

At 7:00 p.m. Supervisor Webb A. Stevens called to order the meeting of the Spafford Town Board. Councilors Bill Vinzant, Richard Fesko, Ken Lieberman and Merrill Clark were present. Highway Superintendent Carl Wiers, Accountant Thomas Chartrand, Town Attorney Matthew Kerwin and Town Clerk Lisa Valletta were also present. The Pledge of Allegiance was recited.

HIGHWAY SUPERINTENDENT’S REPORT

- Regarding the parking lot in Borodino and the price of bank run gravel: Fey’s is \$4 per yard, total cost would be \$4,800; and E-Z Acres is \$2.95 per ton, total cost would be \$5,310.
- The intersection of Bucktail Road onto Cold Brook Road has been changed from a “Y” to a “T” intersection. The work done by Onondaga County Dept. of Transportation on Cold Brook Road has raised the surface of Cold Brook Road about 8 inches. To accommodate that, the intersection was modified and paved from the intersection back 100 feet. The cost of this is about \$6,000. The first layer of paving was done with Town funds and will be reimbursed by CHIPS. The cost of the second layer will be reimbursed with Onondaga County funds.
- The Town roads are ready to be sealed, waiting on Suit-Kote.
- NYMIR conducted an inspection of the Town facilities. No major problems were found at the Town Hall or the Highway buildings.
- PERMA also conducted the annual safety inspection. The Town of Spafford has earned an additional ten points bringing our current rating to 620 out of a possible 630 points. The final ten points can be earned with the posting of an eye chart.
- The grader will be off warranty at the end of this year. Mr. Wiers contacted Volvo to request a complete inspection of the machine and perform any repairs necessary prior to expiration of the warranty.

A motion to accept the Highway Superintendent’s Report was made by Councilor Clark, seconded by Councilor Lieberman. The motion PASSED. AYES – 5, NAYS – 0.

JULY 12 & JULY 30, 2007 TOWN BOARD MINUTES

A motion to accept the minutes of June 14, 2007 Town Board meeting as submitted by the Town Clerk was made by Councilor Fesko, seconded by Councilor Vinzant. The motion PASSED. AYES – 5, NAYS – 0.

RESOLUTION 82-2007

Audit of Claims

On a motion by Councilor Fesko, seconded by Councilor Vinzant the following resolution was PASSED
AYES – 5 Stevens, Vinzant, Fesko, Lieberman, Clark
NAYS – 0

Resolved the bills on Abstract #8, be paid in the following amounts:

General Fund	#228 through #260	\$17,644.83
Highway Fund	#114 through #134	\$49,402.02

(Highway Fund includes Machinery & Snow bills when applicable).

RESOLUTION 83-2007

Water District (SOAWD) Expenses

On a motion by Councilor Fesko, seconded by Councilor Lieberman the following resolution was PASSED
AYES – 5 Stevens, Vinzant, Fesko, Lieberman, Clark

NAYS – 0

Resolved subject to approval by the Town Board of Marcellus and the Town Board of Otisco the bills in relation to the establishment of the Spafford Area Water District are to be paid in the following amounts:

Capital Fund	#36 through #37	\$16,068.25
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TOWN SUPERVISOR'S MONTHLY REPORT & STATEMENT

Accountant Thomas Chartrand reviewed the July 2007 Town Supervisor's Report & Statement. Mr. Chartrand stated it had been a good month. The first half of the mortgage tax has been received in the amount of \$34,000. A total of \$55,000 was budgeted which is under the actual amount to be realized. A refund was received from PERMA based on the 2006 audit.

The SOAWD Bond Anticipation Note comes due January 11, 2008. Solutions for paying this note are under review by SOAWD Attorney Bernard Reagan.

Parking Lot at 1865 East Lake Road

Supervisor Stevens met with Onondaga County Community Development (OCCD) to discuss designation of the parking lot as a senior citizen parking lot. OCCD approved the designation, and will allow use of the OCCD funds towards materials for construction. The Town Board approved the designation at the July 30, 2007 meeting. There is \$22,000 in OCCD funds. Cost of construction will be about \$35,000, leaving \$13,000 to be paid by the Town of Spafford. OCCD has agreed to reimburse as the project proceeds instead of after completion.

Supervisor Stevens asked Mr. Chartrand to describe how the \$13,000 could be drawn from the Town's funds. Mr. Chartrand offered the following possible sources:

- \$3,000 PERMA rebate – unexpected, therefore an easy source
- \$6,000 from Mortgage Tax – received more than budgeted
- \$4,000 from the Revaluation fund – cost is less than was budgeted

Supervisor Stevens stated it would be preferable to begin the construction of the parking lot this fall. There was a discussion of the various costs involved in the project and the funding. Councilor Vinzant suggested the cost of paving may be the equal to \$13,000 and would not be needed until the Spring of 2008. Supervisor Stevens asked if transfers could be made as needed instead of all at once. Mr. Chartrand stated it could be done that way. The Board agreed to make transfers as needed. Copies of the parking lot design are available from the Town Clerk's office.

Budget Preparation

Mr. Chartrand requested a date and time be set for a budget work session. The Town Board determined to hold this session will be Thursday, September 27, 2007 at 7 p.m.

The Spafford Fire Commissioners are now required to conduct their own public hearing for their budget by October 16th. They will file their numbers with the Town after that hearing.

SCHEDULE PUBLIC HEARING

A motion to conduct a Public Hearing on November 8, 2007 at 7 p.m. for review of the 2008 Town budget was made by Councilor Clark and seconded by Councilor Vinzant. The motion PASSED. AYES – 5, NAYS – 0.

BUDGET TRANSFER

Accountant Thomas Chartrand provided the following outline of recommended budget transfers to allow payment of engineering design fees for Spafford Landing Road culverts.

GENERAL FUND

From	A1990.4	Contingent, Contractual	\$ 10,000.00
	A1910.4	Unallocated Insurance, Contractual500.00
			<u>\$ 10,500.00</u>
To	A1440.4	Engineering, Contractual	\$ 10,500.00
			<u>\$ 10,500.00</u>

RESOLUTION 84-2007

Budget Transfers

On a motion by Councilor Lieberman, seconded by Councilor Vinzant the following resolution was PASSED
AYES – 5 Stevens, Vinzant, Fesko, Lieberman, Clark
NAYS – 0

Resolved to authorize the following budget transfers:

GENERAL FUND

From	A1990.4	Contingent, Contractual	\$ 10,000.00
	A1910.4	Unallocated Insurance, Contractual500.00
			<u>\$ 10,500.00</u>
To	A1440.4	Engineering, Contractual	\$ 10,500.00
			<u>\$ 10,500.00</u>

TOWN SUPERVISOR’S MONTHLY REPORT & STATEMENT

A motion to accept the Town Supervisor’s Monthly Reports & Statement as presented was made by Councilor Clark, seconded by Councilor Lieberman. The motion PASSED. AYES – 5, NAYS – 0.

TOWN CLERK’S REPORT

A motion to accept the Town Clerk’s July Cash Report as presented was made by Councilor Vinzant, seconded by Councilor Lieberman. The motion PASSED. AYES – 5, NAYS – 0.

TRANSFER STATION

Councilor Clark explained he had spoke with Kevin Beverine of Appleton Disposal and Highway Superintendent Carl Wiers, who also serves as Transfer Station Supervisor. Mr. Wiers stated one of the biggest issues at the Transfer Station is cardboard not being broken down before disposal by the residents. It quickly fills the container.

A copy of the D.E.C. permit for the Transfer Station was obtained. The permit does not list specific guidelines, Councilor Clark will consult the D.E.C. for specific information relating to the operation of the Transfer Station.

Councilor Clark stated Mr. Beverine will be looking for a larger compactor, allowing use of the on-site smaller compactor for cardboard.

There was a discussion of the permit, which does list the allowable tonnage, the operation of the Transfer Station, and what options are available to manage the flow of waste.

RESOLUTION 85-2007

Appleton Disposal Bill

On a motion by Councilor Lieberman, seconded by Councilor Vinzant the following resolution was PASSED
AYES – 5 Stevens, Vinzant, Fesko, Lieberman, Clark
NAYS – 0

Resolved to pay the bill submitted by Appleton Disposal after the Town Clerk has verified the correct amount with Appleton Disposal.

INFORMATIONAL MEETING

There was a discussion of the need for the residents to have an opportunity to ask questions of Fitts Appraisal Services and Assessor Robert Brown regarding the revaluation. Assessor Brown stated the contract with Fitts Appraisal includes two informal meetings with the public to address questions, one in September and the second early in 2008. The Town Board determined to allow Fitts Appraisal to arrange the scheduling of the September informational meeting.

PUBLIC HEARING FOR PROPOSED LOCAL LAW 2007-3

A motion to resume the public hearing for discussion of proposed Local Law 2007-3 (LL 2007-3) pertaining to Unsafe Buildings and Structures was made at 7:34 p.m. by Councilor Lieberman, seconded by Councilor Vinzant. The motion PASSED. AYES – 5, NAYS – 0. This continuation was duly advertised in the Town of Spafford's official newspaper as well as in the Pennysaver, Pennywise, and on the Town of Spafford website.

Supervisor Stevens explained the proposed Local Law 2007-2 regarding the additional survey was not properly advertised and would be discussed at a future date.

It was noted by Supervisor Stevens that one main issue regarding LL 2007-3 was the filing of complaints: Could written complaints be required? Should all oral complaints be acted upon? He asked Town Attorney Matt Kerwin to address the issue.

Mr. Kerwin explained there is no statute that requires complaints be submitted in a specific form. If a written complaint is received, all the better; if the complaint is verbal, the Town is still required to act on it to some extent. Mr. Kerwin would advise the Town to encourage individuals making verbal complaints to follow up in writing; thus providing a solid record for the Town. Supervisor Stevens offered that requesting a name and contact number from the complainant would not be unreasonable.

Supervisor Stevens asked if there were any questions.

The following comments are nearly verbatim; some rephrasing was done for clarity.

Unknown Speaker: Could an anonymous complaint be made?

Matt Kerwin: Yes. Like calling "911" anonymous calls could be made. Presumably, it would not be an emergency situation. Any complaint received, no matter what format, would be investigated by the Town. If a caller does not want to identify themselves, the Town would still be required to investigate the complaint. If it is noted that the same voice is calling repeatedly within a specific span of time, and the Town is going out on "wild goose chases", that's a different story.

Phil Clark: (laughing) Is that the way they did it in Nazi Germany?

Supervisor Webb Stevens: (laughing) I don't know. I didn't live in that particular totalitarian regime.

Councilor Merrill Clark: The other question was whether or not Doug Staley would have the authority to go onto property as part of investigating a complaint.

M. Kerwin: I spoke with Doug about that. He can go on anyone's property; but if they come out and say "I'd like you to leave", he's required to leave; and, obviously, he can't go into someone's structure unless they invite him.

M. Clark: The way the law is worded, unless he can actually see it.....

M. Kerwin: I think LL 2007-3 is written with the intent to address structures that are in such a state that you can actually see into them

Gordon Ireland: Are you going to try to adopt this law just as it is printed?

W. Stevens: Yes.

G. Ireland: That includes farm buildings and every thing else?

W. Stevens: Matt, how did we address farm buildings?

G. Ireland: It isn't excluded in here.

M. Kerwin: A structure is defined as including a barn.

G. Ireland: The other thing I'm interested in is where did this surface from? Why are we doing this?

W. Stevens: This was part of the original Town law we adopted back in February. There was such an objection to the abandoned buildings section; it was removed from the version that was adopted. At that time, I said we would re address it at a later date. We had the Town Attorney rewrite it and it's not as restrictive as the original version. We've made it a little more bearable, probably not 100%....

G. Ireland: I don't think it's even 10 %. I think you're putting an awful burden on some people who are probably the least able to afford to do some of the things that are in here. According to the way this would have to be addressed, it would cost thousands and thousands to tear it down and clean it up. You're probably looking at having to get an engineer and have an asbestos study and removal. I've got to tell you I'm 100% opposed to this. Under Definitions, number 2 it says abandonment means the failure to use or occupy a building for its principal intended purpose for a period of three years. You couldn't even sell Lester Lader's house up here.

W. Stevens: How did we address that, Matt? We talked that it could be a vacant building but there's people around it. Another one is Norton's property; there hasn't been anyone up there, but they're cleaning it up. I don't think it's going to pertain to that Gordon. The Town Board has the ultimate say as to what's going to happen.

G. Ireland: That raises another point. Legally, you guys are writing a law, you're passing a law, you're administrating a law and there's no recourse for a property owner in case he wants to take somebody to court. I never saw a law where you were judge, jury, the whole thing except in Texas where Roy Bean sat. I think this is an illegal law; probably the Town Attorney doesn't agree with me.

W. Stevens: I have to disagree with you because we've got to have some type of a law on the books....

G. Ireland: It's alright to have a law, but let me explain to you – you're doing the whole procedure. Now if you people didn't like me, you probably won't after tonight. But, I got to express my opinion, how I feel; and I don't think you can be a party to all sources like that. I think it's got to go through the judicial procedure; just like it does in a criminal procedure, and it's got to go through the justice court or some court like that - removed from you people. There's no recourse for the public if you didn't want to see things my way. So I've got to believe that it's an illegal law, as it's drafted.

W. Stevens: Okay, if there's no law on the books then we can have a Frankie Marcheterre situation, and I'm not using this name without people knowing what's going on, then we can have that situation in this town, any time you want; with no recourse for the Town. Do you know what that's costing us to take care of that mess up there?

G. Ireland: Frank was charged under State ordinance. That's the way he was originally charged. And somewhere in here, there must be a suggestion from the State that you adopt this procedure.

W. Stevens: The "abandoned buildings" was in the State code originally, wasn't it, Matt?

M. Kerwin: We added this section. It was separate from the State code; we added it. But it's something that a lot of other towns have; and it's handled the same way in other towns, as this. It's valid the way it's drafted.

G. Ireland: If anybody can be charged under the State code, why do we need this Town law? If we have a State code that addresses all this stuff, why are we paying the Town Attorney to draft this, I don't know how many drafts we've had so far. But if it's covered by State code, why do we need this?

M. Kerwin: I don't know if the State code covers abandoned buildings.

G. Ireland: We've got the State code already. Now you're doing something more, it may be more restrictive, I don't know, but I don't think they ever demanded that you adopt this. I've looked at this thing, it's been sort of a burr in my saddle I guess, but... you've got a couple of sections here... "unsafe buildings"; the Town Board still has the say on the whole program, going to be judge, jury, administrator of the program. You had a section in here on static objects...fastened to the ground...

M. Kerwin: Under the definition of structure, at the bottom of page two?

G. Ireland: Okay, if the plumb line passes so far outside the base of the object... you're sticking your neck in a noose because if you go through the cemeteries, especially the one down in the valley, all those gravestones are leaning. Who's going to cite you? And when I walked into this building today, the flagpole is in violation. Who's going to cite you on that? It's so ridiculous to stuff this down

everybody's throat. I just feel you're wrong. I've got to go back to one more thing; you're including farm buildings in too, then, I take it? Is that right?

M. Kerwin: Yes.

G. Ireland: Let me read you an article. (reading from a published article) "The State Legislature passed legislation to exempt agricultural buildings from the property maintenance and fire safety code." It was co-sponsored by both Democrats and Republicans in both the Assembly and the Senate and it was signed into law by the Governor. Now, am I the only guy that reads the paper?

W. Stevens: I did not see that article. I usually see those things; but that would supersede our law anyway, Gordon.

G. Ireland: But you guys have it in your law...

W. Stevens: That will supersede our law.

G. Ireland: You've got to take it out. This will make that law obsolete. Here's another one, now this is from the Farm Bureau; same thing. Evidently there's an Assemblyman or Senator still looking out for us; and I don't know whether the Town Board is or not. So my suggestion is to get rid of that law, we've got State laws in place. At best, you've got to certainly take some things out of there.

Councilor Lieberman: I have a question for Matt, if we have a local law that is more restrictive, more conservative than the State law, which one do we have to comply with?

M. Kerwin: Local municipalities can enact a more restrictive law than the State, but they cannot enact a less restrictive one.

G. Ireland: I don't know why you'd want anything more restrictive than the State has already got in place. And this gives the Town Board an awful lot of power; to demolish some structures, maybe some should come down; but on the other hand, maybe they shouldn't.

W. Stevens: You're basically talking about the farm buildings then?

G. Ireland: Well, I'm talking about the whole thing; but there's a farm law that's been signed by the Governor, that excludes farm buildings from this law. You're going to open yourself up to a lot of legal issues; you think you have a problem with Frank Marcheterre, just wait. There are buildings down on Spafford Landing Road, and if they were mine, I'd say take them, but those people may not say that. And I'm sure that you're going to have some legal fights there. You'll have some legal fights in other places; and the other thing is... I don't know how you describe farm buildings anymore, and who's a farmer? There's no description of what a farmer is today.

W. Stevens: I think if you gross \$10,000 you're considered a farmer. You can apply for tax exemption under a \$10,000 gross income, am I correct Bob?

Assessor Robert Brown: On land exemption, that's correct.

W. Stevens: If you're going to be a farmer, that's your criteria for whether you're a farmer or not. If you can't gross \$10,000 then you're just a hobby farm.

G. Ireland: Yes, but you're partially right and partially wrong. I know people that are getting farm exemptions that gross probably nothing.

W. Stevens: I agree.

G. Ireland: And I don't know if they're farmers or not farmers; we rent some of their land and they go through as farm exemptions. So when you get into these kinds of situations, we've got an attorney's bonanza.

W. Stevens: I think they're riding on your \$10,000 income.

G. Ireland: Well, they are.

W. Stevens: But they're not...buildings are probably not being used, for one thing. Under those terms, I think probably there's a legal precedent on that somewhere.

G. Ireland: That's what the public hearing is about. If there's legal precedent, or something we don't know...nobody knew about the farm law but me...it seems as though we should have all those answers before you pass some thing like this that the people here will have to put up with. I think this is a terrible law to try to dump on the town.

W. Stevens: Bob.

Robert Eibert: The last time I was here, you exempted the farm buildings.

W. Stevens: (To M. Kerwin) Didn't we the last time, exempt the farm buildings, under the last one?

M. Kerwin: That was from the building permit fee requirements; they are exempt under State law.

G. Ireland: I think you'll find somewhere in the minutes that farm structures were granted relief for the square footage charge, but I think we still required a permit to put up that building. Isn't that right, Bill?

Councilor Billy Vinzant: We did exempt farm structures from the building permit fees. Am I not correct, though, that there are some exemptions to fire codes for some farm structures, though, aren't there? And some farm structures very much have to be to code and some don't.

M. Kerwin: Doug could speak to that better than I could, but I know the issue was raised earlier this year.

B. Vinzant: Let me clarify one thing, the law as we currently propose it does not exempt farm structures.

M. Kerwin: That's correct.

K. Lieberman: Matt, flagpoles, tombstones, things like that that Gordon mentioned, do we consider those structures under our definitions on the bottom of page two?

M. Kerwin: The law is designed to address unsafe buildings, and if you look at the definition of building it says any building or structure or portion thereof used for residential, commercial, industrial or any other purpose so we're talking about something that's actually used as a building, not a flagpole or tombstone.

G. Ireland: You've got to remember one thing, over the last ten years we've had a couple of people riding around in their car taking pictures of everybody's property; and you're going to have the same thing all over again. This is going to be a field day made in heaven for two or three people. And I'll give you one other bit of information, regarding whether he can come on my property or not to look at it: he's not coming on without a court order. Period.

W. Stevens: Any body else have an opinion they want to share?

Gianfranco Frittelli: Could there be exemptions to allow for those with restricted income?

W. Stevens: No, that would be discriminatory. I don't think we should get into income or professions or things like that; everyone is equal as far as I'm concerned.

G. Frittelli: This may be a hardship for individuals with low income.

W. Stevens: I understand.

M. Kerwin: Webb, this law that Mr. Ireland was referring to.... are agricultural buildings required to be inspected by the State every year or every so often?

W. Stevens: No.

M. Kerwin: This states "while not the broad base exemption the New York Farm Bureau originally sought, and which was passed by the Legislature, the final language provides an immediate solution by exempting farm buildings used for agricultural purposes from inspections for compliance with fire safety and property maintenance code. The result will be that while farms will still need to comply with the applicable provisions of the code they will now be inspected for compliance with most farm buildings." I haven't looked at this; I haven't seen the law, but based on that language, I don't....

Jeffrey Ireland: I think you should call Ag and Markets, because they really frown on this and I think you'll find that they're not going to want this. They tried to do something down in Skaneateles and Ag and Markets stepped right in and said, "No, you're not." I think this thing should be looked at a lot more than it's been looked at, Webb.

K. Lieberman: Matt, that article you were just reading, it's saying that the State is now exempting the farms and barns from the building code law? It's not referencing any unsafe buildings?

M. Kerwin: It seems to be directing its attention to the maintenance code law. Again, I haven't seen the law, I can't comment too much on it. This law is designed to address those structures in the Town that are in such bad condition that they're a threat to the public's health and safety.

Unknown Speaker: Doesn't that fall under the County public health law?

M. Kerwin: The towns are obligated to enforce the laws within their jurisdiction; the County can't be going all over the place all the time. I don't know if the County even has a law to for this, I know the city does. I know numerous other towns do. I know the city frequently will take possession of a property, tear it down, and put the cost of the demolition onto the property tax bill.

K. Lieberman: Is it true that the State has a law for the same thing, or something similar?

M. Kerwin: I don't know if the State has an unsafe building law; I'm not aware of one. They have a building code, but whether they have an unsafe building law is a different story.

G. Ireland: We went through all that four or five years ago with Roy Scott. He came out, we had this character that was complaining all the time; so we took him around and showed him the buildings and so on and so forth. And there are abandoned building sections in the law. And you'll find when Frankie Marcheterre was first charged with that, it was under the State code. And there's no reason why he shouldn't have been charged with it and he could be just as well charged with it today if we've got the same problem.

You can pass a law that's more restrictive than what the State tells you to have, but you cannot pass one that's less restrictive. And you better have the words in that law, that he says doesn't affect farm buildings, you better have that corrected before you try to pass it, because it's going to come back to haunt every farmer that somebody's got a vendetta against. And it's going to be a horrendous thing for some of these people to clean out some of these places and I know some of them cannot afford to do that.

And I'll give you one more example of a building that has a lean to it, Janet Leiger's building. That was built with the walls tipping to the center; they called it a "hurricane building". And if you look at it, in as bad shape as it's in today, the walls tip in from the foundation towards the roof. There's a lean to it on all four sides, towards the roof.

The wording of this leaves something to be desired. It ought to be worded so that if any of us have to go to the Town Board, which I believe is illegal in the first place, we ought to be able to understand what we're up against.

I talked to Community Development a number of times years ago, because I was looking at a project in the Town of Spafford. At that time, I think it was 90% they would fund towards any given project and we had to put in 10%. It never went any further, because I had other things I was planning. But I approached them about a pilot program for demolition of buildings that should come down and people cannot afford to do it. I think it's something that you should look at. And if Doug Staley inspects a building and thinks it should be brought down. If the owner of that property were willing to put up 10% of the cost; you might get rid of some of the buildings with a lot less grief than what you're trying to push here. But it's a grant you've got to write and you've got to see if they'll accept it. It would be a pilot program; you could probably take down several buildings, if they extend it from one year to the next. But some of these buildings are going to cost \$25,000 - \$30,000 to take down; and that's an awful burden to stick on people. I don't care who you are, whether you've got money or not, it's a huge burden. You've got to have a little consideration for your neighbors.

M. Kerwin: Webb, the way this is drafted, yes, we include the term "barn" under structure but I don't believe the word agricultural is used in here. Any body could have a barn and not be a farmer; I grew up in a place with a barn and we didn't farm anything; we didn't have any livestock. I think the approach to take is leave the word "barn" in there, for those people who have a barn but aren't engaged in agriculture or farming. Doug is the guy in Town charged with knowing the State building code and

property maintenance code and how it works and how it should be applied. And if he gets a complaint from someone that says "Farmer X's barn is in a shambles; go up and take a peek at it." Doug's going to say, "It's an agricultural building, it's exempt under State law X."

I just want to point out that just because we used the word "barn" that doesn't mean we're talking about farm operations. There are exemptions in the State code for agricultural purposes. Doug is more in tune with what those are than I am.

Unknown Speaker: Webb, the attorney said there are other towns that have laws similar to this; has anyone looked at what kind of experience they've had with the law? Has it generated the kinds of problems that some of the folks in the room are concerned about and how they work?

W. Stevens: Matt's firm has dealt with some of the other towns, so he could maybe address that; whether there has been litigation.

M. Kerwin: Sure. I know three towns that we deal with have a similar law, maybe not exactly like this, but it addresses unsafe buildings and allows for the Town Board to force someone to repair or demolish the building if it's unsafe. I haven't come across where the Town has actually followed through on the law; not that it has never happened, but I'm unaware of it. The towns I've dealt with have been more inclined to work with the property owner to get to fix up their property; as we are with Mr. Marcheterre; than to order them to demolish it. It's a cost incurred by the town that's going to go on the property tax bill; there's no guarantee they're going to get that money back. It's not something that towns undertake quickly. They'd rather negotiate; it's used as a last resort.

G. Ireland: Well, I think it's the last resort in any zoning situation when you're trying to work this stuff out. It's when you can't work with them the last recourse is legal action. That's where it comes into thousands and thousands of dollars, which we all are aware of. But when the State has passed a law that says farm buildings are exempt and you try to scoot that with this local law; well that's just wrong.

B. Vinzant: Gordon, about five years ago I had grown rather frustrated with the Frankie Marcheterre situation. And I specifically asked you to check with the attorneys; and you told me that without an unsafe buildings law, that there was absolutely nothing the Town of Spafford could do; that we were essentially helpless. It's my understanding that that is a correct statement. That until we have such a law there is no State law that we can go back on.

G. Ireland: Not from me, you might have got that from Bernie Reagan. But there is an unsafe building law somewhere in that State code and that is what Frankie Marcheterre was charged with. I just want to make sure that you know what you're getting into when you get into this thing. All you've got to do is go down the road and you will find a number buildings and the owners will say we're not going to clean it up because we can't afford it; your recourse is to cite them and clean it up and it'll go on their tax bill and then those people are going to lose their place. I've got some sympathy for the people that can ill afford to do that. Some people can afford to do it, others can't.

B. Vinzant: I've got some sympathy for this guy in town, whose neighbor's barn recently fell onto his property. Now some remedial action was taken but that barn should have been down years ago. It was leaning more and more until it fell on his property. That's a silly situation to have happen in the town. Once again we had no recourse, as far as I know, against that.

G. Ireland: I think you've got recourse through the State, if somebody wants to research the State law.

K. Lieberman: Matt, let's assume that there was a New York State unsafe building law, for argument's sake; wouldn't the end results be the same? Say the State was the one mandating these rules and the building had torn down. The State would look to offset those costs through the individual anyway. If all those assumptions are correct it would just seem that the end result would be the still be the same – it would be the individual paying for it. Do you see what I'm saying, Gordon?

G. Ireland: That's the same thing that I'm saying. I'm telling you that somebody and I don't know where to find it in the State law, and I don't think this guy does; and I don't have access to a computer. You're passing something that's got some flaws in it. And when you bring that up here to a public hearing, people are supposed to be able to be heard and explain their problem and how they see it and not get an attorney's wishy-washy answers with "I think its okay, but I'm not sure." You can't do that. You've got to say, if you're going to put the farm buildings in there.....

W. Stevens: I'll tell you what I'm going to do; this is getting us nowhere. I'm going to have Matt go back and research that and find out if that is on the laws. Let's see if it is on the laws to satisfy Gordon. If it's not on the laws, we're going to continue with this one. We need something in this town. Now if we need to exempt agriculture, if that'll satisfy the Irelands, we will exempt agriculture. (To Matt Kerwin) Can we do that? One word.

G. Ireland: We did that two or three months ago and we're right back here again.

M. Kerwin: Let me look and see what's there. I'm not aware of any Webb.

W. Stevens: You're not aware of any laws?

M. Kerwin: I'll look. If that's what you want me to do. I'll look and we can come back next month and go from there.

W. Stevens: Alright. Why don't we do that.

J. Ireland: I'm telling you, you should talk to Ag and Markets.

W. Stevens: We'll talk to Ag and Markets.

J. Ireland: Bobbi Harrison. She was down at the Cedar House.

W. Stevens: We'll talk to Ag and Markets; and we'll see what Ag and Markets has got to say about it. But you're talking about agriculture, Jeff.

J. Ireland: That's what I'm talking about.

W. Stevens: Well, what's he talking about. We got two different conversations going here. We need to get a definite idea of what we're talking about. He doesn't want abandoned buildings at all; you want agriculture.

G. Ireland: Webb, I didn't say that.

J. Ireland: No, he didn't.

W. Stevens: You don't want this abandoned building law?

G. Ireland: I don't want any of this law because there's a place in the State that says...

W. Stevens: That's the abandoned building law then, this is what we're talking about.

G. Ireland: The State has got an abandoned building law that can be applied to any type of an abandoned building that you feel is abandoned.

W. Stevens: It's the same end results then Gordon.

G. Ireland: Why are we double dipping on this?

Nancy Ireland: Why would you be determining it?

G. Ireland: Why are you putting this all on agriculture?

W. Stevens: Who's going to be the judge and jury then, Nancy? (To Gordon Ireland) Your Town Board, you're the ones that followed through on Frankie. You're the ones that said to Bernie Reagan, "prosecute him"

G. Ireland: Webb, don't start that stuff, because we took it to the justice court. It went through the justice court, the whole bit; and there's where it went. The Town Board said, "Look, we got a problem here." Staley cited him. We took him all the way through this whole thing. And then we had another guy that took it to the Office of Judicial Conduct in Rochester, which delayed it another two years for no good reason. So don't tell me that the Town Board did it all.

W. Stevens: You authorized Bernie Reagan to prosecute him, is that correct? Did the Town Board authorize Bernie Reagan to prosecute him?

G. Ireland: Bernie Reagan prosecuted through the justice system; he didn't do it through the Town Board.

W. Stevens: The Town Board authorized that.

G. Ireland: That's a different story. Money has to be authorized through the executive department; whether it's here or the county or wherever it is.

W. Stevens: But the Town Board still authorized the prosecution.

G. Ireland: That's a different issue.

N. Ireland: You're saying your going to decide who does this and who doesn't.

W. Stevens: If they want to go to the judicial part of it, they probably can.

G. Ireland: Well “probably” and “can they”, you’re not...

W. Stevens: Nobody says they can’t. I don’t think it’s written in there that there is no other recourse. There’s always lawsuits. Am I correct, Matt?

N. Ireland: Yes, but you shouldn’t be doing it in the first place.

W. Stevens: Who’s going to do it, Nancy?

G. Ireland: The guy that’s been charged has got a right to a fair trial. And if he can prove his case, he’s entitled to do that. You can’t levy the fine, if there’s a fine in there. A guy would never have a foot to stand on. This is the Roy Bean court for God’s sakes.

W. Stevens: Now I have to disagree with that.

G. Ireland: Well you read that law; you’ll find out.

W. Stevens: I don’t think that law is a Roy Bean court law; to tell you the truth.

G. Ireland: Well you tell me how you differ from him.

N. Ireland: Are you representing the people of Spafford or your own interests?

W. Stevens: I’m trying to represent everybody. I only hear one person that objects to this. One person.

Jeanne Kurtz: Well, nobody knew about it.

W. Stevens: This thing has been advertised. There’s web pages, we’ve advertised. Is that correct, am I correct, it’s been advertised?

Town Clerk Lisa Valletta: Yes.

J. Kurtz: Well, you didn’t have an open meeting on it, though.

W. Stevens: What do you mean “an open meeting”?

J. Kurtz: Last month.

W. Stevens: We certainly did. Were you here? This has been open to the public for six, seven months.

J. Kurtz: It doesn’t sound like you’re representing the people that elected you.

W. Stevens: One person. Am I to represent one person, Jeanne?

J. Kurtz: I can't name any names, and I'm sure you understand that, but we've had calls all day long. We aren't the only people, except they're afraid to come and stand up.

W. Stevens: They've got to come and stand up.

J. Kurtz: They're not going to do it. That's why we're here, to stand up.

W. Stevens: Well, I commend you for that.

J. Kurtz: As God is my witness; we are not the only ones.

W. Stevens: Well, you folks are my friends.

J. Kurtz: And I don't want us to have any trouble.

W. Stevens: We're not going to have any trouble.

J. Kurtz: But this is a bad law.

W. Stevens: It may be in your eyes; but there might be somebody else here that says this is a great law.

Johanna Frittelli: When Mr. Scott was here, from the State, he said there was not a thing we could do because our local laws did not talk about unsafe buildings and until we changed our local laws we were helpless. Now that was from Mr. Scott, I remember him speaking to us very clearly.

B. Vinzant: I do believe he asked for such a law. Its cost this town many, many thousands of dollars and it's not going to stop until the Town takes a little bit of initiative and a chance to get on top of the situation. Now, some of the things you pointed out Gordon, were very true. And there are certain people in this town that cannot afford to do some of the maintenance. This town cannot afford to go through another episode like the last one we went through and not do a thing in the world to defend ourselves.

J. Kurtz: It wasn't the law, it was the people that were pushing the situation.

B. Vinzant: I had the attorney's advice that there was nothing we could do.

J. Kurtz: Well, they did. They're going on five years with it, because other people stick their nose in. And that's what's going to happen now.

W. Stevens: But we're working on it.

J. Kurtz: There's people who are going to travel around the roads; they're going to find problems.

W. Stevens: You are probably correct.

J. Kurtz: I mean they'll complain about people that live ten miles away from them.

W. Stevens: But they can still travel around the roads and still find those problems; because you said it's on the State laws. So what's the difference?

G. Ireland: If it is in the State law, then why are you dealing with it? If there's a State law in place?

W. Stevens: Well, I'm not sure there is a State law in place.

G. Ireland: Well what do you think Frankie was charged with?

W. Stevens: I'm not sure. I was not involved in it.

N. Ireland: Well he was. (meaning Gordon)

W. Stevens: I know, but he also claims the Town Board didn't authorize Bernie Reagan to prosecute him.

G. Ireland: Webb, I didn't say that. Let me give you a little guide to, because I don't like this misrepresentation. The Town Board found out that there was a violation there. The Town Board had to apprise the Town Attorney because he prosecutes. Doug Staley got him into court with John Yuhas. And from John Yuhas, you know what happened from there on in. And then finally they declared that another justice had to handle the case; so they sent it over to the Town of Otisco. We didn't authorize anything. We authorized to pay the bill for Bernie Reagan as the prosecuting attorney which was his job. So don't tell me we did all that stuff as the Town Board. We paid the bills, and that's the way it works. We don't go around picking on somebody's property. That's up to Doug Staley. So that it's right in the record, I want you to understand that.

K. Lieberman: Well, perhaps we ought to proceed with facts. I mean we're going to know soon, from Matt and his firm, whether there's a State law or there isn't. Until then we're at an impasse.

W. Stevens: Would you be satisfied if we removed the word "agriculture", exempt agriculture; or are you going to be against this whole law?

G. Ireland: I'm against this whole law because I don't think its necessary; but "agriculture" is a start. And you've got something right here; I've got three different articles that say farm buildings are exempt.

W. Stevens: Is that commercial buildings, Gordon? Like at Beak 'n Skiff's, they're considered a farm, now you're inviting the public into those, is that those buildings? Are they talking about that? Or are they talking about your hay barn?

G. Ireland: It says, "farm buildings".

W. Stevens: That's pretty broad.

G. Ireland: I hope it is. That would include my buildings and anybody that is legitimately in the farming business. No I don't know where you break the line as to when somebody says, "Oh, I'm leasing my farm to somebody else" and he says, "I'm still a farmer". He probably doesn't get \$10,000 a year in

rent. So you've got another little legal issue there. How do you say who's a farmer and who's not a farmer? You've got some work to do on that thing before you put that up to the public.

W. Stevens: Has anybody else got anything to put into this?

P. Clark: I just wonder how you measure the center of gravity in a wall, without taking the wall down.

W. Stevens: (laughing) Okay. I don't know. Well, (to the Town Board) what do you want to do? Are there any other questions?

M. Kerwin: Like I said, I'm not aware of any unsafe buildings law by the State. I believe the State leaves that up to the local municipalities to take care of; and that's what every other local municipality I've come across does. They've got their own unsafe buildings law; they enforce it as they will, and that's it. But if you want me to look into it, I'm more than happy to do that.

W. Stevens: We're going to ask you to do that because we need to satisfy some people here as to where we're going with this. Look into Ag and Markets; and the agriculture exemption. And why don't we adjourn this until the next meeting?

A motion to adjourn the public hearing was made by Councilor Vinzant, seconded by Councilor Lieberman. The motion PASSED. AYES – 5, NAYS – 0.

EXECUTIVE SESSION

A motion was made by Councilor Lieberman, seconded by Councilor Vinzant to recess the meeting to executive session to discuss the employment history of the Sole Assessor and recommendations for requirements of a new Sole Assessor. The motion PASSED. AYES – 5, NAYS – 0.

RETURN TO OPEN MEETING

A motion to return to open session was made by Councilor Vinzant, seconded by Councilor Lieberman. The motion PASSED. AYES – 5, NAYS – 0.

HIGHWAY DEPARTMENT

There was a discussion of the Highway Department's activities this season and the highway equipment.

Adjournment

On a motion by Councilor Lieberman, seconded by Councilor Vinzant the meeting adjourned at 9:20 p.m. subject to the Call of the Town Clerk. Carried unanimously.

Respectfully submitted by,

Next meeting to be held
September 13, 2007 @ 7 p.m.
@ Spafford Town Hall
A public hearing is scheduled with this meeting

Lisa M. Valletta
Town Clerk
Town of Spafford