

REGULAR BOARD MEETING

TUESDAY, APRIL 5, 2011

Minutes of the Regular Board meeting held on the above date beginning at 5:00 pm in the meeting room of the North Elba Town Hall, 2693 Main Street, Lake Placid, New York.

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

Others Present: Don Krone, Nathan Brown, George Earl, Larry Straight,

Supervisor Politi opened the Regular Town Board meeting at 5:00 pm by asking everyone to stand for the Pledge of Allegiance.

Supervisor Politi asked for a motion on the minutes of the Board meeting on March 8, 2011 and Special Board Meeting of March 25, 2011

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

PERSONS OPPORTUNITY TO SPEAK – DONALD KRONE

Supervisor Politi invited Donald Krone to come forward. He stated everything you have sent to the Board they have received.

Mr. Krone stated his name and address and presented a formal written statement for the record. He stated I wanted to follow up on the correspondence I previously sent regarding the Local Law #1, the Dog Ordinance and the personal experience that I have had with this. As someone who is trying to walk his dog on a leash down the street, over the course of the last year. Nearly all the homeowners in Deerwood Hills follow the law walking their dogs on a leash or they have fenced yards or they use dog runs or they have invisible fences. 99% of the people follow the rules in that particular neighborhood. It is evident that the law is toothless against those who ignore the regulation. There have been repeated violations of the statute over the last 10 months and two dogs, including my own, have been bitten. We have been before the Town Justice a half a dozen times on various complaints. The transition from having an enforcement officer for animals to the Lake Placid Police Department, they don't patrol outside the Village. They come when called and are very prompt. They are very courteous. They do everything they can to enforce the law. I believe they are handicapped in that they do not have the tools necessary to catch a dog, in my observations, including this morning. This morning was the latest episode when I couldn't walk down the street because I was harassed by a neighbor's dog.

Supervisor Politi asked if it was the same Dog.

Mr. Krone stated yes the same dog. The first batch of fines on all these cases was paid last fall in the amount of \$450, which I believe the Judge did not render the maximum fines. Additional fines were levied at the end of January and as of this morning those fines have not been paid. I do not know the total amount.

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Supervisor Politi stated I think it is about \$450.

Mr. Krone stated as of today there are nine additional “information(s)” filed from the Police Department to the Town Court. Those are all since February 1st. It is presumed that this will result in additional fines if the defendant is found guilty. The next court appearance is April 11th. I recognize that the laws alone cannot modify human behavior. They can only deter people from doing things that are not proper. However, it is clear that the enforcement of Local Law #1 is severely limited because the court itself claims that they are powerless to collect the fines. This inadequacy has to be resolved so that someone like myself can legally walk down the street without fear of my dog being bitten or other neighbors dogs being bitten or harassed by a dog that is loose. The dog itself is not a problem, it is the owner. Court officials have told me that the Court cannot hold this dog owner in contempt on an infraction since the Town statute doesn't give the court that power. I am not an attorney. I just bring this to your attention. If the Court had at its disposal the threat of a jail term for contempt or additional financial penalties for repeated violations or the ability to impound the animal if the fines are unpaid. There would be a better chance that the statute would actually be able to be followed. Therefore, I request that this Board expeditiously review the statute, hopefully amend Local Law #1 as required to give the Town Court the necessary sanctions to deal with repeated violations of this law. I thank you for your consideration.

Supervisor Politi stated we are obviously familiar with this and obviously taken the steps necessary. We have already taken the steps to modify the law. The modifications are on the agenda as old business today. Just for the record, I want to know the informations that were filed, were they only by you or where they by other people in Deerwood Hills?

Mr. Krone stated there have been other complaints filed. The records are available. There was another dog in the neighborhood that was bitten. One of the frustrations that people have is that they know that nothing happens. When nothing happens they feel, what's the point of calling the police or trying to do anything. They just basically fluff it off. I am not about to start recruiting neighbors to assault you with information.

Supervisor Politi stated some people have called me so I know there are others than you.

Mr. Krone stated there are indeed other cases.

Councilman Miller stated I have a couple of houses listed in your neighborhood. I am down there quite a lot. I don't think you heard my story; it wasn't until I was talking to you on the phone until I even knew what dog it was. I thought that the dog you were complaining about was owned by one of the houses I listed because the dog is there every single time.

Mr. Krone stated further history on this particular case; because of the dogs that were bitten, the case went from before Justice Rogers. There were hearings held and unfortunately he did not follow the proper procedures and had to deem that the dog was no longer dangerous. No hearings were held so the case was transferred to Judge Dietrich who has held a number of court sessions. But it has been very frustrating to deal with this over the last year. I have a home office and have

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been able to walk down the street to get my mail. I have been unable to do that and I have to take my dog somewhere else. It is extremely frustrating.

Supervisor Politi asked the Board if they had questions.

Councilman Miller stated you should know that this Board has been talking about it. We went back and forth on emails where we discussed the issue and how to follow up to make sure that it would work. I want to make sure you know that we do take seriously your right to be able to walk down the road without being accosted by a dog that was not under a person's control.

DISCUSSION OF DOG LAW MODIFICATIONS

Supervisor Politi stated unless there is someone else here to speak, and I don't believe so, I am going to go directly to "Old Business" and let's talk about the Law modifications. Don please stay. I am going over the modifications that we talked about. Some were modifications that came from my discussions with the Judge, Ron and Laurie with regard to Dog licensing and so forth. One of the problems the Judge was having dealt with dogs which run at large. There was nothing in the law that said it was illegal for dogs to run on a municipal land. Private lands you can control because you can say, you can't be on my property. On a highway there was nothing to contradict the particular element of a dog and an owner utilizing public property. We needed to change the language there. That language now would read, Section 4 (c):

Section 4 (c) "Run at Large" means to be on private lands without the knowledge, consent, and approval of the owner of such lands or upon public lands without being tethered with a leash.

Supervisor Politi stated that is not the case in the Town now and would make it necessary for even you if you were going to walk your dog down the Deerwood Hills road that dog must be leashed. Otherwise we have to get a violation of consent.

Councilman Miller stated are there other ways to say it, "or under a person's control"?

Councilman Favro stated what is control?

Councilman Miller stated I hear you, but a lot of people are able to walk their dog without a leash and their dog is still under their control.

Supervisor Politi stated you can walk your dog anywhere on your property but if you really want to control a dog walking on a public highway... there is a leash law here in the Village.

Councilman Miller stated I can see it on Main Street because you are worried about the traffic.

Supervisor Politi stated there is a leash law throughout the Village.

Mr. Krone stated I understand that. What is going to prevents someone who is repeatedly violates the law? That is the problem now.

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Supervisor Politi stated I'm not done. I am just telling you about one element. We need to close the door on consent. Section 7 (c):

Section 7 (c) Any person who observes a dog in violation of this Law may file a complaint under oath with the Lake Placid Police Department, Dog Control Officer, any police agency having jurisdiction or other such entity having authority to receive such complaints specifying the nature of the violation, the date thereof, a description of the dog and the name and residence of the owner, if known, of such dog. Such complaints may serve as a basis for enforcing the provisions of this Local Law.

Supervisor Politi stated we are changing that because in the event that next year we decide that this system is not working with the Police Department and we want to go back to a Dog Control Officer that Dog Control Officer would fall within this category. In addition to that, the State Police would have a right to do so. We are also adding Section 7 (d); if a dog is impounded then you cannot get the dog back without paying an impound fee in addition to the fine.

Section 7 (d) (iv) Pay the cost to impound the dog in an amount not to exceed \$75.00.

Supervisor Politi stated in addition to that we have added under the Penalty section, Section 8:

Section 8 Penalties: any person convicted of a violation of this Local Law shall be subject to a fine in a minimum amount of \$25.00 but not to exceed \$250.00 and to a term of incarceration not to exceed fifteen (15) days, or both. Additionally, an owner shall pay a penalty of \$75.00 for any dog seized and the cost to impound said dog in an amount not to exceed \$75.00

Supervisor Politi stated this adds a little "teeth" to the law in that if you don't pay the fine and you come in again and the fine has not been paid, and because it is a violation and the violation allows under law an incarceration up to 15 days. Not that a Judge would do that but has the ability to say, if you aren't going to pay the fine you can serve the weekend in jail. I have always found, having sat on a bench, when you have that ability it seems to get people's attention, they pay their fine and take care of their dog. Nobody wants to go to jail. Under a violation, which this is anyway, that is one of the statutory penalties for violating. That is what we are talking about.

Mr. Krone stated that would be dramatic step in the right direction. People can still violate the law. You cannot change that. However, if there is enough teeth so that the Judge can actually do something, there is a much better chance of the law being followed.

Supervisor politi stated if I said to you, Don, that there are a number of charges against you for this dog. You haven't paid your fine and I have a charge against you today. You have a choice; pay the \$500 or spend the weekend in Essex County. The chances are, you are going to pay the fine and probably it won't happen again because the judge is only going to tolerate this to a certain point. He is then going to make it tougher and tougher. Nobody wants to send anyone to jail, but the purpose is to get their attention.

Councilman Miller stated the police came out again today and were not able to catch the dog?

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Mr. Krone stated they did come out today but they didn't even try. They have tried unsuccessfully about a dozen times.

Councilman Miller stated so they will issue a citation?

Mr. Krone stated it is my understanding they filed an "information" with the Court today on their physical observance that the dog was well away from its location.

Councilman Miller asked what "information" was and Supervisor Politi explained that a complaint is filed and it is an accusatory instrument that the Judge would read to see if it meet the elements of a particular crime or in this particular case does it violate the law. It is sworn to by the name on the substance. It is a basis for the complaint.

Mr. Krone stated the complaints that are before the Judge have been issued by the Lake Placid Police Department. When they were unable to physically observe it, then under oath I have personally filed an avadavat and also have photos to back up my assertion.

Supervisor Politi stated we don't want to pick on anybody. It is equitable for everyone. As long as everyone curbs their dog and takes care of their dog then you don't have a problem. I is not meant for the guy who has a problem once. Fool me once, shame on you; fool me twice, shame on me. That is what we are trying to avoid. I will preface all of this by telling you this is the direction we want to go with however, we still have to have a public hearing on this and then it has to be filed with the Department of State which could take 30 days. So you may have to deal with it, but the Judge is going to have the ability to be able to impose a penalty that will get someone's attention. How does everyone else feel?

Supervisor Politi stated do you have any issues with those particular items that we have talked about. If not, we will schedule a public hearing before our next meeting for Local Law #3 of 2011. This is no different than the Zoning Ordinances; you pass it and over the course of time you make adjustments to it.

Mr. Krone stated it can't deal with the past but it certainly can deal with the future.

Supervisor Politi stated the other thing that we are dealing with is economics. For years we had a Dog Control Officer and it got to be somewhat an expense for both the Town and the Village. So we tried to find a different way to do this. If it doesn't work, we change back.

Mr. Krone stated as I said, with the Village Police handling this enforcement of the law, they don't regularly patrol outside the Village unless they are called, which is fine. There really aren't that many instances when this happens.

Supervisor Politi stated we rarely had this kind of a problem. I really don't remember having this kind of a problem ever. This is the only one I have ever had. There is a lop hole that needs to be address and that is the way it is.

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The Board thanked Mr. Krone for bringing it to their attention.

Supervisor Politi confirmed the Public Hearing for the Dog law modifications to be May 10, 2011 at 6:50 pm.

PERMANENT APPOINTMENT – DON WALTON – HIGHWAY

Supervisor Politi stated we have a request by our Highway Superintendent for Donald Walton in the amount of \$12.39 per hour. He has been a seasonal employee and at the recommendation of the Highway Superintendent is to be an MEO permanent employee. Do I have a motion to accept?

Councilman Doty moved and Councilman Favro seconded the motion to approve the hire of Donald Walton as an MEO permanent employee for the Highway Department at a rate of \$12.39 per hour. There being no further discussion, the motion was unanimously carried.

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PERMANENT APPOINTMENT – JOHN RILEY – CEMETERY AIRPORT

Supervisor Politi stated I also have a request to appoint John Riley to the position of MOE at a rate of \$13.50 per hour as a permanent employee. He has been a seasonal employee at the airport and cemetery and will continue as such.

Councilman Doty moved and Councilman Favro seconded the motion to approve the hire of John Riley as an MEO permanent employee for the airport and cemetery at a rate of \$13.50 per hour. There being no further discussion, the motion was unanimously carried.

BUDGET ADJUSTMENTS

Cathy has given a number of Budget Adjustments for March and went over then earlier at the Workshop. Increases in the amount of 44,021.79 which is offset by various surpluses in different departments and there is no additional cost to the taxpayer.

(Insert Amendments)

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

RECOGNIZE – NATIONAL VOLUNTEER WEEK (MAY 1ST – 7TH)

Supervisor Politi read the following Proclamation recognizing the week of May 1st – May 7th as National Volunteer Week which is the same as last year.

PROCLAMATION

WHEREAS, the entire community can effect positive change with any volunteer action no matter how big or small; and
WHEREAS, volunteers can connect with local community service opportunities through hundreds of community service organizations like Volunteer Center; and
WHEREAS, millions of volunteers working in their communities utilize their time and talent daily to make a real difference in the lives of children, adults and the elderly; and
WHEREAS, during this week, all over the nations service projects will be performed and volunteers recognized for their commitment to service; and
WHEREAS, the giving of oneself in service to another empowers the giver and the recipient; and
WHEREAS, experience teaches us that government by itself cannot solve all our nation's social problems; and
WHEREAS, our country's volunteer force of over 64 million people is a great treasure; and
WHEREAS, volunteers are vital to our future as a caring and productive nations;
NOW THEREFORE, I, Robert T. Politi, Supervisor do hereby proclaim

May 1 – 7, 2011

as

NATIONAL VOLUNTEER WEEK

In the Town of North Elba, Essex County, New York, and urge my fellow citizens to volunteer and encourage others in our region to follow. By volunteering and recognizing those who serve, we can replace disconnection with understanding and compassion.

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Supervisor Politi stated this is requested by the Visitors Bureau as part of their nation volunteer week and there will be recognition of the volunteers in our community during that time period.

Councilman Miller stated let's face it, we are really lucky in this town with as many volunteer organizations as we have.

Supervisor Politi stated we would not be able to put on the events that we have at any of the venues.

Discussion continued regarding the events and the schools that rely on volunteers including the 3,000 or so that volunteer for the Ironman alone.

Councilman Miller moved and Councilman seconded the motion to adopt the Proclamation recognizing National Volunteer Week. There being no further discussion, the motion was unanimously carried.

COMMITTEE REPORTS – AIRPORT BID OPENING

Supervisor Politi stated we talked about the airport in terms of the rehabilitation of the runway and the fact that the rehabilitation will not take place until a year from this summer. The bid openings for the block hanger and the 5 bay t-Hangers will be Friday, May 6th at 1:30 and 2:00.

COMMITTEE REPORTS – RAY BROOK DRILLING

Councilman Doty stated Roby, did Ivan send you a report on the drilling that we are doing on the back up well.

Supervisor Politi stated Brad told me they did the well and did not hear yet as to whether they were going to have to drill another well or not. They did not think they were going to drill again. We are waiting for the report from Eric who thought it was about 90 to 150 gallons a minute. After his core sample analysis, he was going to come to the Board with his recommendation. The cost is projected to be half or what we originally anticipated.

COMMITTEE REPORTS – CRAIG WOOD GOLF HOUSE INSPECTION

Councilman Miller stated we should give an update on the inspection of the golf house.

Supervisor Politi stated an engineer will do a structural inspection of the Craig Wood golf house to determine its condition and determine the economic life of that particular facility because it is deteriorating and does need a substantial amount of work. It is my understanding that North Woods Engineering is going to help the town out and do it for us.

Councilman Miller stated we are looking to find out if it is worth us investing money in that building to do the repairs that need to be done.

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Supervisor Politi stated it is also a consideration in cost of renovation vs. the cost of a new facility. Not only is the building deteriorating, but there are also issues with regard to function in utility. All of those things will be addressed.

COMMITTEE REPORTS – SL BIKE PATH

Councilman Doty stated I went to a meeting in Saranac Lake for their master plan for the bike/walk path. It is really just getting underway. Bids went out for a consultant to help draft a master plan. Part of that will be a realistic link into this area. As we all know, the effort for bike travel here is just spawning with the two golf courses and whether there will be move on the tracts is still up in the air.

Supervisor Politi stated in the same light, Bob and I did meet with Congressman Gibson's representative. The town wanted to talk about the possibility of the consolidation of those grants. I did receive yesterday a response stating they should know within the very near future as to whether that is likely or not. That will determine where this project goes. If it is determined that they can't be consolidated, it would be extremely illogical.

Councilman Miller stated the way that I read the memo was basically saying that he is hoping that they will say yes. If they say no, then the office was hoping to continue to advocate our position.

Supervisor Politi stated yes. It just makes it a little harder.

ESSEX COUNTY UPDATE

Supervisor Politi stated one of the things that came up at the County dealt with the condition of the compactors at the Transfer Station. I don't know how bad our compactor is, but I got the impression from Tony LaVigne that the condition of the compactors was not very good. The issue was what the cost would be to replace them and whether we were going to do that. Larry, have you had a recent conversation with him?

Superintendent Straight stated no. I have not had recent conversations with him. I have had conversations with him when they have broken down. They are old. They should be replaced.

Supervisor Politi stated it is a tremendous amount of money to replace them and the County owns them. The County does not have the money available now to replace them. It is going to be an issue.

Councilman Doty stated how long is the contract with Circle?

Supervisor Politi stated I want to say another 14 years but Circle doesn't own the compactors, the county does. I don't know whether the County wants to stay in that business or will the Towns have the opportunity.

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ATTORNEY REPORTS

Supervisor Politi stated the Town attorney is on vacation.

APPROVE AUDITS AS PER AUDIT #'S

Supervisor Politi asked if everyone had a chance to look over and sign the audits.

	Regular	Prepaid
TOWN OF NORTH ELBA		
CLAIMS APPROVED FOR PAYMENT 4/5/11		
A FUND	121481.79	5630.18
DA FUND	0.00	0.00
DB FUND	26820.32	0.00
H01 SECURITY/PERIMETER FENCE AIRPORT CAP. PROJECT	19848.70	0.00
H02 -BLOCK HANGAR REHABILITATION AIRPORT CAP. PROJECT	0.00	
H03 - 5 BAY T HANGAR	0.00	
H31- CODE UPDATE	0.00	0.00
H43 2008 AIRPORT CAPITAL PROJECTS	0.00	
RD03-THEIANOQUEN WAY ROAD DISTRICT	0.00	0.00
SF1 FIRE PROTECTION DISTRICT	0.00	0.00
SF2 FIRE PROTECTION DISTRICT	3350.00	0.00
SF3 FIRE PROTECTION DISTRICT	0.00	0.00
SP PARK DISTRICT	94519.19	32.50
SS21 CONSOLIDATED SEWER DISTRICT	2070.00	0.00
SW1 SEWER DISTRICT #1	680.00	0.00
SW2 MCKENZIE	73.80	0.00
SW3 RAY BROOK	189.73	824.78
T TRUST & AGENCY	0.00	502.19
TE PRIVATE PURPOSE TRUST	0.00	0.00
	269033.53	6989.65
110420; 110497; 110541-110562; 110584-110642; 110663-110711; 110713-110724		

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

PRESS QUESTIONS

Supervisor Politi stated George the meeting stated at 5:00 so we could get you home earlier; George Earl arrived late and stated he was going to the School Board next.

Nathan Brown asked what the Town's Dog Law is now and why are we changing it if it was just passed.

Supervisor Politi gave Nate his copy of the current Law which noted the proposed changes. He stated we passed the Dog Law in January 2011. It is being amended because, as you realize, we

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have had an issue at Deerwood Hills with a particular dog and the owners who live in that development. The court records are public information. An owner did pay extensive fines and the dog is still running loose and has not paid a series of fines in the last few months. The Judge feels that law needs more teeth. What was considered just a fine is now a violation; statutory violations do carry up to 15 days in jail.

George Earl asked about Donald Krone.

Supervisor Politi stated he has filed a number of complaints with regard to a particular dog in his neighborhood who has supposedly attacked people and their dogs while walking on the road. This law would also require that dogs be on a leash on public land.

Councilman Miller stated it should be clear; he is not the only one. He just happened to be here.

George Earl continued to ask questions about the dog catcher.

Supervisor Politi stated Marty did a good job. Economics guided the decision to eliminate the dog catcher and have the Police Department take over those duties. It is not a reflection on Marty. It is a reflection on economics.

Nathan Brown asked about the grants being consolidated into one.

Supervisor Politi stated we are talking about the bike path. The monies that were allocated for the construction of the recreational bike path along the railroads were in two grants. One running from Lake Placid to Old Ray Brook Road (Scarface Trail) and the other was to Saranac Lake. The money from the Phase I grant is not enough to complete this project and we are requesting the two grants be consolidated into one. The Grants were given to Lake Placid specifically for this use. These are Federal Grants and we are waiting the response from the Feds as to whether these two grants can be combined. NYS is the administrators of the grants.

Nathan Brown asked why the grants need to be consolidated for the project to happen.

Supervisor Politi stated if we aren't able to complete Phase I from Lake Placid to Scarface with the money that was allocated then you have to pay it back. There isn't enough money for Phase I with the Phase I grant. We are trying to use some of the Phase II money because the cost of going the second section is a lot cheaper than the first.

Councilman Miller stated the second phase will not be a big issue because we will have gotten past the wetlands. Engineering a bridge through the wetlands has been the major expense.

Supervisor Politi stated I do want to say that Congressman Gibson has been very helpful.

ADJOURNMENT

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There being no further business to come before the Town Board, Councilman Favro moved and Councilman Doty seconded the motion to adjourn the regular Town Board meeting at 6:05 pm.

Respectfully Submitted,

Laurie Curtis Dudley
Town Clerk