

STATE OF NEW YORK
ONONDAGA COUNTY
TOWN OF CICERO

SS:

The Cicero Town Board held their regular meeting on Wednesday, July 23, 2014 at 6:30 p.m. at the Cicero Town Hall, 8236 Brewerton Road, Cicero, NY 13039.

Present: Jessica Zambrano, Supervisor
Tim Burtis, Deputy Supervisor
Mike Becallo, Councilor
C. Vernon Conway, Councilor
Mark Venesky, Councilor

Others Present: Joseph Snell, Police Chief
Neil Germain, Germain & Germain, Town Attorney
Bruce W. Letts, C & S Companies, Town Engineer
Richard Hooper, Director of Code Enforcement
Sharon M. Edick, Receiver of Taxes
Tracy Cosilmon, Town Clerk

Absent: Christopher Woznica, Highway

Supervisor Zambrano indicated where the fire exits were and read the following statement:

The Cicero Town Board acknowledges the importance of full public participation in all public hearings and therefore urges all who wish to address the board to utilize the microphones at the front of the room. If anyone is unable to hear please let them know so they can make any necessary adjustments.

The meeting was opened at 6:30 p.m. with the Pledge of Allegiance.

Councilor Conway requested a moment of silence be observed in remembrance of our men and women serving in the Armed Forces in harm's way.

PUBLIC INPUT (AGENDA ITEMS ONLY):

- Procedure – Sign in sheets will be placed on the back table. Public will sign-in with name and agenda item(s) they have questions on.
- Public will be called up to the microphone to speak on the agenda item at the time the Town Board discusses that particular item.

APPROVAL OF MINUTES:

Deputy Supervisor Burtis wanted to make sure that they were approving the minutes from July 16, 2014 that had been amended that day.

Supervisor Zambrano explained that the Town Board is not required to approve the minutes. But because it has been the practice to do so, she left it to the Board's discretion.

Deputy Supervisor Burtis moved the adoption of a resolution to approve the minutes of the June 25, 2014 Regular Town Board Meeting. Motion was seconded by Councilor Venesky.

Ayes- 4 and Noes – 0. Abstained – 1. *Supervisor Zambrano abstaining.*

Deputy Supervisor Burtis moved the adoption of a resolution to approve the minutes of the July 16, 2014 Special Town Board Meeting. Motion was seconded by Councilor Becallo.

Ayes- 4 and Noes – 0. Abstained – 1. *Supervisor Zambrano abstaining.*

BUDGET MODIFICATIONS:

Deputy Supervisor Burtis moved the adoption of a resolution to approve the budget modifications as presented:

**TOWN BOARD MEETING
07/23/2014**

**2014
BUDGET MODIFICATIONS**

| FROM | | \$ | TO | |
|-----------|------------------------------|---------|-----------|--------------------------------|
| A798941 | Parks – Marketing | 250.00 | A798943 | Parks Porta Johns |
| A711042 | Parks – Utilities | 60.00 | A711049 | Parks Porta Johns |
| A677245 | Seniors – Miscellaneous | 400.00 | A677242 | Seniors – Supplies |
| B714010 | Parks – Personal Services | 3100.00 | B714012 | Parks – Day Camp Personal Serv |
| A11104 | Justice – Contractual | 247.00 | A111042 | Justice – Computer Software |
| A142041 | Attorney – Union Negotiation | 315.00 | A14204 | Attorney – Contractual |
| A162040 | Buildings – Contractual | 3795.08 | A1620461 | Buildings – Trash |
| A10104 | Town Board – Contactual | 1000.00 | A75504 | Celebrations – Contractual |
| A19104 | Special Items- Insurance | 312.22 | | |
| A19504 | Special Items – Taxes | 277.78 | A90408 SB | Workers Comp – South Bay |
| B312050 | Police – Camera Supply | 16.56 | B312051 | Police – Copier Lease |
| B702040 | Parks – Supplies | 138.40 | B702046 | Parks – Staff Development |
| B80201 | Zoning – Personal Services | 5000.00 | B80101 OT | Zoning – Personal Services OT |
| B80104 | Zoning – Contractual | 1500.00 | B801043 | Zoning – Car Maintenance/Fuel |
| A141011 | Town Clerk – Personal Serv | 1000.00 | | |
| A14104 | Town Clerk – Contractual | 157.41 | A141041 | Town Clerk Records Contractual |
| A14102 | Town Clerk – Equipment | 500.00 | A162040 | Town Clerk – Buildings |
| A141044 | Town Clerk – Code Book | 1500.00 | A162040 | Town Clerk – Buildings |
| A1620405 | Town Clerk – Rec Building | 2750.00 | A162040 | Town Clerk – Buildings |
| A16202 | Town Clerk – Building Equip | 872.83 | A162040 | Town Clerk – Buildings |
| A16204052 | Town Clerk – Mats | 149.00 | A162040 | Town Clerk – Buildings |
| A1620406 | Town Clerk – Police Building | 3000.00 | A162040 | Town Clerk – Buildings |
| A162044 | Town Clerk – Security | 220.00 | A162040 | Town Clerk – Buildings |
| A1620480 | Town Clerk – Landscaping | 102.50 | A162040 | Town Clerk – Buildings |
| A162043 | Town Clerk – Custodial | 1155.35 | A1620461 | Town Clerk - Trash |
| B90408 | Workers Comp | 1768.00 | | |
| B90558 | Disability Ins | 1400.00 | | |
| B80102 | Zoning – Equipment | 832.00 | B801043 | Zoning – Car Maintenance/Fuel |
| DB511055 | Hwy – Contracted Maint | 2500.00 | DB513041 | Hwy – Brakes/Parts/Repairs |
| DB513055 | Hwy – Machinery – Other | 6000.00 | DB513041 | Hwy – Brakes/Parts/Reparis |
| DB514245 | Hwy – Snow/Removal Rental | 1500.00 | DB51424MB | Hwy – Mailboxes/Stakes |
| DB513055 | Hwy – Machinery-Other | 2000.00 | DB513043 | Hwy – Hoses |
| DB513055 | Hwy – Machinery-Other | 5000.00 | DB513044 | Hwy – Springs |
| DB514042 | Hwy – Brush/Tree Removal | 2000.00 | DB511011 | Hwy – OT Personal Services |
| DB511049 | Hwy – CB/F&G/Riser | 5000.00 | DB511045 | Hwy – Typar/Pipe |
| DB51101 | Hwy – Summer Personal Serv | 3000.00 | DB511011 | Hwy – OT Personal Services |

2014 BUDGET AMENDMENTS

| | | | |
|----------------|--------------------------------|----------|-----------------------|
| Revenue | | | Appropriations |
| B3389 GTSC | Traffic Safety Grant | 989.32 | B31201 GTSC |
| A2797 CD | Community Dev – Riverfront | 47075.82 | A711045 CD |
| A2705 | Gifts and Donation – Brewerton | 1750.00 | A7110456 |

Motion was seconded by Councilor Venesky.

Ayes - 5 and Noes- 0. *Motion carried.*

RIVERFRONT PARK DONATIONS:

Councilor Venesky gave an update on Riverfront Park explaining that he had spoken to Jody Rogers about it that week and the paperwork has been filed with the State of New York, but they are waiting for the folks who have the authority over the sea wall to respond.

Councilor Venesky moved the adoption of a resolution to accept the following donations for the Brewerton Revitalization Project:

- Brewerton Boat Yard \$625.00
- Boat Deals \$500.00
- Richard & Donna Flaherty \$625.00

Before the vote, Councilor Becallo asked if these were restricted donations (are they for a stated purpose).

Supervisor Zambrano explained that these donations were for Riverfront Park and the committee will be involved in the decision making on how it is going to be used.

Motion was seconded by Deputy Supervisor Burtis.

Ayes - 5 and Noes- 0. *Motion carried.*

Supervisor Zambrano said Riverfront Park has great support and we should all be very proud that these are three businesses who wish to continue their support and also, that the community has continued to donate for the development of that park.

RITE AID v. TOWN OF CICERO:

Neil Germain gave some background information on this matter. He said we have a tax certiorari case pending so we need to appoint or we need to have an appraiser act as an expert witness in the case. The cost of that expert witness will be shared equally by the town and the school district. The anticipated cost for the town will not exceed the \$6,375.00, which is half of the \$12,750.00.

Supervisor Zambrano moved the adoption of a resolution approving the hiring of Empire State Appraisal Consultants, Inc. for the preparation of restricted and self-contained appraisals required for the defense of three Supreme Court tax certiorari proceedings titled "Rite Aid v. Town of Cicero" (Index Nos. 4157/2011, 3603/2012 and 3707/2013 for three "build to suit" properties located at 7973 Brewerton Road, 114 Main Street and 8379 Thompson Road respectively pursuant to the fee proposal letter dated April 11th, 2014 supplied to the town. The estimated costs will be shared equally with the school district, and the fee proposal anticipates a cost of \$6,375.00 (\$12,750.00 x ½) from the town. The Court set an appraisal exchange date in mid-November, 2014. Motion was seconded by Deputy Supervisor Burtis.

Ayes - 5 and Noes- 0. *Motion carried.*

PARKS & RECREATION:**A. *Playground Mulch:***

Councilor Becallo moved the adoption of a resolution to approve \$1,170.00 to B&B Lumber for Playground mulch. Motion was seconded by Supervisor Zambrano.

Ayes – 5 and Noes – 0. Motion carried.

B. *Repairs to John Deere 1600:*

Councilor Becallo moved the adoption of a resolution to approve \$1,305.32 to Cazenovia Equipment Company for repairs to John Deere 1600 (repair to switch that raises and lowers mowing decks). Motion was seconded by Councilor Venesky.

Ayes – 5 and Noes – 0. Motion carried.

SOUTH BAY FIRE DEPARTMENT LOSAP AUDIT:

Supervisor Zambrano said an audit was needed for the South Bay Fire Department, for the years 2012 and 2013; the Comptroller had clarified the quotes and has recommended Benn & Company.

Public Input –

Judy Boyke asked if the Board had a copy of the extra list for Bowers & Company.

Councilor Venesky stated he had a copy of the proposals.

Councilor Becallo said he never saw an extra list, but he did speak to Mr. Doolittle at Bowers & Company who said it was \$7,000.00.

Supervisor Zambrano said they did have an earlier proposal that included extra charges, and they did try to collect extra charges from the town the last time they did an audit.

Councilor Venesky told Supervisor Zambrano that he had called each one of those companies, the D'Arcangelo & Co. contract was very clear that the \$7,200.00 would be all inclusive. What he said to Mr. Benn was that we were looking for a contract that had different language that would say "no more than" or "not to exceed", or "all inclusive", and Mr. Benn came back today and put it in writing that there would be no additional charges (he was the low bidder on it).

Councilor Becallo said he had spoken to Mr. Doolittle at Bowers & Company and they were fixed at \$7,000.00.

Judy Boyke asked what happened to the \$6,000.00 that was on the agenda prior to the change on the agenda.

Councilor Venesky said according to Shirlye Stuart it was incorrect and Councilor Becallo had verified that day that the bid by Bowers & Company was \$7,000.00.

Councilor Becallo stated he was told that the bid by Bowers & Company was always \$7,000.00 not \$6,000.00, and asked where the \$6,000.00 came in as a discounted price.

Judy Boyke asked why it was posted that way.

Supervisor Zambrano said it was posted based on a memo prepared by the Comptroller.

Deborah Gardner said she hoped that Tracy Cosilmon would put her remarks into the records. She hoped that the town would approve Benn & Company because of the following reasons:

1. The organization has completed audits for the town in the past to the satisfaction of the town boards' that approved the work.
2. It has experience in this field and has a fine reputation.
3. It is a local company and the town should always, in her opinion, keep businesses as close to home as possible.
4. Its quote was over 16% less than the next lowest bidder.

Supervisor Zambrano solicited any Board comments.

Councilor Venesky, along the lines of what Deborah Gardner had to say, said if we have an opportunity to patronize or to use a business that resides right here in Cicero, New York, who employs people and pays taxes then he is all for it. Benn & Company is a reputable company and based on his conversation and the research he did with that company, he is satisfied.

Councilor Becallo asked Councilor Venesky about the added value he had brought up earlier.

Councilor Venesky said when the board put this off to actually study the bids last week one of the things he was looking for was added value because sometimes with professional contracts there will be additional things that the company will do for the money. He added that not always is the lowest company (bid) the best value for the town or for industry.

Quotes:

| | |
|-------------------|------------|
| Benn & Company | \$6,000.00 |
| D'Arcangelo & Co. | \$7,200.00 |

Bowers & Company \$7,000.00

Councilor Conway recommended Benn & Company for \$6,000.00, with a guarantee that there will not be any more charges. Motion was seconded by Councilor Venesky.

Ayes – 5 and Noes – 0. *Motion carried.*

As a result of the vote, Benn & Company will complete the mandated audit of the South Bay Fire Department LOSAP (Length of Service Award Program) for the years 2012 and 2013, at a cost not to exceed \$6,000.00.

ASSESSOR'S OFFICE:

Public Input -

Judy Boyke, in regards to the proposal, asked what the salary was going to be for the Assessor.

Councilor Becallo said the resolution was to approve a new assessor, which would be separate. He told them to just state the facts, this contract did in fact end and we need to extend it from July 23rd till the end of the year and they need to look for a new assessor.

Judy Boyke asked if the salary would be the same.

Councilor Venesky said they hadn't looked at the salary yet.

Judy Boyke said there has been no savings for an Assessor. Mr. Brennan comes in at 1:00 p.m., but he is supposed to work 3.5 hours and the town hall closes at 4:00 p.m. No one has access to him for that other half hour because the doors are locked. She has been in a couple of times and he has not been here after 4:15 p.m. He works, actual hours, he is contracted to work 705 actual hours, that is 3.5 hours a day and 17.5 hours a week. He gets 6 weeks' vacation, so with the 12 holidays, plus the 6 weeks vacations, he actually works only 42 out of the 52 weeks out of the year, half a day. With a new assessor, if they are to pay the same salary, which is around \$94,000.00 (that includes benefits), if you were to pay this person (all assessors are licensed and they all have to do the same job which is to assess properties), anyways, this person would work 2080 hours if they had a couple weeks' vacation, but even at that, you are still going to get a full day with less time off for the same money.

Robert George read the following letter:

My name is Robert George -
 Regarding the Assessor's Agreement, a review of the record and all contemporaneous documents points to only one conclusion, and that is the Assessor's Agreement expired in March of 2014, and all of the lies in the world cannot change that fact.

And that means that Cicero has been without an assessor since March 2014, and everything Brad Brennan has done since then, including the 2014 completed assessment roll, which Mr. Brennan signed on June 26, 2014, may be invalid.

This issue was first raised in April of this year, almost 3 months ago. In almost 3 months, why has former Supervisor Jim Corl Jr. not come to a town board meeting to answer questions, or make a public statement? Why has Brad Brennan not done the same? Why no public statement from Salina Supervisor Nicotra? Even the Cicero town attorney refuses to make public statements or ^{publicly} answer questions on this issue.

The public silence of these people is deafening, and I believe there is a reason for their public silence.

The mere conclusory statement from Supervisor Zambrano and the town attorney that "there is a valid contract" is insufficient and unacceptable, not only because it flies in the face and is contradicted by all of the evidence and documents, but also because this conclusory statement is unsupported by any contemporaneous records or documents.

On tonight's agenda, there is the matter of Rite Aid suing Cicero over its property assessment. There is the possibility that somebody may sue Cicero over assessments where actions or decisions were taken and made by Mr. Brennan between March 2014 and today. What will the town do if a Supreme Court Judge later rules that Mr. Brennan was in fact, not legally the assessor since March 2014? Imagine the potential legal and financial consequences. Why should the Cicero town board even take this chance? The Cicero town board must immediately approve a new Assessor Agreement to protect the Town of Cicero, its residents, and taxpayers from possible future lawsuits. To not do so could have grievous and significant negative consequences.

This problem can easily be solved by the town board approving a new Assessor's Agreement tonight. You can even use the exact wording of the March 14, 2012 Assessor Agreement, and simply change the term of the contract from tonight's date of July 23, 2014 through December 31, 2014. Then at least, Cicero will be protected on this issue from today through December 31, 2014.

Supervisor Zambrano said she believes we have a valid contract. The Town attorney has told us we have a valid contract, and the Town of Salina Supervisor and their attorney have told us we have a valid contract.

Councilor Becallo read the following statement from the last Board meeting held on July 13th:

Supervisor Zambrano stated that we have had a valid agreement with the Town of Salina to purchase assessor services, and she says it is "valid" because the attorneys and the former Supervisor, and our attorney says that this contract is valid and stands on its own. They had asked Mr. Germain to prepare an addendum in an effort to fix this situation, to satisfy disconcerted parties about this agreement and he did that. It was presented to the Town of Salina, they passed that agreement, and so now it is here before our board.

Councilor Becallo said in the meantime, that week they received a complaint asking the Board *not* to pass the addendum; therefore, Supervisor Zambrano put it on the website. Councilor Becallo asked if Salina and Cicero truly had an agreement that was valid through December 31st then why Salina and Cicero would make an addendum saying that the agreement is in fact valid. Also, he said the question is with this addendum is have we ever done this before? Have we ever put an addendum on the contract and if we haven't then the question is why now? He suggested that instead of fighting over the wording of this document they just vote on a new agreement that night.

Supervisor Zambrano asked Neil Germain to respond to the drafting of the amendment; what the intent was.

Neil Germain said the intent was to make it clear that there was a valid agreement in place and the agreement lasts through the end of this year. He said when he looks at the agreement there is, contrary to what was stated earlier, documentary evidence to suggest that there is an agreement. He said he has seen a copy of the agreement. He has seen the date on the agreement, which goes to December 31st and it is signed. This agreement, to his knowledge, was recognized and the Town of Salina says "yes" there is an agreement in place through December 31st.

Councilor Becallo asked Neil Germain why then are they doing it? Why are going through the trouble of this addendum? He told Neil that Robert George said (which Councilor Becallo read from the minutes of the last meeting):

Robert George said he did not know how the town attorney can say that this was a valid agreement when he reviewed the documents. He assumed that the attorney read the documents but maybe he hasn't. He asked Robert Germain if he was ready to answer the question. Robert Germain replied no.

Councilor Becallo said with Robert Germain's answer that pretty much proves the fact that we do *not* have a valid contract.

Neil Germain replied that it does not. That answer proves that Robert Germain refused to answer and be subject to cross-examination by Robert George. It simply does not, in any way, shape or form, prove that there is not a valid contract. To say that he refused to answer those questions doesn't necessarily mean, ipso facto, that there is no valid contract. You can't make that jump in logic.

Councilor Becallo said you can't make the jump in logic of creating an addendum to say, "Hey, yes in fact this is true, because I said so."

Neil Germain told Councilor Becallo he disagreed with what he was stating, but he would say that there are some villages that say that the addendum does just reiterate what is already out there. But, Councilor Becallo's assertion that because you don't answer questions that there is no contract...he doesn't know where that comes from.

Deputy Supervisor Burtis said he had read the reams of paper that had been presented to him, but had a question regarding the contract. He asked if the contract is expired, just because the contract is expired and Mr. Brennan is still on the job without a contract, so how does that negate the work that Mr. Brennan has done for us?

Neil Germain said it doesn't.

Deputy Supervisor Burtis said so it would not negate the work that he has done for us; he is just working without a contract, according to...

Neil Germain said that was correct.

Deputy Supervisor Burtis said the Assessor is not accepting the premise that he doesn't have a contract. The Assessor has told them that he has a contract with Salina.

Neil Germain told Deputy Supervisor Burtis he thought what his question gets to is when you say "what are you going to do if...?" Is it overturned if the work was done when there was no contract? It doesn't suggest that the quality or the ability of the Assessor's work was incorrect. It would just suggest that, assuming that there was no contract (if you are willing to say that), it doesn't attack the body of the work.

Deputy Supervisor Burtis asked if anyone there had any issue with the quality of the Assessor's work or thought that he is not keeping up to the workload that he has signed up for.

Councilor Becallo told Deputy Supervisor Burtis he has plenty of emails that he would share with him.

Deputy Supervisor Burtis said he had not heard any complaints. The day before the last meeting he received another packet, which Deputy Supervisor Burtis read part of:

"The so-called Assessor Addendum that Supervisor Zambrano is proposing is a lie, it is a falsehood, and I believe it is intended by Ms. Zambrano and her co-conspirators in covering up their wrong doing and illegal conduct".

Deputy Supervisor Burtis said he had a problem with the part that reads:

"In my opinion, the four current town councilors are currently innocent of the corruption of wrong doing of Ms. Zambrano and her co-conspirators, but in my opinion any Cicero town councilor who votes "yes" on this Addendum will now be complicit in, and a part of the illegal cover-up".

Deputy Supervisor Burtis said he was there for the signing of that. He is still here. And if there is any manipulation or threatening going on it is all here in our own town so let's not play one side against the other. He said he is used to trying to being manipulated, but he is not used to being threatened. He heard from the town attorney that he would not be complicit in the illegal cover-up if he voted "yes", but he still chose not to make a resolution. Also, he said was not totally interested in moving the adoption of this resolution, for only one reason - he is not interested in the date of today. If in fact, if they are going to take care of this issue then he would like to have the date of March 14th through December 31st. Then, he would use the wording of (using the same terms), "pay and conditions as previously agreed to." At his point we have 5 months to go in the contract and it could take us two months if we went back and tried to renegotiate, and he is not crazy about letting it go any further. He doesn't believe that at this point that he is, or any other town councilor, trying to sweep this under the rug. This has already been sent to the New York State Comptroller's Office, and if something was done incorrectly here, or wrong, or illegal, then he is going to rest on his decision if they come here, if they respond, to make a decision. All he is trying to do is the work of the town. Deputy Supervisor Burtis said this was his solution to an interesting and difficult situation.

Councilor Becallo said he was okay with extending it back to March 14th.

Deputy Supervisor Burtis asked Councilor Becallo if he wanted it to read as it was written, "approve a new Assessor Agreement for Brad Brennan."

Supervisor Zambrano asked why they would approve a new agreement.

Councilor Becallo asked wouldn't they just extend the agreement.

Neil Germain stated they would ratify the existing agreement to the extent that they are stating that the agreement runs from March 14th to December 2014.

Councilor Becallo asked Neil Germain to explain "ratify" to him.

Neil Germain explained that with the contract, what they are stating is that it will run from March 14, 2014 to December 31, 2014.

Deputy Supervisor Burtis said that was what he was saying.

Supervisor Zambrano asked if that was a resolution.

Deputy Supervisor Burtis said no. He was interested in further discussion.

Councilor Becallo said he believed Brad Brennan is retiring.

Supervisor Zambrano said Brad was at the end of the year.

Councilor Becallo suggested they start searching for another Assessor now. He suggested that they make two resolutions.

Deputy Supervisor Burtis asked Neil Germain if they need a resolution to start searching for an assessor.

Neil Germain stated they could start the search without a resolution.

Councilor Becallo solicited any further comments.

Councilor Venesky said anyone who has attended these meetings or who has read the minutes of the meetings knows where he stands on the matter; he has stated it for the record twice and has nothing to add.

Supervisor Zambrano solicited any further discussion.

RESOLUTION RATIFYING THE EXISTING AGREEMENT FOR BRAD BRENNAN, CICERO TOWN ASSESSOR:

Deputy Supervisor Burtis moved the adoption of a resolution to ratify the existing agreement for the following dates for Brad Brennan to be the Cicero Town Assessor, effective March 14th through December 31st, 2014. Motion was seconded by Councilor Conway.

Ayes- 4 and Noes – 0. Abstained – 1. *Councilor Venesky abstaining.*

Motion carried.

RESOLUTION TO APPROVE AN IMMEDIATE SEARCH FOR A NEW ASSESSOR:

Deputy Supervisor Burtis moved the adoption of a resolution to approve an immediate search for a new Assessor since he (Brad Brennan) will be vacating his position December 31st, 2014. Motion was seconded by Councilor Becallo.

Ayes- 5 and Noes – 0. *Motion carried.*

Supervisor Zambrano asked if this meant that this issue is now put to bed.

Councilor Becallo said he didn't think so, but at least they have a contract for the Assessor. The fact that this mysterious contract came from nowhere, that is still up there.

Deputy Supervisor Burtis said that was well documented.

DISCUSSION ITEMS:

- The status of the search for an independent attorney and accountant to conduct the investigation which was previously passed by the Town Board, including discussing additional and more comprehensive notice for request for proposals.
- Highway Department barn roof replacement
- Mandatory one-hour call-in by all employees for unplanned absence

Public Input -

Judy Boyke, in regards to the mandatory one-hour call-in by all employees for unplanned absence, commented that they had just approved a new handbook in January.

Supervisor Zambrano stated it was approved in December of 2013, by the previous board.

Judy Boyke questioned if the union had approved the 1 hour call in.

Councilor Venesky said he was the one who initiated the discussion. He doesn't think that they have to consult (as the employer) the union on the issue. They had an issue, here in the town, where they had an employee who called in one minute prior to start time and it caused a disruption in that particular office. The matter was brought to his attention during discussions, so he looked at the book, and in fact the Employee Handbook says that an employee can call in up to one minute prior to his/her start time. He came out of over 36 years in private industry; his company was the largest employer of teamsters in the United States and they *never* had an issue with the National Teamsters Union or any of the employees with giving their employer a one hour (sixty minute) call in time. He said there is discretion - if you can't call it's understood. If you look at the town as a business, and they expect it to run as a business, then they have to have consideration not only for the employees, but for the employer. And when we have an unmanned counter because the employee is allowed to call in one minute prior to his/her start time - that is unacceptable. He does understand that the union contracts will supersede the Employee Handbook. However, for the benefit of future department heads and managers who want to manage his/ her part of the business, he believes its *courtesy* on the employee's part to give the employer a 60 minute notice, not a 1 minute notice prior to start time.

Judy Boyke said she was not challenging it other than to protect the town.

Councilor Venesky commented that he didn't mean it to be condescending.

Judy Boyke said it also stated that if it was an emergency or if the person wasn't able to call in, then that would validate that as well.

Councilor Venesky stated again that there is discretion.

Judy Boyke said that this was *not* going to be used against people who have an emergency or are not able to call in.

The status of the search for an independent attorney and accountant to conduct the investigation which was previously passed by the Town Board, including discussing additional and more comprehensive notice for request for proposals:

Councilor Becallo read the resolution they first made:

Resolution to order ethics investigation regarding allegations against the Town Supervisor and for Town Clerk to advertise for and request proposals for an independent attorney and a certified public accountant to perform the work required by this investigation.

Councilor Becallo asked Deputy Supervisor Burtis if they had any updates.

Deputy Supervisor Burtis said no, that they have the same updates as the last time it came up at a board meeting. They did not receive any response to those proposals in writing. He had some responses, which are still in his email, but they had nothing but questions, such as: *What time period are you talking about? What's the scope of the work? What do you want us to look for?* What the board passed was something that was too broad for the people interested to put their hands around to try to give a reasonable quote.

Deputy Supervisor Burtis said they needed an RFP (Request for Proposals) if they were going to proceed.

Councilor Becallo said they needed to get the RFP done. He has not heard from the comptroller, but they need to create it. He was sure that people in the town sent out phone calls for the CPA's for the South Bay Fire Audit so why didn't someone do the same for this? Someone should be appointed to telephone the attorneys and accountants. Also, he asked if this request had been posted on the Cicero website like the search for the Ethics Board had. He said he didn't think so. As well as all advertising - it should be more detailed and should specifically state the Cicero Town Supervisor is being investigated. The 87 page complaint filed should be on the Cicero website and for these law firms and accountants to be able to review them and assist them in preparing proposals; it pretty much lays out what the investigation is looking for.

Deputy Supervisor Burtis said RFP's would need to be made and believed the town attorney could help them with that.

Neil Germain said that was correct. The RFP's are outside the scope of their (the attorneys') town services; the normal scope would cost around \$4,500.00 for their RFP's - that would be the beginning of their expenses.

Deputy Supervisor Burtis asked if the state was coming to help us, because now he is in a quandary of where the state is and if they are coming. It costs money, and they need to figure out scope, the time, what we want them to look at and have somebody in there taking notes in executive session for that. He is willing to do that, but he wants the following:

- an RFP
- another resolution
- it to be advertised again (they can get down to the wording of how it's advertised and then they would have an RFP), so when people come to them they can supply them with an RFP; so that they have what they need to figure out a good estimate for us.

UPDATE ON ETHICS COMMITTEE:

Councilor Venesky said he did a lot of research regarding the Ethics Committee. We do have a solicitation out there that is going to run the 15th of August and are waiting for people to apply. We have an Ethics Board - what he found out was, in fact, that on that board we had a person fall off on December 31st of last year (David Kirk). This year coming into January, during our Organizational meeting it was never addressed. We have two other members on the board who have not tendered a resignation, one being Dennis Cook (who Councilor Venesky emailed asking if it was Dennis' intent to still serve on the board). He has not heard back from Dennis yet. Also, he placed a phone call and left a message for Bill Stewart. We don't have an official resignation letter for either gentleman - Dennis Cook's term expires on 12/31/15, and Bill Stewart, whose term is supposed to expire on 12/31/14. Councilor Venesky said it is all hearsay on whether these people are on/or don't want to be on the board; he has not made any personal contact and he is looking for an official resignation letter. We know they at least have one person for the board now. We already have a structure for the board so we don't need to reinvent the wheel. We know we need at least one person, possibly three. Three people have applied so far, their resumes will go to Tracy Cosilmon, who will distribute them to the board; the board will interview and decide who the new members will be depending upon what we need. They have until August 15th for public solicitations; it was also published in the Syracuse Post Standard and it should come out in the Star Review.

Councilor Venesky said, in regards to the other issue, there have been discussions with the State Comptroller's Office and he was not at liberty to go on beyond that. But, there has not been an official statement from the Comptroller's office as to what they are going to do. His thought is, before they spend money, to send out RFQs (request for qualifications); they knew that the Comptroller would have approximately 8 weeks to respond (they have to respond by law, officially) and he doesn't think that we are at that 8 week mark yet, so at this point he would say that they are getting ahead of themselves with the RFQs.

Councilor Becallo, for clarification, asked Councilor Venesky if we had an Ethics board member whose term expired and was not put on the...

Councilor Venesky said David Kirk's term expired 12/31/13 but, it was not addressed at the Organizational meeting.

Deputy Supervisor Burtis said the whole Ethics Board was not addressed.

Supervisor Zambrano solicited any further discussion.

Councilor Becallo said before they moved on, since they are saying they're close, when is the deadline when they move forward with this because they have to have one; they made a resolution to do an investigation.

Councilor Venesky said it depended on what they wanted to do. If they want to send out the RFQs he supposes that they can do that, but he would not approve hiring or appointing anybody until they have official correspondence from the Comptroller.

Deputy Supervisor Burtis said they have an RFP to do, if they were going to do anything.

Supervisor Zambrano said if they are going to have an RFP, then they need an estimate, assuming that they are asking the town attorney to do the RFP, because it's outside of the scope of services.

She thinks that what Councilor Venesky was saying was that he would like to see what the costs involved were.

Councilor Venesky said he was waiting for official correspondence from the Comptroller's office before spending any money.

Deputy Supervisor Burtis asked when the next board meeting was.

Councilor Venesky replied August 27th.

Deputy Supervisor Burtis asked if the RFP was something that they wanted to put out to bid or are they going to ask Germain & Germain to be the lead on it.

Supervisor Zambrano said if they are going to have an RFP, then they have to prepare a RFP document.

Deputy Supervisor Burtis asked who they were going to ask to do it.

Councilor Becallo said if they are doing an investigation on the Supervisor than how is the Supervisor involved right now.

Deputy Supervisor Burtis said it was just on the RFP.

Supervisor Zambrano said she thought she could still participate in the discussion; she has a vested interest in this and she wants to make sure that it's done right. She asked Neil Germain if Germain & Germain could do an RFP.

Neil Germain said they could prepare an RFP for the town.

Supervisor Zambrano asked for an estimate.

Neil Germain gave an estimate of \$4,500.00.

Supervisor Zambrano asked if the estimate was for both.

Neil Germain replied yes, because they are looking at contracts dealing with both the attorneys and the accountants, and going all the way through the process; that was just for the legal work for the RFPs. He is sure that the board members are of the understanding that when they actually hire those people they are going to have more expenses after that (the expenses of the accountants and the attorneys).

Supervisor Zambrano asked if it would be one RFP for the attorney and one for the accountant.

Neil Germain explained that it would be separate, but that's one cost.

Deputy Supervisor Burtis said the problem is that it's a month away... but, they are dealing with the state.

Councilor Venesky said he would like to wait the four weeks before we spend \$4,500.00. The state has reached out, but at this point there is nothing official.

Deputy Supervisor Burtis asked if they could expect something official, maybe in writing.

Councilor Venesky said he could not answer that question.

Supervisor Zambrano asked if Councilor Venesky had not said that they are obligated to respond in writing.

Councilor Venesky said he doesn't know if it's in writing.

Deputy Supervisor Burtis said they have an estimate of \$4,500.00 to spend. If they don't hear anything official/non official by the next board meeting, then they should get going.

Councilor Becallo asked how far off the next board meeting was.

Deputy Supervisor Burtis replied 4 weeks.

Councilor Becallo suggested 1 week.

Councilor Venesky said no. They went back and forth and there was a lot of discussion when this was researched. They looked at it and they were looking at \$40,000.00 - \$50,000.00 of the town's money on this issue. They all agreed if they had to - they would spend it. They also agreed that the property avenue for the taxpayer and for us in this town was to turn that over to the Investigative Unit of the Comptroller's Office and ask for an investigation.

Councilor Becallo said he remembered that, but they made a resolution that was read that said they were going to do an investigation; they can't make a resolution and not do anything about it.

Deputy Supervisor Burtis commented that they did do something, but the resolution was poor.

Councilor Venesky said he was not holding up anything. What he is telling them is that there *has* been verbal discussion with the Comptroller's office, so before they spend \$4,500.00 that they might not need to spend, prior to the next meeting, he is just recommending that they wait the 4 weeks.

Councilor Becallo said he was tired of answering the public who is asking what they are doing or trying to cover up.

Councilor Venesky said they are doing something. There has been *no* cover up and there has been an awful lot behind the scenes that is going on. He explained that they are trying to do this respectfully. They are trying to preserve public dollars and they are trying to preserve the reputation of the Town of Cicero and the people who live in it. He thinks that they have done their due diligence by turning this over to the proper authorities. There has been discussion and he doesn't think it's unreasonable, for that being stated for the record now, that we put this off for another 4 weeks and wait for an official – again, they knew going in that it could take 8 weeks for them to respond; they responded in the 8 weeks, but it has not been official.

Deputy Supervisor Burtis asked if they had a different solution and he also asked the board if they wanted to call a special meeting.

Councilor Becallo said he stands firm on the fact that they made a resolution and they have to work on it, he reminded them that it is almost August.

Supervisor Zambrano said for the record that she would like to get this over with too, but she is not willing to spend \$4,500.00 of the town's money.

Councilor Venesky suggested to Supervisor Zambrano that she recuse herself.

Supervisor Zambrano asked Neil Germain if she had to recuse herself.

Neil Germain said it would probably be a good idea (Councilor Becallo agreed). He is sure that she has an opinion and she can comment on some of the various elements of the procedural but, she really should just stay out of it and recuse herself from it.

Supervisor Zambrano explained that she does have a vested interest; she wants this done correctly and expeditiously.

Councilor Becallo commented that this has been anything but expeditiously.

Deputy Supervisor Burtis said it is not exactly Supervisor Zambrano's fault.

Councilor Becallo said he was not... he was just making a general comment.

Deputy Supervisor Burtis asked if they wanted to call a special meeting. They have another meeting on July 30th, so if they could talk about it prior to then they would need to make a resolution to get Germain & Germain going forward. (Making a motion for an RFP, not to exceed \$4,500.00)

Councilor Becallo asked what they originally sent out (the ad), what that is considered.

Deputy Supervisor Burtis said it was just an ad and the problem was everyone came back and asked what time period it was for, how far they wanted to go back in time, and what scope they wanted to look at. He said we have to give them direction that is time bound and content bound.

Councilor Becallo agreed that they needed to do that.

Deputy Supervisor Burtis said they would possibly talk about an approval of an RFP from Germain & Germain that next week.

Councilor Venesky said they had talked about having a special town board meeting on the 30th for Loretto and the issues surrounding the completion of the property, but he would not be able to attend it.

After a discussion amongst board members they decided that the earliest they could all get together would be August 13th, 2014 at 7:00 p.m. Deputy Supervisor Burtis said they would hold that meeting as long as they didn't hear anything from New York State, but, if they have something from New York State then everybody would be notified. He said that maybe, even if they have heard from the State, they may still need the meeting.

Highway Department barn roof replacement:

Councilor Conway explained that the Highway department's roof has been leaking for about 10 or 12 years and they have been procrastinating for years and years on fixing it. He got some figures from Josall Roofing and he still has to go out to two other firms to get bids. Years ago, at South Bay, they had a steel roof that was leaking and they had Josall put a material on it (as far as he knows it's still not leaking). The roof is approximately 88 x 160ft. and for the seam sealer Josall is recommending to do the whole building is \$53,000.00, with a 10 year warranty. Councilor Conway said we do have a problem with the insulation, but if they seal the roof it should dry out and stop the mildew problem and the only way you can take the insulation out is to cut it out from the inside. Supervisor Zambrano had wanted an idea for a whole new roof (that would be put over the roof that is in there), that would be \$78,800.00 (and they would still have the problem with the insulation). On the South Bay building they had 2 inches of insulation put on top of the steel (the roof) and then they put a rubber roof over it; which may be cheaper yet. Councilor Conway said they've probably got to do it this year – they can't let it run any longer.

Supervisor Zambrano asked if the \$53,000.00 included the insulation.

Councilor Conway said no, but he does want to get a price on putting the 2 inch insulation and put a rubber roof on it.

Supervisor Zambrano asked if they had a warranty on it.

Councilor Conway said they would probably have a 20 year warranty on it because it is a new roof, but he wasn't sure. He is going to obtain more quotes.

Councilor Venesky agreed with Councilor Conway, he said he had also looked at the roof and they have a leakage issue that has been going on for years and they are finally to the point that it needs to be addressed. They have had a couple of discussions regarding the insulation, which is one of his concerns because we have had an ice build-up on the eve of that roof. He said he likes Councilor Conway's idea of putting it two inches over if they can do it to get the R-value that they are looking for. He thinks it will cure up the ice falling off the roof and the potential safety hazards with that. Councilor Venesky stated that he would like to have the roof done before winter.

Deputy Supervisor Burtis said the roof issues have been going on for years; so long so that if you drive back by the building there is a sign that says "watch for falling ice". This past winter, one of the guys almost got hit by a large chunk of ice, so he and Councilor Conway had come in and out came stories of how years ago one of the men did get hit by a large chunk of ice in the walkway area; they did cone it off and take care to alert people of the hazard. Just for discussion, as he was there, and talking and thinking about this old building and just clearing the roof that winter he asked why we needed all the trucks inside, heated. The heat is part of the problem causing the dam on the roof. The thought that he had at the time was to just turn the heat off and since we have a lot of property in back maybe making a brand new building of a 2bay or so, and turn the heat off in the old one and see if the trucks would be able to de-ice without the heat.

Special Town Board Meeting:

Supervisor Zambrano reminded everyone that they are going to be having a Special Town Board meeting next Wednesday at 9:00 a.m., July 30th, and the main issue is to take up all of the outstanding requirements needed by the Cottages at Garden Grove (Loretto) to be issued a Certificate of Occupancy so that they can start admitting residents right around Labor Day.

PUBLIC INPUT

Robert George said he apologized to Tim Burtis if he had been offended by one sentence in his prior filed complaint for being inartfully written. He holds the four town councilor persons in the highest esteem and the greatest integrity and character. Robert George stated that at some point and time if this wrong doing is not addressed in a more forceful way than the people who have done nothing to stop it, at some point, become part of it. The falsification of the official Town Board minutes, Jim Corl Jr., ordered them falsified and everybody's aware of it. Certain documents were taken off the town's website and false documents were put up. Regarding the RFP, he said he would be happy to take an hour over the weekend and give it to them free of charge. He told Supervisor Zambrano, in regards to her vested interest - that's exactly why she should not only *not* be involved, she should have no knowledge of what's going on because she does have a vested interest in the outcome, and her ability to influence thereby determining the outcome is inappropriate.

Robert George read the following:

I filed my initial complaint with the Cicero Town Board on April 9, 2014, over 3 months ago, and a second 87-page long complaint on May 19, 2014, over two months ago.

Yet today, the same corrupt officials are still in power, and doing "business as usual."

Given the corruption of the Cicero town government, I believe that the Cicero town board needs to re-assert its authority as the governing body for the town of Cicero, stop the corruption, investigate the corruption, and to remove the corrupt officials from office and their positions of authority. That Douglas Wickman is still receiving money for work being done is an insult to the taxpayers of Cicero.

This corruption is a Cicero problem which must be solved by Cicero. We cannot wait for the New York State Comptroller's Office or Attorney General's office to act. I recommend that the town board immediately take the following steps:

1. the Cicero town board, on its own power and authority, can:

Make studies and investigations as it deems in the best interest of the town and, in connection therewith, to obtain professional and technical advice, subpoena witnesses, administer oaths and require the production of books, papers and other evidence deemed necessary or material for any such study or investigation.

Certain people have expressed concern regarding the potential cost of an outside attorney and accountant to investigate Cicero corruption. The town board itself can conduct the same investigation at little or no cost. I recommend that tonight, the town board appoint one councilor to head up this investigation. In my opinion, it should be Councilor Mike Becallo.

For example, the town board can subpoena Douglas Wickman and Supervisor Zambrano to answer questions under oath; to demand that Douglas Wickman and Supervisor Zambrano produce their tax returns, bank statements, and other financial documents for review; and to demand C&S Companies produce their accounting and payroll records for Douglas Wickman.

There have been questions for several years regarding C&S Companies billing practices and work done for Cicero. In fact, many of these questions were raised by then town councilor Jim Corl Jr. as far back as 2010 and 2011. The town board can demand documents from C&S Companies and question C&S employees under oath to investigate these matters.

2. The corrupt people are still in power, exercising governmental authority, receiving moneys from the town, and this should end.

Accordingly, I recommend that the town board, at the next town board meeting, vote to request proposals for a new town engineer, and replace C&S Companies.

And, although I respect the attorneys at Germain & Germain, they have too close a relationship with former Supervisor Jim Corl Jr., current Supervisor Zambrano, C&S

Companies, and others in town government; cannot effectively assist in the investigation of Cicero officials and issues that they themselves were involved with, and therefore, they must be removed as town attorney. I recommend that the town board, at the next town board meeting, vote to request proposals for a new town attorney, and replace Germain and Germain.

3. The town board needs to regain control of the town's finances. I ask the town board to vote to require that all abstracts first be approved by the town board before one penny is spent by the comptroller. It is my understanding that town board approval of all abstracts before any payments were made was the long standing practice of Cicero until it was changed last year.

The Town of Cicero needs to clean its' own house, and the Cicero town board should take strong, decisive action at the next town board meeting.

Thank you.

A resident asked what would happen if they (the board) had all voted "no" to approve the Town Board minutes.

Supervisor Zambrano told the resident nothing would happen.

The resident said at the last meeting, item no. 2 on the agenda *Change of Zone from Regional Commercial to General Commercial Plus for 32 parcels located generally within the triangular area bounded by Totman Road, Northern Boulevard and East Taft Road* concerned a State Environmental Quality Review Act (SEQRA). She said she had a conversation with Councilor Becallo, but she did not understand his answer. She asked Councilor Becallo how he thinks the change in the zoning will impact the environment.

Councilor Becallo explained that the vote was taken without the final report from the County, and the report according to Bob Smith said that the County had no decision either for or against. They did not receive that information until the day after the town board voted on it; he did not have the information from the County, therefore, he could not approve it.

The resident said therefore, Councilor Becallo doesn't know if there is an impact.

Councilor Becallo replied that the County didn't either.

Supervisor Zambrano explained that they had the Environmental Assessment form (EIS), which was filled out and submitted to the County. The County did review the case and had *no* comments that there was an environmental impact, so Supervisor Zambrano felt very comfortable with it. She believes Bob Smith reported accurately from his discussions with the County Planning Board; there was no reason to doubt it. The County didn't have any opinions, one way or the other, so basically they were free to vote one way or another.

The resident said she had asked two meetings ago if they could not just approve that one person's zoning change and many people in the audience reminded her that they could not spot zone. She asked Councilor Becallo why he voted "no" to rezone the 32 properties.

Councilor Becallo explained that the fees were waived on all properties; this was a potential loss of revenue for the town. This whole thing had held up the Cantech project, which had been going on for months. He said he had approved the Cantech project, but not the 32 properties.

The resident asked if it was a correct statement that if three people had voted "no" on the zone change than the Cantech project would not have gone forward.

Supervisor Zambrano replied yes, because Cantech was part of that project.

The resident said she thought that the decision the board made was a very business-friendly decision and she thanked the board members that voted for it.

Judy Boyke said for the record that Mike Benn did work for the town during her administration and he did a fine job. She said she was not speaking against Mike Benn in regards to the proposal; she was concerned with the way the agenda was presented with the reduction missing. Judy said the tax certiorari will be very costly; most of the brunt of it is taken by the schools. She

questioned where the money for it would be coming from because the town doesn't put money away for tax certioraris.

Supervisor Zambrano said it would probably come out of Fund A, and if they have to do an amendment in order to settle the certiorari then they would have to do it.

ADJOURNMENT:

Supervisor Zambrano moved the adoption of a resolution to adjourn the Town Board Meeting.

Motion was seconded by Deputy Supervisor Burtis.

Ayes - 5 and Noes- 0. *Motion carried.*

There being no further business before the Board, the meeting was adjourned at 8:01 p.m.

Tracy M. Cosilmon
Town Clerk