

A regular meeting of the Malone Town Board was held Wednesday April 8<sup>th</sup> 2009, at the Malone Town Offices, 27 Airport Road, Malone, New York, commencing at 6:00pm.

PRESENT: Supervisor Howard Maneely  
Deputy Supervisor Paul Walbridge  
Councilor Louise Taylor  
Councilor John Sullivan

ABSENT: Councilor Irving Caplan

ALSO PRESENT: Susan Hafter, Town Clerk  
Andrea Stewart, Budget Officer/Bookkeeper  
Lillian-Anderson Duffy, Town Attorney  
Alvin Livernois, Superintendent of Highways  
Mark Besio, Highway Clerk  
Mark Gonyea, Town Planning Board Chairman

David House, Chestertown                      Chris LaBarge, Malone  
Angela Duval, Malone                              Larry Lamica, Malone  
Curtis Latremore, Chazy                          John Carr, Bangor

At 6:00pm Supervisor Maneely called the meeting to order with a Pledge to the Flag.

**MINUTES & REPORTS:**

\* On the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Taylor to accept the minutes of the regular meeting and joint Town/Village meeting both held on March 25<sup>th</sup> 2009, as presented and place on file.

**CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (4-0).**

\* On the motion of Councilor Sullivan with a second thereto by Deputy Supervisor Walbridge to accept the following reports as presented and place on file:

Supervisor – 3/09                      Airport Manager – 3/09  
Town Clerk/Registrar – 3/09      Supt. of Highways – 3/09  
Code Officer – 3/09

**CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (4-0).**

**OLD BUSINESS:**

**Holiday Inn Express-**

Supervisor Maneely reported that it has been determined the FAA should not be named as an involved agency for the Holiday Inn SEQR process, but an involved party, as they will be conducting an aeronautical study to determine whether the construction constitutes a hazard to Malone-Dufort Airport activities. Also, it appears that the project may not comply with Malone Town Code standards for airport approach, and might require a variance. Therefore the Town of Malone Board of Variance and Appeals is to be named as an involved agency for SEQR. Still pending is the EAF review and

determination of significance for this project.

\* On the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Taylor:

**Resolution #6-2009**

**Whereas**, the Town Board of the Town of Malone has determined that the FAA should NOT be named as an involved agency in the SEQR process for the Holiday Inn Express project being developed on Rt. 11 West in the Town of Malone, but rather as an interested party, and

**Whereas**, the Town Board of the Town of Malone has further determined that the Town of Malone Board of Variance and Appeals should be named as an involved agency in the aforementioned project, and

**Whereas**, Town of Malone Resolution #5-2009 was duly adopted on March 25<sup>th</sup> 2009 as follows:

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***Resolution #5-2009***

*Whereas, the Town Board of the Town of Malone has determined that the FAA should be named as an involved agency in the SEQR process for the Holiday Inn Express project being developed on Rt.11 West, and*

*Whereas, Town of Malone Resolution #8-2008 was duly adopted as follows:*

**Whereas**, the Town Board of the Town of Malone is in receipt of a Environmental Assessment Form (EAF) Part 1, relating to the proposed construction of a Holiday Inn Express Hotel on Rt. 11 West, by Branch Commercial Development, LLC; and

**Whereas**, the Malone Town Board and Malone Town Attorney have reviewed the EAF and find the action does not involve any federal agency, but does involve one or more state and local agencies, those being identified as NYS DOT, NYS DOH, NYS DEC, the Village of Malone, the Town of Malone Planning Board, the Franklin County I.D.A. and the NYS Empire Zone;

**Now Therefore, Be It**

**Resolved:** that the Town Board of the Town of Malone does hereby find the above named action to be subject to New York State Environmental Quality Review (SEQR) process and has given it a preliminary classification as "Unlisted"; and

**Be It Further**

**Resolved:** that the Town Board of the Town of Malone does hereby claim, upon the approval of other identified involved agencies, Lead Agency Status in regard to the SEQR process for this project.

*Now therefore, be it*

*Resolved: that the Town Board of the Town of Malone does hereby name the Federal Aviation Administration (FAA) as an Involved Agency for the purpose of SEQR in the Holiday Inn Express Project on Rt. 11 West in the Town of Malone, and further*

*Resolved: that the Malone Town Board requests FAA approval for the Town of Malone to serve as Lead Agency for said project.*

**Now Therefore, be it**

**Resolved:** that the Malone Town Board does hereby amend Town of Malone Resolution #5-2009 to exclude the FAA as an involved agency, and name it instead as an interested party, and be it further

**Resolved:** that the Town Board of the Town of Malone does hereby name the Town of Malone Board of Variance and Appeals as an Involved Agency for the purpose of SEQR in the Holiday Inn Express Project on Rt. 11 West in the Town of Malone, and further

**Resolved:** that the Malone Town Board requests Town of Malone Board of Variance and Appeals approval for the Town of Malone to serve as Lead Agency for said project.

**CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (4-0).**

Chris LaBarge, Malone Holiday Inn Express developer, asked the Town Board to go ahead with the SEQR process while awaiting response from the FAA review. Attorney Anderson-Duffy advised against moving forward with the SEQR, saying she does not want to hold back the project, but cannot advise the Board to circumvent or bend any laws in the process. Supervisor Maneely said “the Town Board will not compromise anyone’s safety.” Mr. LaBarge said that SEQR is an environmental issue, while the FAA review has to do with safety – to which the Attorney responded “we cannot parse out safety from SEQR.” Mr. LaBarge added that the construction phase can not go forward until a Variance is obtained, anyway. Attorney Anderson-Duffy explained the Variance has to do only with Town Code and does not address FAA criteria, and that the Town Board cannot pass the responsibility onto the Board of Variance and Appeals. She said the DEC concurs that it is wise to stop the process until FAA weighs in.

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**Restore NY Round 3** – Chris La Barge said he will proceed with the application for funding through Restore New York, but will need the FAA findings before submittal.

**PILOT Holiday Inn Express –**

\* On the motion of Supervisor Maneely with a second thereto by Deputy Supervisor Walbridge to **TABLE** consideration of a Payment in Lieu of Taxes agreement w/ Branch Development for the Holiday Inn Express project until the next Board meeting.

**CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (4-0).**

**SUPERINTENDENT OF HIGHWAYS REPORT:**

**Sand & Gravel Bids** – tabled from meeting of 3/25/2009(3/18/09 bid opening)

Supervisor Maneely and Superintendent Livernois visited the Legton, Inc. gravel pit on Webster Street Rd. before making a determination on the bids.

\* On the motion of Councilor Taylor with a second thereto by Deputy Supervisor Walbridge to accept the bid from Legton for bank run gravel (Option #1) at \$1.98 per yard for 2009, as recommended by Highway Superintendent Livernois.

**CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (4-0).**

\* On the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Sullivan to accept the bid from H & C Robinson for road sand in bank (Option #1) at \$1.80 per yard for 2009, as recommended by Highway Superintendent Livernois.

**CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (4-0).**

**SUPERVISOR REPORTS:**

**Webster Street Cemetery project** – Village of Malone resident Patrick Nichols has met with Supervisor Maneely and Superintendent Livernois in regard to a sidewalk repair/replacement project in front of Webster Street cemetery. Mr. Nichols will get the necessary permit from the Village and asks that Town and Village join forces to get the job done. The Town has agreed to help.

**BOARD MEMBER/COMMITTEE REPORTS:**

**Councilor Sullivan** asked whether Henry Road might be paved this year, as it has been talked about, but not done, for a few years now. Superintendent Livernois said he will take a look to see whether it needs just topping or a rebuild. He said he will do the job if the Board wants him too.

**Councilor Sullivan** asked about progress in the Robinson easement issue. Attorney Anderson-Duffy said she will contact Mr. Robinson to determine what more needs to be done.

**NEW BUSINESS:**

**Training Request** –Assessment Assistant Hewitt would like to attend a week-long training in Ithaca on appraisal, with all necessary expenses to be paid by the Town. Her attendance would require membership in the Assessors' Association and the purchase of a book. Supervisor Maneely noted that the Board decided at budget time not to fund any non-mandatory training (not needed for job certification) in 2009.

\* On the motion of Deputy Supervisor Walbridge to deny the request by Assessment Assistant Hewitt for training in Ithaca, as it is not at this time required for her job certification.

**CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (4-0).**

**ATTORNEY REPORTS:**

**Airport vicinity building concerns** – Attorney Anderson-Duffy said she takes full responsibility for not picking up on potential FAA safety concerns, regarding the Holiday Inn Express, earlier. She added that “None of your departments were up to snuff” on this topic for the current Holiday Inn project and unfortunately not for the Trooper Station or Dollar General building projects either. Both entities sit adjacent to airport land, and near

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the proposed Holiday Inn. The attorney has notified these entities that there should be a review to determine whether the individual projects meet the FAA and Town Code standards for navigable airspace and obstructions in regard to the Malone-Dufort Airport. **Supervisor Maneely** asked how the Town Board has authority to tell landowners how they may use their property. Attorney Anderson-Duffy conceded that there is a constitutional question in regard to these regulations, and added that the FAA is to send “model” town/airport related legislation for Town Board review. Engineer John Carr said that with the help of Airport Manager Besio and Attorney Anderson-Duffy he has studied the Trooper Station property, dug through old Code and FAA requirements, and has prepared a map and submissions for the FAA, which will be sent out tomorrow.

**EXECUTIVE SESSION:**

\* At 6:50pm, on the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Sullivan that the Board enter into Executive Session to discuss contract negotiations, with all Board Members to be in attendance.

**CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (4-0).**

At 7:02pm, the Executive Session ended and the Regular Meeting resumed, with no action taken.

**ADDRESS TO BOARD:**

Angela Duval of Malone and Curtis Latremore of Chazy introduced themselves and announced that Latremore Ins. now has a presence in Malone. They said they have been operating as a family business for 40 years, and offer all kinds of insurance at competitive prices. Deputy Supervisor Walbridge invited them to submit a quote for Town of Malone insurance needs.

**BILLS FOR AUDIT & PAYMENT:**

\* On the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Sullivan that the following bills, vouchers #297 - 336, having been audited, be paid:

General Fund	\$11,638.30
Part Town General	41.84
Trust & Agency	1,402.69
Chips Fund	265.99
Airport Capital Project	18,875.22
Highway DA	2,200.08
Highway DB	4,742.14
East Side Water Fund	<u>311.95</u>
Grand Total -	\$39,478.21

**ADJOURN:**

\* At 7:05 pm on the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Sullivan, there being no further business to come before the Board, that it duly adjourn, with the next regular meeting to be held on Wednesday, April 22, 2009 commencing at 6:00pm

**CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR (4-0).**

RESPECTFULLY SUBMITTED,

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SUSAN M. HAFTER, TOWN CLERK  
April 21, 2009

**5. SUPERINTENDENT OF HIGHWAYS REPORTS:**