

**Hamlin Town Board Meeting
December 14, 2009**

The Hamlin Town Board held their regular scheduled meeting in the Hamlin Town Hall located at 1658 Lake Rd., Hamlin, New York. The meeting was called to order at 7:00 pm by Supervisor Roach. The location of the fire exits and defibrillator was explained for those present. Everyone was invited to participate in the Pledge of Allegiance and a moment of silence for the deceased residents of Hamlin.

Present: Councilperson Tom Breslawski, Councilperson Mike Marchetti, Councilperson Paul Rath, Councilperson Dave Rose, and Supervisor Dennis Roach.

Also Present: Attorney Ken Licht; Building Inspector/CEO Lee Nettin; Planning Board member Tom Jensen; Conservation Board members Ed Evans, Craig Goodrich, and Nick Kramer; Highway Superintendent Tom Ingraham; Deputy Highway Superintendent Steve Baase; Assistant Historian Bob Krueger; Library Board Members Peter Terry, George Bott and Library Director Kay Hughes-Dennett.

Residents present: Lloyd Lochner, Nancy Jennejahn, Glenn Quetschenbach, Troy Nesbitt, Robin Hansel, Nina Hansel, David Lukas, Mark Reeves, Wayne Shue, Kasey Capamaggio, Amber Passarell, Cindy Ingraham, Brian Ingraham, Jeff Morgan, Greg Speer, and Brandi Maier.

RESOLUTION OF APPRECIATION FOR WILMA LASCH

Resolution # 283 Unanimously approved.

RESOLUTION OF APPRECIATION (POSTHUMOUS)

WHEREAS, Wilma Lasch was a long-time resident of the Town of Hamlin, County of Monroe, and State of New York and,

WHEREAS, Wilma Lasch was a faithful and dedicated servant of the Town of Hamlin, having served with distinction as Deputy Town Clerk in 1971 and subsequently as Town Clerk and Clerk of the Hamlin-Kendall Water District from 1972 to 1980 and,

WHEREAS, Wilma Lasch provided continued professional leadership, guidance, devoted service and outstanding contributions as a Hamlin Town Councilwoman from 1980 to 1983 and,

WHEREAS, Wilma Lasch, through her active, personal involvement with the Town of Hamlin, both in official and unofficial capacities, had a profoundly positive influence on the lives of many in the Town,

THEREFORE BE IT RESOLVED, that the Hamlin Town Board, on behalf of the residents of Hamlin, extends appreciation, posthumously, to Wilma Lasch for her dedicated years of community service and the many contributions she made to the Town and to the residents and,

FURTHER BE IT RESOLVED, that the Hamlin Town Board extends its sympathy to Wilma Lasch's family and decrees that they be furnished a copy of this Resolution, which is spread upon the minutes of the December 14, 2009, Town Board meeting.

RESOLUTION OF APPRECIATION FOR ED EVANS

Resolution # 284 Unanimously approved.

RESOLUTION OF APPRECIATION

WHEREAS, Edward D. Evans has served the Town of Hamlin as Town Councilman and Conservation Board Member over parts of three decades, from January 1984 through December 1987, from January 1996 through December 2003 and continues to serve as a Conservation Board Member since January 2008 and,

WHEREAS, Edward D. Evans was an actively involved Town Councilman, serving as liaison to the Hamlin Library, Hamlin Fire Department, Support Boards and Security, and serving as a member of the LWRP and 1997 Master Plan committees and,

WHEREAS, Edward D. Evans displayed great dedication and persistence in advocating for the Phase One of the Yanty Marsh protection wall, improving relations between the Town of Hamlin and Hamlin Beach State Park and facilitating the creation of the annual "Earth Day at Hamlin Beach State Park" event and,

WHEREAS, Edward D. Evans volunteered his time, efforts and educational experience to benefit the Town in the discovery of Hamlin's fault line, documentation of many environmental characteristics in Town, and most recently, the unearthing of Hamlin's former CCC/POW camp, which has brought positive publicity to the Town.

THEREFORE BE IT RESOLVED, that the Hamlin Town Board, on behalf of the residents of Hamlin, extends its appreciation to Edward D. Evans for his ongoing participation, loyalty and dedicated years of service and,

FURTHER BE IT RESOLVED, that Edward D. Evans be furnished a copy of this Resolution, which is spread upon the minutes of the December 14, 2009 Town Board meeting.

RESOLUTION OF APPRECIATION FOR THOMAS INGRAHAM

Resolution # 285 Unanimously approved.

RESOLUTION OF APPRECIATION

WHEREAS, Thomas Ingraham began working at the Town of Hamlin Highway Department in April 1973 where, as a result of his competence, reliability and leadership

abilities, he was appointed to Deputy Highway Superintendent on October 20, 1986 and was elected to the position of Highway Superintendent effective January 1, 2002 and,

WHEREAS, Thomas Ingraham has chosen to retire from the Town of Hamlin Highway Department and as Highway Superintendent effective December 31, 2009 and,

WHEREAS, In addition to his demanding duties as Highway Superintendent, Thomas Ingraham professionally fulfilled the collateral duties of Sewer Superintendent and Parks Superintendent, with additional responsibility for the Clarkson Union Cemetery, in a most professional and dedicated manner and,

WHEREAS, Thomas Ingraham, as Highway Superintendent, acquired grant funding for several parks projects, including the construction of a new ADA compliant restroom and shelter and the construction of a new handicap-only parking area for Town Hall; oversaw the construction of two new water lines and the development of a third; sustained excellent relationships with the State and County Departments of Transportation resulting in work opportunities and revenue for the Town; explored and achieved opportunities for shared governmental services with significant cost savings for the Town, all while maintaining and improving the Town's roadways, sewers, drainage and other infrastructure systems,

THEREFORE BE IT RESOLVED, that the Hamlin Town Board, on behalf of the residents of Hamlin, extends its appreciation to Thomas Ingraham for his notable performance and his 36 dedicated years of service and wishes him good health and great happiness in retirement,

FURTHER BE IT RESOLVED, that Thomas Ingraham be furnished a copy of this Resolution, which is spread upon the minutes of the December 14, 2009 Town Board meeting.

PUBLIC FORUM

Troy Nesbitt, 52 Cook Road

This is actually for Jerry Borkholder, who could not be here so he asked me to read this.

“Supervisor Roach said that I should make the following request at this meeting.

Unfortunately, I am unable to attend so I have asked to have following read:

A few weeks ago you and I had a conversation about official public notices being in the same paper as opinion articles. We both agree that each of our sides are not adequately represented by Westside News, and it might be time for a change. I respectfully request that a resolution be made tonight to change the official town application to the Tri-County Advertiser and not the Hamlin-Clarkson Herald or the Suburban News”

Supervisor Roach stated: He did speak with me about his concerns. He felt that being the official Town newspaper, that they were biased toward the Town because of it. It is the Town Board's responsibility at the Organization Meeting to make the designation as to the official newspaper. That will be done at the meeting on January 4th.

Nancy Jennejahn, 700 Cook Road

I would like to say a thank you to our outgoing Board member and Supervisor. I feel that all of you have contributed to the Town in some way. You behaved professionally in all the things which you have done and many of the things you have put up with in the last couple of years. Thank you.

David Lukas, 1288 Moscow Road

I have a couple of questions regarding the Met Towers. Now that the Met Towers extension has been denied, my concerns are that Iberdrolausa could still be legally collecting data and the tower is still up.

My second issue concerns the bond issue for the removal of the towers. It is my understanding that after December 15th, the bond itself is valueless; it is the end of the period for the bond. The tower is still up and the Town needs to take it down tomorrow, since they legally don't have to remove it. I hope the Town will actively pursue the removal of the met tower which is now is non-conformance with its law and that by the end of tomorrow it comes down, otherwise, we have no recourse. They could leave it up January, February, March, or they may not even remove it at all. The bond was put in place to facilitate just this. If they don't take it down, it gives the Town \$6,500 to take the tower down. Is the Town willing to lose \$6500 that it could definitely use?

My last concern is that Iberdrolausa did sign Attorney General Cuomo's Code of Ethics but they still have not posted the names of local officials who have signed agreements with them yet. It is part of the law and Iberdrolausa still has not done that.

Mark Reeves, 3640 Brick Schoolhouse Road

This is a thank you to Denny and Mike for their past two terms of service to our Town. Dennis brought a high degree of professionalism and experience not seen in the prior administration and dealt with folks and issues as a gentleman with fairness and determination to do what was right and in the best interest of the Town and its people. Michael came to the job as a man who saw a need in Town government for folks to have a voice and to be heard. He brought to the job a high degree of energy and enthusiasm. I appreciated his "telling it like it is" style. Thank you Denny and Mike for primarying the status quo for your first term.

I know that Mike and Dennis were not exactly thrilled to continue a 2nd term with the Wind Tower issue and controversy. The issue came to our Town during their time and they stayed to finish the job through continued personal attacks and misinformation. I admire and appreciate folks who take the hard jobs and stick it out when it would be easier to quit as some did on the Wind Tower committee.

So, thanks again to both of you for your service. I won't forget it.

To Tom Ingraham, anytime I had an issue I'd give you a call, you always answered me, and I appreciate that. When I needed help, you'd guide me. It's nice to call people and be dealt with in a calm manner, with emotion removed, saying, "here's how I can help you". So thanks guys.

Wayne Shue, 10 Fencewood Lane

I have concerns about the snowmobile trail. I have several issues with the fact that someone could put an unlimited use trail down through the town without any input whatsoever. That trail runs 125 feet from my house. The first time I heard about it was when they came through with a bulldozer and bushhog cutting down trees and everything else going through. Now they want to take it even farther into the town. I asked them what are the restrictions, who will police that? There is really no organization to this. There is no town input on something like that. I don't know if that changes the status of the property to recreational or special use to have an organized trail through there with hundreds of snowmobiles coming down through there any time of the day or night. They come out 900 feet down the side of my property on one side, and 600 feet on the other side of my property. When you turn the corner, there is a question as to who owns that property. There is a lot of disregard for everything. There is no input, there is no assessment, it cuts through multiple wetlands. In talking with Niagara Mohawk they said that the Town can request that Niagara Mohawk not let them use the power line. There seems to be no restrictions or input from anybody, other than they get to do what they want as long as they get permission from Niagara Mohawk. Since they opened the trail, there have been 30 or 40 four-wheelers through there. They aren't policing anything, and they won't be able to police it. There is a lot of land that is not near a house; it's not developed. There are other options for a different route that they could have taken.

Supervisor Roach clarified: Your main concern is that Niagara Mohawk's right-of-way borders your property. When snowmobile clubs sponsor the trails, it seems out of character for them to be disrespectful to the residents because they know it is a privilege to be able to use the trails. They are willing to maintain the trails and cooperate with residents. We saw the proposed trail on the Town's property as an opportunity to minimize the unauthorized use of the trail by allowing the sanctioned snowmobile club rules and signs and with some self-policing background. We felt that this was the better option, that way we knew who is responsible for it, and we have some control by giving them permission to do to use it. Niagara Mohawk probably has a somewhat similar philosophy. It's better to have a sanctioned, authorized user who has liability insurance.

Councilperson Rose stated that usually the snowmobile clubs talk to the landowner to get permission to ride on their property. Also the Monroe County Sheriff's put a couple sheriffs on snowmobiles to patrol the various trails for unregistered vehicles and drinking and driving. They arrested a few of them last year. It's hard for the Town to go on back fields to patrol it. Different clubs create different trails and they make a map of the trail system.

Greg Speer, 633 Walker Road

I am here representing the Walker Fire District and I wish to extend appreciation to both Tom Ingraham and Supervisor Roach for their continued support and working relations with the Walker Fire Department and the Fire District. Tom, as Fire Chief of the Fire Department, I would like to say thank you for those countless phone calls that we would give to you saying we need this done or we need that done and could you help us here and help us there. On behalf of the fire district, we appreciate everything on the part of the highway department. Supervisor Roach, Councilman Rose and Councilman Rath, I also appreciate the sincere condolence cards and notes of appreciation and condolences that were sent to our family during our most recent time of loss. I truly appreciate that as well. As Fire Chief, I couldn't ask for a better working Board. Councilman Rath is the liaison to the Fire District, he is there monthly with us at our meetings and we appreciate the correspondence between the Town

Board and the Fire District. I am with you in the countdown, and after four years as Fire Chief, I just want to thank everybody and congratulations to your retirement. Thank you for everything. Tom, Congratulations.

Also, on my behalf as leaving my term as Fire Chief, I wish to thank the Code Enforcement Office with BJ, Charlie, and then Lee stepping right up to the plate. It has been a great working relationship between your office and ours. Thank you.

APPROVAL OF THE TOWN BOARD MINUTES

Resolution # 286 Motion was made by Councilperson Rose and seconded dually by Councilperson Rath and Councilperson Breslawski to approve the Regular Town Board minutes of November 9, 2009 as presented.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

AUTHORIZATION OF PAYMENT OF BILLS FROM THEIR RESPECTIVE FUNDS

Resolution # 287 Motion was made by Supervisor Roach, seconded by Councilperson Breslawski authorizing the payment of bills from their respective funds as follows:

MONTHLY TOTALS			ABSTRACT	12
<u>ACCOUNTS</u>	<u>VOUCHER#</u>	<u>AMOUNT</u>	<u>ACCOUNT</u>	
			<u>TOTALS</u>	
General	5301	60000.00		
	5304-5306	2564.52		
	5313-5314	4990.00		
	5319-5322	814.35		
	5326	86.13		
	5330	198.78		
	5332	1000.00		
	5334	67.89		
	5358-5359	3624.79		
	5398-5510	54015.98		
Account Total			\$ 127,362.44	
Library				
	5307-5309	698.13		
	5325	43.97		
	5327-5328	90.87		
	5345-5355	9421.07		
Account Total			\$ 10,254.04	
Highway				
	5302	13826.00		
	5324	43.40		
	5360-5397	37092.37		
Account Total			\$ 50,961.77	
Sewer				
	5303	600.00		
	5312	95.83		
	5323	45.25		
	5341-5344	269.63		
Account Total			\$ 1,010.71	

Trust	5316-5317	1860.59	
	5331	19632.65	
	5333	425.19	
	5335-5336	1957.67	
Account Total			\$ 23,876.10
Light			
	5310-5311	1122.66	
Account Total			\$ 1,122.66
Huntington Park			
	5340	1920.00	
Account Total			\$ 1,920.00
Brickschool Hse			
	6	1558.05	
Account Total			\$ 1,558.05
Church Rd#2			
	2	1558.05	
Account Total			\$ 1,558.05
Clarkson-Hamlin			
Account Total			\$ -
Roosevelt Hwy			
	2	1558.05	
Account Total			\$ 1,558.05
GRAND TOTAL:			\$ 221,181.87

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

AUTHORIZATION OF TRANSFER OF FUNDS

Resolution # 288 Motion was made by Councilperson Rose, seconded by Councilperson Marchetti authorizing the transfer of funds as follows:

<u>From A/C</u>	<u>To A/C</u>	<u>Amount</u>
AA.7020.4 (Rec. Dir. Cont.)	AA.7020.13 (Gym. Inst. Sal.)	\$134.41
AA.7020.4 (Rec. Dir. Cont.)	AA.7140.1 (Playground Sal.)	\$140.44

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

Supervisor's Monthly report acknowledged and filed.

CORRESPONDENCE:

- Monroe County letter RE: Sales Tax Distribution for Third Quarter.
- Inter-municipal Agreement with the Town of Parma RE: King Hamlin Parma Sewer District.
- Stan Lyons e-mail RE: Revise Resignation Date from Recreation Commission.
- Evelyn Krekic letter RE: Thanking the Town Board for Adopting a Conservative Budget.

- e. Monroe County Department of Environmental Services letter RE: Pictometry Online (POL) Seats for Testing.
- f. Town of Hamlin notice RE: Meeting Dates for 2010.
- g. Town of Hamlin notice RE: 2010 Holidays.
- h. Letters of Requesting for Re-appointment from Town Historian, Mary Smith and the Chair of the Town of Hamlin’s Ethics Board, Richard Marsden.
- i. Ethics Board Advisory Opinion RE: Recreation Commissioner.
- j. Mr. Trzeciak (Resident of Fairport, NY) letter RE: Health Care and Other Concerns.
- k. Paul Lapinski e-mail RE: People and turbines=problems.
- l. Computel Consultants letter RE: Results of Cable Franchise Agreement Audit.
- m. Building Inspector/Code Enforcement Officer email RE: 1715 Lake Road.
- n. President, Hamlin Library Board email RE: Library Board Appointments.
- o. Building Department Monthly Report – November 2009.
- p. Town of Hamlin Legal Notice – Regularly Scheduled Meetings for 2010.
- q. Town of Hamlin Holiday Schedule – 2010.
- r. NYMIR letter RE: NYMIR Proposed Rate Adjustments for 2010.
- s. Iberdrolausa email RE: New Study Finds no Widespread Impact of Wind Power Projects on Surrounding Residential Property Values.
- t. The Center for Municipal Solutions letter RE: Grain Communications Proposed Lease for a New Tower on Town Property.

AMENDMENT TO 2009 TOWN BUDGET

Resolution # 289 Motion was made by Councilperson Rath, seconded by Councilperson Rose approving an amendment to the 2009 Town Budget to reflect payments from the Monroe County Community Development Block Grant program as follows:

<u>Revenue</u>	<u>Appropriations</u>
Increase AA.2770 (Misc.)- \$ 1,432.48	Increase AA.1620.4 (TH Cont.)- \$ 1,070.00
	Increase AA.3310.2 (Signs)- \$ 112.48
	Increase AA.7110.4 (Parks Cont.)- \$ 250.00
 Increase DA.2770 (Misc.)- <u>\$50,059.13</u>	 Increase DA.5110.4 (Gen. Rep.) - <u>\$ 50,059.13</u>
Total: \$51,491.61	Total: \$ 51,491.61

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

AMENDMENT TO 2009-2010 MONROE COUNTY SNOW & ICE AGREEMENT

Resolution # 290 Motion was made by Councilperson Rose, seconded by Councilperson Breslawski to approve the extension of the Monroe County amended Snow and Ice Agreement for the 2009-2010 season. Amount of the contract will be \$228,647.74.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

2010 ALL SEASONS COUNTY/TOWN WORK AGREEMENT EXTENSION

Resolution # 291 Motion was made by Councilperson Breslawski, seconded by Councilperson Rose to extend the All Seasons County/Town work agreement for 2010.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

2010 TOWN OF HAMLIN HOLIDAY SCHEDULE

Resolution # 292 Motion was made by Councilperson Breslawski, seconded by Councilperson Marchetti to acknowledge the Town of Hamlin 2010 Holiday Schedule.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

APPROVAL TO ADVERTISE THE 2010 TOWN OF HAMLIN MEETING DATES

Resolution # 293 Motion was made by Councilperson Rath, seconded by Councilperson Breslawski to advertise the Town of Hamlin 2010 Town Meeting dates.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

APPROVAL TO ADVERTISE THE HAMLIN LIBRARY BOARD OF TRUSTEES OPENING

Resolution # 294 Motion was made by Councilperson Marchetti, seconded by Councilperson Rose to advertise one opening on the Hamlin Library Board of Trustees with applications due to the Town Clerk by close of business on January 8, 2010.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

APPROVAL OF ANNUAL TOWN OF HAMLIN ORGANIZATIONAL MEETING

Resolution # 295 Motion was made by Councilperson Breslawski, seconded by Councilperson Rose to conduct the annual Town of Hamlin Organizational Meeting at 6 pm, Monday, January 4, 2010 in the Town of Hamlin Board Chambers and approval to advertise such meeting.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

APPROVAL TO EXTEND THE TERM OF ALL APPOINTED POSITIONS

Resolution # 296 Motion was made by Councilperson Marchetti, seconded by Councilperson Breslawski to extend the term of all appointed positions until the Organization Meeting to be held on January 4, 2010.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

DISCUSSION:***Distribution of payment received from Brockport Central School District for school tax collection services provided by Town of Hamlin.***

In response to our Town Board Resolution of Concern last year over not providing a tax collector in Hamlin last year, the BCSD agreed to an arrangement whereby the Town Clerk would act as Tax Collector for this year's school taxes and the School District would pay the Town \$3,500 for services rendered. We have received that payment and must now appropriately account for it and distribute it. It has been proposed that the payment be split between the Town Clerk and the Deputy Town Clerk with \$3,000 to the Clerk and \$500 to the Deputy with an IRS Form 1099 and/or other appropriate tax reports made.

There was discussion as to whether it should be paid as a stipend or through payroll as salary.

AUTHORIZATION TO PAY FOR TAX COLLECTION SERVICES DENIED

Resolution # 297 Motion was made by Councilperson Rose, seconded by Supervisor Roach to authorize payment as a stipend in the amount of \$3,000 to the Town Clerk and \$500 to the Deputy Town Clerk for services rendered as School Tax Collectors for the Brockport Central School District.

Polled votes: Councilperson Breslawski no, Councilperson Marchetti no, Councilperson Rath no, Councilperson Rose yes, Supervisor Roach yes. Motion denied.

Supervisor Roach stated: I still have to consider how we are going to do the accounting accommodations for the \$3,500 check that we received.

APPROVAL TO AMEND THE 2009 TOWN BUDGET FOR SCHOOL TAX COLLECTION SERVICES

Resolution # 298 Motion was made by Councilperson Breslawski, seconded by Councilperson Rath to amend the 2009 Town Budget as follows:

<u>Revenue</u>	<u>Appropriations</u>
Increase AA.2770 (Misc.) - \$3,500.00	Increase AA.1330.1 (Tax Collection) - \$3,500.00

and to authorize payment in the amount of \$3,000 to the Town Clerk and \$500 to the Deputy Town Clerk for services rendered as School Tax Collectors for the Brockport Central School District, such payments to be through regular payroll.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

Renewal of "Agreement for Services" with Emergency Enclosures, Inc. for emergency services to the Town of Hamlin on demand from January 1, 2010 through December 31, 2010.

Our agreement with Emergency Enclosures, Inc. to provide on-call emergency closure services expires December 31, 2009. I've spoken to the Building Inspector and the Fire Chiefs, who all support the renewal of this service. I spoke to the company which advises that their rate structure for 2010 is unchanged.

ANNUAL RENEWAL FOR SERVICES WITH EMERGENCY ENCLOSURES, INC.

Resolution # 299 Motion was made by Councilperson Marchetti, seconded by Councilperson Rath to authorize the Supervisor to execute an annual renewal of the agreement for services with Emergency Enclosures, Inc. with term of agreement from January 1 through December 31, 2010.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

Underpayment of franchise fee owed to Town, as determined by audit performed by Computel Consultants and consideration of filing a claim for unpaid franchise fees owed to the Town by Time Warner Cable.

By resolution at our October 2009, we authorized Computel Consultants to perform a no-cost audit and analysis of our franchise agreement with Time Warner Cable. The results reveal that Time Warner, whether intentionally or not, excluded certain gross subscriber revenue (advertising and home shopping fees, for example), which was against PSC rules. PSC pointed out that error to Time Warner in their Franchise Approving Order in 2002, but again, Time Warner, either intentionally or unintentionally, ignored the PSC order. As a result, Time Warner has been excluding some of the franchise fees generated from gross subscriber revenues each month since 2002. Computel Consultants has estimated that this exclusion has resulted in an underpayment of franchise fees owed to the Town in the amount of \$22,424.99. Correcting this error will result in increased future fees amounting to approximately \$5,000 annually going forward. Apparently, this problem is fairly widespread. A number of municipalities filed a complaint against Time Warner and in May 2006, the PSC ruled in the municipalities' favor, stating that Time Warner did owe money for past underpayment of fees, in circumstances exactly like ours.

The next step in this process is to authorize Computel Consultants to file a claim on our behalf with Time Warner to recover the underpaid fees. We need to consider the following items, which will result, if and when we file claim:

- As the underpaid amounts would have passed through to subscribers, had the franchise fees been handled properly in the first place, Time Warner's response will be to exercise their right to pass through the underpaid amount to the 2,240 subscribers. Computel estimates that the impact of a temporary pass through would amount to about 83 cents a month per subscriber over the next year.
- The action would not raise the franchise fee. It just requires its accurate payment under the terms of our current agreement as approved by the PSC. It would also have no impact on the cable rates.
- As a condition of our agreement with Computel, Computel would receive 50% of the amount of past underpaid franchise fees collected, currently estimated at \$22,425. The Town would receive the full amount going forward – approximately \$5,000 per year.
- At the recommendation of Computel, we asked for our attorney's advice as to whether we have the option of not collecting money that is owed the Town. Ken has cited sections of Town Law which set forth both the Supervisor's and Town Board's responsibility and authority to institute legal proceedings to recover moneys due the Town. Ken also noted that Time Warner may legally pass the underpaid fee on to subscribers but that our responsibility is to all the residents not just the TW customers. All taxpayers will benefit from the collection of additional funds.

**COMPUTEL CONSULTANTS TO COMMENCE COLLECTION ACTIONS
AGAINST TIME WARNER CABLE**

Resolution # 300 Motion was made by Councilperson Rath, seconded by Councilperson Marchetti to authorize Computel Consultants on behalf of the Town to commence collection actions against Time Warner Cable to collect underpaid franchise fees owed to the Town.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

Review proposed “Revocable License for Recreational Use of Town Property by Snowmobile Club.”

At our November meeting we granted preliminary approval to the Salmon Creek Snowmobile Club for the use of the Railroad Right-of-Way pending creation of a formal revocable license and the provision of a certificate of insurance. Ken has drafted the revocable license and the club has provided the Town with the required certificate of insurance naming the Town as an additional insured. Our insurance carrier has reviewed the license and the insurance certificate. They have advised that the agreement is fine, that they will maintain a copy of the certificate of insurance on file and that there is no additional premium charge for this. They did point out that the club’s liability insurance expires on April 22, 2010. It should be noted that the license would be considered voided if and when the liability insurance lapses. I also want to point out that the Town’s policies and regulations banning snowmobile use on Town property remain in effect with the railroad right-of-way being a licensed exception.

**APPROVAL OF THE TOWN OF HAMLIN REVOCABLE LICENSE FOR
RECREATIONAL USE OF TOWN PROPERTY**

Resolution # 301 Motion was made by Councilperson Marchetti seconded by Councilperson Rose to approve the Town of Hamlin Revocable License for Recreational Use of Town Property, specifically the Hojack right-of-way, by the Salmon Creek Snowmobile Club.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

Code Enforcement Officer’s notification of unsafe building (per Code of Town of Hamlin Chapter 39 Section 4) at 1715 Lake Road.

The Building Inspector has notified Town Board in writing, per Chapter 39, Section 4 of the Code of the Town of Hamlin, of unsafe building conditions at 1715 Lake Road. Specifically, it has become open at doorways and windows and is accessible to and an object of attraction to minors and trespassers presenting a danger to the health, safety and general welfare of the public. It is up to Town Board to determine if, in our opinion, this report warrants written notice to the owner of the building’s unsafe condition and our opinion on what the owner needs to do to mitigate the situation. We should also consider authorizing the Code Enforcement Officer to use Emergency Closures services, should circumstances, such as continuing police activity at the location, warrant it.

APPROVAL TO NOTIFY PROPERTY OWNER AT 1715 LAKE ROAD TO SECURE BUILDING

Resolution # 302 Motion was made by Councilperson Marchetti seconded by Councilperson Rose to notify the property owner that the building must be secured within five (5) days. If it is not completely secured to the Building Inspectors satisfaction, the Building Inspector will use Emergency Closure to secure it and to schedule a Public Hearing on January 11, 2010 at 6 pm.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

Grain Communications' proposed lease for a new tower to be located at the Town Highway Garage.

At the September Town Board meeting, we discussed the fact that we had initiated an agreement with the Center for Municipal Solutions, per Hamlin Town Code Chapter 106 – WIRELESS TELECOMMUNICATION FACILITIES to assist, advise and represent the Town in reviewing, analyzing and negotiating a proposal from Grain Communications for a possible lease agreement and application to construct a wireless telecommunication facility at the Highway Department compound. We have received the final proposed negotiated lease in summary provides for:

- The Town to give a 35-year lease of a 100 x 100 foot parcel at the Highway compound with terms including monthly rent of \$1600; with an increase of 4% every year for a total of \$1,414,122.72 over the lease period. Such rent to commence upon start of construction of a t/c tower.
- 10% of revenue realized from each additional tower co-locator that may be later added paid to the Town, which could add up to as much as \$141,000 from each additional co-locator over the life.
- An option fee of \$1,000 to the Town when the lease is signed.

The \$1600 per month compares most favorable to our current lease with Sprint, which is \$459.48 per month and Verizon, which is \$706.88 per month. In total the Grain tower will bring in over \$5200 more than our lease for the current tower over just the first year. As annual increases on the Sprint/Verizon tower are based on the Consumer Price Index, a guaranteed 4% annual increase is also considered a better term. Finally, the fact that we will gain 10% of the revenue from any additional co-locator is pure gain as we receive nothing from co-locators on the Sprint/Verizon tower.

It is emphasized that after lease approval, Grain Communications with their client, which we understand is a Federal agency, must then go through the full application permitting process, per our local law on Siting of Telecommunications Facilities, which includes all environmental studies. It should also be noted that the lease option period is listed as 8 months, which would indicate that Grain Communications is planning to submit application sometime next year. Of importance, Town Board should understand that by approving this lease agreement, we are giving tacit indication of favorable consideration of an application to permit the tower, provided all the requirements of our local law and SEQRA are fulfilled. Our Town Attorney has reviewed the lease and did propose some changes, which have been incorporated.

APPROVAL OF PROPOSED LEASE WITH GRAIN COMMUNICATIONS

Resolution # 303 Motion was made by Councilperson Marchetti seconded by Councilperson Rose to approve the proposed lease with Grain Communications for a new tower to be located on the Town Highway Department.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

Review applications for Support Board Attorney and Conservation Board positions.

We've received one application for the pending vacancy on the Conservation Board and two applications for the Support Board Attorney position. I will defer discussion on these to Executive Session following Reports.

Two more discussion issues crossed my desk this morning:

1. The first is a FAX from Assemblyman Hawley announcing the 2010 Local Government Conference for elected and appointed officials in Albany tentatively to be held May 16-18. He has asked for feedback by January 4 as to tentative attendance. I would ask Town Clerk to be the point of contact for this. Please let her know your tentative intentions. Kathi, Dave and I attended the initial conference two years ago and found it to be very informative.
2. At last month's meeting, the CEO advised us that the County was in the midst of updating their pre-disaster mitigation plan. We were all a little unsure as to what our exact role or responsibility was in that action. Lee has subsequently determined that the Town of Hamlin, for reasons we have yet to determine, opted to maintain our own manual rather than being incorporated into the County manual. He has discussed the pros and cons of this with Muffy Meisendahl, the County's Director of Emergency Preparedness. She admitted that there is basically little to gain or lose by going it on our own. If we went with the County, our hazard ranking priorities would have to conform with theirs. If we stayed on our own, we of course would maintain our own priority rankings. Lee also determined that if we decide to go with the County, Town Board would have to pass a resolution adopting the County's manual. The County is scheduled to submit their draft manual to FEMA in February and it probably won't be finalized until March. However, we should give the County an indication of our intention next month. Accordingly, I'm asking that you and our newly elected supervisor, councilman and highway superintendent meet with Lee and discuss this prior to the January 14 Town Board meeting to determine which direction you want to go. I've sent an email to the Fire Chiefs and HVA advising them of this too as they were on the planning committee which developed the Hamlin plan. By copy of that email and this discussion, I'm asking that the Town Board liaison to the fire districts and the CEO follow up with the Chiefs and HVA on their thoughts.

REPORTS:

Councilperson Breslawski – Last recreation meeting, there were some concerns over potential liability of employees using their personal vehicles for Town events. I would like to look into the possibility of putting their name on the Town insurance policy for specified events.

We have some Recreation Commissioner interviews tomorrow night. We have five (5) applicants for that position.

Over at the library, so far this year our circulation is up almost 3,000, and people count is up almost 2,000.

I would thank you Denny Roach, Mike Marchetti, and Thomas Ingraham for all they have done through your many years of service to the Town. It's all appreciated. Merry Christmas and Happy New Year to everyone.

Councilperson Marchetti – Thank you everyone, it's been fun. Have a happy and safe holiday.

Councilperson Rose – The Senior Citizens have elected a new President, Stan Lyons. The Vice President is Anita Kyle. The new Treasurer is Dave Soper, and the rest of the officers remain the same.

The Planning Board did a super job last Monday night. They had no choice but to deny the application for Iberdrolausa. They conducted the meeting very well. There was no shouting or nastiness; I was very pleased with the way the meeting went. I was very pleased the way the Planning Board voted. I would like to wish everyone a Merry Christmas and a Happy New Year. All my best wishes for Denny, Tom, and Mike and their endeavors from here on out; enjoy yourself.

Councilperson Rath – The fire department communicated agreement about Emergency Enclosures. They are already working with Lee on a few of those things.

Conservation Board, I was unable to attend. Tomorrow night Councilman-elect Goodrich will be at the final Conservation Board meeting of the year and should be able to report next month on that.

Happy holidays. Thanks Mike and Denny for your leadership and Tom for your years of service for the Town.

Highway Superintendent Thomas Ingraham – We are going to try to get some electric and gas back to the Lion's building bathrooms this week. We will schedule with Niagara Mohawk in the next couple of weeks. One of the of the Lion's Club members will visit contractors. We continue to work on the project and have been getting into the building and starting to put in doors and windows. We have all that in stock down there. We ordered everything we need and we received it all. In the next couple of months we will get some work done. We are putting up snow fence.

I just want to thank all of you. It's been a pleasure working with all of you. Denny, it's been a pleasure working with you.

Building Inspector Lee Nettin – On my monthly BAS report a couple of things have changed due to an update, Payment Summary Report and Cash Receipt went to Payment Receipt. I would like to thank Supervisor Roach and the Town Board members for their support.

Nick Kramer, Conservation Board – Things are going well. I wish everyone happy holidays.

George Bott, Library – I want to echo what everyone else said and thank the Town Board.

Bob Krueger – Happy holidays.

Supervisor Roach – As this is my last Town Board meeting, I will take this opportunity to publicly thank the Town Board, Dave, Paul, Mike and Tom, and all the elected and appointed officials, and, particularly the Town staff – department heads and employees – for their hard work, dedicated efforts and support over the past four years. I also extend congratulations and best wishes to the returning board members and to the three newly elected officials – Peter Terry, Craig Goodrich, and Steve Baase. Finally, I wish everyone a safe and happy Holiday season, a Merry Christmas and a healthy and happy New Year.

ADJOURN TO EXECUTIVE SESSION

Resolution # 304 Motion was made by Supervisor Roach, seconded by Councilperson Rath to adjourn to Executive Session at 8:40 pm to discuss personnel issues relevant to the applications for the pending vacancies.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

RETURN FROM EXECUTIVE SESSION

Resolution # 305 Motion was made by Supervisor Roach, seconded by Councilperson Rath to return from Executive Session at 9:00 pm.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

ADJOURNMENT

Motion was made by Supervisor Roach, seconded by Councilperson Rath to adjourn the meeting at 9:05 pm as all business has been concluded.

Polled votes: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Councilperson Rose aye, Supervisor Roach aye. Motion carried.

Respectfully submitted,

Kathi A. Rickman, MMC
Hamlin Town Clerk