

A Special Meeting of the Malone Town Board was held Wednesday, July 2<sup>nd</sup> 2008 at the Malone Town Offices, 27 Airport Rd, Malone, New York, commencing at 6:00PM.

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

ALSO PRESENT: Susan Hafter, Town Clerk  
Andrea Stewart, Budget Officer  
Lillian Anderson-Duffy, Town Attorney

Gerald E. Landry, Malone	Brent Stewart, Malone Village Mayor
Ned LeMieux, Malone	Bill Smith, Malone
Mary Armstrong, Malone	Mary Claire Sherwin, Malone
Ryan J. Hughes, Malone	Franz Fredericks, Malone
David Nichols, Malone	John Fountain, Malone
Frances Neligan, Malone	Tom Neligan, Malone
Ben Dishaw, Malone	David Dupuis, Malone
Michael Fournier, Malone	Mary Fredenburgh, Malone
Mark Gonyea, Malone	Calvin Martin, Malone
Nina Pierpont, Malone	Judith Gonyea, Malone
Henry Gonyea, Malone	Jack Brown, Malone
Cathy Miles, Malone	Chris LaBarge, Malone
Dean Peterson, Malone	Charles, Gardner, Malone
Penny Gardner, Malone	John Fellion, Malone
Darcy Fargo, <u>Malone Telegram</u>	

6:00 PM - CALL TO ORDER - PLEDGE TO THE FLAG

### **Malone Speedway/Public Forum -**

Malone resident **Gerry Landry** had asked to address the Town Board re: the environmental review/traffic study of the former MIREP racetrack, now known as Malone Speedway. Mr. Landry complained that he had been “kicked out” of a “closed meeting” re: the speedway today at the Town Offices and said he left with “empty promises” and no documentation. Mr. Landry went on to say that a SEQR done for the MIREP project in the mid-1990’s had cost the Town of Malone \$70,000.00, and that the Town Code Officer was responsible for “doing the job right the first time”. He wants the Town to keep an “annual file” re: compliance with DEC, DOH, DOT and Town codes.

**07/02/2008**

**Attorney Anderson-Duffy** responded to Mr. Landry’s comments and to a letter he presented to the Town Board earlier. She expressed gratitude to him and all others who have come forward with concerns and who have researched issues re: Malone Speedway. She said the meeting held earlier today was a private meeting, (not subject to open meeting law) among Malone Speedway principals Frank Cositore and Paul Abbruzzi, their project attorney Bryan J. Hughes, Esq., and herself. The fact that Mr. Landry was invited in at all was a courtesy. She could not take more time at that point to address the concerns of one individual, as she was preparing for this public forum. She apologized for hurt feelings she may have caused Mr. Landry. **Attorney Hughes** said that it was he who invited Mr. Landry into the private meeting and apologized for whatever complications resulted.

**Attorney Anderson-Duffy** gave a brief overview of the SEQR undertaken by the Town for MIREP, noting that the Town was sued 3 times during the process and found by the Supreme Court to have “done it right the first time”. She said that she has spent many hours refreshing herself with the Final EIS from that project, and has changed her earlier conclusions about the current project, finding that the Malone Speedway project is “substantially similar” to MIREP. She said that one major concern with Malone Speedway had been a change in access to Rt. 24. That issue has now been resolved as the

Speedway has entered into agreement with Chester Lawrence for access through his land to Rt. 24, as had been done with MIREP.

Attorney Anderson-Duffy, Code Enforcement Crossman and Supervisor Maneely have inspected the Malone Speedway site, and noted one minor change to the track – a widening and easing of a sharp curve on the north side. This safety modification has the approval of Rick Hoffman of the DOH. Other site improvements include cleaning and improvement of bathroom facilities and reconstructed sound barrier fencing. She noted that a mandated cedar hedge, to front the fence, has not yet been installed. Another minor alteration to the overall project is that MIREP featured Legend Cars in their races, whereas Malone speedway will be featuring late-model cars, which were subject to the noise studies conducted in the 1990's.

**Gerry Landry** at this point called a “point of order” saying that the Town Attorney was answering to his complaints without his having a chance to address the Board.

**Supervisor Maneely** answered that not only had Mr. Landry been given the chance to speak first, but his written concerns were now being addressed by the Town Attorney at the direction of the Board.

**Attorney Anderson-Duffy** continued with her report, saying that a change in title of land does not negate prior approvals; that the approval runs with the land, according to Town Law. She then went on to detail the Environmental Monitoring Plan that will govern the operation of the speedway. The plan includes oversight of Stormwater Issues, Noise Levels and Traffic Control. Tests will be done at each of the first three events. If all is in compliance, the testing schedule will be reduced to one per month. Test results will be provided to the Town. The Plan includes a schedule of modifications in the event of failure(s) of noise testing over the course of several events. However, Mr. Cositore has offered to comply with the most stringent of the measures upon one failure of testing, which would involve another complete analysis by an expert noise consultant. Traffic will be monitored at the speedway's cost for the first five (5) occasions, with control modifications made as necessary, and review to be done by the DOT, Town, State Police and developer. The only remaining requirements to be met by the Malone Speedway sponsors involves updating the traffic control manual, incorporating a maximum of four (4) pages from Federal regulations published in 2007.

**Attorney Anderson-Duffy** said that it is her legal opinion that the provisions detailed tonight, along with the plans contained within the SEQR volumes originally prepared for MIREP and now applicable to Malone Speedway, ensure that the facility will operate in a manner in which there are no significant negative impacts to the environment.

**07/02/2008**

**Supervisor Maneely** noted that the original SEQR cost the Town of Malone almost \$70,000.00. He added that the current sponsor will provide a hold harmless agreement insurance to protect the Town from future losses.

**Dr. Nina Pierpont** –expressed concerns about the noise standards from 1995 not being up to current standards set by the World Health Organization. **Attorney Hughes** said that the speedway will be compliant with current Federal and State noise regulations, and you can't ask for more of the project sponsors.

**Ben Dixon**, a resident from Goodman Road said that the road traffic noise at his home is far greater and more disturbing than the race track noise was when MIREP was operating.

**Franz Fredericks**, whose property adjoins track property concurred with Mr. Dixon.

Malone resident, **Mike Furman** a more distant neighbor of the track, says he finds the racing noise exciting and enjoys knowing there is reasonably priced, family oriented entertainment close at hand.

**Mary Fredenburg**, another neighbor of the race track, said that while she is not a racing fan, she will go to camp on Sunday evenings and says everyone else can “race all they want” and she hopes they enjoy themselves.

**Jack Brown** lives adjacent to the Franklin County Fairgrounds, and said that during the County Fair and other events the noise is sometimes tremendous, but he would never want to shut the events down because he knows they bring money into town and are good for our community. He added that Mr. Landry should not be criticizing Code Officer Crossman as he is doing an excellent job with the raceway.

**John (Chick) Fountain**, Malone Speedway manager, said people should take into consideration that the races will be conducted only once per week for 2.5 – 3 hours, for a total of perhaps 20 events per year.

**Chris LaBarge**, local realtor and developer commended the raceway sponsors for making an investment in Malone. He said we don’t have industry here but great economic opportunities through tourism.

**Gerry Landry** again protested that he had not been give a chance to direct his questions to the Board and said that he wants any change or new issue regarding the Malone Speedway as opposed to MIREP should be addressed. He asked for a new Environmental Impact Statement.

**Attorney Anderson Duffy** replied that the existing EIS, along with the stipulations brought forward tonight answer any concerns Mr. Landry has brought forward and stood up to extensive litigation in the past.

**Mary Claire Sherwin**, a Malone resident commented that all concerns brought forth by Mr. Landry have been answered and apologies made by the Town Attorney, Town Board and raceway sponsors. She said that it was time for the Board to move onto other topics.

**Bill Smith** introduced himself as the announcer “to be” for the Malone Speedway. He thanked the Town Board for their time and consideration of the issues regarding the project. He said that he has never seen so much local excitement over anything else, as with the speedway.

**Deputy Supervisor Walbridge** noted that it was Chester Lawrence who brought concerns over the MIREP/ Malone Speedway SEQR to the Town Board, and that he was not present for this meeting. **John (Chick) Fountain** said that for Mr. Lawrence, the issue was settled with money, as he was paid for use of his land to access Rt. 24 from the speedway.

**07/02/2008**

**Councilor Taylor** commended Attorney Anderson-Duffy for her work on the SEQR issues for the Malone Speedway.

**Attorney Anderson-Duffy** said that the Town should postpone issuance of a Certificate of Occupancy to Malone Speedway until the remaining traffic plan requirements are met and a final inspection done. Attorney Hughes said he would try to have the requirements completed within ten (10) days.

**Supervisor Maneely** tentatively set a Special Meeting for 4:00pm, Thursday, July 10<sup>th</sup> 2008 to finalize the Malone speedway SEQR issues.

At 8:00pm the discussion on Malone Speedway ended with thanks to all participants.

### **Roads Designation** –

Supervisor Maneely reported that since the last meeting he has learned that posting of roads for “No Trucks” requires a Public Hearing and Local Law.

**Attorney Anderson Duffy** said there is no problem with the designation having been published already, as the publication notes that the order does not take effect until the

signs are posted, and they have not been.

**Henry Gonyea** owner of River Road Enterprises and a resident of that road, expressed concern for the designation as his excavation business is located on River Road.

**Supervisor Maneely** said that he would be exempt as he does not truck “through” but only to and from his business. Mr. Gonyea said the town might consider limiting to excluding “R” permits, the heaviest allowances.

**Tom Arnold** owner of Malone Lumber and Ready Mix said his small business could be adversely affected as the extra mileage costs could be burdensome. He also said he is concerned about the extra traffic on County roads and especially in the area of the Rec Park, where pedestrian safety could be a factor. Supervisor Maneely said that County and State roads are built for more and heavier traffic than are Town roads. He noted that in the area of the Rec Park there are sidewalks whereas there are none on the town roads.

**Fran Nelligan** said that she walks along River Road and Goodman Road, without sidewalks. She said that Noble has contributed money to Franklin County for repair/maintenance of County Rt. 24 (Brainardsville Rd.) and that they (Noble or the County) should be approached to help out with other roads used for transporting materials to the wind tower sites.

**Tom Nelligan** said that the day after the last Malone Town Board meeting, the trucks had slowed down on River Road, but that within hours they were speeding again.

**Deputy Supervisor Walbridge** noted that the truck traffic is not only causing damage to the roads, but are a safety hazard, especially if not following the posted speed limits. Both issues would be addressed with the new designation.

**Judy Gonyea** of River Road Enterprises , and a resident of that road, said that the State Police have put speed traps on River Road, but the truckers tell each other where they are, and they become ineffective.

**Malone Village Mayor Brent Stewart** said that designating the Town roads for no truck traffic would necessarily cause this traffic to be shifted to Village streets and State and County Roads within the Village. He said he has to answer to Village taxpayers who also cannot afford the added costs of road repair and traffic safety issues.

**Attorney Anderson Duffy** said the Town should negotiate with the Wind companies to get funding for road repair and maintenance.

**07/02/2008**

\* On the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Taylor that the Town Board of the Town of Malone conduct a Public Hearing at 5:15pm, Wednesday, July 15<sup>th</sup> 2008 to gather public input on the proposed closure of the following town roads to truck traffic: River, Thomas Hill, Goodman and Porter.

**CARRIED WITH ALL MEMBERS VOTING IN FAVOR (5-0).**

\* On the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Sullivan to rescind the action taken at the meeting of June 25<sup>th</sup> 2008, by which the Town designated the River, Thomas Hill, Goodman and Porter Roads closed to truck traffic.

**CARRIED WITH ALL MEMBERS VOTING IN FAVOR (5-0).**

### **Gravel Pit -**

\* On the motion of Deputy Supervisor Walbridge with a second thereto by Councilor Taylor that the Town Board of the Town of Malone concurs with the designation of the New York State department of Environmental conservation (DEC) as Lead Agency for the SEQRA review of the project described as “Crestline Sand & Gravel, LLC – Proposed 10 acre sand and gravel mine, State Rt. 30, Malone”.

**CARRIED WITH ALL MEMBERS VOTING IN FAVOR (5-0).**

**Bid Opening -**

Clerk Hafter reported on the Bid Opening for a sewer pump for the Town of Malone West Side Sewer District, which was held today at 1:00pm.

1 bid only was received – from Siewert Equipment Co., Inc. in the amount of **\$47,524.00**

\* On the motion of Councilor Sullivan with a second thereto by Councilor Caplan to accept the bid, from Siewert Equipment Co., Inc. in the amount of \$47,524.00, for a Sewage Suction Lift Pump Station, for the Town of Malone West Side Sewer District, as recommended by Burley-Guminiak Engineers.

**CARRIED WITH ALL MEMBERS VOTING IN FAVOR (5-0).**

**ADJOURN:**

\* At 8:30pm, the motion of deputy supervisor Walbridge with a second thereto by Councilor Sullivan there being no further business to come before board that it duly adjourn with the next regular meeting scheduled for 6:00pm Wednesday, July 16<sup>th</sup> 2008, to be preceded by a Public Hearing at 5:15pm; and with a special meeting to be held at 4:00pm Thursday July 10<sup>th</sup> 2008 to discuss Malone speedway issues.

**CARRIED WITH ALL MEMBERS VOTING IN FAVOR (5-0).**

**Respectfully Submitted,**

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Susan M. Hafter, Town Clerk  
July 11, 2008