

Town of Malone
Regular Board Meeting
04/25/2012

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A regular meeting of the Malone Town Board was held Wednesday April 25th 2012, at the Malone Town Offices, 27 Airport Rd., Malone, NY, commencing at 6:00pm.

PRESENT: Deputy Supervisor Paul Walbridge
Councilor Louise Taylor
Councilor John Sullivan
Councilor Mary Scharf

ABSENT: Supervisor Howard Maneely

ALSO PRESENT: Susan Hafter, Town Clerk
Andrea Stewart, Budget Officer
Lillian-Anderson Duffy, Town Attorney
John Miletich, Malone Jerry Thompson, Malone Austin Kerr, MCS student
Curtis Beaudry, MCS student Derek LaBrake, MCS student Justin Cook, MCS student
Arianna MacNeill, Malone Telegram

CALL TO ORDER: Deputy Supervisor Walbridge called the meeting to order at 6:00pm, with a pledge to the flag. He welcomed the students in attendance and encouraged them to participate in local government.

PRESENTATION TO BOARD: Jerry Thompson, a resident of Bean Road, Malone, presented a petition requesting that Bean Road be paved this year.

MINUTES & REPORTS:

Motion – Councilor Taylor

Second – Councilor Sullivan

Resolved (# 78-2012): to accept the minutes of the regular meeting of 04/11/12 as presented and place on file.

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

Motion – Councilor Sullivan

Second – Councilor Taylor

Resolved (# 79-2012): to accept the following reports as presented and
Place on file: Supervisor – 3/2012

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

OLD BUSINESS:

Request for Review - (tabled 1/21; 2/15; 3/14; 3/28; 4/11/12) from Town Clerk/Tax Receiver Hafter for Board and attorney review of an agreement which would allow for the acceptance of credit and debit card payments in person, and on line. Attorney Anderson Duffy has not been able to get answers to her concerns with the contract as presented. She asked County Treasurer Varin about the system they use for acceptance of credit and debit and he gave her a copy of the contract with JP Morgan Chase.

Motion – Councilor Scharf

Second – Councilor Sullivan

Resolved (# 80-2012): that Clerk Hafter will seek proposals/quotes from J.P.Morgan Chase and local banks to allow the Town of Malone to accept credit/debit payments at no cost to the town and at the lowest possible cost to the customer.

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

Grants Consultant – (tabled from 4/11/12) – received RFP's for Grants Consultant for the Town (3/26/12); - distributed for Board review (3/29/12)

Motion – Councilor Scharf

Second – Councilor Taylor

Resolved (# 81-2012): that the Town Board contract with Avalon Associates for assistance with activities required to secure funding and to organize and administer local programs under the NYS Consolidated Funding Application (CFA) process for the current year.

Discussion – Councilor Scharf said that after reviewing the three proposals submitted, Avalon is the best fit, as they have experience and success with North Country projects and are less expensive than the other firms. Councilor Sullivan noted that the other firms are very large and deal with huge projects. Deputy Supervisor Walbridge said he, like Councilor Scharf, has met with and is impressed by Phillip Smith a principal of Avalon Associates.

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

Draft Amendments to the Town Sewer Law – (tabled from 4/11/12) Town Attorney Duffy continues her review and modifications to the draft sewer Law. She will compile the board approved changes into a final draft document for board consideration prior to the next regular meeting, 5/9/2012.

Bid Opening - Town Clerk Hafter reported on the bid opening for sewer pump installation, which was held at 12:00noon today. One bid only was received; from Dow Electric, Inc., in the amount of \$10,310.00. Previously a quote had been procured from J. T. Erectors, in the amount of \$26,264.00. There was discussion about the fact that full specifications were not available for bidders, and that there is a great discrepancy between the two quotes received.

Motion – Councilor Scharf

Second – Councilor Sullivan

Resolved (# 82-2012): that the Town Board rejects all bids received to date for the installation of the town-owned sewage suction lift pump station and will contact Burley-Guminiak Engineers to meet with the Town Board in regard to specifications for this project and to determine whether the project might be included for funding with the West Side Sewer Improvements project.

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

SUPERVISOR REPORTS:

Retirement – Deputy Supervisor Walbridge reported that a letter of intent to retire has been received from Assessor Wayne Cashman, naming his last day of employment to be June 25th 2012.

Policies –

Motion – Councilor Scharf

Second – Councilor Sullivan

Resolved (# 83-2012): that the Town Board adopt/reaffirm the following policies, in the format presented by Camoin Associates: 1) Equal Opportunity Employer; 2) MBE/WBE; 3) Conflict of Interest; 4) Grievance Procedures; 5) Section 3; 6) Anti-Displacement and Relocation; 7) Accessibility Plan to ensure that all are current and in accordance with the terms of CDBG funding programs:

1) **Equal Employment Opportunity Policy Statement**

The Town of Malone firmly believes in and subscribes to fair employment practices and opens its facilities to every qualified person. In all employment practices, we are committed to prohibiting discrimination on the basis of race, color, creed national origin, sex, age, marital status, or disability. We support all federal and state laws, rules and regulations dealing with discrimination and specifically endorse all applicable provisions of Title VII of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, Section 504 of the Rehabilitation Act of 1973, the New York State Human Rights Law and the Americans with Disabilities Act.

It is the policy of the Town of Malone to be fair and impartial in all its relations with its employees and applicants for employment without regard to race, color, religion, age, sex, national origin or disability. Decisions on employment will be made in a manner consistent with the principle of Equal Employment Opportunity.

Our organization will ensure that hiring, promotion, training and transfer decisions are in accord with principles of Equal Employment Opportunity by imposing only valid position requirements. The Town also will ensure that all other personnel actions, such as, but not limited to, compensation (including rates of pay), benefits, transfers, lay-offs, return from layoff, terminations, town-sponsored training, education, tuition assistance, social and recreational programs will be administered without regard to race, color, religion, sex, age, national origin or disability.

Equal Employment Opportunity is a legal, social and economic necessity for the organization.

2) Minority and Women Business Policy Statement

The Town of Malone (hereinafter the Town) shall not discriminate on the basis of race, color, religion, national origin, or sex in hiring practices or in the award and performance of contracts and subcontracts. The Town will actively and affirmatively solicit participation from qualified State certified M/WBEs in responding to requests for proposals for professional services and will seek bids from certified M/WBEs when searching for service providers to support Town operations. It is the policy of the Town not to contract or continue to contract with any business entity that engages in discriminatory conduct in hiring or in the award and performance of contracts or subcontracts.

3) Conflict of Interest Provisions
(Applicable to HOME / CDBG Funding)

Town of Malone officials are familiar with the conflict of interest rules applicable to federal funding programs as detailed in federal regulations at 24 CFR Part 85.36 and through their general experience administering previous federal funding from the HOME Investment Partnerships Program and / or from the NYS Community Development Block Grant (CDBG) Program.

It is understood that no person who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME or CDBG funds or who is in a position to participate in a decision-making process or gain inside information with regard to those activities may obtain a financial interest or benefit from a HOME- or CDBG-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. The Rehabilitation Clerk and Coordinator will consider this issue when preparing applications for consideration, and the Project Review Committee and Town Board must be made aware of potential conflicts when it considers and approves projects for HOME or CDBG rehabilitation or other applicable financing assistance.

Upon the written request of the Supervisor to the NYS Division of Housing and Community Renewal (DHCR) or the NYS Office of Community Renewal (OCR), an exception to these provisions may be requested on a project-by-project basis when the Town determines that the exception will further the purposes and the effective and efficient administration of the local HOME or CDBG Program. An exception may be requested only after the following is provided to the DHCR or the OCR:

- A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- An opinion of the Town's attorney that the interest for which the exception is sought would not violate State or local laws.

4) Grievance Procedure under
The Americans with Disabilities Act

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Town of Malone. The Town's Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to the Town of Malone ADA Coordinator (hereinafter the Town Code Officer).

Within 15 calendar days after receipt of the complaint, the Town Code Officer or his/her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, the Town Commissioner of Accounts (hereinafter the Town Supervisor) or his/her designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the Town of Malone and offer options for substantive resolution of the complaint.

If the response by the Town Code Officer or his/her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Town Supervisor or his/her designee.

The Town Supervisor or his/her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, The Town Supervisor or his/her designee

will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the Town Code Officer or his/her designee, appeals to the Town Supervisor or his/her designee, and responses from these two offices will be retained by the Town of Malone for at least three years.

5) Section 3 [24 CFR Part 135]

The purpose of Section 3 of the Housing and Urban Development Act of 1968 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, be directed to low and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very low income persons.

Section 3 requirements apply to a variety of HUD housing and community development assistance programs, including CDBG. The Section 3 regulations require that contractors who receive contract work funded with CDBG in excess of \$100,000 are encouraged to provide, to the greatest extent feasible, training, employment, and contracting opportunities generated by the expenditure of CDBG funds to low and very low income persons, or which employ very low income persons.

It is important to note, however, that Section 3 applies only to *employees or trainees that are new hires* associated with the contracting activities that exceed \$100,000. The County will assist each contracting agency with the preparation of a Section 3 plan that must be included in each contract for construction services that exceeds \$100,000. Beginning in 1997, HUD established numeric goals for Section 3 newly hired employees. HUD wishes to see 30% of the aggregate number of new hires for contracts that exceed \$100,000 to be Section 3 residents. And as a condition of funding, contracting agencies must submit monthly reports on newly hired employees to the County for reporting to HUD.

MBE/FBE [24 CFR Part 85.26 (e)]

It is a national policy for federal programs to award a fair share of contracts to small and minority business firms. Subrecipients that are awarding contracts for construction and services to be supported with County CDBG funds shall take appropriate affirmative action to support minority and women-owned businesses (MBE and FBE businesses) and are encouraged to procure goods and services from labor surplus areas. At the time of contract execution, contractors shall complete and include with their contract the MBE/FBE participation forms that are a part of all CDBG bid documents, and shall submit with the contract the required information on the solicitation of MBE/FBE firms in the proposed project or service.

Steps to affirmatively promote efforts to utilize MBE/FBE businesses should include:

- Placing qualified small and minority businesses and women's business enterprises on bid solicitation lists;
- Contacting these enterprises whenever they are potential sources for the services needing to be procured;
- Dividing the work to be performed, when economically feasible, into smaller tasks or quantities to permit maximum participation by these MBE/FBE and small firms;
- Establishing delivery schedules, where possible, which encourage the participation of these firms;
- Using the services and assistance of the Small Business Administration (SBA) and the Minority Business Development Agency of the Department of Commerce to promote MBE/FBE participation; and
- Requiring prime contractors, if subcontracts are to be awarded, to affirmatively promote the solicitation and utilization of these firms by utilizing the above listed steps.

Contractors and their subcontractors will be required to demonstrate a good faith effort to promote the utilization of MBE/FBE firms for all CDBG-funded projects and services as a condition of the award of CDBG funds.

6) ANTI-DISPLACEMENT RELOCATION ASSISTANCE PLAN

Town of Malone has developed the following plan to minimize the displacement of citizens resulting from any future activities funded by the New York State Governor's Office for Community Renewal (OCR) Community Development Block Grant Program (CDBG):

The Town will assure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of its CDBG activities.

- I.) "Displaced person" means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property,

permanently and involuntarily, as a direct result of rehabilitation, demolition, or acquisition for an activity assisted through the CDBG Program. A permanent, involuntary move for an assisted activity includes a permanent move from real property that is made:

- i.) After notice by the Town to move permanently from the property, if the move occurs after the initial official submission to OCR for grant, loan, or loan guarantee funds that are later provided or granted.
- ii.) After notice by the property owner to move permanently from the property, if the move occurs after the date of the submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity.
- iii.) Before either OCR or the Town determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity.
- iv.) After the "initiation of negotiations" if the person is the tenant-occupant of a dwelling unit and any one of the following three situations occurs:
 - (a) The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon the completion of the project under reasonable terms and conditions, including a monthly rent that does not exceed the greater of the tenant's monthly rent and estimated average utility costs before the initiation of negotiations or 30 percent of the household's average monthly gross income; or
 - (b) The tenant is required to relocate temporarily for the activity but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary location and any increased housing costs, or other conditions of the temporary relocation are not reasonable; and the tenant does not return to the building/complex; or
 - (c) The tenant is required to move to another unit in the building/complex, but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

II.) The term "displaced person" does not include:

- i.) A person who is evicted for cause based upon serious or repeated violations of material terms of the lease or occupancy agreement. To exclude a person on this basis, the Town must determine that the eviction was not undertaken for the purpose of evading the obligation to provide relocation; or
- ii.) A person who moves into the property after the date of the notice, but who received a written notice of the expected displacement before occupancy; or
- iii.) A person who is not displaced as described in 49 CFR 24.2(g)(2); or
- iv.) A person who the Town determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for an assisted activity. To exclude a person on this basis, OCR must concur in that determination.

III.) OCR Determination

- i.) The Town may, at any time, request OCR to determine whether a person is a displaced person.

IV.) Displacement Assistance

- i.) Should citizens be displaced, such persons shall be provided with relocation assistance at the levels described in, and in accordance with the requirements of, 49 CFR part 24 which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).
- ii.) Town of Malone will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.606(b)(1).
- iii.) All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, Town of Malone will make public and submit to the OCR the following information in writing:
 - (a) A description of the proposed assisted activity;
 - (b) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of the assisted activity;
 - (c) A time schedule for the commencement and completion of the demolition or conversion;
 - (d) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
 - (e) The source of funding and a time schedule for the provisions of replacement dwelling units; and

Councilor Scharf – reported that the Government Efficiency Study Committee would like to hold a joint Town/Village committee meeting to discuss the committee findings to date and the implications for local government. She said many options are being studied, but should the Village choose to dissolve the Town will need to assume greater responsibilities. Councilor Scharf credited town staff for compiling information necessary to the study. The meeting is tentatively scheduled for Thursday, June 14th 2012.

CORRESPONDENCE:

From Town of Dickinson – letter of support for county planner

From Carol Ann LaShomb – letter of concern re: erosion of the Rotary Pond banks

NEW BUSINESS:

John Miletich addressed the Board and presented a letter in regard to proposed catch and release regulation changes.

Motion – Councilor Sullivan

Second – Councilor Scharf

Resolved (#84-2012) that the Malone Town Board joins the Greater Malone Chamber of Commerce, Malone Village Board and Malone Revitalization Foundation in support of a change to the catch and release fishing regulations and the establishment of a Catch and Release Fishery along a section of the Salmon River in Malone.

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

Grievance Day -

Motion – Councilor Sullivan

Second – Councilor Scharf

Resolved (#85-2012): that the Town Board approves the use of the Town Court/Board Meeting Room on Tuesday, May 22nd 2012 for Assessment Grievance Day procedures; and

Further Resolved: that the Town Board acknowledges and approves the assignment of an additional town staff member to assist with Grievance procedures on May 22nd 2012, until 7:00pm.

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

EXECUTIVE SESSION:

At 7:06pm * Motion – Councilor Taylor

Second – Councilor Scharf

Resolved (#86 - 2012): that the Town Board enters into Executive Session under Attorney/Client privilege, with Board Members and Town Attorney to be present.

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

At 7:43pm, the executive session ended and the regular meeting resumed with no action taken.

Tax Certiorari –

Motion – Councilor Sullivan

Second – Councilor Scharf

Resolved (#87-2012) that the Town Board authorizes Budget Officer Stewart to make a payment to the Franklin County Clerk, in the amount of \$35.00, to cover the filing fee for a stipulation of discontinuance, in regard to the Tractor Supply Tax Certiorari claim.

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

Court Expansion -

Motion – Councilor Sullivan

Second – Councilor Scharf

Resolved (#88-2012) that the Town Board authorizes Deputy Supervisor Walbridge to sign into agreement with Halley Construction, for the electrical wiring (labor only) related to the Town Court expansion project, in the amount of \$1,680.00.

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

BILLS FOR AUDIT & PAYMENT:

Motion – Councilor

Second – Councilor

Resolved (#89 - 2012): that the following bills, having been audited, vouchers #364-395, be paid:

General – Abstract #8 -	\$ 2,760.32
Part Town General-Abstract #7-	1,591.32
Trust & Agency – Abstract #15 -	30,163.06
CDBG – Abstract #2	8,000.00
East Side Water – Abstract #5	219.21
Highway Equip. Reserve – Abstract #1-	15,000.00
Airport Cap. Proj. – Abstract #4 -	54,628.20
Highway DB – Abstract #7 -	<u>4,249.42</u>
Grand Total -	\$116,611.53

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

ADJOURN:

At 7:50pm Motion - Councilor

Second – Councilor

Resolved (# 90-2012): there being no further business to come before the Board that it adjourn, with the next regular meeting to be May 12th 2012, at 6:00pm

**CARRIED (4-0) – Supervisor Maneely - Absent Deputy Supervisor Walbridge – Aye
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

RESPECTFULLY SUBMITTED,

SUSAN M. HAFTER, TOWN CLERK
May 2nd 2012

