

1. Received Sales Tax check-down \$20,000 from last year.

Highway& Parks Superintendent Ed McLaughlin:

1. Girl Scout Troop planted flowers at Farmbrook and painted swingset.

Councilman Casale asked if the construction site at Farmbrook was secured, Ed McLaughlin responded yes the fence is secured. Councilman Casale referenced the road culvert in Auburn Meadows regarding guard rails and why aren't they installed yet, McLaughlin responded that they are ordered. Councilman asked why they didn't get put on before and who was responsible. McLaughlin responded that the developer was responsible. McLaughlin added that when the road was dedicated they were still working that issue out. Councilman Casale asked if they had dedicated a road without guardrails. McLaughlin responded that it is a safe road and there is no issue. Councilman Casale stated his concern was with the people walking on the sidewalk with no guardrails in place.

Town Clerk Michelle Finley:

1. Update on Dog Enumeration.
2. Town Clerk's Office attended Tax Collectors picnic.

Water & Sewer Superintendent Jim Crane: None.

Code Enforcement Officer Jim Morse:

1. Reported on Special Use Permits for the three mobile home parks- everything went smoothly and all cooperated.

Code Enforcement Officer Floyd Kofahl:

1. Discussed Saratoga Lot 2-moving forward, more townhouses will be going up. Councilman Mickelsen asked how many units total, Kofahl replied 296.
2. Discussed Senior Housing – moving along-framing structure is about half done.
3. Discussed blue pools popping up and they are taking care of them.

4. Discussed mowing complaints – received 14-verified 8, most rectified only down to two-getting quotes to mow.

Planning Board Member Mary Neale:

1. Discussed Farmington Quaker Meeting House Plans.
2. Discussed Highway Garage Campus.

Director of Planning and Development: None**Assessor Donna LaPlant: None.****Fire Chief Paul Conrad: None.****COMMUNICATIONS:**

1. Request from Colleen Austin of Lillybrook Court to allow a fence and pool on her property for her special-needs child.
2. Phase I Environmental Assessment Report, Highway Campus Site, with memo from the Director of Development.
3. 2010 State equalization rates.
4. Summary of Board of Assessment Review decisions. (Also in Reports & Minutes)
5. Notice from the U.S. Environmental Protection Agency. Re: Motor vehicle waste disposal well requirements.
6. Second request from the NYS Executive Department Office of General Services for recertification for Donee status.
7. Letter to the Supervisor from the Genesee/Finger Lakes Regional Planning Council. Re: Upcoming meeting for regional paddling.
8. "Hold-harmless" agreement for fireworks celebration.
9. Invitation for the Supervisor to attend graduation ceremony at the East Palmyra Christian School with response.
10. Letter to the Supervisor from Jeff Howe of ISO. Re: Building code effectiveness grading schedule classification results.
11. Misc. invoices sent from the Supervisor's Office for legal and engineering services.
12. Memo from the Director of Development to the Town Board. Re: Genesee-Finger Lakes Regional Blueway Analysis.
13. Certificates of attendance for Board of Assessment Review training.
14. Letters of appointment to Hans Finke, Geoffrey Gerbasi, Kathy Schreiner, John Palmerini, and Bryan C. Meck.
15. Memo from Edward Flynn of Stuart Brown Associates to municipal officials. Re: Community planning grant.
16. Letter to the Supervisor from Time Warner Cable. Re: Changes to programming.
17. Letter to attorney John Schuppenhauer from Town Attorney Jeff Graff. Re: 5970 Allen Padgham Road encroachment (subject of public hearing).
18. Letter to the Highway/Parks Superintendent from the NYS Department of Transportation. Re: CHIPS funding.
19. Liquor license renewal for the Finger Lakes Gaming & Race Track.
20. Certificates of liability insurance for Williamson Hardware and Country Cottage Home.
21. Certificates of Workers Comp insurance for Santelli Lumber and Chemung Supply Corp.

REPORTS & MINUTES:

1. New York State Dept. of Health inspection of town parks/Farmbrook Park closure. (See related resolution below)
2. Summary of the Farmington Board of Assessment Review's decisions following grievance day.

ORDER OF BUSINESS:**RESOLUTION #189-2010:**

Councilman Mickelsen offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION AUTHORIZING A BUDGET AMENDMENT FROM CONTINGENCY TO THE TOWN BOARD LINE FOR GENERAL CODE EXPENDITURES

WHEREAS, expenditures for General Code services require additional funds be moved to the Town Board line,

NOW THEREFORE BE IT RESOLVED that the Town Board hereby authorizes the following budget amendments for that fund:

ORDER OF BUSINESS: (Continued)

FROM: A1990.4	Contingency	\$2,835.95
TO: A1010.4	Town Board-CE	(\$2,835.95)

BE IT FURTHER RESOLVED that the Town Clerk is hereby directed to forward copies of this resolution to the Finance and Accounting Specialist.
All Voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #190-2010:

Councilman Holtz offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION AUTHORIZING A BUDGET AMENDMENT FROM CONTINGENCY TO THE LEGAL SERVICES LINE FOR ATTORNEY EXPENSES

WHEREAS, expenditures for legal services for 2010 have exceeded the projected budgeted amount,

NOW THEREFORE BE IT RESOLVED that the Town Board hereby authorizes the following budget amendments for that fund:

FROM: A1990.4	Contingency	\$2,079.10
TO: A1420.4	Legal Services-CE	(\$2,079.10)

BE IT FURTHER RESOLVED that the Town Clerk is hereby directed to forward copies of this resolution to the Finance and Accounting Specialist.

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #191-2010:

Councilman Ingalsbe offered the following Resolution, seconded by **Councilman Mickelsen**:

RESOLUTION AUTHORIZING A BUDGET AMENDMENT FROM THE CONSOLIDATED HIGHWAY AID AND APPROPRIATED FUN BALANCE LINES TO THE PERMANENT IMPROVEMENT – CHIPS LINE.

WHEREAS, the budget needs to be increased to reflect the actual CHIPS funding available for the July 2010 CHIPS payment, according to a letter dated June 14, 2010 from the state Department of Transportation,

NOW THEREFORE BE IT RESOLVED that the Town Board hereby authorizes the following budget amendments for that fund:

FROM: DA3501	Consolidated HWY AID	\$23,554.91
DA599	Appropriated Fund Balance	\$4,800.00
TO: DA5111.2	Permanent Improvement-CHIPS	(\$28,354.91)

BE IT FURTHER RESOLVED that the Town Clerk is hereby directed to forward copies of this resolution to the Finance and Accounting Specialist.

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #192-2010:

Councilman Casale offered the following Resolution, seconded by **Councilman Holtz**:

RESOLUTION AUTHORIZING THE HIGHWAY/PARKS SUPERINTENDENT TO SOLICIT BIDS FOR A 2010 OR NEWER HALF-TON PICKUP

WHEREAS, the Highway/Parks Superintendent has requested he be allowed to seek bids for a half-ton pick-up truck which has been budgeted for,

NOW THEREFORE BE IT RESOLVED that the Town Board hereby authorizes the superintendent to solicit bids for the vehicle, a 2010 or newer, half-ton model, and

BE IT FURTHER RESOLVED that the Town Clerk is hereby directed to forward copies of this resolution to Highway Department.

All voting "Aye", the Resolution was **CARRIED**.

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RESOLUTION #193-2010:

Councilman Ingalsbe offered the following Resolution, seconded by **Councilman Holtz**:

Letter of Credit Release #2 – The Estates at Beaver Creek Subdivision, Section 1, in the total amount of \$ 122,712.14.

WHEREAS, the Farmington Town Board (hereinafter referred to as Town Board) has received a request from David Degear, Town Planning Board Chairperson, June 16, 2010 recommending that the above referenced Letter of Credit Release #2 be approved in the total amount of \$ 122,712.14 for work completed in the Section 1 portion of The Estates at Beaver Creek Subdivision; and

WHEREAS, the Planning Board has reviewed the documentation submitted for the release of the Letter of Credit, including the Town Letter of Credit Release Form No. 2 for The Estates at Beaver Creek Subdivision Project signed by all department heads; and

WHEREAS, there is currently a total of \$ 500,903.02 remaining in this letter of credit; and

WHEREAS, the Planning Board has, in a resolution adopted on June 16, 2010 recommended the release of the requested amount, \$ 122,712.14.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby authorizes the Town Supervisor, to execute the release of the requested amount, from the above referenced Letter of Credit, in the amount specified above herein.

FINALLY BE IT RESOLVED that the release is to be issued to the Letter of Credit holder, Ernie Ackerman of A & D Development Company.

All voting “Aye”, the Resolution was **CARRIED**.

RESOLUTION #194-2010:

Councilman Casale offered the following Resolution, seconded by **Councilman Holtz**:

RESOLUTION AUTHORIZING GRANTING OF AN EASEMENT TO ROCHESTER GAS AND ELECTRIC CORPORATION, FRONTIER TELEPHONE OF ROCHESTER, INC. AND TIME WARNER ENTERTAINMENT COMPANY – ADVANCE NEWHOUSE PARTNERSHIP, THROUGH ITS ROCHESTER DIVISION, D/B/A TIME WARNER CABLE

WHEREAS, Ernest Ackerman, Anthony DiPrima and A&D Development Company (a/k/a A & D Development Co.) conveyed to the Town of Farmington by Warranty Deed dated January 4, 2007 and recorded in the Ontario County Clerk’s Office on April 3, 2007 in Liber 1181 of Deeds at page 848 real property described as proposed parkland that was situate on the north side of Amber Drive in the Auburn Meadows Subdivision, Section 3 (the “Property”); and

WHEREAS, the aforesaid deed was conveyed to the Town with the owner reserving “the right to access the referenced property for the purpose of constructing the site improvements and utilities associated with the subdivisions final approved plans.”; and

WHEREAS, utility improvements called for in the final approved plans have been or will be constructed on the Property; and

WHEREAS, the utility companies require an easement from the Town, as the current Property owner, permitting them to have access to the portion of the Property on which their improvements are located, for the purposes of, from time to time, reconstructing, operating, inspecting, maintaining, protecting, repairing and replacing said utility improvements; and

WHEREAS, the Town of Farmington, by its officers or representatives, has been approached by Rochester Gas and Electric Corporation, (“RG&E”), Frontier Telephone of Rochester, Inc. (“Frontier”) and Time Warner Entertainment Company – Advance Newhouse Partnership, through its Rochester Division, d/b/a Time Warner Cable (“Time Warner”) regarding the Town’s granting such easement over a portion of the Property; and

WHEREAS, Town of Farmington officials have recommended to the Town Board that the Town grant the easement to RG&E, Frontier and Time Warner; and

WHEREAS, the Town Board of the Town of Farmington is desirous of granting this easement; and

WHEREAS, the Town Board of the Town of Farmington has examined said instrument and finds the consideration described therein to be fair and reasonable;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Farmington does hereby grant the Easement attached hereto as Exhibit 1 to RG&E, Frontier and Time Warner in accordance with the terms and conditions contained in said instrument and directs that the same be recorded in the Office of the

TOWN BOARD MEETING
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Clerk of the County of Ontario, the fee for said recording to be borne by RG&E, Frontier and Time Warner, and be it further

RESOLVED, that the Town Supervisor and/or his designee shall be and hereby is authorized to take any and all further action necessary to carry forth the intent of this resolution, including but not limited to the execution of all documents necessary to complete the conveyance of the premises referenced herein.

I, Michelle Finley, Town Clerk of the Town of Farmington do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of Farmington on June 22, 2010, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Theodore M. Fafinski	X	
Timothy Mickelsen	X	
Michael Casale	X	
Peter Ingalsbe		X
Steven Holtz	X	

Four voting "Aye", one voting "Nay", the Resolution was **CARRIED**.

RESOLUTION #195-2010:

Councilman Holtz offered the following Resolution, seconded by **Councilman Ingalsbe**:

FARMINGTON TOWN BOARD RESOLUTION ACCEPTING A MAINTENANCE BOND COVERING A PORTION OF IMPROVEMENTS IN THE AUBURN MEADOWS SUBDIVISION, SECTION 3 - IN THE TOTAL AMOUNT OF \$70,543.50

WHEREAS, the Farmington Town Board (hereinafter referred to as Town Board) has received from The Main Street America Group a Maintenance Bond, authorized by A & D Development Company, in the Total Amount of \$70,543.50 for the dedicated improvements made within Section 2 of the Auburn Meadows Subdivision Tract; and

WHEREAS, said Maintenance Bond is in compliance with the total amount specified in the Town Board Resolution #100-2010; and

WHEREAS, said Maintenance Bond is in fulfillment of A & D Development Company's obligations to maintain the dedicated facilities for water, sanitary sewers, storm sewer system and roadways for the above referenced Section 3 of the Auburn Meadows Subdivision Tract; and

WHEREAS, A & D Development Company has on Monday, June 7, 2010 filed with the Town Clerk the above referenced Maintenance Bond; and

WHEREAS, the above referenced Maintenance Bond once filed with the Town remains in effect for a period of two years.

NOW, THEREFORE, BE IT RESOLVED that the Town Board does accept the Maintenance Bond for those items specified.

BE IT FURTHER RESOLVED that the applicants, A&D Development, are again hereby given public notice that a separate Maintenance Bond in the total amount of \$ 5,729.20 is to be submitted to the Town Engineer for his review and acceptance and forwarding to the Town Board, under separate cover, a separate request for establishing a separate Maintenance Bond upon the remaining items identified in the March 11, 2010 MRB Letter.

BE IT FURTHER RESOLVED that the Town Clerk is hereby directed to provide by U.S. Mail tomorrow certified copies of this Resolution to: Walter Bakers, D.S. B. Engineers and to Ernie Ackerman, A&D Development.

BE IT FURTHER RESOLVED that certified copies of this Resolution are also to be provided to the Town Finance and Account Specialist, the Director of Planning and Development, the Town Construction Inspector and the Town Engineer.

All voting "Aye", the Resolution as amended was **CARRIED**.

ORDER OF BUSINESS: (Continued)

RESOLUTION #196-2010:

Councilman Casale offered the following Resolution, seconded by **Councilman Holtz**:

FARMINGTON TOWN BOARD RESOLUTION ACCEPTING A MAINTENANCE BOND COVERING A PORTION OF IMPROVEMENTS IN THE AUBURN MEADOWS SUBDIVISION, SECTION 2 - IN THE TOTAL AMOUNT OF \$93,188.75

WHEREAS, the Farmington Town Board (hereinafter referred to as Town Board) has received from The Main Street America Group a Maintenance Bond, authorized by A & D Development Company, in the Total Amount of \$93,188.75 for the dedicated improvements made within Section 2 of the Auburn Meadows Subdivision Tract; and

WHEREAS, said Maintenance Bond is in compliance with the total amount specified in the Town Board Resolution #258-2009; and

WHEREAS, said Maintenance Bond is in fulfillment of A & D Development Company's obligations to maintain the dedicated facilities for water, sanitary sewers, storm sewer system and roadways for the above referenced Section 2 of the Auburn Meadows Subdivision Tract; and

WHEREAS, A & D Development Company has on Monday, June 7, 2010 filed with the Town Clerk the above referenced Maintenance Bond; and

WHEREAS, the above referenced Maintenance Bond once filed with the Town remains in effect for a period of two years.

NOW, THEREFORE, BE IT RESOLVED that the Town Board does accept the Maintenance Bond for those items specified.

BE IT FURTHER RESOLVED that the applicants, A&D Development, are again hereby given public notice that a separate Maintenance Bond in the total amount of \$ 4,536.60 is to be submitted to the Town Engineer for his review and acceptance and forwarding to the Town Board, under separate cover, a separate request for establishing a separate Maintenance Bond upon the two remaining items identified in the October 12, 2009 MRB Letter.

BE IT FURTHER RESOLVED that the Town Clerk is hereby directed to provide by U.S. Mail tomorrow certified copies of this Resolution to: Walter Bakers, D.S. B. Engineers and to Ernie Ackerman, A&D Development.

BE IT FURTHER RESOLVED that certified copies of this Resolution are also to be provided to the Town Finance and Account Specialist, the Director of Planning and Development, the Town Construction Inspector and the Town Engineer.

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #197-2010:

Councilman Ingalsbe offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION AUTHORIZING THE RENEWAL OF THE SPECIAL USE PERMIT FOR FARMINGTON MOBILE HOME PARK

WHEREAS, as outlined in the Town of Farmington Code, Chapter 165, Article VI, 165-76, Mr. Stewart Garland is requesting the renewal of their Special Use Permit for the Farmington Mobile Home Park and as required by Section 165-76C, when violations have been cited during the year immediately preceding the application, the applicant shall appear before the Town Board for a decision on said application; and

WHEREAS, violations, cited in our recent inspections, have been corrected and the Code Enforcement Officer is recommending approval of the renewal application, therefore be it

RESOLVED, the Farmington Town Board authorizes the renewal of the Special Use Permit for the Farmington Mobile Home Park for a period of one year, and the Town Clerk furnish the Code Enforcement Officer and Woodlawn Court Mobile Home Park, with a certified copy of this resolution.

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #198-2010:

Councilman Ingalsbe offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION AUTHORIZING THE RENEWAL OF THE SPECIAL USE PERMIT FOR HUNT'S MOBILE HOME PARK

WHEREAS, as outlined in the Town of Farmington Code, Chapter 165, Article VI, 165-76, Mr. Dale Hunt is requesting the renewal of their Special Use Permit for the Hunt's Mobile Home Park and as required by Section 165-76C, when violations have been cited during the year immediately preceding the application, the applicant shall appear before the Town Board for a decision on said application; and

WHEREAS, violations, cited in our recent inspections, have been corrected and the Code Enforcement Officer is recommending approval of the renewal application, therefore be it

RESOLVED, the Farmington Town Board authorizes the renewal of the Special Use Permit for the Hunt's Mobile Home Park for a period of one year, and the Town Clerk furnish the Code Enforcement Officer and Hunt's Mobile Home Park, with a certified copy of this resolution.

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #199-2010:

Councilman Ingalsbe offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION AUTHORIZING THE RENEWAL OF THE SPECIAL USE PERMIT FOR WOODLAWN COURT MOBILE HOME PARK

WHEREAS, as outlined in the Town of Farmington Code, Chapter 165, Article VI, 165-76, Mr. Mark J. Pavia is requesting the renewal of their Special Use Permit for the Woodlawn Court Mobile Home Park and as required by Section 165-76C, when violations have been cited during the year immediately preceding the application, the applicant shall appear before the Town Board for a decision on said application; and

WHEREAS, violations, cited in our recent inspections, have been corrected and the Code Enforcement Officer is recommending approval of the renewal application, therefore be it

RESOLVED, the Farmington Town Board authorizes the renewal of the Special Use Permit for the Woodlawn Court Mobile Home Park for a period of one year, and the Town Clerk furnish the Code Enforcement Officer and Woodlawn Court Mobile Home Park, with a certified copy of this resolution.

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #200-2010:

Councilman Ingalsbe offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION AUTHORIZING THE SUPERVISOR TO SIGN CONTRACT WITH PAULSEN, BAKER & GARVEY TO PERFORM AT THE TOWN'S INDEPENDENCE DAY CELEBRATION

WHEREAS, the Town of Farmington has asked the band Paulsen, Baker & Garvey to once again perform on July 3, 2010 in the Town Park for its annual Independence Day celebration and

WHEREAS, the band has agreed and will charge \$400 for their performance from 7 p.m. until dusk, when the fireworks begin, and

WHEREAS, the band has provided the town with a contract that requires the signature of the Town Supervisor to be returned with payment included in the vouchers to be approved at the June 22, 2010 Town Board meeting,

NOW THEREFORE BE IT RESOLVED that the Town Board hereby authorizes the Supervisor to sign the contract with Paulsen, Baker & Garvey to perform in the Town Park July 3, 2010 for \$400, and

BE IT FURTHER RESOLVED that the Town Clerk is hereby directed to forward a copy of this resolution to the Recreation Director.

All voting "Aye", the Resolution was **CARRIED**.

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RESOLUTION #201-2010:

Councilman Mickelsen offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION AUTHORIZING THE TEMPORARY CLOSURE OF FARMBROOK PARK AND AUTHORIZING THE RECREATION DIRECTOR TO SPEND UP TO \$1,900 TO PROVIDE BUS TRANSPORTATION FOR YOUTH ENROLLED IN THE PARK'S SUMMER RECREATION PROGRAM

WHEREAS, the New York State Department of Health has declined to authorize Farmbrook Park as a designated site for the Town of Farmington's summer recreation program due to potential hazards with nearby construction, and

WHEREAS, the Town Board believes that the park needs to be closed to the public until the temporary construction project by the Highway Department is completed and

WHEREAS, the Town Board must relocate children enrolled in Summer Recreation at Farmbrook to other town parks and the Town's Recreation Director has sought cost estimates for various bussing services,

NOW THEREFORE BE IT RESOLVED that the Town Board hereby orders Farmbrook Park closed until construction is complete as a safety precaution and

BE IT FURTHER RESOLVED that the Recreation Director is authorized to spend up to \$1,900 of contingency funds for bus service for the children to be taken from Farmbrook to the parks where they have been reassigned, and

BE IT FURTHER RESOLVED that the Highway Superintendent is directed to post closure notices and secure the park as well as notify the Ontario County Sheriff's Office, New York State Police and the Farmbrook Homeowners Association of the closure and keep the Town Board aware of the progress of the construction project and

BE IT FINALLY RESOLVED, that the Town Clerk is hereby directed to forward copies of this resolution to the Highway Superintendent, the Recreation Director and the Finance and Accounting Specialist.

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #202-2010:

Councilman Casale offered the following Resolution, seconded by **Councilman Holtz**:

RESOLUTION AUTHORIZING A 25 CENT PER HOUR WAGE ADJUSTMENT FOR DEPUTY TOWN CLERK TAMMY MEANS UPON THE COMPLETION OF A SIX-MONTH PROBATIONARY PERIOD

WHEREAS, Deputy Town Clerk Tammy Means, began employment with the Town on Jan. 2, 2010 and will have completed her six-month probationary period on July 4, 2010,

NOW THEREFORE BE IT RESOLVED that the Town Board hereby authorizes a 25 cent per hour wage adjustment for Tammy Means, effective July 4, 2010, and be it further

RESOLVED that the Town Clerk forward a copy of this resolution to the Supervisor's Office.

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #203-2010:

Councilman Ingalsbe offered the following Resolution, seconded by **Councilman Mickelsen**:

WHEREAS, the Water and Sewer Department has budgeted for Vehicle and Equipment replacement SS 8120.21 (Equipment - Trucks) and SW1 8340.21 (Equipment), and

WHEREAS, The scheduling of this purchase is in accordance with the W&S Departments Capital replacement program, and

WHEREAS, funds budgeted are from the Capital Reserve Account which has been established for Equipment Purchases.

NOW, THEREFORE BE IT RESOLVED, that the Farmington Town Board authorizes the Water and Sewer Superintendent to seek bids for one new 2010 or latest model Truck including bids for the Utility Body.

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BE IT FURTHER RESOLVED, that bids will be received until 10:00 A.M. July 9, 2010 at the office of the Town Clerk, 1000 County Road 8, Farmington, NY 14425.

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #204-2010:

Councilman Mickelsen offered the following Resolution, seconded by **Councilman Ingalsbe**:

RESOLUTION AUTHORIZING THE EXPENDITURE FROM A PARK LANDS/RECREATION RESERVE FUND

The Town Board of the Town of Farmington, duly convened in regular session, does hereby resolve pursuant to the provisions of Section 6-c of the General Municipal Law of the State of New York that the Town Supervisor of the Town of Farmington be and he hereby is authorized and directed to transfer from the Town of Farmington Park Lands/Recreation Reserve Fund to the Town General Fund One hundred three thousand forty and 00/100 Dollars (\$103,040.00) of the principal and accumulated interest in said Reserve Fund to pay for the following items in the following amounts, with all such work to be done by the Town of Farmington with Town of Farmington equipment:

- A. Farmbrook Park – parking lot repairs with pervious concrete to include:
- | | |
|--|--------------------|
| 1. Box out and drainage: | \$ 3,240.00 |
| 2. Stone base – 1,450 tons: | \$14,500.00 |
| 3. Electrical (install lights & wire): | \$ 7,500.00 |
| 4. Concrete – 360 cubic yards: | \$43,200.00 |
| 5. Top soil – bioretention facility: | <u>\$ 2,600.00</u> |
| Farmbrook Total: | \$71,040.00 |
- B. Mertensia Park:
- | | |
|--|--------------------|
| 1. Pave top coat of parking lot & drive: | \$28,500.00 |
| 2. Install swing set: | <u>\$ 3,500.00</u> |
| Mertensia Total: | \$32,000.00 |

TOTAL AMOUNT TO BE TRANSFERRED: **\$103,040.00**

This resolution shall be subject to a permissive referendum, as permitted by law.

I, Michelle Finley, Town Clerk of the Town of Farmington do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of Farmington on June 22, 2010, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Theodore M. Fafinski	X	
Timothy Mickelsen	X	
Michael Casale	X	
Peter Ingalsbe	X	
Steven Holtz	X	

All voting "Aye", the Resolution was **CARRIED**.

RESOLUTION #205-2010:

Councilman Ingalsbe offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION GRANTING A LICENSE RELATIVE TO AN ENCROACHMENT INTO BOWERMAN ROAD

WHEREAS, the owner of property located at 5970 Allen Padgham Road, being the Estate of Grace B. Allen, has submitted a request, in writing, to the Town Board requesting that the Town issue a license to the owner regarding the encroachment of a portion of a barn into the highway right-of-way of Bowerman Road; and

WHEREAS, the encroachment at issue is, according to a survey map of the subject property prepared by David M. Parrinello dated April 27, 2010, the 43 foot length of the front of a barn on the property encroaching into the highway right-of-way of Bowerman Road from between 6.1 feet up to 6.8 feet; and

TOWN BOARD MEETING
ORDER OF BUSINESS: (Continued)

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WHEREAS, the Town has given notice of this request to the Town Highway Superintendent who has informed this Board that no part of this encroachment sits on the paved portion of Bowerman Road and has opined that this encroachment has not in the past adversely impacted the use of Bowerman Road nor interfered or impeded the right of the public to use Bowerman Road and that this encroachment does not presently adversely impact the use of Bowerman Road nor interfere or impede the right of the public to use Bowerman Road; and

WHEREAS, the Town Highway Superintendent has further provided his recommendation that the town board grant a license to the owner of 5970 Allen Padgham Road to continue to maintain the portion of the barn encroaching within the highway right-of-way of Bowerman Road during the period such portion of the barn is in existence, provided such license agreement is in the form required by New York State Town Law §130 (7) (h) and (i);

WHEREAS, the Town Board, by resolution adopted on June 8, 2010, made a preliminary determination that the encroachment of the portion of the barn located at 5970 Allen Padgham Road, as shown in the aforementioned survey, may have no adverse impact upon the use of Bowerman Road; and

WHEREAS, that same resolution adopted on June 8, 2010 ordered a public hearing to be held by said Town Board on June 22, 2010, at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8, Farmington, New York, to hear all interested parties relative to this encroachment and whether the Town should issue a license relative thereto; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town of Farmington, on June 15, 2010, was posted on the Town signboard on June 11, 2010 and was sent, by certified mail, to the owners of property, as determined from the last completed assessment roll, within five hundred feet of 5970 Allen Padgham Road as measured from the intersections of the property lines with Bowerman Road or Allen Padgham Road; and

WHEREAS, said public hearing was duly held on June 22, 2010, at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8, Farmington, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to this matter.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby determines that the portion of the aforesaid barn located at 5970 Allen Padgham Road that encroaches into the highway right-of-way of Bowerman Road does not interfere or impede the right of the public to use Bowerman Road; and be it further

RESOLVED, that the Town Board hereby grants to the owner of 5970 Allen Padgham Road a license, in the form attached hereto as Exhibit "1" and made a part hereof, which said form has been reviewed and approved by the Attorney to the Town, to continue to maintain such encroaching portion of said barn during the period such portion of such barn is in existence; provided however, the Town shall have the authority to revoke such license at any time in the event the town board determines that Bowerman Road will be improved and as a result of such improvement the encroaching portion of said barn will then impede, interfere with or obstruct traffic or the use of Bowerman Road; provided, further, that such license shall not confirm any right or claim against the town; and be it further

RESOLVED, that this license is granted with the understanding that, if the Town does revoke this license as aforesaid or as otherwise permitted by New York State Town Law §130, then, in such event, the owner of the property shall be given notice of the proposed action and shall, within the time set forth in the notice, remove such portion of such barn from Bowerman Road; and be it further

RESOLVED, that, upon the abandonment of the subject barn or in the event such barn, because of a lack of care, enters a state of disrepair, the owner thereof shall remove such encroaching portion of said barn upon notice from the town board; and be it further

RESOLVED, that the Town Supervisor shall be and hereby is authorized to execute the aforesaid license and to take any and all further action necessary to carry forth the intent of this resolution.

I, Michelle Finley, Town Clerk of the Town of Farmington do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of Farmington on June 22, 2010, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Theodore M. Fafinski	X	
Timothy Mickelsen	X	
Michael Casale	X	
Peter Ingalsbe	X	
Steven Holtz	X	

All voting "Aye", the Resolution was **CARRIED**.

TOWN BOARD MEETING
ORDER OF BUSINESS: (Continued)

JUNE 22, 2010

RESOLUTION TO PAY AUDITED BILLS

The bills were audited by the Town Board

ABSTRACT #12-2010

General	\$ 75,251.13
Highway Fund	\$ 74,012.65
Storm Drainage	\$ 2,467.07
Payroll	\$ 2,363.29
Lighting	\$ 5,922.15
Highway Campus	\$ 15,920.69
Sewer District	\$ 48,752.93
Water District	\$ 10,403.29
TOTAL	\$ 235,093.20

A motion was made by Councilman Holtz and seconded by Councilman Mickelsen to approve above resolution, all voting "Aye", the Resolution was **CARRIED**

WAIVER OF THE RULE

TRAINING UNDER \$100.00:

1. Scott Makin and Mary Neale attended the Genesee/Finger Lakes Regional Planning Council's Spring Local Government Workshop on May 14 in Pittsford. Cost was \$50 a person.
2. Mary Neale attended the 24th Annual Regional Preservation Conference April 24 in Palmyra. Cost was \$55.

DISCUSSION:

1. Crown Castle's request for changes to cell tower lease.

Supervisor Fafinski stated that the Board received a request from Crown Castle requesting changes to the cell tower lease agreement. Their lease agreement currently requires them to get consent for co-locations and they are requesting to have a blanket consent signed which would allow them to co-located without prior approval. Crown Castle stated that they would notify the town of any co-locators and adjust the rent. If the Town choose to do this, they would have no say in future co-locator projects and there is no benefit to the town to allow this.

Supervisor Fafinski read an e-mail from Code Enforcement Officer Kofahl the read as follows:

Crown Castle will still have to come to the Town to get permits for any changes that they make to the towers, this is under the New York State Codes. My first suggestion is to not sign off on this request. I would think the Town would want to control any changes that may affect the appearance of the towers as well as any additional operation structures that they place on the ground at these sites. Either way, the Building Department will be reviewing any proposed changes as part of the permitting process.

The consensus from the Town Board was to write a letter to Crown Castle stating they are not interested in signing off.

2. Response from Town Attorney to request for fence and pool for a special needs child in the Auburn Meadows subdivision.

Supervisor Fafinski read the following e-mail from the Town Attorney as follows:

I met with Floyd yesterday to go over the documents submitted by Colleen Austin requesting that the Town permit her to erect a fence and pool on her property located on 1685 Lillybrook Court. He and I talked over the various pros and cons of the Town granting such permission after discussing the specifics of the request and the property.

After our meeting, I reviewed NYS Town Law relative to incentive zoning, reviewed the Town's Zoning Code specific to its incentive zoning provisions, reviewed the documents Floyd left with me and spoke with Ron Brand to get his input.

Resolution #178-2004, which rezoned Auburn Meadows to Incentive Zoning, contained six (6) restrictions on the development of Auburn Meadows Subdivision. The Town Zoning Code, section 165-34.1 M. provides that "The Town Board may also impose such conditions upon its approval [of incentive zoning] as it may deem appropriate to promote the health, safety and welfare of the community." As an initial point, then, I find these restrictions to be permitted pursuant to the Town's incentive zoning regulations.

Restriction #6 states, "no accessory structures shall be permitted within the patio home portion of the site and accessory structures shall be permitted on the other lots within

the development, but only within the rear yard portion of the site provided that such rear yards are screened from adjacent public rights-of-ways."

Further, these restrictions/conditions are not part of the quid pro quo of the Town Board granting the incentive zoning. What the Town received in exchange for granting the incentive zoning is set forth earlier in the resolution and includes 48.5 acres of land devoted to open space and regional storm water management facilities, of which approximately 29 acres was to be dedicated parkland, and a total of 3.8 acres of land for the fire department.

In speaking with Floyd, I understand that Ms. Austin's lot is being considered a "patio lot". The resolution cited earlier requires "All of the dwelling units shall be located on either patio lots containing not less than 10,000 square feet in total land area, or conventional lots containing an average of 20,000 square feet in total land area based upon an overall preliminary plat for the Auburn Meadows Incentive Zoning Project to be approved by the Town Planning Board". Ron has told me that Ms. Austin's lot is approximately 10,400 square feet. However, Ron also told me that the final plans approved by the Planning Board do not use the terms "patio lot" or "conventional lot" to identify whether a particular lot is one or the other. I do not find a definition of "patio lot" or "conventional lot" in either the Zoning Code or the Subdivision Code to help us here. I, therefore, assume that Ms. Austin's lot is being considered a patio lot because its area is so close to 10,000 square feet. However, if there is a possibility that, based on the Zoning Code and existing definitions or regulations, Ms. Austin's lot should not be classified as a patio lot, I would recommend we verify that before the Town Board takes any action.

Regardless of that issue, as a general matter, I find the following:

1. That the Town Board does have the power and authority to grant a variance or exception to restriction #6 to a lot burdened by such restriction;
2. That the Town Board would be able to issue such a variance or exception by means of a resolution;
3. That the Town Board could modify restriction #6 so that it applied to every lot affected or it could modify restriction #6 by granting a specific variance or exception to a specific lot.
4. That the Town Board, if it decides to modify restriction #6 in either way, needs to consider the language of section 165-34.1 M. and determine if such variance or exception would "promote the health, safety and welfare of the community".
5. That, if the Town Board decides to grant a specific variance or exception to Ms. Austin's lot only, the Board's resolution should set forth the specific circumstances of the lot in question, the special needs of her child, the ways in which the variance or exception would benefit her child, the testimonials from the various agencies, therapists and doctors advocating for the Ms. Austin's child's needs and any other information or reasons that are causing the Board to issue a specific variance or exception.
6. That, if the Town Board decides to grant a specific variance or exception, the Town Board should consider putting conditions on such variance or exceptions such as, requiring that any pool, if not permanent, be removed once the Austins move away or that, if the Austins move away, the fence or pool shall not be replaced but shall be removed if they fall into disrepair. I'd ask Floyd and Ron for their thoughts on this.
7. That, if the Town Board decides to grant a specific variance or exception, the Town Board determine whether Ms. Austin needs one fence or two fences - one fence enclosing the yard, including the pool, or one fence enclosing the yard and a second fence enclosing the pool - so that her son, while in the fenced backyard, does not accidentally fall into the pool.

In determining whether or not to grant a variance or exception, the Board should be aware that it would need to hear and consider any future requests by other lot owners for exceptions to restriction #6. If the Board is looking to be able to consider each such case separately, the Board would need to make any approval as specific as possible so that any future request would be handled on a case by case basis and the Board would not be forced into approving a future request just because it approved this request. I would say it may very well be a very difficult matter for the Board to differentiate Ms. Austin's child's conditions of visual impairment, Cerebral Palsy and developmental disabilities with a future request involving, say, an individual with downs syndrome, ADHD, Alzheimers or any other condition. Once the Town Board shows a willingness to grant a variance or exception to one lot owner based on the medical conditions of a resident of the home, the Board may find it difficult to deny a future request with a different medical condition or may find itself sued, should it deny such future request involving another individual with a medical condition being the focus of the request, as being arbitrary or capricious in favoring one medical condition over another.

Mr. Pettee stated that he is sure the Board will receive these types of request and he offered to help the Board in crafting a reasonable idea that would be beneficial to everyone. Supervisor Fafinski replied that's why they have the Town Attorney. Mr. Pettee stated he was offering his services at no charge, Supervisor replied that the Town Attorney is impartial and it may appear a conflict of interest for Mr. Pettee.

Councilman Mickelsen stated that he is sympathetic to the cause but at the same time the Board approved the incentive zoning whether it was fences, pools, or sheds and they were very specific that they did not want them there and if they're going to make an exception for one they might as well lie down and open it up for everyone. He added that it is up to the buyer of the property to research what can and cannot be done to meet their needs and feels this is a self inflicted condition on their part.

Councilman Ingalsbe stated that the property owner admitted that she knew the condition prior to buying and that there were other lots available but cost more. Councilman Casale stated that it would also infringe on their neighbors rights who don't want accessory structures. Councilman Holtz stated he has a hard time granting an exception to one person that would affect several people.

Code Enforcement Officer Kofahl stated that there will be a total of 469 homes when completed and not all are patio homes. Supervisor Fafinski asked Code Enforcement Officer Kofahl to get the number of patio homes approved in Auburn Meadows for the next board meeting and how many have been built, how many left to go, and where they are located. The Supervisor recommended to Mr. Pettee to draft something up and the board would look at it. Councilman Holtz asked Mr. Pettee if there was a cover sheet to the petition page because it appears that the people didn't know what they were signing for. Mr. Pettee did not recall as he did not go door to door but he will check into it.

3. Pumpkin Hook Parade – discussed vehicles, candy, and signs and banner.
4. Speed Limit request for Hook Road – Highway/Parks Superintendent stated that back in 2000 a request was made to do a speed survey but the State looks at driveway cuts, that section has a lot. He suggested requesting another survey and the Board agreed.
5. Speed bumps request for King Hill Drive – Highway Superintendent felt that once they install speed bumps they will be all over, Board agreed. Supervisor Fafinski stated that he contact the Sheriff's Office and they will monitor the area and issue tickets.

EXECUTIVE SESSION: None.

A motion was made by Councilman Casale and seconded by Councilman Mickelsen to adjourn the meeting at 8:47 p.m. All voted "Aye" CARRIED.

Meeting was recorded and transcribed by
Michelle A. Finley, Town Clerk: _____