

Highway Fund # 54 through # 69 \$ 24,881.21
(Highway Fund includes Machinery & Snow bills when applicable).

SOAWD EXPENSES

Mr. Chartrand provided a print out indicating the water district financial activities. Eminent domain process is not complete at this date.

RESOLUTION 51-2008

Water District Expenses

On a motion by Councilor Ireland, seconded by Councilor Fesko the following resolution was

PASSED AYES – 5 Stevens, Fesko, Lieberman, Clark, Ireland
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 # 33 through # 49 \$1,222,325.13

TOWN SUPERVISOR'S MONTHLY REPORT & STATEMENT

Accountant Thomas Chartrand reviewed the Town Supervisor's Monthly Report & Statement for April 2008. It was a quiet month. There were no questions.

Mr. Chartrand suggested a budget transfer for engineering services relating to Spafford Landing Road culvert work.

The Town Clerk's Cash Books for 2007 and the Town Supervisor's 2007 Records have been reviewed.

RESOLUTION 52-2008

Budget Transfer

On a motion by Councilor Clark, seconded by Councilor Fesko the following resolution was

PASSED AYES – 5 Stevens, Fesko, Lieberman, Clark, Ireland
NAYS – 0

Resolved to authorize the transfer of \$500 from General Fund A1990.4 Contingent, Contractual to General Fund A1440.4 Engineering, Contractual.

2007 Town Clerk Cash Books

On a motion by Councilor Fesko, seconded by Councilor Lieberman the following resolution was

PASSED AYES – 5 Stevens, Fesko, Lieberman, Clark, Ireland
NAYS – 0

Resolved to find a positive audit of the 2007 Town Clerk Cash books.

2007 Town Supervisor Records

On a motion by Councilor Ireland, seconded by Councilor Fesko the following resolution was

PASSED AYES – 5 Stevens, Fesko, Lieberman, Clark, Ireland
NAYS – 0

Resolved to find a positive audit of the 2007 Town Supervisor Records.

TOWN SUPERVISOR'S MONTHLY REPORT & STATEMENT

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

TOWN CLERK'S REPORT

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

CODE ENFORCEMENT OFFICER'S REPORT

Mr. Fairchild reported thirteen new permits were issued and nine applications were made to the Zoning Board of Appeals. Mr. Fairchild has completed the State required 2008 zoning training to retain his certification; he has completed nine hours of codes training to date.

Actions:

- Mr. Bresadola, Shamrock Road, received a final notice prior to an appearance ticket for code violations on his property. He has met with Mr. Fairchild and will work to correct the violations.
- Mr. Suits, Spafford Landing Road, received a Stop Work Order. A building project is close to completion; no permit was issued by the Town of Spafford for the project.
- Assembly/Fire Inspection done at c.1820 House – letter sent to Mr. Schreiner listing violations.

A motion to accept the Code Enforcement Officer's report was made by Councilor Ireland, seconded by Councilor Lieberman. The motion PASSED. AYES – 5, NAYS – 0.

RESOLUTION 53-2008

Appleton Disposal Bill

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

Resolved to authorize payment of the Appleton Disposal bill for April 2008 upon verification by the Town Clerk.

CEMETERY RESTORATION

Assemblyman Brian Kolb notified Councilor Ireland that \$5,000 is available to the Town of Spafford for restoration work in the town cemeteries. Mr. Chartrand reminded the Board of the need to follow the Town's procurement policy and to adhere to prevailing wage rates if a project is over \$2,500.

SOAWD

Mr. Bernard Reagan and Mr. Jeff Rowe, SOAWD engineer from Barton & Loguidice, provided a progress report to the Town Board:

- ~ Remaining right-of-ways due to be presented in court on May 15. Contractors given authorization to begin work in areas where the right-of-ways have already been granted.
- ~ 35 – 38 reduction valves will be placed in the new water line to control pressure at the point of service. Probable cost if installed by SOAWD is \$20,000 and can be completed in a timely manner. This cost is over the original bid. There would be no additional cost to the homeowners; there is sufficient contingency money to cover this cost.

There was a discussion of the various monies involved in SOAWD and the source agencies, (Environmental Facilities Corporation, Environmental Protection Agency, and Onondaga County Community Development).

DEPT. OF ENVIRONMENTAL CONSERVATION

Marie Kautz, Region 7 Wildlife Manager for NYS DEC, spoke about the feral hog population in the area and the DEC's intent to eradicate the population.

PUBLIC HEARING – PROPOSED LOCAL LAW 2008-3

A motion to open a public hearing at 7:50 p.m. for discussion of proposed local law 2008-3 pertaining to unsafe buildings and structures was made by Supervisor Stevens, seconded by Councilor Lieberman. The motion PASSED. AYES – 5, NAYS – 0.

~ *(Gordon Ireland) Is this law ready for passage tonight?*

~ It is ready for passage tonight. We've put a lot of time into this; we've had a workshop on it; this was presented last year; some of the wording wasn't what people wanted, we took stuff out of it; we have reworded it. It's a law that probably is necessary. I know that some people are not going to be happy if it does pass; but there's going to be a few people that are just as happy as you are unhappy. It does give us some control over what does go on in the town.

Following are the questions/points raised in a letter submitted to the Town Board followed by Supervisor Stevens responses:

~ *Is not this a law #2008-3, what a few would like versus what is right?*

~ I don't know that it's a few that want this law. There are not a lot of people here tonight; I don't know how many are in favor of this law; I don't know how many sitting out there are against this law. But I'm not so sure it's not right. The word right can be used for anything; sometimes a lot of things aren't right. But what is best for the whole is what I would consider to be right; not just a certain few. I have to look at what's best for the whole community. I don't like some of this stuff, but it's what the whole community would benefit from, not just for my personal benefit.

~ *Is Spafford a rural or urban community?*

~ I think that's self-explanatory; I believe it's a rural community. If any of you Board members have anything to say, you've all got a copy of this letter, so speak up.

~ *If rural, then how does local law 2008-3 benefit the poor farms in this community?*

~ That's a difficult question to answer; because I don't think this law can be for farms, or houses, or anyone; this is for the community. There are certain farms in the community; there's not too many of them left that are operating farms in this town; but there are farms here. It's not that detrimental to farms. We've got two, or three, farmers that are on this board and this thing has been pounded on and I don't believe it's unbearable on the farms.

~ *Does Section 9, page 4 of this local law seem burdensome or overbearing or threatening, claiming exorbitant fees or imprisonment?*

~ I don't believe any of it is meant to do anything like that. I don't know as its overbearing. This law is not something that is only for the Town of Spafford. We've drawn on other laws in other communities to put this together. We did not use any one particular; we did use as a base one that

was given to us and we tried to draw from other communities. This abandoned building law is in other communities; and we don't have to be exactly like other communities, but it is a necessary thing. So, I don't believe we've put anything in here that is overbearing, burdensome or threatening or exorbitant fees. I believe what we're talking about is the penalties and offenses; and maybe if somebody knows that there is a penalty and what the fee might be; then there might be some incentive to try and keep things half-way decent anyways. I don't want to see somebody run out and start taking pictures and start to file complaints against people and misuse this because that is not what this is intended to do. It's to help the community in certain instances and try to work with the people in this town.

~Please identify the locations of due process in your law 2008-3 and explain.

~ If there's a violation, the Codes Enforcement Officer will be told about the violation. At that time there will be an investigation done on it; if it's found to be in violation of the law then there will be an issuance of an appearance ticket to appear before the Town Justice at which time he will adjudicate the case. Is there anything other than that Kim (Fairchild)?

~ (Code Enforcement Officer Kim Fairchild) Just that the Town Board has final say.

~ (Supervisor Stevens) The Town Board is going to have a final decision on, not all of it; it's going to be when it's getting to the point of it's going to be torn down or something of that nature. Where it's going to be kind of a severe situation where the Town Board is going to have the final say. Maybe the Town Board won't act on it; maybe they'll feel there should be some leeway; that is going to be at the discretion of the Town Board.

~ On page 3 and 4 under Investigation what does "basis of information" mean and is that information a public record?

~ There would probably be a complaint filed by someone stating that an unsafe situation exists. Someone has told the Code Enforcement Officer and he is not aware of it or anything like that; because there are some things that go on that he may not see, he doesn't patrol the town all the time; but there may be a neighbor that sees where there's an unsafe situation that exists and maybe it should be addressed.

~ How does this law 2008-3 affect the supreme law of the land as constitutionally synonymous with "that no person ought to be imprisoned or divested of his free hold of liberty"?

~ I'm not going to address that. I don't believe that has anything to do with it. I'm not an attorney; I'm not interpreting the U.S. Constitution; I have no intention of doing that.

~ "With the expectation that the house to everyone is to him his castle and fortress as well; for his defense against injury and violence for his response as well; the poorest man may in his cottage may bid defiance to all the forces of government predation. It may be frail, its roof may shake, the wind may blow through it, a storm may enter in, the rain may enter but the government cannot enter." Explain how Spafford town law 2008-3 is respectful of these God-given freedoms, guaranteed by the Constitution.

~ First of all, it is not the intention of this law to enter your house. The law states that it is to be abandoned for a period of three years, not used for what it was specifically built for and in poor, poor condition. If you want to live in a house where the wind blows through with fuel oil at four dollars a gallon, wood one hundred dollars a cord, that's your privilege; we're not here to destroy your home.

~ *It is my personal contention this law 2008-3 is not respectful but rather a disgrace to all those who in the past gave their lives for such liberty.*

~ I appreciate every veteran and every one that is serving in our armed forces. I have the greatest respect for those people. I don't believe we are infringing on anyone's God-given rights.

(End of letter)

(Stevens) Does any one else have anything to say? Gordon.

~ *(G. Ireland)*

We have had an individual for several years; and there's a lot of stuff in here that if they want to use this against your property, you're talking about electricity, you're talking about the septic systems. With electrical, any house that is fifty years old is in violation of this law. And if they want to be thorough enough about it, they could charge it right then and there. It doesn't have to be falling down to be in violation on this law. The other thing is the septic systems, that's County health department problem, they handle that, I don't even know why it's in here; it's a duplication.

I think the time frames on page 4 seem to be a little too quick. I know a guy down the road that has a house, the interior was pretty well gutted he boarded it up; no one can get in or out of it. When we had a Codes Officer from State government he said as long as the place is boarded up and people didn't have access in or out of it; there's not much that could be done about it.

This kind of looks to me like a law that if somebody used it incorrectly it could cause a lot of grief for a lot of people that are probably pretty good citizens of this town. I kind of feel it's a violation of what we're all about up here. I guess I got to speak for ones that don't show up; it's too bad they don't but you can't change that. All the legal paraphernalia has been filed and advertised and people should be here at these hearings. I'm sure this thing is going to pass tonight as much as I can gather from what little I've heard about it.

And the other thing is some of these cases are going to go to court. And you don't have any guy that's a structural engineer; if they've got the money, you don't have a structural engineer that can tell you if that building is unsafe or not. I don't think our Codes man is; I've got all the respect in the world for him, but I don't think he's qualified to go in court and say "I'm an expert". This thing could be very, very expensive for us before we get done.

(Stevens) Peter.

~ *(Peter Payntar)*

I think everything you said, back and forth, with that letter, it's for the majority, not the minority. It's for the whole, if it doesn't say abandoned for three years, unlivable, and some kid gets in there and gets hurt; they sue the town, they sue the person, they settle out of court at taxpayers' expense. A lot of people don't even hear about it. We're not headhunting farm people, we're not headhunting anybody; it's unsafe and dangerous to the population. It should be corrected, that's why we have a

Codes Enforcement Officer, to go in and correct it for the majority of the people. I think it's right 'cause it's protecting everybody. We aren't going to pick on one person. At one time we charged \$40 to file a complaint; we found that was illegal, we pay for that with our taxes. If it's a good complaint, we have a qualified Code Enforcement Officer now, a good one from what I hear, and they can work it out from there.

(To Supervisor Stevens) Everything you said made sense; I don't know why anyone wouldn't agree with you. You're not going after the poor farmer or the poor veteran, or the poor whoever because if someone gets hurt, there's going to be a lot more trouble. The intimidation of being sued scares people; it doesn't really scare me if I think I'm right; and if I'm proven wrong that's a different story.

(Stevens) I understand your point, Peter. Jeanne.

~ (Jeanne Kurtz) *Why does the Board decide on this law? Why isn't this put to the voters?*

(Stevens) This is not something that does go to the voters. This is a local law and the Town Board has....

~ (J. Kurtz) *No one knows about it. There's a very few that have been behind it for years and they're pushing it through; but the majority of people don't know what's going on here. Are you telling people in Spafford?*

(Stevens) You know what Jeanne, this thing has been advertised; we started it last year. It's been talked about, we've rehashed this, I think it's been.....

~ (J. Kurtz) It's just the certain ones that are pushing it through.

(Stevens) No, I have to disagree with that, Jeanne.

~ (J. Kurtz) It's doesn't affect me, either way, I don't care. But there are a lot of people that cannot afford to take down old barns or old houses; they don't have the money.

(Stevens) Well, that may be true, I'm not sure that's true...

~ (J. Kurtz) Well, it is. It is.

(Stevens) ...I don't know whether it is or not maybe nobody will have to take down any buildings. But it's there to protect the town; and you're one of the taxpayers in the town. Gordon.

~ (G. Ireland) *We had a case at the Forrest Home Hotel, a few years back when I was Supervisor. The guy had it for sale for a few years and it didn't move. Finally a guy come along and says "I'll buy it and bring it up to code" and so on and so forth. We had a Code Enforcement Officer who said, "You can't sell it you got to tear the thing down". Bernie Reagan was the town attorney at that time and he says, "you're headed for a lawsuit". And that's just one instance that I give you. They finally resolved it; it cost us some legal money, but we were going to be sued. There's where that three years is somewhat of a problem; it could be vacant for ten years, what's the difference, as long as it's sound?*

(Stevens) There is no difference; but we have to have some kind of a date in there; where we'll start and where we're going to stop. I can understand, there's houses in this community right now that are vacant; been vacant for quite a while but they're still sound, and no one's going to bother them.

~ (G. Ireland) *The other thing is what if we have a guy running around making a lot of complaints, what recourse does the guy have that's being complained against? This has happened; this happened down on Dick Withey's farm a number of years ago. The DEC was up there time after time and the guy says there's a manure pile out there. There was no such thing out there, whatsoever it was wood shavings. But they kept calling the DEC, sending the DEC out; and they had to go out and waste their time to satisfy this character. Is there going to be a penalty in here for somebody that makes a complaint that is false; to protect the rest of us so that we don't have to hire an attorney to go to bat for us every time this guy comes around with his camera? That's one of the things I'm concerned about.*

~ (Stevens) Well I think these people got enough common sense to use a little common sense, I think probably we would be all right. We've got a Codes Enforcement Officer that I talk with regularly and if these things are frivolous they're not going to get any attention. I'll guarantee you that.

~ (G. Ireland) *The guy with the complaint against him has got to show up at these meetings and be heard; and maybe his time is somewhat important. I just don't want to have to keep coming in front of the Town Board to resolve a complaint.*

(Stevens) We might not even address it.

~ (G. Ireland) *I did a tour of the town not long ago...*

~ (Nancy Ireland) *You have to.*

(Stevens) No, I do not have to address it, Nancy. If it's a frivolous complaint, we do not have to address it.

~ (G. Ireland) *You don't really know if it's frivolous until somebody goes there.*

(Stevens) You can go down there and take a look at it; if it's frivolous, that's the end of it. (To Fairchild) Am I correct?

(Fairchild) Right.

~ (G. Ireland) *But if it is a frivolous complaint, that is the guy that you should be fining, not the one that it's filed against.*

(Stevens) We're not going to fine somebody for that; I'm going to state that right here and now. The individual will be talked to and he will be told this is not going to happen. He already understands a certain amount of stuff; you haven't heard from him in three years; and I mean it.

~ (G. Ireland) *There's always somebody else that surfaces, Webb. I think the thing was handled appropriately as far as legally. It was advertised and all that, if people don't read those articles... I*

don't know what more you can do about this town law; and it's up to you guys to pass it and it looks like you're going to.

(Stevens) Frank.

~ (Frank Moran) When a law like this is passed, let's say it proves unworkable in the community; is it real difficult to get a law like this changed or adjusted?

(Stevens) No, we can rewrite the law. We can take out sections of it, if we decide to do that. We can add sections, just like we're adding an abandoned building section to codes law right now. The Town Board can change that.

~ (F. Moran) I know you folks exercise common sense, if there were too many frivolous complaints, it was too much hardship for certain individuals, if you would revisit this law and adjust it accordingly?

(Stevens) What are you talking about when you say hardship? I want to know what your definition of a hardship is in this law.

~ (F. Moran) You take an individual who's trying to comply; doing everything he possibly can to comply, I would think that that would be taken into consideration.

(Stevens) That's at the Town Board's discretion. That's why we drafted it this way.

~ (F. Moran) I think then, you've got the bases pretty well covered. I really do.

(Stevens) This Town Board here is made up of pretty common sense people; all of them. What happens down the road, I cannot answer for those people...

~ (F. Moran) I understand.

(Stevens) ... but there's enough people that you're not going to have a complete flip on this Town Board. It's going to be able to say "look, this is what was intended" and that's the way it should go; that's why the Town Board has got final say on anything in the nature of tearing down a structure or anything of that nature; the Town Board has the final say. Gordon.

~ (G. Ireland) A couple of points - the No Trespassing law used to mean something; and I don't care who it was or what it was, if it's the Code Enforcement Officer or whoever it was; when you see a sign out that says "No Trespassing" it doesn't seem to matter anymore. The other thing is, if you're going to pass this law I suggest you put a sunset clause in there saying a year from today you'll revisit this law.

(Fairchild) The "No Trespassing" is still effective, I can't go on your property without your permission.

~ (G. Ireland) Well, I'll tell you, if you come with a frivolous complaint to my place, you're not coming in. I don't dislike you, but you're not coming in.

(Stevens) Billy.

~ (Bill Howley) *What percentage of rural towns in New York have a law like this? Because I'm a salesman that travels the state of New York, and when you get out in a lot of the rural areas of New York you'd have to tear down 30 - 40% of the town; I see towns that are completely abandoned. There are some very poor areas; in one area you can buy a 600 acre farm for \$25,000. You don't see that around here. If this law was prevalent throughout the state, you'd have to tear down 30% of the towns; so you have to bear in mind the consequences of action coming back at you.*

(Stevens) There's always consequences in any of these laws, Bill. I can't answer the percentage, our Codes Enforcement Officer here, maybe he's got the answer; that percentage I do not know. Anybody that's got a zoning law has got an abandoned buildings law.

~ (B. Howley) *We've had zoning in town for years, but we never had an abandoned building law.*

(Stevens) We took it out but the State's been after us to put it in. We took it out when we passed the one last year. We took it out, but it was strongly recommended by Dick Thompson that it be done. Peter.

~ (P. Payntar) *(unclear statement) Thompson said, if the town doesn't have that law, they are liable. He's been out here two or three times in the last five or six years. Mainly about the property at the intersection down here at the corner; and we all know what that's about. He's the one that actually brought that to light, more than anybody. Two or three of you on the Board helped put that thing together, right?*

(Stevens) That's right.

~ (P. Payntar) *It's for everybody, not just a few; it's the majority.*

(Stevens) But we can't go headhunting once the...

~ (P. Payntar) *We aren't going headhunting..*

~ (N. Ireland) *How do you know it's the majority?*

~ (P. Payntar) *If you had a property, and you kept it up, and you had one of these other properties right next to yours, you couldn't give your property away. Not only is he stealing from himself, because of property value, he's stealing from you; because you couldn't give your property away.*

(Stevens) I understand.

~ (P. Payntar) *It's to protect the majority; from lawsuits and everything else and safety.*

(Stevens) Has anybody else got any other comments?

~ (G. Ireland) *I hope this isn't a law being passed to pick on just one or two people in town that certain people don't like. If that is the case, you shouldn't vote on this law. I hope that's not the case; I know exactly what he's talking about. We've had this one guy in court twice; I don't think it's been resolved. You're talking about three years, and this one has been three years. There used to be one*

trailer down there on Willowdale, now there's three down there; so I don't think the second court appearance ever amounted to much.

(Stevens) Well, I can assure you on the first statement there, Gordon, that this is not precipitated by any group of people.

~ (G. Ireland) I think some people approve of it though...

(Stevens) I sat with Rick Fesko, with Mr. Thompson; Rick's sitting right here, he can tell you, you don't have to take it just from me, he knows what was said...

(Councilor Fesko) They strongly recommend we have this law.

(Stevens) We need to follow through on it; we're not doing what any one or any group of people want.

(Fesko) I truly hope, we've set it for the Board to have final discretion on most of these and I hope that they use this law strictly for unsafe buildings; for the public. We have a lot of buildings in this town that are basically, probably unsafe, but the public isn't even anywhere near any of them. So I hope, we have enough discretion to say that if somebody's got a barn, and there's no houses around it or anything; and he wants to let it fall down, let it fall down. It's his privilege to let his barn fall down. But if the neighbor's house is right next door and the barn might fall on the neighbor's house, then I think the Town should take appropriate actions. And I hope this law is used with that discretion; and we have this law to enforce that discretion. So that's basically why I am in favor of this law. And I hope it's used the way it should be used.

(Stevens) If we don't put this law in, we can go by the State law; the penalties you would not like. If you really think you've got penalties in here, let me tell you what the penalties are for the State law: it's \$1,000 and....

(Fairchild)...jail time and a misdemeanor on your permanent record.

(Stevens) ... so there is a State law, but this would take care of the State law.

~ (G. Ireland) But if you really wanted to, you could charge anybody under the State law and you wouldn't have to have this law.

(Stevens) Not necessarily, not all of it.

(Councilor Lieberman) I know it's confrontational; we struggled with it for quite a while. I contacted the Department of State, Cheryl Fisher, and asked, "yes or no, are we required to have our own law in Town or not?" And she wrote back that yes, we are required to have a law; and each town is supposed to have an unsafe building law. They can develop it through a local ordinance, a local law, or by procedure. And that's been around since 1984; we haven't had one. She said we've got to have one; and I agree with what Rick is saying. It's not just for abandoned buildings, it's for unsafe ones. If your house is empty for fifty years but it's still in good shape, then this law doesn't apply to that.

~ (G. Ireland) Well there's lots of ways to interpret this thing.

(Stevens) You can interpret any law in any way; there's always the "wherefores and whereas's and therefores"; a lot of the laws that were done when the original zoning was done can be interpreted in several different ways.

~ (G. Ireland) *Why wasn't it put into the zoning law that you're rewriting, why not incorporate it into that?*

(Stevens) That isn't done yet.

~ (G. Ireland) *But it's in progress.*

(Stevens) The guy is working hard on that, I know he is; it's a difficult job. I'm not pushing on it, because it's not an easy job; but it's something we've got to get done.

~ (G. Ireland) *I'd like to see you put that sunset into effect then bring it back in a year's time to see how it's working; and if it's working to everyone's satisfaction, then I won't have a problem with it.*

~ (P. Payntar) *If the State requires we have it, why mess around? I think we should have it to protect ourselves, and to protect everybody. If a barn's way out and there's no houses alongside it, no ones' going to really complain; but if it's your neighbors, it's unsafe, kids could get in and get hurt.*

(Councilor Ireland) I think we're going to have a real problem if we don't stick to the law for unsafe buildings.

~ (P. Payntar) *You're saying we have to have it, right? We should have it?*

(Stevens) We should have it.

(J. Ireland) No, I mean... we all know who we're talking about...and someone's going to come along and... we tried to do something and... that's where I'm struggling with this.

INDISTINCT COMMENTS

(Stevens) Are there any other comments?

There were none.

CLOSE PUBLIC HEARING

A motion to close the public hearing at 8:26 p.m. was made by Councilor Clark, seconded by Councilor Lieberman. The motion PASSED. AYES - 5, NAYS - 0.

RESOLUTION 54-2008

Enact 2008-3

On a motion by Councilor Fesko, seconded by Councilor Lieberman the following resolution was PASSED

AYES – 4	Stevens, Fesko, Lieberman, Clark
NAYS – 1	Ireland

WHEREAS, a Local Law has been introduced before the Board, to wit: Local Law No. 2008-3, the content of which is set forth below; and

WHEREAS, the Town Board of the Town of Spafford, County of Onondaga, State of New York, held a Public Hearing on the matter of the adoption of the aforesaid Local Law, and that such Public Hearing was held at the Town Hall of the Town of Spafford, located at 1984 Route 174 in Skaneateles, County of Onondaga, State of New York, on the 8th day of May, 2008, at 7:00 p.m., and all persons in interest and citizens desiring to be heard had an opportunity to be heard;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Spafford hereby enacts Local Law No. 2008-3, the content of which is as follows::

**Town of Spafford Local Law 2008-3:
A Local Law Pertaining to Unsafe Buildings and Structures**

1. Purpose and Intent. Unsafe buildings and structures pose a threat to life and property within the Town of Spafford. Buildings and structures may become unsafe by reason of damage by fire, the elements, age, abandonment, lack of maintenance or repair, neglect or general deterioration. Unsafe buildings and structures that are, or may become, accessible internally serve as an attractive nuisance for children who may be injured therein, as well as a point of congregation for vagrants and transients. A dilapidated building or structure may also serve as a place for vermin infestation, thereby creating a threat to public health. The purpose of this law is to provide for the general safety, health and welfare of persons and property in the Town by requiring that such unsafe buildings and structures be repaired or demolished and removed.

2. Definitions.

“Abandonment” shall mean the failure to use or occupy a building for its principal intended purpose for a period of three (3) years or more for any reason, regardless of intent.

“Building” shall mean any building, structure or portion thereof used for residential, commercial, industrial or any other purpose.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Portion of a building or structure” shall mean any debris, rubble or parts of a building that remain on the ground or on the premises after abandonment or demolition, reconstruction, fire or other casualty.

“Structure” shall mean a static construction of building materials set upon or affixed to the ground or set upon or affixed to another structure. Examples include but are not limited to: a barn, display stand, tower or pylon with or without transmission or monitoring equipment included or attached, gasoline pump and accompanying tanks, installed mobile home or trailer, reviewing stand, shed, shelter, sign, stadium, pavilion, storage bin, fence, berm or other permanent static construction.

“Unsafe Building” shall mean any building or structure, or portion thereof, which:

- a) Presents an imminent danger to the health, safety and welfare of the people or property of the Town of Spafford.;

- b) Has improperly distributed load upon the floors or roofs or in which the same are overloaded or have insufficient strength to be reasonably safe;
- c) Has been damaged by fire, wind, lack of maintenance or repair, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people or property of the Town of Spafford;
- d) Has become or is so dilapidated, decayed, unsafe or unsanitary or which fails to provide the amenities essential to decent or safe use or occupancy such that it is unfit for human use or occupancy or is likely to cause sickness or disease, so as to cause injury to the health, safety or general welfare of those using or occupying the building;
- e) Has light, air, electrical or sanitation facilities which are inadequate to protect the health, safety or general welfare of persons who live or may live therein;
- f) Has inadequate facilities for egress in case of fire or panic or insufficient stairways, elevators, fire escapes or other means of communication;
- g) Has parts thereof that are so attached that they may fall and injure members of the public or property;
- h) Because of its condition, is unsafe, unsanitary or dangerous to persons who live or may live therein or to the health, safety or general welfare of the people or property of the Town of Spafford;
- i) Is open at the doorways, windows or walls, making it accessible to minors under the age of 18, vagrants, transients and other trespassers;
- j) Is a place of vermin infestation;

3. Unsafe Building. Such building or structure shall be considered uninhabitable and unusable, and be repaired or demolished and removed. Any Certificate of Occupancy / Certificate of Compliance shall be rescinded immediately and permanently.

4. Investigation and report. When Code Enforcement Personnel shall, on the basis of information received or upon investigation by Code Enforcement Personnel, be of the opinion that a building or structure is unsafe, Code Enforcement Personnel shall cause or make an inspection thereof and make a report, in writing, to the Town Board, of all findings and recommendations in regard to its repair or demolition and removal.

5. Action by the Town Board. The Town Board shall thereafter consider such report and, if it finds that such building is dangerous and unsafe to the public, it shall by resolution order its repair if the same can be safely repaired and secured, and if not, order its demolition and removal, and shall further order that a hearing be held before the Town Board at a time and place therein specified to determine whether said order to repair or remove shall be affirmed or modified or vacated.

6. Contents of the notice. The description of the premises in the notice shall be adequate if it is substantially the same as the description of the premises on the Town tax assessment rolls. The notice shall contain the following:

- a) A description of the premises upon which the building or structure is located;
- b) A statement of the particulars in which the building or structure is unsafe, dangerous, or otherwise in violation of the code;
- c) An order outlining how the building or structure is to be made safe or demolished and removed;
- d) A statement that the repair or demolition and removal of such building or structure shall commence within thirty (30) days of the service of the notice and shall be completed within sixty (60) days thereafter, unless, for good cause shown, such time limit may be extended for up to thirty (30) days. No more than one thirty-day extension shall be granted; and
- e) A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled no less than seven (7) calendar days nor more than fourteen (14) calendar days from the date of service of the notice.

7. Service of notice. The notice shall be served in the manner described below:

- a) By personal service, within the Town, of a copy thereof upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in such building or structure as shown by the records of the Town Assessor or of the County Clerk; or by mailing to any such persons by certified or registered mail (return receipt) to the intended recipient's last known address as shown by the records of the Town Assessor; and
- b) By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found upon the premises of the unsafe building or structure; or by securely affixing a copy of such notice upon the unsafe building or structure.

8. Filing of notice. A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Onondaga

9. Penalties for offenses. Any person who violates any provision of this law shall be guilty of an offense under this law and shall be subject to a fine, for the first week's continuation of such violation following service of notice provided herein or any portion of that week of not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00), or to imprisonment for a period of not more than fifteen (15) days, or both such fine and imprisonment. In addition, any person who violates any of the provisions of this law or who shall omit, neglect or refuse to do any act required by this law shall, severally, for each and every such violation, forfeit and pay a civil penalty of one hundred dollars (\$100.00) per day for each day of continued violation in excess of the first week following the service of notice as provided herein. The imposition of penalties for any violation of this law shall not excuse the violation or permit it to continue. The application of the above penalty or penalties for any violation shall not preclude the enforced removal of conditions prohibited by this law.

10. Assessment of Expenses. All expenses incurred by the Town in connection with the proceeding to repair or demolish and remove any unsafe building or structure, including, but not limited to, the cost of actually repairing or demolishing and removing such building or structure and legal fees and expenses, shall be assessed against the land on which such building or structure is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem tax.

11. Emergency provisions. Where it reasonably appears to Code Enforcement Personnel that there is present a clear and imminent danger to the safety, health or welfare of any person or property unless an unsafe building or structure is immediately repaired or demolished and removed, the Town Board may, by resolution, authorize Code Enforcement Personnel to immediately cause the repair or demolition of such unsafe building or structure. The expense of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in subsection (10) above.

12. Effective Date. This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.

RESOLVED AND ORDERED, that said Local Law shall be in full force and effect as provided by law upon the filing of this Local Law with the Secretary of State.

RESOLUTION 55-2008

Sunset Factor

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

Resolved to evaluate any problems about or with Local Law 2008-3 after one calendar year; further resolved if such problems prove it necessary, the Town Board will revisit the law to determine if any changes are needed.

RESOLUTION 56-2008

State Environmental Quality Review (SEQR)

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

Resolved to declare the Town of Spafford as Lead Agency for purposes of the SEQR report. Be it further resolved that proposed Local Law 2008-3 is an unlisted action under SEQRA.

IMPACT ASSESSMENT

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF. No.

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. No.

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

- C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: No.
- C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: No.
- C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: No.
- C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: No.
- C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: No.
- C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: No.
- C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: No.
- D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? Yes No If Yes, explain briefly: No.
- E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? Yes No If Yes, explain briefly: No.

RESOLUTION 57-2008

Impact Assessment

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

Resolved the Town Board of the Town of Spafford has determined, based on a review of the EAF and the criteria contained in 6 NYCRR Section 617.7, the proposed Local Law will not result in any significant adverse environmental impacts and therefore a negative declaration should be issued.

STANTON ROAD CEMETERY

Councilor Clark requested consideration of Stanton Road Cemetery. He read a section from Town Law dictating the Town Board is required to maintain the cemetery with a minimum of three mowings per year. Town Historian Barbara Shoemaker stated that the cemetery is a private, family cemetery and is not the responsibility of the Town. There was a brief discussion of cleaning the cemetery. Councilor Ireland will do more research on the topic.

ADJOURNMENT

On a motion by Councilor Ireland, seconded by Councilor Fesko the meeting adjourned at 8:34 p.m. subject to the Call of the Town Clerk. Carried unanimously.

Respectfully submitted by,

Next meeting to be held
June 12, 2008 @ 7 p.m.
@ Spafford Town Hall

Lisa M. Valletta
Town Clerk
Town of Spafford