

Parma Town Board meeting held on Tuesday, September 15, 2015 at the
Parma Town Hall, 1300 Hilton Parma Corners Road, Hilton, New York

ATTENDANCE

Supervisor	James Smith
Councilperson	Gary Comardo
Councilperson	James Roose
Councilperson	Tina Brown
Councilperson	Kyle Mullen
Town Clerk	Donna K. Curry
Building and Development Coordinator	Dennis Scibetta
Absent	
Highway Supt.	Brian Speer
Dir. of Parks and Recreation	Tom Venniro

OTHERS IN ATTENDANCE

Anna Nicotera, Margaret Kanaley, Ann Gronell, Mindy Zoghlin, John Chart, Marco Mattioli, Michael Weldon, Dave Almeter and other members of the public.

CALL TO ORDER

Supervisor Smith called the meeting to order at 7:00 p.m. and lead those present in the Pledge of Allegiance to the Flag, followed by a moment of silence. Emergency exit procedures were noted.

MINUTES – SEPTEMBER 1, 2015

RESOLUTION NO. 226-2015 Motion by Councilperson Comardo, seconded by Councilperson Roose, to accept the Minutes of the September 1, 2015 meeting.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

TOWN CLERK REPORT

The Town Clerk Report and VFW Summary for August have been completed, filed and copies sent to all Town Board members. School tax collection has been steady.

The Financial Reports for August have been completed, filed and provided to the Town Board for review.

The new postage rate for 1st class letters his in effect. Use of this service will result in a savings of \$.05 per first class letter.

HIGHWAY DEPARTMENT REPORT

Supt. Speer was not in attendance. He is at the Fall Highway School.

BUILDING DEPARTMENT REPORT

Mr. Scibetta reported Monroe County reviewed sites reviewed by the EPA during their audit and indicated they are pleased with what we are doing. The Town of Hamlin has agreed to purchase the Code Enforcement/Dog Control truck.

RECREATION DEPARTMENT REPORT

Mr. Venniro was not in attendance. He is attending a seminar. He provided the Town Board with a summary prior to the meeting.

LIBRARY REPORT

Library Director, Becky Tantillo, reported the grant has been submitted for replacement of the HVAC units at the Library. It is with the Monroe County Library System now for decision. The roof will also need replacing but this will be addressed after the installation of the HVAC units and with the next round of grants. There will be a focused outreach to teachers which will include longer loan times and special bibliographies. The multipurpose room will be used on a periodic basis as a “discovery room” for creative play by small children.

PAGE DEDICATION – IN MEMORY OF BARBARA SPEER

Supervisor Smith expressed condolences to Larry Speer and family for the sudden loss of our coworker. Barbara Speer passed away on September 5, 2015. She had worked for the Town as a Clerk to the Court for many years.

RESOLUTION NO. 226A-2014 Motion by Supervisor Smith, seconded by all members of the Parma Town Board, to dedicate a blank page as part of this meeting’s minutes in memory of Barbara Speer.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

PUBLIC FORUM

Supervisor Smith asked if there was anyone who would like to address the Town board in the open forum.

Margaret Kanaley addressed the Town Board about ongoing flooding at her property on North Avenue and provided pictures of the most recent occurrence this past weekend. She expressed that she would like something done now and hopes that the Town will take out the tile between their property and the neighbor’s to have an open ditch. It was thought that the tile may be plugged and broken. It was noted that the Supt. Speer has been out to look at it as well as Supervisor Smith and Councilperson Mullen. Supervisor Smith noted that there used to be an orchard to the west which has been converted to farmland. There now is nothing to slow down the water flow. Issues included that access has been denied by one

of the residents; removal of the tile may cause other problems and a larger tile may be needed under the highway. Because this is a State road, permits will be needed. The Town Engineer will be contacted to see if there is anything we can do to the west of the property and to help facilitate a solution.

Anna Nicotera addressed the Town Board regarding property she owns at 4917 Ridge Road West. She would like to sell the property to her sister who would like to use it for a salon. The property is currently zoned residential and wants to know what her options are for rezoning or obtaining a variance. She was asked to contact Mr. Scibetta to review what the best option would be.

BUSINESS ITEMS

CHART V. TOWN OF PARMA SETTLEMENT RESOLUTION

RESOLUTION NO. 227-2015 Motion by Councilman Comardo, and seconded by Councilperson Brown;

WHEREAS, in 2010, the football field (the “Football Field”) in the Town of Parma (the “Town”) Park (the “Town Park”) was found to contain residual agricultural chemicals, including arsenic, in the topsoil used to construct the field (the “Topsoil”); and

WHEREAS, an action was commenced entitled *Chart v. Town of Parma* in the United States District Court for the Western District of New York (the “Court”), Civil Action No. 10-CV-06179, pursuant to the citizen suit provisions of the Resource Conservation and Recovery Act (“RCRA”) §7002, 42 U.S.C. §6972, by John Chart (“plaintiff”) against the Town claiming that the purchase and use by the Town of the Topsoil to construct improvements to the Football Field and other areas at the Park: (1) constituted the impermissible disposal of solid or hazardous waste (the “Disposal Claim”); and (2) presents an imminent and substantial endangerment to health or the environment (the “Endangerment Claim”) (together the “Claims”), because of the presence of arsenic exceeding restricted residential soil cleanup objectives in the Topsoil; and

WHEREAS, plaintiff sought a permanent injunction ordering the Town to further investigate and remediate the Topsoil at the Football Field and elsewhere in the Park, and compensation for his attorney, expert, and other fees and costs associated with bringing the Claims; and

WHEREAS, the Town denied the Claims, and the Court dismissed the Disposal Claim and dismissed the Endangerment Claim to the extent it was based on environmental threats or the presence of hazardous waste; and

WHEREAS, the Court did not dismiss that part of the Endangerment Claim that was based on the alleged human health threats posed by exposure to the Topsoil and permitted plaintiff’s expert to offer his opinion that the arsenic concentrations in the Topsoil on the Football Field pose an unacceptable cancer risk to children and others who use the Football Field; and

WHEREAS, the Town consulted with an independent environmental health professional, who performed a human health risk assessment (“HHRA”) regarding the presence of arsenic in the Topsoil. The HHRA, which assumed the Football Field was exclusively used for “game day” field for up to 61 events held over 33 days per year and field maintenance activities, and had no grass cover present, concluded that the arsenic concentrations present in the Topsoil do not pose an undue health risk to children, persons or workers using the Football Field. The HHRA recommended, based on the HHRA use assumptions, that the grass cover on the Football Field continue to be well maintained and monitored; and

WHEREAS, the Town also consulted with the NYSDEC, New York State Department of Health, and Monroe County Health Department, who concluded the Football Field was safe for its intended use as the game day field because of its limited use and the presence of well maintained turf grass cover; and

WHEREAS, the parties have negotiated a settlement (the “Settlement”), pursuant to the Settlement Agreement annexed hereto as Attachment “A” and incorporated herein, that would settle all pending litigation, subject to approval of the Court, by which: (1) the Town adopts and implements a Site Management Plan (the “SMP,” annexed as Exhibit “A” to the Settlement Agreement) for the Football Field that controls and limits field use, provides procedures for field maintenance, and requires the application of one-half inch of clean topdressing each year; (2) a settlement payment of \$35,000 (the “Settlement Payment”) is paid to plaintiff in satisfaction of his Claim for costs of litigating the Claims; (3) plaintiff may enforce the SMP; and (4) amendments to or extinguishment of the SMP require a Court Order; and

WHEREAS, the Settlement is in the best interest of the Town because it is protective of human health and the environment, would avoid future expenses for legal fees, experts, and other legal disbursements, avoid the risk of reimbursement of plaintiff’s legal and expert fees and other legal disbursements at substantially greater amounts than the Settlement Payment, avoid the risk of more expensive remedial measures to address the issues related to the Topsoil, and avoid the risk of further litigation;

NOW, THEREFORE, IT IS RESOLVED, that the Settlement is approved, and Knauf Shaw LLP, attorneys for the Town, are authorized to enter into a Stipulation of Dismissal to in the form attached as Exhibit “B” to the Settlement Agreement; and it is

FURTHER RESOLVED, that upon the conversion of the Settlement Agreement to a Court Order:

1. The Settlement Agreement and this Resolution shall be filed with the files of the Town Clerk;
2. The Town Clerk shall cause the number of this Resolution to be cross referenced in Section 1.4.2 of the SMP;
3. The SMP is adopted and the Town Supervisor shall cause the Recreation and Parks Director to implement the SMP;

4. The SMP shall not be amended except in accordance with paragraph 4 of the Settlement Agreement.
5. The Town Supervisor is authorized to cause the payment from the Town Fund of the Settlement Payment to plaintiff pursuant to the terms of the Settlement Agreement;
6. The Town Supervisor is authorized to cause the Field Restriction Signage referenced in Section 4.2 of the SMP to be procured, installed, paid and maintained; and
7. The Town Supervisor shall cause the funds necessary to implement the SMP to be budgeted within the budget for the Department of Parks and Recreation.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

BUDGET TRANSFERS

RESOLUTION NO. 228-2015 Motion made by Councilperson Roose, seconded by Councilperson Comardo; to approve the budget transfers as presented.

BUDGET TRANSFERS

Aug-15

FROM			TO			REQUESTED
ACCT #	DESCRIPTION	AMT.	ACCT #	DESCRIPTION	AMT.	
AOO514.1330.480.00	MISC EXPENSE	500.00	AOO514.1330.410.00	OFFICE SUPPLIES	500.00	CURRY
AOO514.1330.120.00	OFFICE CLERK	1,000.00	AOO514.1410.130.00	DEPUTY CLERK	1,000.00	CURRY
AOO513.1310.480.00	MISC EXPENSE	200.00	AOO513.1310.430.00	EDUCATIONAL	200.00	GAVIGAN
AOO516.1620.441.00	GAS & ELECTRIC	8,000.00	AOO516.1680.460.00	CONTRACTED SERVICES	8,000.00	GAVIGAN
AOO536.3640.211.00	FIELD EQUIPMENT	500.00	AOO536.3640.210.00	OFFICE EQUIPMENT	500.00	GAVIGAN
AOO576.7520.480.00	MISC EXPENSE	500.00	AOO576.7520.490.00	PROCEEDS	500.00	GAVIGAN
BOO537.3620.480.00	MISC EXPENSE	500.00	BOO537.8989.480.00	MISC REIMBURSEMENTS	500.00	GAVIGAN
AOO516.7550.490.00	TOWN CELEBRATIONS	3,500.00	AOO570.7020.430.00	EDUCATIONAL	300.00	VENNIRO
AOO570.7020.120.00	RECREATION SUPERVISOR	6,000.00	AOO570.7020.450.00	PERSONAL CAR	44.50	VENNIRO
AOO570.7020.210.00	EQUIPMENT	2,015.89	AOO570.7140.416.01	PLAYGROUND SUPPLIES	163.00	VENNIRO
AOO570.7020.422.00	EQUIPMENT REPAIR/RENT.	800.00	AOO570.7140.491.01	PLAYGROUND YOUTH	11,000.00	VENNIRO
AOO570.7020.451.00	GASOLINE	367.00	AOO570.7310.489.42	HOLIDAY PROGRAM	500.00	VENNIRO
AOO570.7111.490.00	SPECIAL EVENTS	400.00	AOO570.7310.494.32	VOLLEYBALL CAMP	876.00	VENNIRO
AOO570.7140.492.01	PLAYGROUND BEAR	260.05	AOO570.7315.490.03	BASEBALL TEAM	50.00	VENNIRO
AOO570.7310.490.42	SKI CLUB	490.56	AOO570.7610.491.04	SR GOLF	600.00	VENNIRO
			AOO570.7620.490.05	AEROBIC FEES	300.00	VENNIRO
AOO571.7110.425.00	MAINTENANCE SUPPLIES	900.00	AOO571.7110.210.00	EQUIPMENT	289.99	VENNIRO
AOO571.7110.451.00	GASOLINE	889.99	AOO571.7110.422.00	EQUIPMENT REPAIR	1,500.00	VENNIRO
		26,823.49			26,823.49	

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

SET DATE FOR BID OPENING FOR SALE OF 2007 MALIBU

RESOLUTION NO. 229-2015 Motion by Councilperson Mullen, seconded by Councilperson Brown, to authorize the advertisement for bids on the sale of the Building Department 2007 Malibu; with a minimum bid threshold of \$5,500. Bids must be submitted in sealed envelopes, labeled "2007 Malibu Bid" to the Parma Town Clerk Office by 11:00 a.m. on October 15, 2015.

At which time they will be opened and read aloud. The Town of Parma reserves the right to reject any and all Bids received.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

**ROAD DEDICATION – ALL SEASONS SUBDIVISION SECTION 4 B
FALLWOOD TERRACE AND SUMMERTIME TRAIL**

RESOLUTION NO. 230-2015 Motion by Supervisor Smith, seconded by Councilperson Comardo,

WHEREAS, certain parcels of land located in the All Seasons Subdivision, Section 4 Phase B, more particularly described on Exhibit “A” attached hereto, has been offered for dedication to the Town of Parma, (the “Town”) for highway purposes by Matco Remodeling Associates, Inc. (the “Owner”) of said land as shown on a map of All Seasons Subdivision, Section 4 Phase B, filed in the Monroe County Clerk’s Office in Liber 341 of Maps, page 69 and

WHEREAS, the Town Highway Superintendent has recommended acceptance of said parcel for dedication for highway purposes and the roadway having been completed in accordance with the Town specifications, and

WHEREAS, the Town Attorney has ordered a fee title insurance policy relating thereto,

NOW THEREFORE, BE IT RESOLVED by the Town Board of the Town of Parma in regular session duly convened herein agrees to accept the deed of dedication on the said road, to be known as Fallwood Terrace and Summertime Trail and directs the Town Clerk to record the same in the Monroe County Clerk’s Office.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

2014 JUSTICE COURT ANNUAL AUDIT

RESOLUTION NO. 231-2015 Motion made by Supervisor Smith and seconded by Councilperson Brown acknowledging that an internal audit of the Parma Justice Court’s finances was completed on March 26, 2015 by Hungerford and Vinton, LLC as required annually by the New York State Unified Court System.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

**2015 AMENDED AGREEMENT FOR THE EXPENDITURE OF
HIGHWAY MONEYS**

RESOLUTION NO. 232-2015 Motion by Councilperson Roose, seconded by Councilperson Mullen, to approved the 2015 Amended Agreement for the Expenditure of Highway Moneys; which changes the amount for General repairs to \$147,000, work on Dunbar Road to \$74,500, Work on Collamer

Road to \$134,800, Work on Pease to \$11,000 and the striping of Town Roads in the amount of \$15,000.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

MISCELLANOUS

DECLARE CODE ENFORCEMENT/DOG CONTROL TRUCK SURPLUS EQUIPMENT AND AUTHORIZE SALE TO TOWN OF HAMLIN

RESOLUTION NO. 233-2015 Motion by Councilperson Comardo, seconded by Councilperson Brown, to declare the Code Enforcement/Dog Control truck as surplus equipment; and authorize the sale of this truck to the Town of Hamlin for a total of \$ 19,500 to be paid in two installments of \$9,750 each one of which will be paid before the end of the 2015 and the second payment to be made in January of 2016.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

AUTHORIZE THE PURCHASE OF 2015 FORD XL TRUCK CODE ENFORCEMENT/DOG CONTROL TRUCK

RESOLUTION NO. 234-2015 Motion by Councilperson Mullen, seconded by Councilperson Brown, to approved the Purchase of a 2015 Ford XL Pickup Truck, VIN # 1FTEX1E85FFA38240 on State Contract for \$26,578.96.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

INFORMATIONAL ITEMS

CONSERVATION EASEMENT MONITORING

Supervisor Smith reported that Genesee Land Trust has completed the annual review of the conservation easement for the Martin Farm property located on Burritt Road in the Town of Parma and the Town has “passed”.

SECOND QUARTER SALES TAX DISTRIBUTION

Supervisor Smith reported the sales tax distribution for the second quarter of 2015 was \$166,257.48 which is down about \$2,000 from the 2014.

DANFORTH

Supervisor Smith reported a preliminary review of energy usage at the Town Hall was completed and a more formal energy audit which would identify potential savings and a performance bid method for the bid process. It is his intention to reach out to the Town of Penfield as they have been approached by the same company. Concerns were expressed for how to measure and establish the baseline and whether repairs at the highway garage would make the contract null.

LIAISON REPORTS

**Councilperson Brown reported the Planning Board agreed with plans for a storage building at 4741 Ridge Road West; agreed conceptually with a two lot subdivision at 440 Parma Center Road; approved a sign for 636 Wilder Road; and approved the requests for split/merge of property at 5100 Ridge Road. The Conservation Board met and declared a negative declaration 200 Webster Road. They have inquired as to when the Monroe County meetings are.

**Councilperson Comardo reported there has not been a Recreation Commission meeting. The Drug Coalition met last night and there was information on a youth risk survey. The Hojack Trail Project meeting will be held on September 22, 2015 from 4:00 p.m. to 7:00 p.m. for the general public to express concerns. It will be held at the Greece Town Hall and is an open, interactive session.

**Councilperson Roose did not have a report.

**Councilperson Mullen reported the Zoning Board has not met since our last meeting. He reported the County is looking at a left turning lane on to Wilder Road from Bennett Road at the High School and a by-pass lane for eastbound traffic on Wilder Road. The EPA contractor for the preliminary study of the Burritt Road property will be here next week. Joe Reinschmidt and Jack Barton have been contacted for information.

MISCELLANEOUS

Mr. Scibetta requested that the Board consider advertising for the open Planning Board position. There was agreement to advertise and post on the website for this and any future vacancies.

WARRANT

RESOLUTION NO. 235-2015 Motion by Councilperson Brown, seconded by Councilperson Comardo, to approve payment of AOO General Fund bills, in the amount of \$49,411.85.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

RESOLUTION NO. 236-2015 Motion by Councilperson Comardo, seconded by Councilperson Roose, to approve payment of BOO Part Town Fund bills, in the amount of \$3,446.35.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

RESOLUTION NO. 237-2015 Motion by Councilperson Roose, seconded by Councilperson Mullen, to approve payment of DAO Highway, Townwide Fund bills, in the amount of \$45,602.72.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

RESOLUTION NO. 238-2015 Motion by Councilperson Mullen, seconded by Councilperson Brown, to approve payment of DBO Highway, Part Town Fund bills, in the amount of \$47,825.62.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

RESOLUTION NO. 239-2015 Motion by Councilperson Brown, seconded by Councilperson Comardo, to approve payment of SDO, Townwide Drainage Fund bills, in the amount of \$4,327.65.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

RESOLUTION NO. 240-2015 Motion by Councilperson Comardo, seconded by Councilperson Roose, to approve payment of TAO Trust & Agency Fund bills, in the amount of \$750.00.

Motion carried: Aye 5 (Smith, Comardo, Roose, Brown, Mullen) Nay 0

The total to be paid is \$151,274.19.

There was no further business before the Town Board, Councilperson Mullen made a motion to adjourn the meeting at 8:05 p.m., seconded by Councilperson Brown and all were in favor.

Respectfully submitted,

Donna K. Curry
Parma Town Clerk

IN MEMORY OF BARBARA SPEER