

Regular Town Board Meeting  
May 10, 2007

Minutes of the Regular Board Meeting held on the above date beginning at 7:30 p.m. in the meeting room of the North Elba Town Hall, 2693 Main Street, Lake Placid, New York 12946.

Members Present: Supervisor Shirley W. Seney; Councilmen Derek Doty, Jack Favro, Jay Rand, Chuck Damp and Denice Fredericks, Deputy Town Clerk.

Others Present: Norm Harlow, William Kissel, Ron Boula, Bill Hurley, Ken Jubin, Tony Goodwin, Peter Fish, Michael Orticele and Rebecca Steffan.

Supervisor Seney called the Regular Town Board meeting to order at 7:30 p.m. by asking everyone to stand for the pledge of allegiance.

Supervisor Seney then asked for a motion on the minutes of the Regular Town Board meeting of April 17, 2007.

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

Supervisor Seney then asked for a motion on the proposed agenda.

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

Supervisor Seney stated we have Ron Boula here with us from the Elizabethtown Hospital that asked if he could keep us abreast of what is going on.

Mr. Boula stated thank you very much I believe this is my third year coming here giving you an update on what the hospital has done in the past year and what we are looking to do this year. He stated we had a very busy year last year and to begin with we had a lot of things we did as far upgrading the infrastructure of the hospital we contracted with Carrier Corporation out of Syracuse to upgrade our air conditioning unit and we also had new boilers put in not knowing what the future of Horace Nye is going to be. He stated in addition to that we had a whole energy efficiency study done by Carrier and they changed lighting in certain areas. He stated that the energy saving should be about \$45,000. per year.

Supervisor Seney asked how many beds do you have?

Mr. Boula stated 25 we go up and down anywhere from 18 to 20 and a month ago we were at 23 or 24.

Supervisor Seney stated you have the dialysis machine don't you?

Mr. Boula stated we have six dialysis stations there that are actually CVPH's it's there program and they lease the space from us. He stated they are looking at expanding two to three more stations.

Councilman Rand stated you have some VA services there to don't you?

Mr. Boula stated yes we do. He stated last year we also started a sub-acute program which is a good system that maybe I started last year that we were looking at starting up. He stated the sub-acute program is one of rehabilitation for post orthopedic surgery knee replacements, hip replacements and also post stroke. He stated we are getting a lot of referrals especially from the Burlington and Adirondack Medical Center. He stated the program is doing very well and CVPH has started there own program.

Mr. Boula stated we have also started CT Scan last year and that is doing very well. He stated those are the programs we put into place last year and this year we are working on a 6.3 million dollar renovation project which is expanding the emergency room and adding a second story above the emergency room where administration will be housed and by put administration there we are able to expand other areas like the laboratory, radiology and our pharmacy. He stated by renovating our pharmacy and making it bigger it will allow us to do chemotherapy. He stated another service we will be adding is cardiac rehab.

Councilman Rand asked what is your maximum number of patients?

Mr. Boula stated 25 we are a critical access hospital it is a Federal designation and with that designation we are capped at 25 beds. He stated there is legislation on the Federal level that is pending to expand it to up to 50 beds.

Regular Town Board Meeting  
May 10, 2007

because all your monies don't come from one stream we know where the major one comes from.

Mr. Boula stated the revenues are all dependent on the mix of patients that we have we have medicare and we have very little medicaid we have more self pay then we do medicaid then we have a big portion of private insurance. He stated about 68 to 70% is medicare.

Councilman Rand asked how many Doctors do you have on call?

Mr. Boula stated we have 3 Doctors on call.

Supervisor Seney stated thank you for coming.

Supervisor Seney stated our next item is persons present have the opportunity to speak unless they are on the agenda, is there anybody here that needs to speak that is not on the agenda?

Supervisor Seney stated next is the continuation of the Tahawas road dedication is there any further discussion on that this evening?

Mr. Kissel stated no we can take that one as well as the Theanoguen which is the (D) they are both moving along but there is no discussion tonight.

Supervisor Seney stated but I should keep them on the agenda?

Mr. Kissel stated yes I would Shirley.

Supervisor Seney stated the bike path update either Chuck or Jack?

Councilman Damp stated the start of the fund raising is next week May 16th. he stated Rick Preston through the Ironman is going to try to get sponsored an we are meeting with Dr. Smith and Rick. He stated through Janus funds there is some kind of matching program so we are going to try to take advantage of that.

Supervisor Seney stated the Delaware Engineering Sewer District, Bill I wasn't sure if those sewer districts went along with 6 I under new business.

Mr. Kissel stated indeed yes.

Supervisor Seney stated then I guess you need to address the both of them.

Mr. Kissel stated it comes back to that agreement that we need with the Village which is your item 6 I and Shirley I think you got a revision of the agreement.

Supervisor Seney stated the one that I got is the one you crossed out and I gave the Board a copy of that but I didn't get a copy of the total revisions.

Mr. Kissel stated the last version you got from me was pretty much my final revision. He stated I also sent that to Janet Bliss and I have not heard from her. he stated I tried to Janet today to see if she has problems with the form of it at this point. He stated she had drafted it initially then I made some changes and she and went back and forth. He stated I am hoping that at some point that she will bless it and it will go to the Village Board.

Councilman Doty stated our major concern of course was Norm's initial concern on the infrastructure add on costs if that is the agreement you are referring to.

Mr. Kissel stated that has been an on going concern.

Councilman Doty stated and with no clarification from Kathy Suzzio?

Mr. Kissel stated it not only has to be addressed in this agreement it also has to be addressed in our own Local Laws and we will be changing them.

Supervisor Seney stated so those two are connected.

Supervisor Seney stated I will keep it under old business for next month.

Mr. Kissel stated I think actually you can strike the first one Shirley the Delaware Engineering and just leave on as you have under 6 I.

Supervisor Seney stated and the Auleron we have been in touch with IDA and I have talked with Bill about it and right now they are working on the wording with the

Regular Town Board Meeting  
May 10, 2007

Supervisor Seney stated what do you guys know about the Land Works completion of Code?

Councilman Doty stated I believe they are meeting tonight.

Bill Hurley stated they met last night and they will meet again next Wednesday and they are no where near finished. He stated the next step the way I talked to some of the members of the Committee today I did not make the meeting last night is that they are trying to get whatever is done in one hard copy form so everybody can start what I call test driving it. He stated he is suppose to have that to them by the end of the month.

Supervisor Seney stated until it's done is there any way we can declare a moratorium or anything we aren't going to need a code by the time we get it.

Bill Hurley stated it is all in the details and the details are a lot of legal writing you can tell the guy what you want but to get it to where the Lawyers want it and say yes okay we will sign off on that language and where it is dependable and practicable and usable. He stated we are trying to get it so it is understandable by the lay person and there are so many issues.

Supervisor Seney stated you are saying it is suppose to be done soon we are hearing it is suppose to be done in July.

Bill Hurley stated I said a draft of what is done to this point will be available so we can start test driving. He stated there are sections that aren't even done yet.

Bill Hurley stated there is a Public Hearing process you have to go through all that just to adopt it.

Supervisor Seney stated the six soccer fields grant we are talking about these then we get in this note from a...

Councilman Damp stated let me clarify something I used the word lacrosse fields but all it is 10 yards difference a soccer field is 100 by 60 a lacrosse is 110 by 60 they basically use the same fields so I wasn't trying to change the thrust from one sport to the other.

Supervisor Seney stated are they talking about the same area that we have been talking about and wanting to expand it to do what?

Councilman Favro stated no make it the same.

Councilman Damp stated 6 soccer fields would be 6 lacrosse fields.

Supervisor Seney stated yes but do we have the space?

Councilman Damp stated if we have the space for six soccer fields we have the space the same fields would be used for both sports.

Councilman Favro it is already one that we have been working on for the last year that Norm and Butch have been working on for the last year and I think it has come to the point we need to make a decision and say let's finish these things up.

Supervisor Seney stated have you done a lot on it or not?

Norm Harlow stated I haven't done anything on it since we did the initial thing we have just kind of dropped that.

Councilman Doty stated all we are going to do now is define the project and move ahead.

Supervisor Seney if we don't do something you know we have that grant if we don't do something we did get another notice asking what we are planning to do with it we really need to start looking at... and Angel wrote that grant.

Councilman Favro stated whose the spear head Butch?

Councilman Damp stated it would be a Park District project.

Councilman Favro stated you are going to help him on it Norm aren't you isn't that the deal.

Norm Harlow stated we graded it and it was suppose to be planted in the Spring.

Regular Town Board Meeting  
May 10, 2007

neat thing and that is what the Park District should be doing because right now if people ask what they do, well they do the horse show and the general Joe Blow doesn't care about the horse show it's self they care about a picnic area or a park to play ball in or whatever so I think it is positive for us to do.

Councilman Doty stated wasn't Butch going to research irrigation because if we are going to put the number of people that are demanding these fields on they won't hold up for a season, not natural grass without irrigation.

Supervisor Seney stated the way water rates are going up we had better pump it from the Ausable River.

Councilman Doty stated don't we have a river right there?

Norm Harlow stated we did look at that.

Supervisor Seney stated we have this grant here that we need to start doing something with and I think if Angel is going to follow it through for us we should ask her to get on it or we should ask if there is some way Cathy can pick it up and go through with it or something I am not sure how these work.

Councilman Doty stated we won't jeopardize it let's fill out whatever we have to do...

Supervisor Seney stated I realize it but I am saying is if one of them is to busy and can't work it in to their schedule we should get on to it because what this grant is for we are going to have to do some work on it is for six soccer fields. She stated we are going to have to do some homework and say is it okay if we go with larger fields or something or we could just do it for soccer fields.

Councilman Doty stated we aren't doing larger fields we are taking the same space and fitting it in.

Councilman Damp stated it is a tiny bit difference in length.

Norm Harlow stated it is the same fields for lacrosse, rugby and soccer.

Supervisor Seney stated I need a motion to do something and get going on this.

Councilman Favro moved Councilman Doty seconded the motion to appoint Councilman damp to work with Butch and to go forward with the plans and work with Angel to execute the grant and get it going. There being no further discussion, the motion was unanimously carried.

Supervisor Seney stated that Chuck has brought to our attention that the High peaks AuSable River Intermunicipal Waterfront Revitalization Strategy that the Town of Wilmington had represented has come to us quite some time ago and talked to us about and was going to bring us back some information and we never did hear back from them. She stated Chuck has had a concern that perhaps we should be looking at being a part of this so I am leaving it open for discussion for you guys as to what you want to do.

Councilman damp stated to my recollection Bill was going to make sure we weren't stuck for \$100,000. and they were to come back with some other questions to be answered.

Mr. Kissel stated I think we had a lot of questions and that was the main one. he stated I have had the opportunity to talk with Rick Hoffman at the Department of State and he was very helpful and Shirley I think you mentioned somebody else in his office but I reassured Rick that he and I needed to have a conversation so I could report back to you and the Town Board and it is a lot more simple frankly then it was explained when those people came here and the simplicity of it is that there are funds available that the Department of State wants to dispense through the grant to the Towns and Wilmington would indeed be the only contract party. he stated they have identified a number of inkind potentials in all the Towns including ours some of which are in the works now and some of which have been completed. He stated I told Rick that your Board is favorably inclined but A we didn't understand it which I think we now do it is just that simple as I just told you and B of course we didn't want to be out of pocket dollars we didn't have a problem with the inkind. he stated that he said that at the Department of State all they were looking for was a simple resolution saying that we supported that and would participate in it and if we wanted to have a provision that said we understand or it is on the condition that we would not have any dollar outlay and that was certainly acceptable to them. he stated he gave me copies of the other resolutions that have been passed and actually

Regular Town Board Meeting  
May 10, 2007

authorizing the Village and the Mayor on their behalf to participate. He stated I think we can follow theirs and frankly it wouldn't be a bad idea to add no out of pocket expense.

supervisor Seney stated we can't because there is a budget summary here that says total cost of the project is \$500,000. State funds is 50% of the total and total local share is 50% of the total which is \$250,000. is that to be inkind services among all of the communities that join in and it will be all inkind services?

Mr. Kissel stated that is correct Shirley it is shared among the five and I asked them if they had any particular allocation requirements and they said no. he stated we can take a majority of that from one or two towns or not and actually we have identified pretty much everything we need in all of the Towns who have already fulfilled that requirement.

Supervisor Seney stated is like a \$50,000. inkind service.

Mr. Kissel stated he didn't say it was proportionate he just said it could be broken up in any way that they can find the projects.

Councilman Doty stated then the soccer fields project might qualify for irrigation from the river.

Mr. Kissel stated it sounded to me like a situation where they really had the funds and wanted to wait to dispense them to the communities and this was the way to do it.

Mr. Kissel stated with gumming up the whereas's which I can get with Denice on just let me read the paragraph which I think is fine once add the phrase about our own expenses that the Village passed no therefore let it be resolved that the Board of Trustees of the Village of Lake Placid authorizes the participation in said program and further authorizes Jamie Rogers, Mayor of the Lake Placid Village to act on behalf of the Board of Trustees on all matters relating to this grant. He stated this is my language; on the further provision that the Town of North Elba will not be required to expend any out of pocket dollars on the project

Councilman Damp stated the first couple of words being the Village of Lake Placid.

Mr. Kissel stated I am just reading the resolution and we will substitute the Town of North Elba if that resolution is acceptable to you.

Councilman Damp moved and Councilman Favro seconded the motion authorizing participation in the Environmental Protection Fund Grant Award. There being no further discussion, the motion was unanimously carried.

Supervisor Seney stated under new business at the request of the Budget Officer, we need to make a motion to approve of the transfer of funds as presented that will be attached to these minutes.

Councilman Doty moved and Councilman Rand seconded the motion to approve of the transfer of funds as presented. There being no discussion, the motion was unanimously carried.

Supervisor Seney stated we need to approve the recommendation of our highway superintendent to approve a surplus of a one ton pick up truck with plow and sander.

Councilman Rand moved and Councilman Favro seconded the motion to declare surplus of a one ton pick up truck with plow and sander. Discussion?

Supervisor Seney stated are you going to put that out to bid Norm?

Norm Harlow stated yes.

There being no further discussion, the motion was unanimously carried.

Supervisor Seney stated we have interviewed five individuals for the Joint Review Board and once we had all our interviews done and sat and discussed what e had the Board unanimously approved of the appointment of Michael Orticele as our Joint Review Board member to begin his term his term commences January 1, 2007 with an expiration date of December 31, 2012 which is a five year term. She stated Michael we welcome you aboard.

Councilman Favro moved and with a unanimous second the motion to appoint Michael Orticele to the Joint Review Board for a five year term was carried.

Regular Town Board Meeting  
May 10, 2007

Michael Orticele stated thanks for choosing me and I hope to live up to your expectations in working with you folks.

Supervisor Seney stated we received a letter from Ken Jubin who has a big concern about Jake Brake Law. She stated I am hearing from neighbors in different areas where they are approaching a hill a few miles in the distance where these big trucks come through and put on these Jake Brakes. She stated you probably know what they are I don't know if Bill needs to discuss this a little bit or if we need to discuss as to what we can do. She stated Ken may want to address it a little bit and you have the letter he has written that there are a lot of people living along busy throughfares leading in to this community that through out the years have had this Jake Brake noise it is a mechanical feature that assists in braking the trucks by turning the engine off thus creating a drag and that feature can be shut on or off inside the trucks by the flick of a switch.

Councilman Rand asked if it a safety factor for hills? He stated I have never heard a complaint about this before it is the first time I have ever heard about it.

Ken Jubin stated a safety issue maybe a concern maybe that is something this Board needs to consider. He stated when my wife went to Salt Lake City they have a lot of roads coming down in to Salt Lake City and they have no Jake braking. He stated perhaps on a certain grade that would become a safety factor but when you take about a hill beyond the Cascade Lakes going toward Keene but on the short distance hills is that really a safety factor maybe that is something Norm would be able to answer.

Norm Harlow stated where the issue comes is you turn the Jake Brake on and as you slow down for a hill or a curve the Jake Brake automatically comes on. He states on a small hill it is not required but you normally set it.

Councilman Rand stated do you have them on your trucks?

Norm Harlow stated we have them on the plow trucks and we use them all the time. He stated one thing I want to bring up is the new trucks get newer they get quieter. He stated the big thing is people who are running illegal exhaust anyway because then it is really loud.

Supervisor Seney stated let's explore it and see what we can find out and we will put it on the agenda and we will see if there is something we should be doing or if there is something we can't do.

Mr. Kissel stated I think we should check with the Association of Towns I don't know if the Town has authority on State highway in particular. He stated I am sympathetic to what Ken is talking about because they are awfully obnoxious and used unnecessarily sometimes. He stated even before you get to safety does this Town Board have any authority and if so what is the authority, it is something we will need to check out. He stated we have authority the question you also would have to address is how are you going to enforce it if you do pass it. He stated let's do some research Shirley and see what authority we have and I am certainly not capable of checking the safety issue which has been discussed but I think Norm and others can give us some input on that then I will also take a look at the enforceability issue. He stated there must be some experience in the State whether it is Town experience or other experience we can find out.

Ken Jubin stated if there is something you can do fine if you can't that's the way it is.

Supervisor Seney stated we can explore it and see if there is anything we can be done.

Mr. Kissel I have got to believe it has come up before and has been addressed elsewhere so there should be some authority for us.

Ken Jubin stated I appreciate that.

Supervisor Seney stated I received a letter from DEC on the sewer extension approval of residents of the peninsula subdivision of Fawn Ridge Sewer District in North Elba I guess we just have to file this Bill is this anything that...

Mr. Kissel stated I don't think that we anything to do with that, do you know anything about it Norm?

Norm Harlow stated I saw it when Shirley got it.

Supervisor Seney stated Bill might know something about it too because it is the

Regular Town Board Meeting  
May 10, 2007

Supervisor Seney stated it is the fawn Ridge Sewer District for the Butler Real Estate Company and Universal Realty and Development Incorporated.

Bill Hurley stated that is his subdivision he needs to get hooking in to.

Supervisor Seney stated what am I suppose to be doing with this?

Bill Hurley stated with DEC I don't know we don't have any jurisdiction over DEC.

Supervisor Seney stated if you don't need this for anything I will file it with DEC sewer districts. She stated I didn't want to hang on to this if it should be going to somebody an it's holding up somebody's project.

Mr. Kissel stated I think I would also call DEC. He stated at this point it is information but the question is does it raise other issues for us is what we ought to be addressing. He stated I will talk to Kathy and DEC.

Supervisor Seney stated we have a memorandum from the Joint Review Board on a resolution which states the Joint Village of Lake Placid/Town of North Elba land Use Code Subdivision regulations require that subdivision of 25 lots or more provide 10% of the land area to be reserved and improved for open space recreation use. She stated the code also allows the Joint Review Board to require a payment in lieu of fee "if the Joint Review Board determines that suitable open space recreation cannot area cannot be located in a given subdivision or it is other wise not practical to do so see part 1 section 21 of the subdivision regulations of page I 26 for full text". She stated the Butler Universal Project behind the Comfort Inn is immediately adjacent to the Jack Rabbit Trail which connects to the Brewster Peninsula nature trails, please be advise that after thorough review discussion and consideration of the facts the Joint Review Board has offered the recommendation of that the recreation fees resulting from the above referenced project should go directly to the Adirondack Ski Touring Council they maintain the Jack Rabbit trails system in which a portion of the trail is accessed and utilized on property adjacent to the parcels to be developed. She stated the ski trail is a 501 C 3 not-for-profit that has over twenty years of experience in expertise in the design, construction and maintenance of recreational trail systems and the JRB believes that they are the best equipped to over see the proper maintenance and improvement of this highly utilized trail adjacent to the proposed development. If this payment in lieu is awarded to the Jack Rabbit Trail the benefit will be to the developers and the community at large it will greatly improve existing public recreation opportunities as well as access to the Brewster Peninsula trails and the entire Jack Rabbit Trail system although the amount per lot is to be determined by the Town of North Elba Board the Joint Review Board recommends the fee be set at \$1,500.00 per lot as we have spent ample time deliberating the most beneficial way to allocate this money knowing the decision ultimately rests with your Board we urge you to thoughtfully consider our recommendation regarding the amount to be paid per lot and the recipient of these fees. She stated this resolution was acted upon at the Joint Review Board meeting held on May 2nd with Board member Peter Roland making the motion to approve and Chairman Bill Hurley seconded the motion and all members voted in favor.

Supervisor Seney stated Bill do you anything you want to add to that I will open it up for discussion by our Board?

Bill Hurley stated we met with Tony Goodwin for a couple of meetings and he has met with the developer of the property and the developer is also planning to put a side walk in along the Peninsula Road which is now the Brewster Road through their property but it doesn't go all the way to the parking area and they have been in discussion with the State and the State right now continue that to the parking area and ASTC is saying that this money could be used as seed to say look we have some money to and we want to help you with that but I think the Jack Rabbit Trail is used by everybody and it makes sense not to have them build a park. He stated it makes sense it benefits everybody and is not just going to be a park for the people who live in this area which is off the beaten path for most of the public.

Mr. Kissel stated the amount is your call they make recommendations and we make decisions.

Councilman damp stated I have absolutely no problem with the concept.

Mr. Kissel stated it's in the code.

Mr. Kissel stated the other question of course is the ultimate recipient and again the school district was the recipient last time.

Regular Town Board Meeting  
May 10, 2007

concept in my mind is okay whether Tony's group or somebody else's group is a legal recipient is a question we have to address. He stated if they are and I think they are or can be made to be then we still would have to have structure we can't say here's the money go do this. He stated we would have a contract we would have to have an agreement and I am sure Tony's people work with grants and are very familiar with this kind of an arrangement. He stated concept sounds like the board is receptive certainly the code was structured that way with the intention that the Board would be receptive Bill's people have done their work and have made a recommendation and I think we need to determine what amount you need to think about that and whether we can send the money to Tony's group if that is what you want to do and if so what structure we need to do that.

Councilman Doty stated that's all good because this fits very nice in this project my concern is for the future that it isn't any easy way out for developers.

Bill Hurley stated like I said we have done it twice this is the second because it is right there and the other one was right across the street. He stated our goals to not to let people but their way out of it and other have asked for it and we have said no there is no playground there is no public area around you have to provide. He stated our Boards intention is to hold them to the 10% of the land.

Mr. Kissel stated I think it is great that Tony is here, will the money be spent within the Town of North Elba?

Tony Goodwin stated absolutely most of it will be spent right there in that immediate area half way of to the Peninsula gate we are routing the trails so we can get permanent easements from the Butler Subdivision and from the Reiss Foundation which is the other property we need. He stated right now we cross the center of this parcel that the Reiss Foundation still hopes to develop sometime in the future with some bull dozer which obviously cost money we will be able to cross the Reiss Foundation at a very narrow point and the Reiss Foundation has expressed a willingness to give a permanent easement.

Supervisor Seney stated but you don't have it yet from the Reiss Foundation?

Tony Goodwin stated no.

Mr. Kissel stated I think if your Board is ready to Shirley to at least have a consensus that were favorable to this approach. He stated obviously there are some details that have to be researched and worked out but they have done a lot of work on their end both Tony's people and Bill's Board and the code does provide for it so it seems to me we should be moving in that direction subject to some research and I can come back and give you specific direction if you want it.

Supervisor Seney stated does someone want to make that motion?

Mr. Kissel stated I don't think we need to make a motion it's just a consensus that we want to move in that direction and you are asking me to find out what it is going to take to get that done. He stated you will still have to come back and answer the dollar question.

Bill Hurley stated it is a win win for the general public why a playground that the general public isn't going to use when they will use this. He stated take the money from the developer and go forward.

Supervisor Seney stated right now we need a motion for conceptual approval of the recommendation of the JRB.

Councilman Rand moved and Councilman Favro seconded the motion. There being no discussion, the motion was unanimously carried.

Supervisor Seney stated we have a request from the Chairman of the Joint Review Board on behalf of his Board to request Legal Counsel on the Adirondack Museum application.

Bill Hurley stated I think the rest of my letter pretty much states that we don't ask for a lawyer every time Tim recuses himself I hope you know that but I think that you have seen from the design of this building it's fifty fifty half the people say they love the other half doesn't. He stated we have to go by the architectural guidelines which most people don't understand that they are in there and things that they have to meet. He stated there is a question on our Board that they don't. He stated if and when we make a decision whether they do meet the guidelines or do not meet the guidelines we need that decision to be written by a Lawyer so it is dependable and the reason that I say dependable because at our second meeting with

Regular Town Board Meeting  
May 10, 2007

person we recommended Michael Naughton is very familiar with the code, some of you might remember him from Walmart he did work for the Town on that and he recently in front of us represented Mr. Barille in front of us for his major project. He stated he is very familiar with the code book the Board members are very familiar with his style and like his style and we think he knows the law very well. He stated he is from Albany and he charges \$225.00 an hour but most of this will not be him here it is not going to be a case where he is going to make the decision, our Board makes the decision we tell him our decision and we say can you defend this decision and if you can't tell us. He stated between e-mails and phone calls the other limitations I would put on it he is the Boards Attorney therefor the applicants Attorney cannot contact him directly any communication will have to go through our Board so we can answer half the questions and if we really have trouble we can. He stated as individual Board members will not be able to contact him we will put it all down what questions need to be asked. He state I know it is an expense but without legal counsel we are kind of swimming up stream.

Mr. Kissel stated there is no question you have to be provided counsel.

Mr. Kissel stated Ken has a request that is very similar and he is here and I am delighted he is here and I think we should have him join in this decision. He stated Ken's relates to a specific project also. He stated ken additionally has addressed what i will call a conceptual problem and this Board has discussed it and I am glad Bill is here because I don't think we have discussed it with him yet but Ken points out that there is a problem in his Board's view with continuity of special counsel and that there is a problem with the number of recusals that Tim has to engage in and all us Lawyer's have conflicts that we have to do recusals. he stated a third was Ken's estimate and it might be unfair Bill but I think that this Board would like to know at some point how many times recusals are occurring we know there are a lot because we are familiar with some of them.

Bill Hurley stated we see a lot more cases then Ken's Board does and I wouldn't say it is a third but maybe 20%. He stated again a lot of them we handle without counsel it's a sign application.

Supervisor Seney stated legal fees are really eating in to our budget.

Mr. Kissel stated let me address that Shirley because I am not arguing with Bill but his Board was given counsel Ken's Board was given counsel that's the way we ought to proceed this is a busy community you know what Dennis Curtin has said you can't be doing things without counsel I do a lot of Board work for Planning Boards and Zoning Boards for other Communities you know why I don't do it here be that as it may a lot smaller communities would not think of not having counsel at any project. He stated although Bill is certainly is to be commended and his Board for managing without counsel that isn't a good way to fly. He stated we need to address giving them competent continuity counsel both Boards going forward. He stated I don't know if we are going to solve that tonight we have to solve these two problems right now but the larger issues we have talked about and we have the guys here that have to live with the problems day to day so I think it would be good to have a little discussion and input from them.

Mr. Kissel stated frankly Bill the first question our Board had when we saw this and discussed it quickly at the last meeting was Dennis Curtin is up to speed Dennis Curtin is a confident Lawyer is there some problem with Dennis and we all had preferences lawyer wise but we spent a lot of money we think educating him and you guys spent a lot of time educating him. He stated I have know Mike for probably twenty five years an he is a good Lawyer but he is a Albany Lawyer and he is not familiar with what is going on in this Community at this point. He stated I called him and I said Mike I know Bill has contacted you and I said are you planning on doing work in this Community anymore and he said gosh yes I don't want to for close that and I said a while ago it wouldn't of made any difference but I have to tell you the whole atmosphere here now is so sensitive that you are going to be conflicted and there is going to be a appearance of conflict and he goes wait a minute I don't know about that and I am not saying we couldn't work that out Bill but he's a guy that is appearing before your Board and he intends to again and we are going to have that with different Lawyers. He stated we discussed that with Dennis when we hired him we said Dennis you have been down here on occasion and you are not going to be able to do that if we have you working on these cases and he said definitely I understand that and I am willing to accept that. He stated I am not putting anybody on the spot I am not asking you to respond to that Bill but this Board's initial reaction was wait a minute haven't we been thorough all this. He stated you mentioned a fellow Mr. Norfolk, this Board has a real concern because his partner charged far more then they thought should be charged and I can say that as a Lawyer because that is valid criticism I can take criticism myself and I am not saying that we should or shouldn't go with Norfolk.

Regular Town Board Meeting  
May 10, 2007

got this big bill from Ron. He stated when Tim recuses himself it is not very easy to find an Attorney that knows zoning and second of all that doesn't know somebody else that knows somebody else in this Town and we are all connected somehow and it gets very difficult and it almost becomes a time consuming thing the hours and hours that go in to this process and with Mr. Norfolk he's a straight shooter he's not connected.

Supervisor Seney stated he is connected by his partner this is why we are in the problem we are in right now is his partner is connected with most every other case in this Community.

Mr. Kissel stated Matt is a busy guy and like Ken says we are all connected and we have to sort that out and sometimes you can't get totally away from it. He stated would he be a potential candidate for continuity ken?

Ken stated perhaps he would I don't know we would probably would have to kick that around and see how everybody feels about it. He stated on this one particular case the Lussi's are in front of us and the Lussi's are very well known in this Community and it's hard first of all to find an Attorney that isn't going to slam the Lussi's and I don't want the expense of going out of Town and getting an Attorney and there is a lot of thought gone in to this and for that particular case I ask that you approve my wishes. He stated I don't want to get in a battle with you guys it is just not something I want to do as far as down the road whether Matt is the Attorney that you want to consider for this position I guess I would really have to think about it and if you want me to make a recommendation on my thoughts I would be glad to do that for this Board.

Mr. Kissel stated I think we need that because we have had a little bit of a respite here for both Boards but not for long which is what you gentlemen are bringing to our attention we are back to the need.

Bill Hurley stated you are talking loud and clear a second Attorney on retainer is obviously the answer. he stated our agenda is set 9 days in advance so Tim knows if he is going to be handle something and we know the difficulty in that. He stated we never act on anything the first week we always give people a chance to hear about it whether it's a public hearing or not we give two weeks for people just to comment so we will know if there are any issues coming up and if we need the guy okay we will fill him in and he can show up at our next meeting because Tim can't do it. he stated for a long term solution you definitely need to get somebody else whether Mr. Norfolk's partner is my partner's Lawyer you are going to have that and I am not recommending any Attorney for the long term but I am all for it.

Mr. Kissel stated we have benefitted from Tim's contribution and he has given and given.

Ken Jubin stated he's a great hired gun he's very professional and very bright.

Supervisor Seney stated has Norfolk worked before for you on the ZBA?

Ken Jubin stated he worked for us before with Ron. He stated I am talking about Tim now as being the lead Attorney I think this Board needs to lay out the amount of recusals that you have with Tim and again I don't want this to be misconstrued in any way shape or form against Tim because Tim has been a great contributor. he stated Tim is a great guy but at a certain point to be the number one guy for the ZBA it doesn't make sense at least in my opinion.

Mr. Kissel stated do you now if Matt's firm has cleared with the Lussi's because Ron has done a lot of work for the Lussi's over the years?

Ken Jubin stated Ron and Matt have talked about it and there's not a conflict there so.

Mr. Kissel stated the question is whether the Lussi's have said there is not a conflict there.

Ken Jubin stated if they have they should of said something by now because Matt has been corresponding with Art Lussi.

Bill Hurley stated it isn't recusal on your terms someone can ask you to recuse but you don't have to.

Mr. Kissel stated no if your an Attorney and there is a conflict and your client says hey I have a conflict but yes Bill it is discretionary on the end of the Attorney.