

**REGULAR TOWN BOARD MEETING**

TUESDAY, DECEMBER 14, 2010

Minutes of the Regular Board meeting held on the above date beginning at 7:00 pm at the Lake Placid Beach House, 49 Parkside Drive, Lake Placid, New York.

**Members Present:** Supervisor Politi, Councilman Doty, Councilman Rand, Councilman Favro, Laurie Curtis Dudley

**Members Absent:** Councilman Miller

**Others Present:** Larry Straight, Chris Knight, Attorney Ron Briggs, Attorney Tim Smith, Michael Clark, Jim Morganson

Supervisor Politi opened the Regular Town Board meeting at 7:13 pm by asking everyone to stand for the Pledge of Allegiance.

Supervisor Politi asked for a motion on the minutes of the Town Board meeting of November 9, 2010 and the Joint Town/Village meeting of November 23, 2010

Councilman Doty moved and Councilman Rand seconded the motion to approve the minutes as written and presented. There being no further discussion, the motion was unanimously carried.

**RESOLUTION TO HONOR LAURA RUSSELL VISCOME**

Supervisor Politi stated this is an occasion where it is one of the nicest things we get to do. We have a Resolution for the family of Laura Russell Viscome. It is nice to have George, John and Laura with us this evening. We appreciate you coming. This is a Resolution from Essex County for your mother.

Supervisor Politi read the Resolution which is on file in the County Clerk's office and presented to the family framed.

Supervisor Politi stated I would like to give this to you on behalf of all the Town Board and the people of our community, we thank you so much for everything your mom did for all of us.

Laura Clark and John Viscome expressed their mother's thoughts by saying; she had high regard for Lake Placid and would not want to be anywhere else but here.

Supervisor Politi stated both Jay Rand and I benefitted greatly from Jonnie and Laura with Jay behind the high school and I always at Scott's Cobble. She was a very special person and did so much for this community. She is one of the reasons that Lake Placid is a very special place to live. You should be very proud of your mom.

John Viscome stated we are very blessed.

**RESOLUTION TO HONOR BERNARD ROY FOR HIS RETIREMENT**

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Supervisor Politi read the Resolution which is on file in the County Clerk's office and presented it to Mr. Roy.

Supervisor Politi stated I want to thank you very much not only for what you have done for the County but everything you have done for the Town of North Elba. We appreciate it very much. I don't think North Elba will be guided as well in the Future. Every time there was a problem that involved Essex County, I had a phone call returned within seconds because I had someone looking out for me. I know Kimball feels the same way. We appreciate everything you have done.

Bernie Roy stated the Director is nobody without the staff.

Supervisor Politi stated that is true; except in the case of the Town of North Elba where I can do everything all by myself!

Supervisor Politi stated we appreciate all that you have done and wanted to recognize you here tonight. I thank you and hope to see you more often around town. But don't come in to complain.

Bernie Roy stated I can greave my assessment now!

**LAND USE CODE**

Supervisor Politi stated as you are aware we have completed the Short Environmental Assessment form and the Negative Declaration. We have met with the Village on a couple of occasions to discuss the approval of the Land Use Code. We did receive today a letter from John Privitera with regard to questions dealing with agricultural issues in the Code. Earlier today we had talked about your having an opportunity to review the letter.

Attorney Smith stated I will give you the quick summary; in my opinion Mr. Privitera takes positions which are just not supportive by NYS law. Our Code is in fact friendly to agriculture. Agriculture is an exempt use and agricultural buildings are also exempt. Agricultural buildings merely have to meet the dimensional standards of setback and height restrictions. If they are in a view shed overlay district they have to be reviewed by the Review Board.

Attorney Smith handed out a memorandum which was jointly prepared by the Department of State and the Department of Agriculture and Markets. He stated you can see on page 2 this is a cooperative effort by those two departments. Draw your attention to a couple of provisions on page 4 there is a process by which a zoning ordinance as it applies in an agricultural district. I am going to take as a given the farm on river road is in agricultural district. I spoke with the Assessor who said there are no agricultural districts in town but farmers can file with the county and get agricultural district treatment.

Supervisor Politi stated that is the case in this example.

Attorney Smith stated the question is whether the law is reasonable on its face or reasonable as applied. There is a procedure by which a farmer who thinks the law is unreasonable can apply to

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Agriculture and Market and they will review and determine if it is reasonable. If you turn to the case history on page 5, issue #2; a farmer complained the 100 ft setback along state roads and 75 ft along county roads, which is what ours is down on the River Road, is unreasonable. Ag and Market's response was that the ordinance did not restrict or regulate farm structure. This is almost the exact case we are dealing with. There is an administrative remedy that people can avail themselves of. The last three pages of the memorandum is a request for review by Ag and Markets. A part of Mr. Privitera's letter was just plain wrong; he said that agricultural buildings are not listed as permitted or conditional uses. In fact they are exempt. He implies that a local government has no power to regulate agriculture and that is not true. I have spent the last 1 ½ hours studying this and my opinion is the board can safely proceed with adopting this local law. If this land owner believes that the local law is unreasonable, she can apply to Agriculture and Market for review. I am confident Agriculture and Market will find law to be reasonable as face. If the Review Board made a decision that was unreasonable, then that is another thing.

Supervisor Politi stated I don't think the intent of the folks working on the Code nor the Village or the Town would be in any way deter any agricultural use.

Attorney Smith stated in fact a person can engage in an agricultural use in any district. It is not likely to happen on Main Street.

Supervisor stated this letter was probably written last minute without ample amount of time to review the ordinance. I know, Mike, you were involved with code from day one.

Mike Clark stated I saw letter 20 min ago. Tim and I discussed it. It was Senator Little who said you can be entitled to your own opinions but not to your own facts. I shouldn't make that smack comment in public. He stated I think there is some confusion in the letter I am sure it was well intended but I think he is confusing the rights to farm with the rights of local government to zone for agricultural. He is sort of taking on the question whether there should be agricultural zoning in New York State. And if he were right, we would be taking about hundreds of community across the state that are in violation. I can't add anymore, I agree with Tim.

Supervisor Politi we appreciate your insight as always. That's why you are here tonight because everyone wanted to here your feeling because we knew that they would come from the heart and the mind.

Mike Clark stated well at least from the heart!

Supervisor Politi asked the gentlemen if they have any questions of Mike Clark or Tim Smith with regards to ordinance. My thinking here is the Village will move with approval of code at next meeting and we would like to have Code in affect soon. How long does it take before it comes into effect?

Attorney Briggs stated there is a form we have to complete and you just mail it down.

Attorney Smith stated I would generally take care of that.

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Councilman Doty stated I have a procedural question; my feeling is we are all excited to get this acted and moving but we also need to recognize that they are going to be amendments made. It's a work in progress. Is the Technical Steering Committee going to stay in tacked so we have the advice we need when situations come up and we may need to amend something.

Mike Clark stated I believe so. Dean Dietrich is not here tonight because he had a prior obligation. It will really be up to Village and Town as to whether they want to activate the TSC and those who served would presumably be willing to continue to serve.

Tim Smith stated it is true that every new Zoning Ordinance, including the year 2000 Land Use Code, produces a handful of technical amendments and changes. As sure as can be, within a year of the enactment of this Code there will be a proposed local law to address a decent sized group of technical fact.

Supervisor Politi asked so what's the relationship between Technical Steering Committee and the proposed Community Development Board.

Mike Clark stated my answer would be the Technical Steering Committee has finished their job when the Town and Village adopt this Code. I think the new Community Development Board can ask committee to continue. More appropriately, the Town and the Village say we would like to have the TSC continue.

Supervisor Politi asked why we wouldn't we appoint this Technical Steering Committee on a Town and Village directive. The Community Development Board would pass information and direction to the Steering Committee which would amend or modify the Code for presentation to the Town and Village Boards for legislative action.

Tim Smith stated it makes more sense. The Review Board and ZBA have their functions and could propose changes to the Technical Steering Committee.

Supervisor Politi stated if that is the case, the Community Development Board could send suggestions onto the TSC? Or is that one extra step?

Tim Smith stated I don't know if they have to be in the loop.

Supervisor Politi stated the TSC would answer directly to the Town and Village Boards but receive suggested information from the Review Boards.

Mike Clark stated when you pass this for the record you might want to indicate that the Town Board would like to have the TSC continue for next 12 months or so and be available to assist in the administration of the Code.

Supervisor Politi stated who are the members of the TSC?

Mike Clark stated there is Jim Morganson... I'm going to need some help Jim.

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Jim Morganson stated the TSC is Bob Marvin, Bill Billerman, Dean Dietrich, Pat Keller and Tim Smith, Mike Clark and myself. With a shout out to Larry Peryea who has attended all the meetings, God bless him.

Supervisor Politi stated as you say, it's going to be a work in progress. We know we are not passing a perfect plate. Although we would love it to be, but it will never be a perfect plate. Without the fortitude of you gentlemen, your want for a better Code and system, we would not be here. You put in a tremendous amount of time, effort and dedication. Dean Dietrich was exceptional along this process and needs to be recognized, as well as all of the other members.

Supervisor Politi stated now that we've talked about it all this time, we have decided we are not going to pass the code!

Supervisor Politi stated the issue before us is the approval of the Code. I wish Bob Miller were here. Do we want to make a motion to move the approval of the new Joint Land Use Code effective January 1, 2011 including the revisions forwarded by Attorney Smith and with the TSC serving at the pleasure of the Town Board and hopefully the Village Board for the next 12 months.

Supervisor Politi asked for a Roll Call Vote; Councilman Doty; Aye, Councilman Favro; Aye, Councilman Rand; Aye, Supervisor Politi; Aye.

There being no further discussion, the adoption of the Land Use Code was unanimously carried by those present.

Attorney Smith stated as by the terms of the Local Law it is only also effective when also passed by the Village. I plan to defer coming to see Laurie until Monday night's Village meeting. We have 20 days to file it with the Secretary of State. If it is not, we have to do this again. But that is not expected.

Supervisor Politi we will have to approve those individual appointed to the Review Board and the Board of Appeal at sometime prior to January 1, 2011. At this time we are not prepared to do that because we do not have verification of the interest of all particular members.

Attorney Smith stated it is ok that it is separate from this Local Law. This will be Local Law #2 of 2010.

### **DOG LAW**

Supervisor Politi stated we have the Public Hearing on the Dog Law. We need to approve Local Law #3 of 2010 so that Laurie can start new duties effective January 1, 2011.

Councilman Doty moved and Councilman Rand seconded the motion to approve the Local Law #3 of 2010. There being no further discussion, the motion was unanimously carried by those present.

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**RAY BROOK WATER RATE**

Supervisor Politi stated we need to approve the new Ray Brook water rates effective February 1, 2011.

Councilman Doty moved and Councilman Rand seconded the motion to approve the Ray Brook water rate changes effective February 1, 2011. There being no further discussion, the motion was unanimously carried by those present.

**PURCHASE OF COMPACTOR**

Supervisor Politi stated we need to approve the purchase of a compactor for the Landfill. Larry Straight got one bid from Mullen Industrial Handling Corp in amount of \$20,281. A second bid from REC for \$20,600. The 3<sup>rd</sup> bidder did not submit an amount. You are requesting, Larry, approval to purchase Philadelphia Tram Rail model 5000 industrial heavy duty compactor for the Recycling Center to be paid from Fund Balance.

Councilman Doty stated it should take 1 ¼ year to pay for itself.

Councilman Favro moved and Councilman Rand seconded the motion to approve the low bid from Mullen Industrial Handling Corp in amount of \$20,281. There being no further discussion, the motion was unanimously carried by those present.

**BUDGET AMENDMENTS:**

Supervisor Politi stated there are substantial end of the year adjustments. There is no cost. It is moving money from one account surplus to another that has a shortage.

1. Increase Town Garage Equipment \$40.00 for purchase of Mag Drill; Decrease Town Garage Personal Services \$40.00
2. Increase Budget Office Equipment \$2,600 for purchase of server for finance department (to expand to include Assessor and Building Depts.) (this is an estimate); Decrease Budget Office Personal Services \$2,600
3. Increase Town Garage Gas & Diesel \$22,294.28; Increase Sales of Gas to other Entities \$17,703.84 and Decrease Street Lighting Electricity \$4,590.44
4. Increase Highway Road Maintenance & General Repairs personal services \$7,767.20 & Increase Highway Road Maintenance & General Repairs personal services overtime \$62.77; Decrease Highway Snow Removal personal services \$7,829.97 (for pay period 11/5-11/18/10)
5. Increase Highway Fund Machinery equipment repairs \$9,442.67; Decrease Highway Fund Permanent Improvements \$9,442.67 (truck repairs made from September through current—prior overage was offset by under budget amounts in machinery gas & diesel and machinery uniforms expenditure accounts.
6. Increase Park District Show grounds equipment repair \$ 285.45; Decrease Show grounds equipment \$285.45 (to cover miscellaneous equipment repairs)
7. Increase Craig Wood Equipment for purchase of new water heater \$335.17; Decrease Craig Wood Grounds repair \$335.17
8. Increase Parks Ground repair for repair of athletic fields \$3,582.23; Decrease Craig Wood Grounds repair \$3,582.23
9. Increase Transfer Station Equipment \$14,731.00 for purchase of new bailer for recycling building; Decrease contingent account \$14,000 & Increase Refuse & Garbage Charges/Recycling Reimb. \$ 731.00

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Councilman Doty moved and Councilman Favro seconded the motion to the budget amendments as written and presented. There being no further discussions, the motion was unanimously carried by those present.

**COMMITTEE REPORTS: AIRPORT FENCE UPDATE**

Supervisor Politi asked Larry Straight for update on Airport fencing.

Superintendent Straight stated fencing is completed. The gates have not been put in yet.

Supervisor Politi stated this is to keep our terrorist out. So the fence is ahead of schedule

**COMMITTEE REPORTS: UPDATE ON THE ADK LOJ BRIDGE**

Superintendent Straight stated the decking was put in last week and we are on schedule. They are not coming back until March or April for guide rails. It was pretty impressive the way they set that decking. It was impressive how they got there; they backed those trailers all the way from Cascade Road in. The operator on the crane was just as impressive.

Supervisor Politi confirmed that it was Miller's subcontractors.

Councilman Doty asked about the grade of the platform turned out and Superintendent Straight stated it was right on the money.

**ESSEX COUNTY UPDATE; COMMUNITY COLLEGE FUNDS OUT OF COUNTY**

Councilman Doty asked Supervisor Politi to explain something he say on the news; out of county money for students that go to another county. I don't understand Randy Preston's explanation of handling that money and then turning it over to the college.

Supervisor Politi explained if a student goes from one County to the next, there are paybacks to each. The revenue goes directly to NCCC. However, we found out that a lot of counties don't do that. They collect the money themselves. The county can allow for the money to go to the Community College. NCCC brings its budget into the County and we approve the budget. The issue is if you allow the county to take the money, they have automatically built it into their budget. If you have the money and they come in and want to negotiate of the money they need. If they have it they have already built it in and you cannot get it back.

**APPROVE AUDITS AS PER AUDIT #'S**

Supervisor Politi asked for approval of the audits.

TOWN OF NORTH ELBA		
CLAIMS APPROVED FOR PAYMENT 12/14/10		
	<b>Regular</b>	<b>Prepaid</b>
A FUND	126669.17	134824.51
DA FUND	60987.77	0.00

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DB FUND	7808.62	30464.79
H01 SECURITY/PERIMETER FENCE AIRPORT CAP. PROJECT	7065.21	0.00
H02 -BLOCK HANGAR REHABILITATION AIRPORT CAP. PROJECT	1500.00	
H31- CODE UPDATE	8.47	0.00
H43 2008 AIRPORT CAPITAL PROJECTS	3000.00	
RD03-THEIANOQUEN WAY ROAD DISTRICT	0.00	5745.60
SF1 FIRE PROTECTION DISTRICT	0.00	0.00
SF2 FIRE PROTECTION DISTRICT	0.00	0.00
SF3 FIRE PROTECTION DISTRICT	0.00	0.00
SP PARK DISTRICT	189898.42	54775.90
SS21 CONSOLIDATED SEWER DISTRICT	0.00	0.00
SW1 SEWER DISTRICT #1	0.00	0.00
SW2 MCKENZIE	0.00	73.80
SW3 RAY BROOK	5581.86	489.14
T TRUST & AGENCY	0.00	358.07
TE PRIVATE PURPOSE TRUST	0.00	0.00
	402519.52	226731.81
102432; 102467; 102488-102574; 102596-102668; 102690-102716		

Councilman Doty moved and Councilman Favro seconded the motion to approve the audits as written and presented. There being no further discussion, the motion was unanimously carried by those present.

**PRESS QUESTIONS:**

Chris Knight asked Supervisor Politi what he thought the one community in the Adirondacks to be the Capital of the Adirondacks; not in a governmental sense.

Supervisor Politi stated what do you want me to say, Saranac Lake?

Chris Knight stated no, I want your honest opinion. The reason I ask is back in June Clyde Rabideau and the Village Clerk have been working on a slogan for Saranac Lake; the “Capital of the Adirondacks”. They have actually gone to the Department of State and got a trademark for it. It will be on their letterhead. They are talking at their next board meeting about going to the DOT to put a sign up on the Northway at exit 30 that says, Saranac Lake Capital of the Adirondacks.

Supervisor Politi stated if you are asking me if it bothers me, no it doesn't.

Chris Knight stated what should be the capital?

Supervisor Politi stated I don't know. Should Albany be the capital of NYS or should NYC be the capital? All of the businesses are in New York City so why isn't the capital there? I don't know what defines a capital.

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Chris Knight state I asked Clyde that he said Saranac Lake is the largest population center in the park, the largest hospital in the park and the largest employers in the park.

Supervisor Politi stated does that include the prisoners? It doesn't bother me that Saranac Lake wants to be the capital of the Adirondacks. I don't care.

Councilman Rand stated if they wanted to be the biggest sports capital then that would be Lake Placid.

Supervisor Politi stated I don't think anybody has a problem with Saranac Lake calling themselves the Capital of the Adirondacks. I would just assume Clyde got some publicity out of it for Saranac Lake. I think Rabideau wants to be governor of someplace!

**ADJOURNMENT**

There being no business to come before the board. Councilman Rand moved and Councilman Favro seconded the motion to adjourn the regular Town Board meeting at 7:55 pm. There being no further discussion, the motion was unanimously carried by those present.

Respectfully submitted,

Laurie Curtis Dudley  
Town Clerk