

Evans Town Board

At a regular meeting of the Town Board of the Town of Evans, held at the Evans Town Hall, 8787 Erie Road, Angola, New York on Wednesday, January 17, 2007 at 7:30pm there were

PRESENT:	Karen C. Erickson	Councilman
	Kathleen A. Bartus	Councilman
	Michael M. Spence	Councilman
	Paul T. Cooper	Councilman
ABSENT:	Robert R. Catalino, II	Supervisor
ALSO PRESENT:	Carol A. Meissner	Town Clerk
	J. Grant Zajas	Town Attorney
	Charles LaBarbera	Code Enforcement
	Lori Szewczyk	Community Development
	Charles Katra	Finance
	Edward Michalski	Highway Superintendent
	Russ Manguso	Parks
	Sandra Brant	Planning Division
	Robert Ferguson	Police
	Patrick Conrad	Sturgeon Point Marina
	Diana Cafferty	Receiver of Taxes
	Tom Kait	Water
	Rob Klavoon	Wendel Duscherer
ABSENT:	Jeanne C. Ebersole	Assessor
	Julie Roach	Seniors

Cub Pack 528 of Evans Center led the Pledge of Allegiance.

RESOLUTION 60 Approve minutes

Councilman Erickson moved and Councilman Bartus seconded that the reading of the minutes of the meeting of November 8, 2006 Work Session, Organizational Meeting and January 3, 2007 be dispensed with and approved as submitted by the Town Clerk.

Carried.

Councilman Erickson extended the privilege of the floor to an and all persons present.

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Robert L. Palmer, 1780 Eden Evans Center Road questioned the amendment to the Work Session minutes of November 8, 2006. Mr. Palmer also questioned resolution number one amendments to Chapter 70 and or Chapter 200 of the Town Code. He noted that twice today helicopters flew over his home with the helicopter being so close to his home. Other residents have called him regarding this situation.

RESOLUTION 61 New York State Association of Towns RE: 2007 Training School & Annual Meeting & appt of delegates held in NYC Feb 18-21, 2007

Councilman Erickson moved and Councilman Bartus seconded to accept the communication from the New York State Association of Towns regarding the 2007 Training School and Annual Meeting in New York City February 18-21, 2007.

Carried.

RESOLUTION 62 Timothy Cooper, Judge RE: request permission for himself, Judge Barone and two Court Clerks to attend the Judges & Court Clerks Annual Association of Town Meeting in NYC Feb 18-21, 2007

Councilman Erickson moved and Councilman Bartus seconded that the request of Judge Timothy Cooper for he, Judge Barone, Mrs. Baake and Ms. Kijek to attend the Annual Association of Town's meeting in New York City be approved for February 17-21, 2007 and further that all necessary and reasonable expenses incurred be a town charge in accordance with the policy and guidelines for travel by the Town.

VOTE RESULT:	Councilman Erickson	aye
	Councilman Bartus	aye
	Councilman Cooper	aye
	Councilman Spence	aye

RESOLUTION 63 Sandra Brant, Chairman Planning Board RE: Tower Special Permit & Site Plan Review at 6929 Erie Road Petitioner: Upstate Cellular Network D/B/A Verizon Wireless

Councilman Erickson moved and Councilman Spence seconded,

WHEREAS: in a letter dated January 4, 2007, the Evans Planning Board has requested that the Town Board set a public hearing regarding the petition of Upstate Cellular Network D/b/A Verizon Wireless, 175 Calkins Rd., Rochester NY, for a 125' 9expandable to 145') cellular telecommunications tower to be located at 6929 Erie Rd. (a.k.a. NYS Route 5), Derby, NY (Tocha property), SBL#206-3-58.1 and 206.07-2-20.A.

NOW THEREFORE BE IT

RESOLVED: that the Town Board authorize the Town Clerk to advertise for a public hearing to be held on February 7, 2007 at 7:50pm for the consideration of said tower special permit

AND BE IT FURTHER

RESOLVED: that a copy of this resolution be given to the Planning Division Office and to the Building Department.

Carried.

Councilman Spence presented a status report on the ice rink at the Town Park.

-Passport photo's provided by the Town Clerk's Office has been very successful. You can obtain your passport and have pictures taken all in one step.

Councilman Bartus reported on the suspension of the Town of Evans Youth Court and thanked Bill Sills, Carol Meissner and all the dedicated Executive Board and Youth Court members.

Councilman Cooper reported he attended the Northeast Southtowns Waste Management Board (NEST) annual meeting last Thursday. The Town and Village are well represented and very highly thought of. It was discussed how tremendously well this area does in paper recycling. Most Precious Blood School and Church and Father Matt Nycz were commended in the job they have done to promote paper recycling along with the Village and Town.

RESOLUTION 64 Committee and Department Head reports

Councilman Erickson moved and Councilman Bartus seconded to accept the Committee and Department Head reports as follows:

Diana A. Cafferty, Receiver of Taxes and Assessments:

2006 Annual Report	
water receipts December 2006	\$115,772.90
duplicate bills & receipts Dec 2006	\$19.00
Interest earned December 2006	\$27.37

VOTE RESULT:	Councilman Erickson	aye
	Councilman Bartus	aye
	Councilman Cooper	aye
	Councilman Spence	aye

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RESOLUTION 65 PLL #1 of the year 2007 (Amend Chapter 70 and/or Chapter 200)

Councilman Spence moved and Councilman Bartus seconded,

RESOLVED: that a public hearing be scheduled to be held on February 21, 2007 at 7:50pm to consider Proposed Local Law #1 of the year 2007 to consider the amendment of the Town code, and specifically, but without limitations Chapter 70 and/or Chapter 200 of the provisions of proposed Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code presently on file with the Town Clerk and available in the Office of said Clerk for inspection and

BE IT FURTHER

RESOLVED: that the Town Clerk is authorized to advertise, as required for said public hearing.

Carried.

RESOLUTION 66 Sign the Coordinated Assessment Program agreement

Councilman Bartus moved and Councilman Cooper seconded,

RESOLVED: that Supervisor of the Town of Evans is hereby authorized to sign the Coordinated Assessment Program agreement to provide assessment Services to the Town of North Collins through December 31, 2012, subject to approval of the Town Attorney. This resolution shall take effect immediately.

VOTE RESULT:	Councilman Bartus	aye
	Councilman Cooper	aye
	Councilman Spence	aye
	Councilman Erickson	aye

RESOLUTION 67 Sign agreement with Meals on Wheels of Buffalo & Erie County

Councilman Erickson moved and Councilman Spence seconded,

WHEREAS: Meals on Wheels of Buffalo and Erie County, In., has in the past provided services to residents in the Town of Evans and is willing to provide such services for the calendar year 2007 and,

WHEREAS: Meals on Wheels of Buffalo and Erie County, Inc. Has been providing such services for the year 2007, and is willing in consideration of the

sum of \$7,200, to provide meal service for the elders of the Town of Evans, such service to consist of 2 meals a day, 5 days a week, and alternate provisions if weather prohibits scheduled service, as well as a birthday card for the year 2007,

NOW THEREFORE BE IT

RESOLVED: that Robert R. Catalino, II, Supervisor of the Town of Evans, is hereby authorized to execute on behalf of the Town of Evans, as agreement as many counterparts deemed appropriate in his discretion, and to deliver the same, and the aforesaid payment to Meals on Wheels of Buffalo and Erie County, Inc.

VOTE RESULT:	Councilman Erickson	aye
	Councilman Spence	aye
	Councilman Bartus	aye
	Councilman Cooper	aye

RESOLUTION 68 Sign agreement with Community Concern of Evans & Brant NY

Councilman Cooper moved and Councilman Bartus seconded,

WHEREAS: Community Concern of Evans and Brant, NY, Inc. referred to herein as Community Concern, has offered to provide certain services to the residents of the Town of Evans, set forth in a proposed agreement for the period commencing January 1, 2007 and terminating on December 31, 2007, the compensation for which services pursuant to said agreement shall be \$41,400.00; and

WHEREAS: the services contemplated by said agreement, and to be provided by Community Concern, benefit the residents of the Town of Evans;

NOW THEREFORE BE IT

RESOLVED: that Robert R. Catalino, II, the Supervisor of the Town of Evans, is hereby directed to execute on behalf of the Town of Evans, said proposed agreement, in as many counterparts as deemed appropriate in his discretion, and to deliver the same to Community Concern and that the aforesaid payment be made to Community Concern; and

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RESOLVED: that a copy of this resolution be delivered to Community Concern, when and if required or requested by Community Concern.

VOTE RESULT:	Councilman Cooper	aye
	Councilman Bartus	aye
	Councilman Spence	aye
	Councilman Erickson	aye

RESOLUTION 69 Sign agreement with Angola Public Library

Councilman Spence moved and Councilman Cooper seconded,

WHEREAS: the Angola Public Library, hereinafter referred to as the "Library" as a part of the Buffalo & Erie County Public Library System, has in the past provided a valuable cultural and educational resource for the residents to the Town of Evans, and made its resources available to the residents of the Town, who are qualified and registered users of the same, pursuant to the rules and circulation of books, videos and other media, and

WHEREAS: the Library seeks from the Town funds to help defray the cost of its operations in providing such services to the residents of the Town and other, and

WHEREAS: the Town is willing to pay the Library, in consideration of such continued service the sum of \$2,250.00 towards the operational costs incurred by the Library in the current calendar year;

NOW THEREFORE BE IT

RESOLVED: that upon the full execution of such agreement, and in consideration of the provisions of such services by the Library, the Town make the aforementioned payment of \$2,250.00 to the Angola Public Library in accord with said agreement.

VOTE RESULT:	Councilman Spence	aye
	Councilman Cooper	aye
	Councilman Bartus	aye
	Councilman Erickson	aye

RESOLUTION 70 Sign the Southtowns HAZ-MAT Team agreement

Councilman Bartus moved and Councilman Erickson seconded,

WHEREAS: Southtowns HAZ-MAT Team has, in the past agreed with the Town of Evans to provide emergency response to hazardous materials and incidents in the Town of Evans (excluding the Village of Angola) and to provide containments, entry reference decontamination and resource information and other services in consideration of the sum of \$5,000 per year, the period of such agreement to run from January 1, 2007 to December 31, 2007; and

WHEREAS: the services contemplated by said Agreement, and to be provided by Southtowns HAZ-MAT, benefit the residents of the Town of Evans;

NOW THEREFORE BE IT

RESOLVED: that Robert R. Catalino, II, Supervisor of the Town of Evans, is hereby directed to execute on behalf of the Town of Evans, such Agreement, as many counterparts as deemed appropriate in his discretion, and to deliver the same and the aforesaid payment to Southtowns HAZ-MAT Team.

VOTE RESULT:	Councilman Bartus	aye
	Councilman Erickson	aye
	Councilman Spence	aye
	Councilman Cooper	aye

RESOLUTION 71 Declare Town Lead Agency and authorize Wendel Duchscherer to conduct coordinated review for Town of Evans Water to consolidate with Erie County Water Authority

Councilman Erickson moved and Councilman Bartus seconded,

WHEREAS: the Town Board is in the environmental and financial analysis phase of the Town of Evans Water Consolidation with the Erie County Water Authority, and

WHEREAS: pursuant to Part 617B NYCRR Article 8 of the Environmental Conservation Law, SEQR, the Evans Town Board should "as early as possible in an Agency's formation of an action it proposes to undertake", begin the SEQR process, and

WHEREAS: this current SEQR process encompasses the consolidation of the water systems, the signing of a memorandum of understanding, and improvements and additional work required by the Erie County Water Authority as described in the Engineering Report dated July 2005, and

WHEREAS: the Evans Town Board has classified the current action as a Type 1 action under SEQR,

THEREFORE BE IT

RESOLVED: that the Evans Town Board being the most local agency with permitting/funding authority wishes to declare Lead Agency and

BE IT FURTHER

RESOLVED: that the Evans Town Board authorizes Wendel Duchscherer to conduct a coordinated review pursuant to SEQR and coordinate the required mailings and notifications.

Carried.

RESOLUTION 72 Appt of part time clerk

Councilman Spence moved and Councilman Cooper seconded,

RESOLVED: that Karen Ryerse, 594 Herr Road is hereby appointed as part time clerk at a rate of pay of \$7.15 per hour. This resolution shall take effect immediately.

VOTE RESULT:	Councilman Spence	aye
	Councilman Cooper	aye
	Councilman Bartus	aye
	Councilman Erickson	aye

RESOLUTION 73 Schedule of fees for Planning Department and Code Enforcement

Councilman Cooper moved and Councilman Erickson seconded,

WHEREAS: 160-1 of the Code of the Town of Evans authorizes the Town Board to establish by resolution fees not otherwise set and establish by the said Code; and

WHEREAS: a review of such fees has indicated it is proper to raise and review such fees so established; and

WHEREAS: said review has shown an adjustment of said fees is appropriate

NOW THEREFORE BE IT

RESOLVED: that the fees set forth in the exhibit attached have to be established as the fees to be so set, to be effective immediately (see Addendum A).

VOTE RESULT:	Councilman Cooper	aye
	Councilman Erickson	aye
	Councilman Bartus	aye
	Councilman Spence	aye

At this time 7:50pm a public hearing is scheduled as duly advertised in the Town Crier, official newspaper of the Town of Evans for the purpose of receiving input from residents regarding the proposed transfer of reserve funds established pursuant to Section 6-C of the General Municipal Law and raised from the same tax base to the corresponding "Pension Reserve Fund" established pursuant to Section 6-R of said General Municipal Law.

There being no one wishing to speak, the public hearing was closed at 7:52pm.

RESOLUTION 74 Budget Transfer

Councilman Erickson moved and Councilman Bartus seconded,

WHEREAS: on January 17, 2007, a public hearing was held in accordance with Chapter 260 of the NYS Laws of 2004 and pursuant to §6-r of General Municipal law to hear those people desiring to discuss the proposed transfer of reserve funds established pursuant to §6-c of General Municipal Law to a newly created "Pension Reserve Fun."

THEREFORE BE IT

RESOLVED: that the Town of Evans hereby authorizes the following transfers of funds from the reserves established pursuant to Section 6-r of General Municipal law for the purpose of financing future retirement contributions:

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FROM		TO:
H5 - Equipment Capital Reserve	\$200,000	General Pension Reserve
H6 - Part Town Equipment Capital Reserve	\$175,000	Part Town Pension Reserve
H7 - Highway Equipment Reserve	\$125,000	Highway Pension Reserve

This resolution shall take effect immediately.

VOTE RESULT:	Councilman Erickson	aye
	Councilman Bartus	aye
	Councilman Cooper	aye
	Councilman Spence	aye

RESOLUTION 75 Budget Transfer

Councilman Erickson moved and Councilman Bartus seconded,

RESOLVED: that the following amounts are hereby authorized for transfer from the particular Pension Reserves to the respective operating budgets for payment of the Town of Evans' pension obligations in accordance with the terms set forth by the NYS Retirement System for fiscal year 2006-07:

FROM:		TO:
General Pension Reserve	\$100,00	A5031
Part Town Pension Reserve	\$95,000	B5031
Highway Pension Reserve	\$96,000	DB5031

VOTE RESULT:	Councilman Erickson	aye
	Councilman Bartus	aye
	Councilman Spence	aye
	Councilman Cooper	aye

RESOLUTION 76 Town Licenses

Councilman Erickson moved and Councilman Spence seconded that Town Licenses applied for be granted contingent upon approval of the Chief of Police and Department of Health as follows:

Henry W. Laskowski D/B/A Henri's Restaurant - refreshment
Joe C. Voltz D/B/A Joey V's Pizza - refreshment
Eugene J. Wachala D/B/A Pasquales - refreshment
Vincent J. Cala, Jr. D/B/A Cala's Kitchen & Catering - refreshment
Lake Erie Beach Volunteer Fire Company - refreshment, amusement & live band

Gary T. Ballowe D/B/A South Shore Beach Club - refreshment, amusement & live band

VOTE RESULT: Councilman Erickson aye
 Councilman Spence aye
 Councilman Cooper aye
 Councilman Bartus aye

RESOLUTION 77 Audit of Bills

Councilman Spence moved and Councilman Erickson seconded that all properly audited bills be paid out of their respective funds as set forth under abstract of claims on this date and December 20, 2006 as follows:

Abstract #23
Voucher No. 2525-2679

GENERAL	\$75,804.10
PART TOWN	17,486.37
HIGHWAY	70,745.59
WATER	76,033.81
SPECIAL DISTRICTS	97,530.69
COMMUNITY DEVELOPMENT	30,297.25

Abstract #1
Voucher #1-74
Prepaid Voucher #1 & 2

GENERAL	\$124,771.34
PART TOWN	13,953.83
HIGHWAY	4,210.50
WATER	967.43
SPECIAL DISTRICTS	316,898.38

VOTE RESULT: Councilman Spence aye
 Councilman Erickson aye
 Councilman Bartus aye
 Councilman Cooper aye

At this time 8:00pm a public hearing has been scheduled as duly advertised in the Town Crier, official newspaper of the Town of Evans for the purpose of considering the issuance of a Special Use Permit for the storing and dispatching of trucks located at 8563 Erie Road, Angola, New York being SBL#235.06-1-13 as

petitioned by David Laskowski D/B/A D & L Trucking and Excavating.

Anyone in opposition would be heard at this time.

Jack Frost, 8554 N. Main St. is not so sure he is opposed to the special use permit but has some concerns.

- his land borders Laskowski's property and is concerned if the land is paved or pitched it could affect his property with water problems.

- lighting, idling trucks are not a big deal to him

- paper road in a little wooded area between a duplex and a house and would not want ingress or egress allowed

Chris Trapp, attorney with Bouvier Partnership addressed the following concerns:

- railing, no problem with the placement as long as it is in conformance with the original petition of 2004 and 2005 and is placed there

- a questions of non-compliance with the burm and planting of trees as stated in the 2005 resolution. Four years for compliance is too long.

- restrictions of one truck near the building has been removed and not sure as to the rationale but would like that clause to revert back to the original restriction.

- ownership of trucks; noting in the resolution deals with the ownership of trucks by someone else. Empire State Shippers Association is the owner of a number of is the owner of a number of vehicles. Nine trucks was the allowable amount to the owner however noting addresses trucks owned by other parties.

- Town Code 200-45g - Code Enforcement. Issues have been raised pursuant to Town Code 200-45g and the modified 2005 resolution regarding revocation of a special use permit have been brought to the attention of the building inspector who shall cause an investigation and a report shall be filed. This has not been complied with and copies of the site plan are not filed. The Code should be enforced beside a policy in place for revocation proceedings.

- Further consideration to what is being proposed over what has not been complied with by Mr. Laskowski. It does adversely and materially affect his client's adjoining property if there is no code enforcement.

Paul Pinto, 17 Lerczak Drive (see addendum B)

David Laskowski, 8563 Erie Road and Deanna Szarpa, 6643 Schuyler Drive:

- railing has to be put in after the property is filled in enough.

- he owns the trucks. They are titled in his name. ESTA authority is on there because we haul their freight. There have never been any other trucks on the property lot he worked on.

- eight trailers that were on the property have been sold and are no longer on the property.

- NYS does not allow truck idling

-every fifteen minutes in one week someone from the town building department was on the property addressing various concerns and moving a truck eight (8) inches one time was one of them.

-65% of the time trailers are left in Buffalo.

-an eight to ten foot berm approximately 150 feet long has been put in.

-feels taxes are assessed at the same rate

-1.44 acres have been surveyed

-MS is the same zoning that is utilized across the street for the same type of business not LI

-the paper road will not be used for ingress and egress.

-the DEC, Building Department and Army Corp of Engineers have determined the access water has been caused from across the street, D & L Hauling

-there are two businesses on the property. One is incorporated and the other is not it is a D/B/A.

-All permits and variances have been obtained.

-in the list of restrictions number nine states there should be no outside gasoline or fuel storage, he has always had a small fuel tank on site which has been inspected by the EPA and DEC and all the paper work is in order. He needs the diesel fuel and tanks for his backhoe and dozer.

Richard and Pat Dysard, 8515 Erie Road spoke in favor of the issuance of the Special Use Permit.

There being no one else wishing to speak, the public hearing was closed at 8:38pm.

RESOLUTION 78 Adjournment

Councilman Erickson moved and Councilman Spence seconded to adjourn to a Work Session to be held on Wednesday, January 24, 2007 at 5:00pm and then to the next regular Town Board meeting to be held on Wednesday, February 7, 2007 at 7:30pm.

Carried.

Respectfully submitted,

Carol A. Meissner
Town Clerk