

TOWN OF DEERPARK BOARD MEETING
MONDAY, AUGUST 15, 2011
Meeting was held at Town Hall, 420 Route 209, Huguenot, NY 12746

Attendance

Supervisor: Karl Brabenec

Councilmember's: Gary Spears, Arthur Trovei, David Dean

Absent Councilmember: David Hoovler

Attorneys: Glen Plotsky

Invocation: Arthur Trovei

Call to Order at 7:33 p.m.

Pledge of Allegiance by Gary Spears

Additions or Changes to Agenda – None

Opening Board Comments – None

Presentations/Communications – None

Motion to Approve Board Minutes for July 18, 2011 and August 1, 2011

Motion by Gary Spears, 2nd by Arthur Trovei to approve Board Minutes for July 18, 2011 and August 1, 2011 as presented.

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec

1 ABSENT: David Hoovler

MOTION CARRIED

Public Comment Period – None

Old Business

Supervisor Brabenec explained that Resolution 31 had been tabled at the previous meeting concerning the Dog Control Officer's shared services proposal with Mount Hope and Thomas Yonskie, Dog Control Officer spoke to the situation. Mr. Yonskie offered to answer any questions the board may have. He explained that working for both towns would remain separate and accurate. Councilman Trovei stated he thought that while he would be driving a Town of Deerpark vehicle, the town would be liable whether he was working for the Town of Mount Hope or Deerpark. Supervisor Brabenec offered that they had contacted the insurance carrier and found that the DCO van would remain under the Town of Deerpark's insurance policy and it would need to be spelled out in any kind of agreement. The deductible would need to be stipulated in the agreement where the town being served would pay the deductible should there be an accident. The liability would fall under the town also, for him as an employee. Councilman Spears added that according to the town's insurance carrier, the agreement is really the key and should be drawn up by the attorney and presented both to Mount Hope and to the Town of Deerpark Insurance Company. The main thing to impress is that every detail should be addressed in the contract. Each town would need to add the other town as an additionally insured to their policies. They are not sure at this point what the savings would be to the town. The question was asked whether the savings would be worth the additional insurance, etc. An agreement needs to be drawn up by the attorneys. Councilman Trovei suggested a workable agreement to present to the Town of Mount Hope before deciding on the agreement stating clearly at what point each town would be prepared to defend the liability factors. Councilman Dean asked where the animals would be taken if picked up in Mount Hope and the DCO stated it would be the Humane Society in Deerpark. The Supervisor would provide a Cost Savings report for the next meeting and look for any grants the government might provide for sharing services also.

Motion to Table Resolution – DCO Shared Services Proposal With Mount Hope

Motion by David Dean, 2nd by Arthur Trovei to table Resolution for the DCO Shared Services Proposal with the Town of Mount Hope until the next meeting.

Discussion: Supervisor Brabenec will work with Mr. Yonskie in preparation for the next meeting on September 12th, as well as look for any grants that might be generated through the sharing of services. They will also work with the attorney's to come up with some kind of agreement.

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VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabene
1 ABSENT: David Hoover

MOTION TABLED

Supervisor Brabene read the resolution in regards to Daniel Loeb's conflict of interest issues as a Planning Board member and the Deerpark Village Project. On June 20, 2011 unanimous decision by the Town Board citing the Ethics Board decision opinion directing Daniel Loeb to recuse himself from all participation in any deliberation, discussion or vote regarding Deerpark Village Project. Additionally, they agreed that Mr. Loeb must agree to abstain from any participation in writing by July 8, 2011 or the attorneys for the town would be directed to prepare charges to remove him from such participation. Due to his failure to comply, the following resolution was presented.

Motion to Approve Resolution 32 - Insubordination Charges Against Deerpark Planning Board Member Daniel Loeb
Motion by Karl Brabene, 2nd by Arthur Trovei to Approve Resolution 32 - Insubordination Charges Against Deerpark Planning Board Member Daniel Loeb.

Discussion: Councilman Trovei verified that this situation was moving to an independent arbitrator deciding the final decision. Supervisor Brabene gave more information on the reason for an independent hearing which was recommended by the Town Attorneys. Councilman Trovei asked if Mr. Loeb decides to agree with the directive, which would save the town legal costs, would they be able to drop this charge and the Supervisor thought they could. The Supervisor also hoped Mr. Loeb would make that decision. They have two alternate members for the Planning Board. Councilman Trovei hoped that this would bring a resolve so the town would not be put in jeopardy and calmer heads would prevail. He thought he had done hard work in the past and the Supervisor stated that he wouldn't have to resign from the Planning Board, just this particular decision with the Deerpark Village Project.

VOTE: 4 AYES (Roll Call): Gary Spears, Arthur Trovei, David Dean, Karl Brabene
1 ABSENT: David Hoover

MOTION CARRIED

Supervisor Brabene read Resolution 33 in regards to changing health care providers for eligible retirees to AARP, which could potentially save the town approximately \$34,000 annually and reduce taxpayer obligations. NYSHIP will no longer be utilized for current retiree recipients and all eligible future retirees receiving benefits per collective bargaining agreements. The MVP high deductible plan will be carried for eligible retirees under age 65. The AARP Supplement Plan with the AARP Medicare Rx Enhanced Plan for those eligible retirees over age 65 currently receiving benefits, whether individual or family plan. Further, all present retirees currently receiving health benefits would continue to receive such benefits into the future in accordance with present terms and conditions with a premium cap of \$7,000 annually unless otherwise stated in any written agreement or collective bargaining agreement in which they had retired under.

Motion to Adopt Resolution 33 – Declaring Official Supplemental Health Insurance Providers for Eligible Retirees
Motion by Karl Brabene, 2nd by David Dean to adopt Resolution 33 – Declaring Official Supplemental Health Insurance Providers for Eligible Retirees effective November 1, 2011.

Discussion: Supervisor Brabene stated that only one retiree was not present because she lives in Florida and he talked with her on the phone. Following the presentation from the representative regarding the AARP, the retirees were in agreement to move to the AARP plan because of the cost savings to the taxpayers and an equivalent or substantially better plan than they have now. More discussion continued regarding the benefit of an enhanced plan that would enable generic medicines to continue to be covered. Councilman Dean thought it was beneficial and crucial to have a two year review of the insurance benefits and he commended the supervisor for his work on that. Supervisor Brabene then thanked Flo Santini, Town Clerk for her work in researching minutes and contracts, etc. along with an intern.

VOTE: 4 AYES (Roll Call): Gary Spears, Arthur Trovei, David Dean, Karl Brabene
1 ABSENT: David Hoover

MOTION CARRIED

Supervisor Brabene reported on property at *Sparrowbush Beach No. 2*, privately owned and is consistently a problem. They have worked with DEC representatives who are leasing the property from the owners and in the past two weeks there has been a substantial change of pace. They put an 8-yard dumpster there, which is getting picked up every Tuesday and a group of

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concerned citizens are going there every weekend and reminding people to take care of their garbage. The Police Department and DEC Police are making visits there also and the whole problem has gotten better in the past two weeks.

Supervisor Brabenec reported on the *Cell Phone Tower*. They signed the Verizon agreement to be added in October 2011. AT&T is already on the tower, but they are still waiting on a vault from the Telephone Company to complete their installation. The tower is standing but not operational. The Town is collecting rent every month from the tower. They will continue to contact Crown Communications to get Frontier to work on finishing their work. Councilman Dean asked if there was anything in the contract allowing an extra fee for not functioning in a certain timeline. The Attorneys will look at the contract. Councilman Spears suggested that when Frontier finishes with AT&T, they would immediately begin working to get Verizon equipment, so in October they can get them up and running.

New Business

Supervisor Brabenec introduced the Highway Department Restructuring Proposal by reading the Resolution.

Motion to Adopt Resolution 34 – Highway Department Restructuring Proposal

Motion by Karl Brabenec, 2nd by Gary Spears to adopt Resolution 34 – Highway Department Restructuring Proposal.

Discussion: Councilman Spears clarified the need to change the Resolution wording eliminating two positions. The Supervisor reworded the first resolved paragraph on the second sentence to say “The specific employee positions that will be eliminated will be at the discretion of the Deerpark Highway Superintendent pursuant to the conditions of the current collective bargaining agreement.”

Motion to Change Sentence in Proposed Resolution 34 – Highway Department Restructuring Proposal

Motion by Gary Spears, 2nd by Karl Brabenec to change Sentence in the First Resolve paragraph of Resolution 34 – Highway Department Restructuring Proposal to say, “The specific employee positions that will be eliminated will be at the discretion of the Deerpark Highway Superintendent pursuant to the conditions of the current collective bargaining agreement.”

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec
1 ABSENT: David Hoover

MOTION CARRIED

(Discussion continued – Adopt Resolution 34)

Councilman Trovei asked if this resolution encompassing general repairs would cover replacement of items as well.

Supervisor Brabenec stated that generally “any monies from positions that were eliminated would go to the general repairs .4 line.” They could be more specific, and they could always do a line item transfer later. The money would stay in the budget line until they make a budget transfer. Comments were heard from the Highway Superintendent. Supervisor Brabenec thought a motion should be made to change the last Resolve sentence.

Motion to Change Sentence in Proposed Resolution 34 – Highway Department Restructuring Proposal

Motion by Karl Brabenec, 2nd by Gary Spears to change the Sentence in the Last Resolve paragraph of Resolution 34 - Highway Department Restructuring Proposal to say, “That the Deerpark Town Board approves the budget transfer of any surplus personal benefit costs for 2011 to the General Repairs .4 line to be used for road repair and maintenance.”

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec
1 ABSENT: David Hoover

MOTION CARRIED

(Discussion continued – Adopt Resolution 34)

Highway Superintendent Ed Hughson asked about the \$66,189 amount and Councilman Spears answered that the money was from the salary and benefit package minus whatever would come out for unemployment for the two and a half positions being eliminated. Supervisor Brabenec added details of everything involved with the positions for the remainder of 2011. Mr. Hughson addressed some concerns about hiring part-time help for winter plowing in regards to the contract. Councilman Spears agreed there would be issues to be addressed as they go, but the restructuring would actually strengthen the department and allow for more money to work with. Councilman Trovei hoped that a vendor list for on-call repairs and updated equipment would help the department function smoother.

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Motion to Adopt Resolution 34 – Highway Department Restructuring Proposal (con't.)

Motion by Karl Brabenec, 2nd by Gary Spears to adopt Resolution 34 – Highway Department Restructuring Proposal.

VOTE: 4 AYES (Roll Call): Gary Spears, Arthur Trovei, David Dean, Karl Brabenec
1 ABSENT: David Hoover

MOTION CARRIED

Councilman Dean introduced the Resolution about the Department of Environmental Conservation (DEC) replicates the designation of wetlands and on Wednesday, July 6, 2011 the Times Herald Record outlined their new wetlands map. It would increase wetlands by 27% in the state. Should the land you own and pay taxes, be declared by the DEC as wetlands or a buffer, immediately you would be prohibited to build on that ground. If that happened, you would need to go to the Tax Collector and ask for reassessment of your taxes, which would lower them. However, the slack of all those lowering their taxes would need to be picked up by neighboring property owners. This is simply seizure of property rights. The Supervisor drafted this resolution with Councilman Dean stating their opposition to the DEC Wetlands Expansion Proposal increasing the taking of private property. The bullet points in the resolution were then read by the Supervisor.

Motion to Adopt Resolution 35 – Opposition to DEC Wetlands Expansion Proposal

Motion by David Dean, 2nd by Gary Spears to adopt Resolution 35 – Opposition to DEC Wetlands Expansion Proposal and that a copy of said resolution be sent to Governor Andrew M. Cuomo, State Senator John J. Bonacic, State Senator William J. Larkin, State Senator David Carlucci, Assemblywoman Nancy Calhoun, Assemblywoman Annie Rabbitt, Assemblywoman Aileen Gunther and Commissioner Joe Martens of the New York State Department of Environmental Conservation.

Discussion: Supervisor Brabenec stated he sent the resolution to the Orange County Partnership and they are in full support of the resolution and hope they pass it on to other municipalities. Councilman Trovei asked if they pass it, could they send it to the Association of Towns and distribute it to all the towns asking for their support. Supervisor Brabenec agreed to do that and send it to the New York State Association of Towns, all supervisors in Orange County asking them to propose it at their next town meeting. Councilman Dean asked the Association of Towns do a story in their magazine for all towns to see. The Supervisor was told that they are the first to do such a resolution in the state.

VOTE: 4 AYES (Roll Call): Gary Spears, Arthur Trovei, David Dean, Karl Brabenec
1 ABSENT: David Hoover

MOTION CARRIED

Supervisor Brabenec introduced the next resolution for accepting \$25,000 Initiative Grant from Senator Bonacic. The Supervisor then read it, authorizing him to accept the funds for improving municipal lands. He explained that the grant was from 2008-2009 and they looked in the minutes and found nothing mentioned. It was a reimbursable grant and the town can use it however they see fit. He also reminded everyone that they have \$164,000 in addition from the pipeline and this would be an additional amount for improvements. They must spend the money first. Councilman Dean asked if this money could be spent on the payment of the Emergency Management Plan. It could not. Councilman Trovei suggested using it on the Highway Garage and the supervisor agreed, but also thought of Building No. 2, any of the parks, etc.

Motion to Adopt Resolution 36 – Authorize Supervisor to Sign \$25,000 Bonacic Member Item Grant

Motion by David Dean, 2nd by Arthur Trovei to authorize the Supervisor to sign the \$25,000 Bonacic Member Item Grant.

VOTE: 4 AYES (Roll Call): Gary Spears, Arthur Trovei, David Dean, Karl Brabenec
1 ABSENT: David Hoover

MOTION CARRIED

Motion to Appoint Linda Mole as Deputy Historian

Motion by Karl Brabenec, 2nd by Gary Spears to appoint Linda Mole as Deputy Historian for the Town of Deerpark as recommended by Norma Schadt, Historian.

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec
1 ABSENT: David Hoover

MOTION CARRIED

The Town Clerk was asked to inform the appointee.

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Supervisor Brabenec read a letter dated August 15, 2011 by Robert J. Wilcox resigning as Assessor effective August 19, 2011. The Supervisor explained that the County was going to provide a part-time Assessor for the town and they hired him, but they ran into a snag because they did not have a job classification called Assessor. Legally, they could not hire him or pay him. The Town of Deerpark has a position called Assessor and agreed with the County to hire him on a temporary basis and pay him and submit a bill to the County of Orange. Since then, the County Legislature has created a position of Assessor and as of August 19th, they will appoint Mr. Wilcox to that position. It is just a paper work situation and he will remain doing the same thing for the same hours.

Motion to Accept the Resignation of Robert Wilcox as Assessor

Motion by Gary Spears, 2nd by David Dean to accept the resignation of Robert Wilcox as Assessor effective August 19, 2011, pending official hiring as Assessor by the County of Orange.

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec

1 ABSENT: David Hoover

MOTION CARRIED

Supervisor Brabenec updated the board on a visit by the Sr. Loss Control Specialist for *NYMIR* visited a couple months ago to do their annual inspection of the facilities by reading their report. They need to make some changes and hold meetings to be in accordance with their requests. The Historian requested a *Cash Dollar Historical Marker Dedication* on September 24, 2011 at 10 a.m. This is for Mr. Harry Cash Dollar and their family is coming to the area and would like to have a ceremony to dedicate a historical marker.

Motion to Schedule a Special Meeting on Saturday, September 24, 2011 at 10:00 a.m.

Motion by Karl Brabenec, 2nd by Gary Spears to schedule a special meeting on Saturday, September 24, 2011 at 10:00 a.m. on location on Cash Dollar Road to dedicate the Historical Marker.

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec

1 ABSENT: David Hoover

MOTION CARRIED

Town Clerk Flo Santini updated the board regarding the *September 11th Memorial Ceremony*. The School sent up workers and set up the video surveillance cameras, which was provided in part through a Bicentennial Fund Raiser and grant provided through the Court and Judge Osowick. Al Schock will donate two benches and two flower pots for the memorial. The wood would be stained. A shadow box for the map is being built and will be a surprise on the day of the ceremony. They have raised over \$1,000 for the supplies for this year. She has been overwhelmed with the communities response. She requested names be submitted to Laurie Osowick of veterans and servicemen. Al Gessner and the Broome Street Band will be there, the VFW will do the Color Guard and she thought it was all going well.

Motion to Permit the 10th Commemoration of the September 11th attacks Ceremony at Town Hall Parking Lot

Motion by Karl Brabenec, 2nd by Gary Spears to permit the 10th Commemoration of the September 11th attacks Ceremony at Town Hall Parking Lot on Sunday, September 11, 2011 at 8:30 a.m.

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec

1 ABSENT: David Hoover

MOTION CARRIED

Supervisor Brabenec thanked Flo Santini for all the work she does on the ceremony. He also thanked Al Fusco for his diligent work on a bronze dedication plaque for the memorial with the original World Trade Center and a dedication date of September 11, 2010 with the names of Betty Lou Krantz, the Fusco Family who dedicated the plaque and did the design for the memorial. It will also have a list of the elected officials in office during the dedication of 2010. It is donated by Mr. Fusco and family.

Superintendent Ed Hughson spoke asked whether insurance benefits would be available a couple weeks for those employees whose jobs are being eliminated. The Supervisor would check in the contract and historically the insurance remained in effect for one month following their termination. The Supervisor would check on the dates and let Mr. Hughson know the next day.

The Supervisor mentioned that with both the bookkeeper and Deputy Town Clerk on vacation, he did not have the total of bills to be paid and would announce the totals at the next meeting.

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Motion to pay bills:

Motion by Karl Brabenec, 2nd by Gary Spears, to pay bills that have been signed by three council members, and would announce the totals at the September 12 meeting. Bills may be viewed in the Town Clerk's office.

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec

1 ABSENT: David Hoover

MOTION CARRIED

Closing Board Comments

Councilman Spears thanked Flo Santini for her work over the years for the Memorial Service and for the Memorial in front of the Town Hall, and congratulate her on getting the monitors up. He also thanked Councilman Dean and the Supervisor for the Resolution in Opposition of the DEC confiscating more private property without due compensation. Councilman Trovei agreed with all Councilman Spear stated. He also thought telling the state that enough is enough. He thought the mandates from the state need to stop. He thanked Flo Santini for doing a great job and Ed Hughson, acknowledging this is not an easy transition. He thinks it will run much more efficiently. He thanked those helping to patrol the No. 2 Beach and trying to take it back for the residents of the town, reminding people to be more conscientious and he thanked the Ridley family allowing the town people to use that property. Councilman Dean thought the hard work done by Flo Santini providing such a nice 9/11 ceremony and she has set a high bar for other towns. He asked her to give accolades to everyone involved. He thought it was important they not forget. He thanked Ed Hughson for handling this tough situation he is in with his men, but he thinks in the end it will work itself out. He thanked Councilman Spears for his hard work on this. It has been unpleasant for him. He thanked the Supervisor for sending the opposition resolution.

Supervisor Brabenec announced that Monday, August 22, 2011 at 7:00 p.m. an informational meeting will be held at Town Hall for the residents of the Painted Apron Development about the Water Company. Representatives of the Department of Health from Orange County. The Supervisor sent a letter to the Health Commissioner and County Executive and copied the town's County Legislators regarding not being able to remedy the water company or that they should do so. Orange County has the regulatory authority to correct the situation. A letter was sent to all property owners in that development. Ed Hughson, Highway Superintendent stated he went to the Attorney's Office to sign papers regarding legal issues with the water company.

Supervisor Brabenec announced the next Board Meeting would be Monday, September 12, 2011 and asked the board to keep their schedules open in September as they work with the budget preparation. He will also need to put together a Budget Officer's Budget for them to review.

Motion to Enter Executive Session for the Purpose of Litigation: Deerpark Village vs. Town of Deerpark; Litigation: Schneider vs. Town of Deerpark; Litigation: SCAR Petitions; and Litigation: ARC Tax Certiorari and Potential Litigation: Painted Aprons Water Company at 9:10 p.m.

Motion by Karl Brabenec, 2nd by Gary Spears to Enter Executive Session at 9:10 p.m. for the Purpose of Litigation: Deerpark Village vs. Town of Deerpark; Litigation: Schneider vs. Town of Deerpark; Litigation: SCAR Petitions; and Litigation: ARC Tax Certiorari and Potential Litigation: Painted Aprons Water Company, inviting Ed Hughson for that topic only, and invited Glen Plotsky for all the topics.

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec

1 ABSENT: David Hoover

MOTION CARRIED

Motion to Re-Enter Regular Session at 10:15 p.m.

Motion by Karl Brabenec, 2nd by Gary Spears to re-enter Regular Session at 10:15 p.m.

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec

1 ABSENT: David Hoover

MOTION CARRIED

Motion to Adjourn Meeting at 10:16 p.m.

Motion by Gary Spears, 2nd by David Dean to adjourn the meeting at 10:16 p.m.

VOTE: 4 AYES: Gary Spears, Arthur Trovei, David Dean, Karl Brabenec

1 ABSENT: David Hoover

MOTION CARRIED

Respectfully Submitted,

Florence T. Santini, Town Clerk