

**Minutes of the Regular Monthly Meeting of the Town Board of the Town of Mooers held
May 12, 2015 at the Mooers Office Complex commencing at 7:00 PM**

Present: Jeff Menard, Supervisor
Steve Barcomb, Councilperson
Gerald LaValley, Councilperson
Donald Perras, Councilperson
Mary Myatt, Councilperson

Recording Secretary: Brandi B. Lloyd, Town Clerk

Others Present: none

Absent: Kaleigh LaBombard, Dog Control Officer

Meeting: Supervisor Jeff Menard called the Meeting to Order at 7:00PM, then he asked Mrs. Brandi Lloyd to lead them in the "Pledge of Allegiance," which she did.

Minutes: All the Board Members were asked if they had read their copies of the April 14, 2015 Minutes. They all replied yes. Supervisor Jeff Menard then asked if there were any omissions or corrections, there were none from the Town Board. Supervisor Menard said that Mrs. Carol Payne had approached him earlier about the minutes. Mrs. Payne, in attendance, said she is requesting the April 14, 2015 Minutes be amended. Supervisor Menard had read a letter received from Mrs. Payne at the April 14, 2015 meeting. Mrs. Payne stated that in "Town Business 4" she would like the names of the Board members mentioned in said letter to be included in the minutes as well as the contents of said letter. The names of the Board members were; Supervisor Miller, Councilman Gonyo, Councilman Barcomb, Councilman Bushey, and Councilman LaValley. The letter, in its entirety, has been scanned and attached to the April 14, 2015 Minutes and below as well. Councilperson Perras then made a motion to accept the April 14, 2015 Minutes as amended and Supervisor Menard seconded the Motion. The result of a Roll Call was 3 AYES (Supervisor Jeff Menard, Councilperson Mary Myatt, and Councilperson Donald Perras) and 2 NOES (Councilperson Steve Barcomb and Councilperson Gerald LaValley), therefore Supervisor Menard declared Minutes accepted as amended.

Highway: Highway Supervisor Eugene Boulerville handed in the March and April reports for State Roads. The report for March showed a total amount spent in the month of \$11,708.37. This is about \$5,000.00 less than that spent for the month of March in 2014. The report for the month of April showed a total of \$4,826.03 spent for the month. This is an increase of about \$2,600.00 compared to April 2014. Mr. Boulerville also handed in a report for State Roads for the year showing that the total yearly expenses to clear State Roads was \$142,891.51. The State Contract was \$278,475.22, leaving a balance of \$135,583.71. Mr. Boulerville added that he had received a letter from New York State Department of Transportation. He said the Town of Mooers will be receiving, in addition to CHIPS, \$26,441.11 for "Extreme Winter Recovery." Mr. Boulerville then discussed the need of a new paver. He said the Mooers Highway Department currently has a 1978 paver that was purchased from Clinton County in 2000. He added that the paver is starting to fall apart. Mr. Boulerville explained that the County is selling a 2000 paver that has been rebuilt and is in good working order. He then recommended that the Town purchase said paver from the County for the asking price of \$12,500.00 reiterating that the Highway Department has had great luck with the last paver purchased from the County. Mr. Boulerville asked the Town Board for permission to pay for parts needed for the "sewer cleaner" in the amount of \$2,400.00. He said they use this particular piece of equipment to clean the culverts and to wash the trucks. Supervisor Menard said, before agreeing to purchase the paver, he would like Mr. Boulerville or one of the Highway Department employees to run it first. Councilperson Barcomb asked what would be done with the current paver. Mr. Boulerville said it would be kept for a back-up. Supervisor Menard asked Mr. Boulerville when the Highway Department's equipment would be removed from the property behind the Town Offices. Mr. Boulerville said they had tried to earlier, but it was still too wet. He said it would be removed as soon as possible. Supervisor Menard said the Highway Department needs to start keeping track of the use of fuel. He added it would help the Town determine if they are being paid enough money to maintain the roads. Mr. Boulerville said there is a paper trail. Supervisor Menard said the State Comptroller informed him they need to be able to reconcile the use of fuel at the end of each month. He suggested the card system to keep better track of fuel usage. Mr. Boulerville said he would look into the card system, possibly speak to other area Towns that use this method. Councilperson Barcomb then

made a motion authorizing Mr. Boulerville to pay \$2,400.00 for parts for the "sewer cleaner" as previously discussed. The motion was seconded by Supervisor Menard. The result of a Roll Call was 5 AYES and 0 NOES, therefore Supervisor Menard declared the motion carried. Supervisor Menard then explained that the Highway Department employees are having issues with their jeans from Unifirst shrinking. He added that the current jeans are their basic brand and that the employees would like to upgrade the contact to include Levis for a total weekly increase of \$12.00. Supervisor Menard added that when the jeans, that have shrunk, have to be replaced, Unifirst charges \$24.75 per employee. Mr. Boulerville said there is enough money in the budget to cover the cost of the upgrade. There was some discussion. Supervisor Menard said he would contact Unifirst to see what other brands of jeans are available, at what cost, and to see about possibly being reimbursed some of the fees to change out the pants that had shrunk, as it was not the fault of the employees.

Library: Mrs. Jackie Madison reported that the library is adding "English as a Second Language" to their website. She said they had obtained a new desk via the Wyeth auction for the library. She also said she had submitted an updated list of the library's assets to Mrs. LaBarge for the insurance policy. Mrs. Madison said the library's internet through Primelink has been updated. She announced that the Summer Reading Program will start on July 7th. She said the remainder of funds from the grant had been received and that they currently waiting on two estimates from contractors to complete the interior of the library. She then mentioned that there is a crack in the floor of the new library. Supervisor Menard said that is normal, that it is a hairline crack. Councilperson Lavalley said the Town would have to go through a permissive referendum to proceed with the sale of the current library building and have it added to the ballot this November to be voted on by the tax payers of the Town of Mooers. Supervisor Menard said Mrs. LaBarge called regarding the list of the library's assets being valued at \$350, 000.00. He asked Mrs. Madison if this was correct as Mrs. LaBarge said it was a significant increase and would cause the insurance premium to go up. Mrs. Madison said it should not be much of an increase at all as only books had been added to the list of assets. She said she would like to see the list Mrs. Labarge has to double check it. Supervisor Menard said he would like to discuss the money still owed to S&B Construction (Scriver and Buskey) for the new library building. Supervisor Menard said he Councilperson Perras and Councilperson LaValley recently attended a seminar in Plattsburgh on Fiscal Responsibility. He said they learned it is bad to have bills not paid on time. He said S&B has been waiting over a year to be paid and he would like to see the Town go ahead and pay the bill. He added that the Town had received a check from the County for "Mortgage Tax" (collection period from October 10, 2014 - March 31, 2015) in the amount of \$12,287.20 Supervisor Menard said he would like to make a motion use these funds to go towards the amount owed to S&B Construction. Councilperson Myatt asked how much was owed to S&B Construction. Supervisor Menard answered that it was around \$13,000.00. Councilperson Barcomb ask if the monies from the County could be used to pay the library bill. Supervisor Menard answered yes and explained that the funds go in the general account and can be used at the Town's discretion. Councilperson Barcomb said he would second the motion. It was asked, by Mrs. Myrtle Hawksby in attendance, if the library would eventually reimburse the Town. Supervisor Menard answered that, for now, the Town would pay the bill and write it off for now as it is a Town building. Supervisor Menard said the Town is responsible. Therefore Supervisor Menard made a motion to pay the balance due to S&B Construction from funds received from the County for "Mortgage Tax" with the remaining balance to come from the General Fund. The motion was seconded by Councilperson Barcomb. The result of a Roll Call was 5 AYES and 0 NOES, therefore Supervisor Menard declared the motion carried.

Dog Control: Mrs. Kaleigh Mills was not in attendance and a report was not submitted.

Beautification Committee: Supervisor Menard asked if anyone from the Beautification Committee would like to address the board. The Committee reported everything is going well.

Youth Program: Supervisor Menard asked if anyone from the Youth Program would like to address the board. No person was present wishing to address the board at this time.

Town Historian: Supervisor Menard asked if anyone from the Town Historian would like to address the board. No person was present wishing to address the board at this time.

Fire Department: Mr. Dan Dumas, Fire Chief, handed in the April report. The April report contained the following: Station #1 had 10 calls, Station #2 had 0 calls, Town had 9 calls and Mutual Aid had 1 call with a total of 48 calls to date. ---Incident types were Vehicle Fire=1---Flooded Basement=1---MVA=1---Barn=1---Grass/ Brush---=1---Stand By=1---Other=4 (Medical Assist). Mutual aid to Ellenburg Depot=1. Mutual Aid from Ellenburg Depot=1. Vehicle 251(Pumper) used 3 times, vehicle 252(Brush Truck) used 1 time, vehicle 253(Squad) used 1 time, vehicle 254(Pumper) used 3 times, vehicle 257(Heavy Rescue) used 9 times, vehicle 258(Tanker) used 1 time, vehicle 259(Pumper) used 3

times, and vehicle 25-AIR(Air Truck) used 0 times. Supervisor Menard said the Town needed to approve the list of delegates for the Fire Advisory Board. He said the Fire Department would like Mr. Chris Bulriss (Delegate) and Mr. Mark Fewster (alternate delegate) to represent them again for the term of May 1, 2015 through April 30, 2106. Therefore Supervisor Menard made a motion approving Mr. Chris Bulriss (Delegate) and Mr. Mark Fewster (alternate delegate) as delegates for the Clinton County Fire Advisory Board. The motion was seconded by Councilperson Barcomb. The result of a Roll Call was 5 AYES and 0 NOES, therefore Supervisor Menard declared the motion carried.

EMS: Supervisor Menard asked if anyone from EMS would like to address the board. No person was present wishing to address the board at this time. A report was not submitted by EMS.

Court: Supervisor Menard asked if anyone from the court would like to address the board. No person was present wishing to address the board at this time.

Code Enforcement Officer: Mr. Jess Dixon was not in attendance and a report was not submitted.

Old Business: none

New Business:

Town Business 1: Supervisor Menard said the Board had received proposals from Ms. Liz Tedford regarding the Wastewater Feasibility Study for the Town. Ms. Tedford, in attendance, asked the members of the Board if they had a chance to review the proposals. They said they had. She added that she had encouraged them to review the proposals without knowing the cost as the cost will be funded by grant money. Supervisor Menard asked how they should now proceed. Ms. Tedford answered that the Board could vote on which proposal to go with tonight or they could decide on two and conduct interviews. There was some discussion. Ms. Tedford explained a few of the grants available to fund the project. Supervisor Menard asked Ms. Tedford if she had a recommendation as to which proposal to go with. Ms. Tedford pointed out that Bernier and Carr backed out all of their profit from their proposal because they are currently working in Champlain and they really want the project. She added that the proposal from AES Northeast was also good. Ms. Tedford said the proposal from Laberge Group also looked good, but pointed out that some work through them would actually be done by a subsidiary company. Supervisor Menard said he spoke with Mr. Larry Barcomb, Supervisor for the Town of Champlain, and he said he is very happy with Bernier and Carr. Ms. Tedford said Bernier and Carr worked successfully with the Town of Chazy 10- 15 years ago. There was some discussion. Councilperson LaValley said his preference would be AES Northeast. He added that their proposal seemed to keep the cost efficiency in mind for the residents. Councilperson Perras said he liked both the proposals from AES Northeast and that from Bernier and Carr. there was some discussion. Councilperson Barcomb said he would like to see the Board make a decision tonight. Supervisor Menard asked each Board member what proposal they preferred. Councilperson Myatt, Councilperson Barcomb, Councilperson Perras, and Supervisor Menard all said Bernier and Carr. Councilperson LaValley said he preferred the proposal from AES Northeast. Therefore Supervisor Menard made a motion for the Town of Mooers to accept the proposal from Bernier and Carr for the Feasibility Study. The motion was seconded by Councilperson Perras. The result of a Roll Call was 4 AYES (Councilperson Myatt, Councilperson Barcomb, Councilperson Perras, and Supervisor Menard) and 1 NOE (Councilperson LaValley), therefore Supervisor Menard declared the motion carried. Ms. Tedford said she would be in touch with Mr. Matt Cooper of Bernier and Carr.

Town Business 2: Supervisor Menard said he had received an application from MX Fuels to renew the lock in price for of \$1.799 for the season. He added that last year the lock in price was \$1.999. therefore Councilperson Barcomb made a motion to accept the lock in rate from MX Fuels for the season at \$1.799. The motion was seconded by Councilperson Perras. The result of a Roll Call was 5 AYES and 0 NOES, therefore Supervisor Menard declared the motion carried.

Highway 2: Councilperson LaValley suggested the Board go ahead and give Highway Supervisor Boulerice permission to purchase the paver from the County after he has checked it out. There was some concern over how much the County would be using it in the Spring before their new paver arrived. Councilperson Myatt asked if the County would sell it to someone else if Mr. Boulerice did not give them an answer soon. Mr. Boulerice confirmed that could happen. There was some discussion. Therefore Councilperson Barcomb made motion to give Mr. Boulerice permission to move forward with the purchase of the paver if, after examination, he still believes it is in the Town's best interest to do so. The motion was seconded by Councilperson Myatt. The result of a Roll Call was 5 AYES and 0 NOES, therefore Supervisor Menard declared the motion carried. Mr. Boulerice asked if Mr. Chris Bulriss had permission to operate the County's paver when they went to look into it further. Supervisor Menard answered, yes.

Supervisor Menard asked if anyone would like to address the Town Board.

Public Comment 1: Mrs. Sue Miller said she would like to address the Board on two matters. She said it has been over two years that Mrs. Carol Payne has been requesting her back pay that she is owed. She said, in particular to Councilperson LaValley and Councilperson Barcomb, who were Board members at the time, that there is no job that does not give an employee their time. She added that is an honor and a moral issue that they could do that. She said that they worked under different conditions at the time. Mrs. Miller said it was understood and it was past practice and that it was done with everybody. She said that nobody, Jack, Rudy, nobody did this to anyone. She said if people were hired for work, they were hired, no strings attached. She added that this is just very disconcerting that it has been two years in February and Mrs. Payne still isn't getting paid. Mrs. Miller said, secondly, she had an issue at the camp with a dog. She added that it was a large dog and didn't seem friendly. She said she called the Dog Control Officer, but was told that she only works Monday through Friday. Mrs. Miller asked what happens when there are dog issues on Saturday and Sunday. Supervisor Menard said he believed it to be a seven day a week job. Mrs. Miller added that you can't call the police with dog issues and she really thinks there should be someone to call on the weekend if there is an issue. Supervisor Menard he would discuss Mrs. Miller's concerns with Mrs. Kaleigh Mills, the Dog Control Officer. Mrs. Miller thanked him.

Town Business 3: Councilperson LaValley asked Supervisor Menard if there was an update on the clean-up of the building that burned down on the corner of Route 11. Supervisor Menard said they are waiting for the insurance company to give the OK. He said the insurance company wanted to wait until it was unfrozen. He said the representative for the insurance is on vacation, but he will be back today. Supervisor Menard added that everything is in place and all the bids are in, they just have to choose which one to go with.

Public Comment 2: Mrs. Margaret Snide asked if S&B Construction is being asked to submit a quote to finish the interior of the library. Supervisor Menard said work will not start on the interior of the library until funds are available to pay for the entire project and finish it. Mrs. Snide said it would be a good idea since they have had to wait to get paid. Supervisor Menard agreed that it has been a year that S&B Construction has been waiting to get paid and is sure they will have the opportunity to bid on the project when it is time.

Voucher: The Audited Vouchers to be paid off the Abstracted Vouchers on May 12, 2015 are as follows:

General - Townwide -----(Vouchers 957 - 979)-----	\$ 17,424.99
Highway - Townwide -----(Voucher 630 - 653)-----	35,695.47
Mooers Forks Lights----- (Voucher 972)-----	358.68
Mooers Lights -----(Voucher 972)-----	611.97
Trust & Agency -----(Voucher 125 - 127)-----	<u>10,899.87</u>

Total of Abstracted Vouchers Paid-----\$64,990.98

Adjourn: Councilperson Barcomb made a motion for the meeting be adjourned. Supervisor Menard seconded the motion. All in favor. Thus, Supervisor Jeff Menard declared the motion carried. Meeting adjourned at 7:58PM.

Respectfully Submitted,

BRANDI B. LLOYD, TOWN CLERK/TAX COLLECTOR

To the Town Supervisor and Councilman's

4/14/15

When I was hired on August 2005, it was understood by the Town Supervisor and Councilmen that I would follow the Highway Contract. On March 2007, it was addressed & discussed among the Town Supervisor Miller, Councilman Gonyo, Councilman Barcomb, Councilman Bushey and Councilman LaValley. The TRUTH IS, the Town Board OFFICIALLY AGREED for Me to follow the CSEA Union Contract of March 2007 in which was Approved. Agreeing is a promise & commitment to someone whether it is oral or written. Agreeing means receive kindly, favorably, good will, consent, abide, implies a being or going together without conflict. Oral Contract – an agreement that is not in writing and is not signed by the parties but is a real existing contract that lacks only the formal requirement of a memorandum to render it enforceable in litigation. It is a verbal act of agreeing. Also, states in the Union Contract, shall receive payment for unused earned vacation leave to which the employee is properly entitled employee's then current rate of pay.

In Conclusion, I Feel I Have Presented You With Further Information That Clarifies My Request For Reimbursement Of My Unused, Earned Vacation Pay.

I appreciate your time concerning this matter.

Thank you

A handwritten signature in cursive script that reads "Carol Payne".

Carol Payne

Is A Verbal Agreement Legally Binding?

Written by J. Hirby | Fact checked by The Law Dictionary staff |

Verbal agreements and oral contracts are generally valid and legally binding as long as they are reasonable, equitable, conscionable and made in good faith.

oral contract

Definition

Contract that is not in a written form, but is entirely valid and enforceable.

An **oral contract** is a contract, the terms of which have been agreed by spoken communication. This is in contrast to a written contract, where the contract is a written document. There may be written, or other physical evidence, of an oral contract – for example where the parties write down what they have agreed – but the contract itself is not a written one.

The term *verbal contract* is sometimes incorrectly used as a synonym for oral contract. However, a verbal contract is one that is agreed to using words, *either written or spoken*, as opposed to an implied contract.¹

Oral contracts, when made correctly before witnesses, can be enforced. For example, in 1984, after Getty Oil was sold to Pennzoil in a handshake deal, which is legally binding under New York law, Texaco made a higher offer, and the company was sold to Texaco. (Even though the case was tried in Texas, New York law applied.) Pennzoil filed a lawsuit alleging tortious interference with the oral contract, which the court upheld and awarded \$11.1 billion in damages, later reduced to \$9.1 billion (but increased again by interest and penalties

agreement - the statement (oral or written) of an exchange of promises

There was an understanding between management and the workers

oral contract - an agreement that is not in writing and is not signed by the parties but is a real existing contract that lacks only the formal requirement of a memorandum to render it enforceable in litigation

agreement, understanding - the statement (oral or written) of an exchange of promises

“Agreement” is a kind of...statement (a message that is stated or declared; communication (oral or written) setting forth particulars or facts etc)

Spoken Communication

Agreement, Understanding, Promise