

**TOWN OF DEERPARK  
TOWN BOARD MEETING  
MONDAY, FEBRUARY 6, 2012**  
Meeting was held at Town Hall 420 Route 209, Huguenot, NY 12746

**Attendance:**

**Supervisor:** Karl Brabenec

**Councilmember's:** Gary Spears, David Hoovler, David Dean

**Absent:** Arthur Trovei

**Attorneys:** William Bavoso, David Bavoso

**Invocation:** Gary Spears

**Call to order** at 7:07 p.m.

**Pledge:** Gary Spears

**Additions or Changes to Agenda**

**Motion to Add to the Agenda Consideration of Resolution No. 8 of 2012 - The Town Board of the Town of Deerpark Designating the Supervisor of the Town as Police Commissioner Under New Business**

Motion by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to add to the Agenda Consideration of Resolution 8 of 2012 – The Town Board of the Town of Deerpark Designating the Supervisor of the Town as Police Commissioner under New Business.

**VOTE: 4 AYES:** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

Supervisor Brabenec called the Public Hearing to order at 7:09 p.m.

**Public Hearing Proposed Local Law No. 1 of 2012 – “A Local Law Repealing Chapter 67 of the Town of Deerpark Code and Dissolving the Police Commission of the Town of Deerpark”**

Town Clerk, Florence Santini read the Public Notice of the proposed Local Law No. 2 of 2012 and a copy is attached to the official minutes.

Supervisor Brabenec explained this was the first Local Law for the year and they are proposing this as a major revision in police operations. This would abolish the present form of the Police Commission and if passed, the power would return back to the Town Board as far as operations over the department. It would be the Town Boards discretion whether to appoint a Police Commissioner to oversee the Police Department.

**Public Comment**

Robert Zeller asked how the Advisory Committee would work. He asked if the complaints would go to an Advisory Committee, then to the Town Board.

Supervisor Brabenec said that under this, the Advisory Committee would be under a separate resolution, so that was not part of this Local Law. The Advisory Committee would field any citizen's complaints that would come. There would be an Advisory Board who would have no power to make any decisions, but they could make recommendations on actions to the Town Board who would then act on them or not. Also, the Police Advisory Board would do anything else that the Town Board would assign them to do. Maybe they would need a neighborhood watch committee in different neighborhoods they could organize, or if they needed help with the 207-Cs and our 211 waivers. There are possibilities for any kind of administrative help. The Police Commission did have many with different talents so that could be utilized that way. Furthermore, New York City does not have a Police Commission that dictates policy for the Police Department. There is one Police Commissioner and they also have a Citizen's Advisory Committee that a civilian complaint review board would field any civilian complaints.

**Motion to Close Public Hearing on Local Law No. 1 of 2012 at 7:13 p.m.**

Motion by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to close the Public Hearing on Local Law No. 1 of 2012 at 7:13 p.m.

**VOTE: 4 AYES:** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

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**Motion to Recess Until 7:30 p.m.**

Motion by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to recess until 7:30 p.m.

**VOTE: 4 AYES:** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

Out of recess 7:30 p.m.

Presentations/Communications – None

**Motion to Accept Board Minutes for January 9, 2012 and January 18, 2012**

Motion by Gary Spears, 2<sup>nd</sup> by David Dean to accept Board Minutes for the January 9, 2012 Reorganizational meeting, and January 18, 2012 the Annual Audit Meeting.

**VOTE: 4 AYES:** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

Public Comment – None

New Business

**Motion to Adopt Local Law No. 1 of 2012 – “REPEALING CHAPTER 67 OF THE TOWN OF DEERPARK CODE AND DISSOLVING THE POLICE COMMISSION OF THE TOWN OF DEERPARK”**

Motion by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to adopt Local Law No. 1 of 2012 – “REPEALING CHAPTER 67 OF THE TOWN OF DEERPARK CODE AND DISSOLVING THE POLICE COMMISSION OF THE TOWN OF DEERPARK”

Article 1. Legislative Intent. The Town of Deerpark intends to dissolve the Police Commission of the Town of Deerpark, Orange County, New York. Article 2. Statement of Authority. Under Section 150(2) of the Town Law of the State of New York, the Town of Deerpark is empowered to create and dissolve a Police Commission for the Town after a Police Department has been established for the town. Article 3. Enactment. The Town of Deerpark hereby repeals Chapter 67 of the Town of Deerpark Code enacted on June 13, 1983 and amended by Local Law No. 1 of the year 1997, Local Law No. 5 of the year 2000, Local Law No. 10 of the year 2000 which establishes a Police Commission for the town.

Discussion: Supervisor Brabenec commented that as far as this local law goes this has been a controversial issue over the years. There have been many Town Boards that have debated this issue whether there should be a Police Commission or not. Speaking for himself, he felt that being on the Police Commission for the past year he was able to see a lot as far as operations of the Police Commission and seeing the way the Police Department operates. It has become very clear to him that there could be much better operation if there was less duplication. Right now they have the Town Board making directives, the Police Commission making different directives and there have been problems with this Town Board and previous Town Boards wanting to do evaluations. The evaluation system was put together by the Police Commission, disagreed by the Board; nothing had been solidified with that. He found that to be a problem with the Police Commission in that nothing was getting done. It seemed to be a waste of time at the meetings. In his opinion, dissolving the Police Commission the power could go back to the Town Board, who could then properly manage the Police Department and make the changes necessary for its success. Councilman Spears stated his experience the last couple of years has been time consuming going back and forth dealing with the middle man when actually it was much more efficient when we started to give directives and handle the problems in a timely manner instead of things dragging on. He thought this was a good move, and would give them a stronger response and control to handle problems as they come up. With the addition of the Advisory Board to handle any complaints, let them do the research and they can give recommendations to the board on those matters. Councilman Hoovler wished Tom Hoey was still there as he was sure he'd have something to say about this. For him, having been deposed in a law suit as a member of the Police Commission for 6 and ½ hours one day—thought he'd seen enough of it. He thought it had out-lived its usefulness. He thought it was a good idea to have it, but having gone through that experience and having to explain the decision-making process of the Police Commission, and then have at the same time to be questioned about internal memorandums and records that were sent and used by the Town Board during the same time period... He thought it was time to move to something a little different. I am willing to give this a try.

**VOTE: 4 AYES (Roll Call):** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

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Supervisor Brabenec thanked all the previous members of the Deerpark Police Commission for their service to the town and hoped they could utilize them in other areas because many have some fantastic talents and he hoped they could bring them back in another capacity.

Supervisor Brabenec presented the motion to adopt Resolution No. 3 of 2012, which states be it resolved that the Town Board of the Town of Deerpark Orange County New York hereby approves purposed changes to the annual multi-year plan and that said plan upon approval be sent to the New York State Comptroller's Office and be on file with the Town of Deerpark Town Clerk's office. (A copy is attached to the official minutes)

**Motion to Adopt Resolution No. 3 of 2012 – Approval of Updates to Multi-Year Plan**

Motion made by David Dean, 2<sup>nd</sup> Gary Spears, to adopt Resolution 3 of 2012 Approval of Updates to Multi-Year Plan. (A copy is attached to the Official Minutes.)

Discussion: Councilman Hoovler offered some highlights since he wrote the majority of the plan. He pointed out there was a 20 page report available. It was an illustration of revenues and expenses, not a budget or official document. It was simply something they put together to show where the town was today, and where they believe it was going. To decide where it was going, they used a set of assumptions that are accepted in general accounting; historical trends of revenues and expenses; national trends as well as state aid and we look at the history of the town in general. Those assumptions were provided, approved and supplemented by the Comptroller's Office, the Town's bank and accountant. This year's Fiscal Improvement Plan for 2012-2014 reflect some very positive results in the town's cash management. Since taking office two years ago, hypothetically for illustrative purposes, the town was vulnerable and would have had a Moody bond rating of a C. Obviously, the town was being bailed out by the state. Now, 27 months later, if they chose to exercise their bond rating and actually go forward into the bond market, the Moodys would be an A2. This means they have a strong capacity to meet their financial commitments. There are only two categories higher than where they sit right now. Some reasons were they had 28 full time employees and now they have 13. That factor alone increased the positive cash flow for the town. They could continue to improve on that if our sales tax increased slightly and if their mortgage tax remotely came up to where it once was. Being a small town--essentially a labor intensive town, meaning that the cost of labor exceeds the cost of raw assets. The Towns Financial Fiscal Improvement Plan is available to everyone. He encouraged the Board to sometime this year and in the near future go into the private bond market; it would be financially viable for the town to make the needed improvements that it needs. This is the only way it's going to happen. Discussion followed.

**VOTE 4 AYES (Roll Call)**: Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT**: Arthur Trovei

**MOTION CARRIED**

Supervisor Brabenec read the resolution describing the establishment of a Police Advisory Committee.

**Motion to Adopt Resolution No. 4 of 2012 - Establishment of a Police Advisory Committee**

Motion made by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to adopt Resolution No. 4 of 2012- Establishment of a Police Advisory Committee. (Copy is attached to the Official Minutes)

Discussion: Councilman Spears thought it was a good idea to have them investigate and report to them. Supervisor Brabenec added that further on down the line they have an appointment of members to this committee if this passes. He would want to discuss that later. He wasn't sure if they should necessarily appoint people yet. Councilman Spears said they need to advertise.

**VOTE: 4 AYES (Roll Call)**: Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT**: Arthur Trovei

**MOTION CARRIED**

**Motion to Adopt Resolution No. 5 of 2012 - Prerequisites for Organizations Receiving Town Funds**

Motion made by Karl Brabenec, 2<sup>nd</sup> by David Dean, to adopt Resolution No. 5 2012 - Prerequisites for Organizations Receiving Town Funds. (A copy is attached to the Official Minutes)

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Discussion: Councilman Spears stated it was good financial oversight to know where the money was going and how it was being handled. It should be standard practice on anything that the town does, that they keep track of all their money. Supervisor Brabenec added he was amazed this was never an adopted policy, but they found out by asking certain organizations for this information and they were hesitant, so now they have some teeth to their request. Councilman Dean said this was also on the list of best practices by the Association of Towns to make sure this accountability for public funds that go towards organizations.

**VOTE 4 AYES (Roll Call):** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

**Motion to Adopt Resolution No. 6 of 2012 - Approval of Highway Maintenance Expenditure Agreement**

Motion made by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to adopt Resolution No. 6 of 2012 - Approval of Highway Maintenance Expenditure Agreement. (A copy is attached to the Official Minutes.)

Discussion: Councilman Spears explained that some projects needing to be done to take care of storm damage and general deterioration of the roads over time. This is a sum of over \$395,000.00 that will be set aside for general repairs on our 87.85 miles of town highway. Some of the permanent improvements that are going to be set on this will be micro-paving on West Peenpack, Old Forrestburgh, Old Cahoonzie Road and Route 42 South for a total of \$90,000.00. The previous micro-pave was \$54,000.00. Also, there will be some work done on Prospect Hill Road for \$80,000.00, again that's highway rehab with micro-pave. There will also be Main Street and Berme Road and Route 42 for \$70,000.00 highway rehab and micro-pave. The last one would be a general of \$104,000.00 to take work in the rest of the town, various locations culvert work, patching, sealing, draining, and some repaving. Those totals will come out to that amount that's just the general overview of what they'll be doing. Supervisor Brabenec said that part of that agreement had to do with the Community Development Block Grant that they get every year; they were approved for close to \$70,000.00 for this year and that's going towards a project for Old Cahoonzie Road. Due to being on the Community Development Committee, he heard the Federal Government is looking to cut that program and if they do cut, there may have to be modifications to the different projects, not just for Deerpark, but all over the County. If he hears anything about the status of this he will let them know.

**VOTE: 4 AYES (Roll Call):** Gary spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

**Motion to Adopt Resolution No. 7 of 2012 – Approval of MOA Re: Highway Department Collective Bargaining Agreement**

Motion by David Dean, 2<sup>nd</sup> by Gary Spears to adopt Resolution No. 7 of 2012- Approval of Memorandum Agreement (MOA) regarding the Highway Collective Bargaining Agreement and authorizes the town Supervisor to sign such agreement. (A copy is attached to the Official Minutes.)

Discussion: Supervisor Brabenec thanked all those involved with the hard work in negotiations for the past year, or year and a half and overall this agreement will work. Councilman Spears stated he also thought this was a fair agreement for the employees, the town and the tax payers. There was some give on both sides and the contract is for four years going forward. They switched some health insurance to save some money, made some personnel changes in the structure of the Highway Department and with the savings gave them a small increase in their wages to help offset the cost of living. Supervisor Brabenec said both Councilman Spears and Councilman Trovei worked very hard on the negotiations and crafting a fair agreement. Their consultant helped too and they appreciated his work. Councilman Hoovler asked what they did with the 15 year contract. Councilman Spears said they have to be a 20 year employee before they're eligible for retirement benefits. Also, they have to work to age 55 and they would have to be awarded a New York State Retirement Pension to be eligible for all that. Their current employees are great employees and will meet those requirements easily, but this is actually for the town's future. Councilman Dean thanked councilmen Spears and Trovei and applauded their efforts.

**VOTE: 4 AYES (Roll Call):** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

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**Motion to Adopt Resolution No. 8 of 2012 - Designating the Supervisor of the Town as Police Commissioner**

Motion made by Gary Spears, 2<sup>nd</sup> by David Hoovler- to adopt Resolution 8 2012 - Designating the Supervisor of the Town as Police Commissioner. (A copy is attached to the Official Minutes.)

Discussion: Supervisor Brabenec said this establishes the chain of command so the Town Board does not have to participate in the day to day functions, but the Police Commissioner would be in charge of that and coordinate that with the Police Chief and make sure the directives passed by the town Board would be communicated directly to the Chief and that the chief was performing those duties. Councilman Dean asked if this was an unpaid position and Supervisor Brabenec said it was and he thought it was against the law to have a paid Police Commissioner.

**VOTE: 4 AYES (Roll Call):** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

Supervisor Brabenec stated people were interested in appointments to the Police Advisory Committee upon passage of Resolution No. 5 2012. He said all of them were former members of the commission that was just abolished. He thought it would be more fair to advertise this in the public at least for the next month to see if there's any interest in serving on this committee. There may be some talent out there that we don't know about that we could utilize.

**Motion to Advertise for Members for the Police Advisory Committee**

Motion by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to advertise for members for the Police Advisory Committee and all letters of interest should be received by March 1st.

Discussion: Councilman Spears suggested they add a date to that by their next meeting. Supervisor Brabenec said their next meeting was March 5<sup>th</sup>. All letters of interest should be back by March 1<sup>st</sup> to the Town Clerks Office. (The motion was amended to include this.)

**VOTE: 4 AYES:** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

**Motion to Accept Resignation from Gary Spears as Alternate Member of Upper Delaware Council (UDC)**

Motion by Karl Brabenec, 2<sup>nd</sup> by Gary Dean to accept the resignation from Gary Spears as Alternate Member of the Upper Delaware Council (UDC).

Discussion: Councilman Spears explained he thought there was an opening which he volunteered for and found there was somebody else that actually wanted that position. He gladly relinquished his role and let someone else do it. Supervisor Brabenec thanked him for his service to the town.

**VOTE: 3 AYES:** David Hoovler, David Dean, Karl Brabenec

**1 ABSTENTION:** Gary Spears

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

Supervisor Brabenec stated he received a letter of interest from Virginia Dudko to be the alternate to the Upper Delaware Council (UDC). He added she had previously served as the UDC Alternate.

**Motion to appoint Virginia Dudko as Alternate Member of the UDC for 2012**

Motion by Karl Brabenec, 2<sup>nd</sup> David Dean to appoint Virginia Dudko as Alternate Member of the UDC for 2012.

**VOTE: 4 AYES:** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

Appropriations, Budget and payment of Bills

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**Motion to pay Bills**

Motion by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to pay bills that have been signed by three council members, and may be viewed in the Town Clerks Office.

Deerpark Manor Street Lights Abstract # 1 of 2012 for a total of \$383.96

General Fund Abstract #2 of 2012 for a total of \$342,708. 87

Highway Fund Abstract #2 of 2012 or a total of \$55, 602.03

Discussion: Supervisor Brabenec explained that the reason the General Fund Abstract is so high, was due to the retirement pension payments for the year, for the Police and the regular Retirement fund, which was \$200,000.00 combined.

**VOTE: 4 AYES:** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

**Motion to Accept Budget Officer's January 2012 Report**

Motion made by David Hoovler, 2<sup>nd</sup> by Councilman Spears to Accept the Budget Officer's January 2012 Report.

**VOTE: 4 AYES:** Gary Spears, David Hoovler, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

**MOTION CARRIED**

Closing Board Comments

Councilman Spears apologized for not bringing this up in opening comments, but stated he received a couple of calls from area residents for clarification on the Town Vehicle Policy. He knew they had a policy in the personnel policy. He addressed Mr. Bavoso and asked if they should get a signature sheet so everyone who uses the town vehicles would be fully aware of the personnel policy? Mr. Bavoso answered that he believed it was an excellent idea and asked if when the Personnel Policy was given to individual employees were they asked sign a receipt acknowledging that they received a copy? Supervisor Brabenec confirmed that was correct. Councilman Spears asked if that was done on a yearly basis and Supervisor Brabenec said it's not done on a yearly basis and thought the last time it was done definitely was before this board took over and there have been changes. Councilman Spears asked if they should reissue a whole new policy with a signature sheet and Mr. Bavoso asked if there were amendments to the policy employees received last. Supervisor Brabenec said there were amendments since then. Mr. Bavoso recommended sending new Personnel Policy copies to everyone; have them sign the sheet acknowledging receipt of it and the date it was received. They may not have an updated copy. This way you'll know that they have the latest and the best. Councilman Dean asked if the town required a copy their license or a VIN Number. Mr. Bavoso answered that it was in there. Supervisor Brabenec said that anyone driving a town vehicle must have that on file with the Town Clerk. Councilman Dean thought that any employee of the town should actually sign the policy because at a moment's notice, if they need to use a town vehicle and they haven't signed it, the town is open for liability because they were making everyone else sign it. He suggested making it policy that every town employee has to sign it. Supervisor Brabenec said he would get copies of the present Personnel Policy and submit it to every town employee that it falls under, excluding Police and Highway who are under their own agreements. Councilman Spears said the only problem with that is on the town vehicle policy the collective bargaining agreements do not address that. He thought it should be given to every employee. Councilman Dean said there should be no exceptions. Councilman Hoovler asked if they received a couple complaints that somebody was using the town vehicle improperly or out of the town. Councilman Spears said there were two questions about what their policy was. The residents thought they saw something that wasn't proper, so instead of going into great detail he thought it would be better to address this with every employee up front. After the problem is corrected they have no further action, and then if there is further action required, then they have a starting point. Supervisor Brabenec stated that he would provide copies of the Personnel Policy along with the sheet that they need to sign. There would be a separate sheet to all employees that do drive vehicles. It will have our policy as stated and that they understand the policy, accept the policy and they will sign that as well. That will go into their personnel file. Councilman Dean said once again that he urged every town employee to sign it-- not just the ones that drive the vehicle. The council all agreed they should also sign the forms.

Councilman Spears went on to say the weather had been great and the Highway guys have been out doing a ton of work around town, changing culvert pipes and cleaning ditches. He expressed kudos to them for being able to get out there and get a lot of work done this winter.

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Councilman Dean commented they had come a long way but were not out of the woods yet saying they have a lot of hard work ahead of them. Things were just not getting better fast enough for them to catch up. They have to look at more savings and new ways to generate more income. It was a little easier in the beginning, but now they were down to the bone.

Councilman Hoover said those were wise words, it's not often you turn around a bond rating in two years like they have. But, they have a long way to go. To make change is important. He hoped to see everyone at the Association of Towns and hoped they attend the session on Emergency Preparedness by Mr. Fusco and himself.

Supervisor Brabenec said he had nothing. Good job! What a wonderful game!!

**Motion to Adjourn the Meeting at 8:15 p.m.**

Motion by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to adjourn the meeting at 8:15 p.m.

**VOTE: 4 AYES:** Gary Spears, David Hoover, David Dean, Karl Brabenec

**ABSENT:** Arthur Trovei

Respectfully submitted by,

Florence T. Santini  
Town Clerk