

PUBLIC HEARING / REGULAR TOWN BOARD MEETING  
TUESDAY, JUNE 9, 2009

Minutes of the Public Hearing held on the above date beginning at 6:45 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 Damp, Councilman Rand, and Laurie Curtis Dudley

Others Present: Chris Knight, Heather Sackett, Attorney Ronald Briggs, Larry Straight, Shannon Porter, Jim Morganson, Kimball Daby, Skip Bissonette, Kevin Maynard, Craig Squier, and Mary Liz Alexander, Eddie Yanchitis, Wayne Bickford, William Stowe, Denny Allen, Brian Cassini, and Kirk Gagnier

Supervisor Politi called the Public Hearing to order at 6:45 pm by reading the Public Hearing notice which he stated was to consider a Local Law relating to the regulation of the collection and disposal of solid waste in the Town of North Elba. He stated that the notice was properly published and posted.

Supervisor Politi addressed those present asking if they have had the opportunity to review the proposed law. He introduced the Board.

Supervisor Politi asked Ron Briggs if modifications have been made. Attorney Briggs made the changes that were discussed; the copies made available to the public included those changes.

Supervisor Politi stated the law pertains to the hauling of waste, C&D, and recycling. Supervisor Politi read the following:

Article 4: §4-101. Permit applications: Haulers.

(1) All haulers shall, prior to engaging in the collection, transportation and/or hauling of any waste in the Town, apply to the Essex County Department of Public Works for a permit to collect, transport and/or haul waste and/or recyclables in the County.

Article 4: §4-104. Prohibited Activities.

(4) No solid waste, including designated recyclables, generated in the Town shall be transported or disposed of outside of the Town, except pursuant to resolution of the Town Board.

Article 6: §6-101. Source Separation of Designated Recyclables.

(1) All solid waste left for collection by any person, or which is delivered to the Transfer Station by any person or hauler, shall first be source-separated into designated recyclables and other waste as required by this local law, the rules and regulations hereunder, and any applicable federal or state law, prior to being left for collection or being delivered to such facility.

(2) Except as may be otherwise allowed by the Department, all designated recyclables shall be placed in separate containers, boxes, or plastic or paper bags, and shall not be mixed with any other waste, recyclable or otherwise.

Attorney Briggs stated the law was put together using models from other Counties and Townships and in consultation with the Town Board as well as Shannon Porter. This Public Hearing is expressly for the purpose of getting input from the public about this Law.

Supervisor Politi stated if there are concerns now is the time to address the Board.

Skip Bissonette, from Casella Waste Systems out of Potsdam, stated they are continuing to make investments in the recycling part of their business. They have moved ahead in a variety of markets with Zero Sort recycling, or one bin for all recyclable materials. Potsdam has offered a Zero Sort recycling for a couple of years. Malone has started a few months ago. The material is then transported to Rutland, Burlington, or Ontario County. The facilities can handle 8,000 tons of material a year. He stated it has helped to improve their recycling rates as well as ease of customer. They have also been able to accept more types of recyclable material. For example, in Potsdam and Franklin we are taking #1 thru #7 plastics. This type of recycling makes economic sense.

Mr. Bissonette expressed that in order to recycle at North Elba Recycling Center they would have to change to split bins in vehicles. This affects their ability to do more for our customers as well as how many they can service in one day. Gathering the material will take longer, and taking material to your site will take longer to unload. He stated Casella is a partnership with the community, and we need to come up with a strategy that will work for everyone.

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Supervisor Politi agreed. He explained that the Board has received numerous calls from customers who are of the opinion that their company is not recycling here in Lake Placid. He stated if you are, then you have a public relations problem; if you are not, this is an opportunity to become more involved in our community via your customers to enhance the green initiative. Supervisor Politi asked if there were other issues.

Mr. Bissonette stated the law reads that you require all the recycling and waste to be delivered to your Transfer Station, unless we ask for permission to take it elsewhere. Would you be withholding that permission for any reason?

Supervisor Politi explained the reasoning behind the law is that we are working hard to offer better services for the people of this community. This includes better services at the Transfer station. Ideally we would like to generate additional revenues which could be utilized to enhance that facility. When a waste hauler in the community is taking waste outside our limits then that revenue is lost to us and cannot then be put back into our facility to make it better for the people who live here. He stated he has heard the comment it is a carpetbagger situation when you collect the waste here and it's transported somewhere else. The revenue does not stay here. The concern was to maximize revenues without penalizing the haulers, and also to increase the numbers of those who recycle in this community. This is also the theory that other towns and counties have taken.

Mr. Bissonette stated we have seen this flow control throughout the State. It has not proven to be in the best economic interest of residents using their service. You currently are under contract to take your material to Franklin County. Garbage always moves around and is not always in the most economically viable situation. Which means you could be taking stuff to Franklin at a premium just on the arrangement that you have. I have also seen it in other markets. For example, in the St. Lawrence County Division we take everything to the Development Authority of the North Country. They charge us a surcharge of \$7 per ton for the privilege. We are using the same landfill; I just pay more in one county than the other. What is the tipping fee if we use your transfer station?

Supervisor Politi stated the Town does not intend to charge you any differently than anyone else utilizing our facility. We are not singling out the haulers. We would like the garbage that is generated here to go through our transfer station so that our facility can only get better for the people that live here. Shannon Porter responded that we charge \$140 per ton.

Mr. Bissonette stated they are currently paying \$68.75 per ton to Clinton County. The Town cost is almost three times as much. Although Shannon Porter pointed out the extra cost of labor, gas and wear on the trucks to haul to Clinton County. Mr. Bissonette stated it does not cost \$70 per ton to transport the garbage. This would pose a significant financial impact.

Supervisor Politi stated this is what we need to hear.

Mr. Bissonette stated he does not know the Lake Placid Division, in my Division the disposal rate is 33% of my total cost of doing business. With my tip fees, transportation, and other overheads, my rate is \$74 per ton. From my office, it is 98 miles one way. I pay for that at \$74 per ton and my disposals at \$39. If I had a disposal of \$140 per ton then my disposal is no longer 33% and becomes 66%, unless I change my fees. This would be a large burden.

Supervisor Politi asked about their recycling business.

Mr. Bissonette explained he would like to revisit that. He has experience of the Zero Sort in place. The company is definitely moving in that direction. They are currently taking three grades of glass, #1 and #2 plastic, news print, office paper, cardboard, box board, tires, appliances, electronics, clothing...

Shannon Porter stated we are doing about the same with the exception of plastics. We are taking only 1's and 2's. I believe Potsdam is taking #1 thru #7.

Supervisor Politi stated he does not want to say that the new management is not recycling here, but he did say that the prior ownership did not recycle. This is part of the equation that we would like to see done. Can you take your recycling to us?

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Mr. Bissonette stated we would like to move away from multiple bin recycling to the single sort recycling. We are currently doing about 25% by volume; it takes about 25% of the truck. Split bin containers would take more of our truck space.

Supervisor Politi asked if there is any way that they can work together for a common goal. Mr. Bissonette suggested having a work session to discuss the issues.

Supervisor Politi stated he appreciated Mr. Bissonette being here on behalf of Casella Waste to address this issue. He asked that Shannon Porter find an agreeable date for a workshop session. He asked if there is anyone else here to address the Board with regard to this Public Hearing on the Solid Waste Law.

There being no further business to be brought before the Town Board at this time, the meeting was adjourned at 7:08 pm.

Supervisor Politi opened the Regular Town Board meeting at 7:10 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 May 12, 2009.

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

Supervisor Politi asked for a motion to approve the Agenda.

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

Supervisor Politi invited William Stowe to come forward to address the Board.

Mr. Stowe stated on behalf of the Rotary Club in Lake Placid, I thank you for the consideration of our appeal. We would like to set up a display on your property at the corner of Main Street and Mirror Lake Drive to support Polio Plus, an effort which we are part of. It is a worldwide association raising money to eradicate Polio from the world. By 2008 the Rotary has raised \$700 Million dollars. We have four problem Countries, Afghanistan, India, Nigeria and Pakistan, which we go to and administer the vaccine and teach the people that this is right. We would like to have an Iron Lung on display during the Ironman. We hope to raise \$3,000 over the three days as well as get publicity as to what the Rotary is doing. He stated this community is constantly hammered with fundraisers. The ironman weekend would give us the opportunity to hammer some of our visitors. Rotarians will be visiting and I think they will chip in. Bill told the Board they had asked Ironman to allow them space in the Oval but they wanted to charge the Rotary Club \$500 for the space.

Supervisor Politi asked for a motion to approve the use of the corner by the Rotary Club.

Councilman Damp moved and Councilman Favor seconded the motion to approve the use of the above said corner by the Rotary Club to display an Iron Lung for the purpose of a three day fundraiser during the Ironman event. There being no further discussion, the motion was unanimously carried.

Supervisor Politi thanked Mr. Stowe and invited Denny Allen to come forward to address the Board.

Mr. Allen stated I would like to explore the possibility of the town taking over the main entrance road into Sweetwood Farms. I do not know the procedure. I have an agreement signed by all my neighbors. I am here to see what the procedure is.

Supervisor Politi stated the Town Board received a petition from you in December of 2003. The main entry road does not meet the specs. He confirmed with Attorney Briggs that 80% of the owners that adjoin the main entrance road must sign off. The Town will not take it over until such time.

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Mr. Allen would like the town to finance the necessary changes and charge the property owners. Councilman Miller suggested the property owners receive a copy of the town laws that explain the requirements. When Theianoguen Way became a town road, the Highway Superintendant gave the owners a copy of the town law explaining the procedure. Attorney Briggs will meet with Mr. Allen to discuss the proper procedure.

Supervisor Politi reminded Attorney Briggs of at least one owner that adjoins the road but does not utilize it. Attorney Briggs will review the law and the tax map.

Supervisor Politi stated this is something we can certainly do. He informed Mr. Allen of his responsibility to do the front work before we move forward. He thanked Mr. Allen for coming.

Supervisor Politi invited Brian Cassini and Kirk Gagnier to come forward to address the Board. He introduced the Board to Mr. Cassini, Housing Development Director for Comlinks, and Mr. Gagnier, a Lawyer from Tupper Lake.

Mr. Cassini explained the property managed by Comlinks on Wesvalley Road as affordable housing which has a total of 23 units. Phase 1 of the project is 12 units; a 10 year PILOT Agreement was negotiated in 1998 for \$3,600. Phase 2, built in 2000, is 11 units; which was negotiated at the time to add an additional \$4,400 of PILOT payments to accommodate the additional number of years. The PILOT Agreement expired in December of 2008. They began discussions in January 2009 with the Town Supervisor to renew or extend the PILOT for an additional term. The projects are rent restricted which limits income while expenses continue to rise. The project lost nearly \$23,000 last year. They proposed to offer the equivalent to one month's rent, \$7,500 a year, in a PILOT payment. The existing PILOT is for \$8,000. Comlinks would like to continue with that amount for another 10 years.

Councilman Miller opened the discussion to extend the PILOT Agreement 5 years instead of 10 years. Mr. Cassini explained that they get 100% on the dollar of Federal tax relief for every tax credit they buy. In return for that benefit, they provide equity or cash to the project to help build it. The more equity they have the less debt service which in turn allows them to charge lower rents. The rents are then covering operating costs and not a large mortgage payment. A compliance period that goes along with the tax credits, under the IRS regulations that governs these projects, has a term limit of 15 years. After the 15 years, NYS offers a 1% mortgage that funds what the equity does not; the term of which is 30 years. This offers Comlinks an extended use period of 15 years that is filed with the property and is attached to the land regardless of who manages the project over that 30 year period. It will remain rent restricted. This is a safeguard the state put into effect so to eliminate a profitable sale that could eliminate the affordability factor. Although they would love to have 30 year PILOTS, they know it is difficult for towns to commit to this long term. Previously the town agreed to a 10 year contracts however Comlinks has other properties that agreed to a 15 year and others at a 5 year PILOT agreement. There is not a rule in terms of time that the agreements would run. The federal agreement ends in 5 years and this new agreement could tie into that. Mr. Cassini continued to explain in the business of tax credit funded projects, at the end of the 15 year tax compliance period the partnership agreement states that the non-profit manager has the right of first refusal to buy the property from the legal partnership. This sale would generally be for whatever debt is on the property. There has not yet been a transaction like this in New York State. No one is sure what will happen in year 15 in regards to the ownership structure. They are sure, because of the extended use regulatory agreement that the project will continue to serve as affordable housing for area residents for at least 30 years.

Supervisor Politi confirmed with Kimball Daby and Laurie Curtis Dudley that all PILOT payments and taxes for West Valley Ltd Partnership aka Comlinks are current.

Mr. Gagnier explained that Comlinks came to the Village and Town Boards to review the financials when their project first began. The Town entered into the PILOT Agreement in good faith. At the time, the project could not move forward without it. Since that time, the tax laws have changed. A 2005 Real Property Tax Law Section 581 states the assessed value of the properties must be based on the net operating income. When there is a zero net operating income or even a loss, then it follows that the Assessed value would be zero. He continued to explain a court case which was in favor of the developers; they had asked for a \$10,000 assessment and

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won the case. They could have asked for a zero assessment because they had a \$40,000 loss. He stated Comlinks could take that approach; however they do not want to. When the project was first developed, the town granted the PILOT agreement. The financials, the total project, as well as the restrictions will show that the PILOT agreement amount is all they are able to pay. Comlinks would like to extend the agreement on the basis of good faith. Comlinks and the town have had a good working relationship and have been able to serve the need that they intended to serve.

Councilman Miller asked what the original intention of the project was and for what group. Mr. Cassini stated that although both projects are funded by state agencies, the first project in 1998 was funded by the Homeless Housing and Assistance Corporation of New York State. They mandated that all funded properties must be rented to those that are homeless or at risk of homelessness. There are a few target groups associated with this corporation. One is victims of domestic violence who become homeless as a result. That was the initial target of Phase 1 in 1998. They have two shelters that serve both Franklin and Essex Counties for that purpose. One thing they found as operators of a domestic violence shelter was that when the abused left the abusive situation to live in a shelter, which is typically only for 90 days, the abused generally returned the abuser when they had to leave. Phase 1 offered a more permanent housing situation. Because there are so many categories of homelessness, we are not obligated to hold a vacant unit for someone who is homeless as a result of domestic violence. Initially the 12 units were occupied by people who were homeless or at risk of homelessness due to domestic violence. 10 years later, many of the occupants are not there due to domestic violence. The rents were generally paid for by DSS because they were homeless and had no other source of income. Phase 2 was for pure affordable housing with no strings attached. The only requirement is low income. The hope is to have the residents move from one area of the project to another as their income changes. The hope is to have them either enter the private rental market or to be a first time homeowner. They run at 100% occupancy which is a testament to the need for affordable housing in this community.

Councilman Miller asked where the occupants are from, and Mr. Cassini said they are generally from this area, however they cannot control where people come from due to the fair housing laws. There is a waiting list with refusals from different organizations within Essex County.

Supervisor Politi and Attorney Briggs both agreed that the law, 501A, is clear cut. The assessment should be determined by the net operating income. In the case law, the judge referred to the net operating statements in that case. Supervisor Politi explains it is hard to establish an assessment for tax purposes when there is no income. The Board agreed that Comlinks explained it well.

Supervisor Politi stated the issue before us is the amount of money which is acceptable to this Board and the length of the agreement. Councilman Favro stated the Federal contract expires in five years.

Supervisor Politi stated the board is in agreement to extend the Comlinks contract for \$8,000 for a period of five years. He asked for a motion.

Councilman Damp moved Councilman Favro seconded the motion to extend the Comlinks PILOT Agreement for five years for the amount of \$8,000. There being no further discussion, the motion was unanimously carried.

Supervisor Politi transitioned to Old Business beginning with the Solid Waste Law which was moved to a workshop session.

Supervisor Politi referred to Attorney Briggs with regard to the Mirror Lake Inn local law. A public Hearing was held on June 10, 2008 with no objections. This was a request to reclassify the former Ellsworth and Virginia Jackstadt property on the Norton Road in the Village of Lake Placid from "R1A" to "Planned Development". This was already approved by the Village. The Town needs to approve the law as well.

Councilman Miller moved and Councilman Rand seconded the motion to approve a law to reclassify the property formally owned by Virginia Jackstadt on the Norton Road in the Village of Lake Placid from "R1A" to "Planned Development".

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Discussion continued in regards to whether the Town had already approved the law or not. Supervisor Politi informed the Board that after the Public Hearing the Board came to an erroneous conclusion that because the property was in the Village, the Village had primary jurisdiction. The Board allowed the Village to pass the law. However, because it is a joint code it requires both the Town and the Village. Without further discussion, the motion was unanimously carried.

Supervisor Politi moved onto the Professional Service agreement with Ivan Zdrahal. The contract expired a few days ago. He would like to extend the contract another year on the same terms and conditions with no changes to the previous agreement. He asked for a motion to approve the signing of such contract on behalf of the town.

Councilman Damp moved and Councilman Favro seconded the motion to approve extending the contract for Ivan Zdrahal another year on the same terms and conditions with no changes to the previous agreement. There being no further discussion, the motion was unanimously carried.

Supervisor Politi transitioned into New Business with the request from Ironman. The Board received a copy of a letter to Jeff Edwards from the New York Department of Transportation which required the Ironman event to provide the DOT with a letter of approval from the town if the event intended to film any portion of the race. Mr. Edwards has requested a letter from the town allowing Ironman to do just that. Supervisor Politi asked for a motion to approve a letter signed by him on behalf of the town.

Councilman Rand moved and Councilman Favro seconded the motion to approve a letter in support of the Ironman to film any portion of the race. There being no further discussion, the motion was unanimously carried.

Supervisor Politi informed the Board and the public that the King Phillips Spring at the intersection of Route 9N and the Northway, which was closed because it failed the E coli and Coliform test, has been retested at the request of the Highway Superintendant Larry Straight. The results reported the spring to be clean.

Supervisor Politi stated the next item is to approve an agreement to spend highway funds which is necessary for the Town. Supervisor Politi read the contract which is filed and available for view in Town Clerk's office.

Councilman Favro moved and Councilman Rand seconded the motion to approve the Highway funds expenditure. There being no further discussions, Supervisor Politi asks for a roll call vote: Councilman Favro; Aye, Councilman Rand; Aye, Councilman Damp; Aye, Councilman Miller; Aye, Supervisor Politi; Aye. The motion was unanimously carried.

Supervisor Politi transitioned to the improvements for the athletic field; the topdressing of the six fields and the purchase of a tractor mower. The topdressing of the fields needs to be complete prior to the next event and will be funded by transferring the town funds designated for the local share of airport projects to the athletic fields project in the amount of \$5,215.44. The purchase of a John Deere tractor mower at the state contract price of \$12,443.90 will be transferred from the Park District contingency fund. The John Deere will come from the Park District fund because the tractor can also be utilized at Craig Wood. Supervisor Politi stated this facility has really turned out well. Last year there were a few lacrosse teams who used the fields. Next year they are talking about up to 100 teams and a full week tournament. He stated that lacrosse is becoming a major event in this community. He believes it is necessary to have those fields in good shape not only for the lacrosse tournaments, but also the kids in the community, the Peewee Assoc., and different schools that might need to utilize it.

There being no further discussion, a motion for the funding of the athletic fields will be requested when approving the budget adjustments.

Supervisor Politi informed the Board that the Department of Labor, formerly located at the Town House, is now renting space on the 3<sup>rd</sup> floor at the Town Hall. Attorney Briggs reviewed the Department of Labor lease. The lease is for five years with \$200 per month rent which will increase each year. The space they occupy is approximately 180 square feet which breaks down

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to about \$13.50 a square foot. This was previously discussed by the Board and Supervisor Politi requested approval to move forward.

Councilman Damp moved and Councilman Favro seconded the motion to approve the five year rental lease agreement between the Town and the Department for Labor. There being no further discussion, the motion was unanimously carried.

Supervisor Politi recognized and thanked the Lake Placid Village Electric for purchasing and planting the trees on Recycle Circle Lane. A number of the older trees were cut down which opened the visibility between the road and the residents of Cascade Acres. The new trees offer more privacy and make a nicer approach to the transfer station. He stated we continue to appreciate the relationship that the Town has with the Village of Lake Placid; it is exceptional that the Town and the Village have worked so close together. As Supervisor Politi has said before, we are a poster child for all municipalities in the state in terms of government efficiency and shared services. The Board concurred with Supervisor Politi adding how nice the trees look.

Supervisor Politi asked for approval of Douglas Drum, a seasonal employee at Craig Wood. He has worked for the Town in the past. His title position is park attendant and has been hired to perform cashier duties at Craig Wood for \$10.50 per hour. He has been approved by the department head.

Councilman Miller moved and Councilman Rand seconded the motion to approve Doug Drum as a seasonal employee for the Park District. There being no further discussion, the motion was unanimously carried.

Supervisor Politi invited Eddie Yanchitis to come forward to address the Board. He stated Tail O' Pup is seeking a live music permit which was approved by the Board last year. The restaurant neighbor, Wayne Bickford, was also present and had expressed earlier his objection to the permit. It was the intention of the Board to try to resolve any potential future problems.

Mr. Yanchitis stated their problems have been going on for twenty years.

Supervisor Politi stated the Board will do their best to appease both parties. He explained to Mr. Yanchitis the live music permit states, according to the ordinance that the town established in 1998, from sunset to sunrise there should be no music played.

Mr. Yanchitis stated the law was established back in '98 because of Wayne.

Supervisor Politi stated we are not here to discuss those issues. I want you to understand the law as I read it to you; no person or organization or promoter shall cause or allow the performance, broadcast, and/or amplification of live music within the Town of North Elba from sunset to sunrise regardless of whether an admission fee is charged unless a permit is first applied for and granted by this board. This is what Mr. Yanchitis agreed to last year and Supervisor Politi asked him if he understands it. Sunset is defined each day. Per Mr. Yanchitis, the live music they had over the weekend shut down at 8:35pm Saturday night, which was sunset.

Supervisor Politi explained that he and the Building Inspector noticed signs on your property that were in violation. Mr. Yanchitis told the board that Jim Morganson was out and the signs have been resolved. Mr. Yanchitis asked what the signs had to do with the music permit, and Supervisor Politi stated the signs were out over the weekend which is just another way you push the limit. Mr. Yanchitis disagreed with the sign issue stating Jim Morganson said the political signs with the wickets had to come down and he took them down. Supervisor Politi wants Mr. Yanchitis to ask to do something and find out if it to be permissible before just doing it and waiting to be taken to task.

Mr. Yanchitis stated he did not have a problem with following the rule. He is 55 years old and has been in business for a longtime. He has a great business with a short window to make a living. The problems with Mr. Bickford have lasted more than 20 years. He continues to explain what his neighbor has done to "sabotage" his business which was interrupted by Supervisor Politi.

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Supervisor Politi insisted Mr. Yanchitis return to the terms and conditions of the music permit and all other regulations that he should abide by. Mr. Yanchitis said he would abide by any law. He was there to get a permit to extend that law to allow him to have live music until 9:30 pm which was the same agreement as last year. Supervisor Politi reiterated the 9:30 pm end time and confirmed the performance dates from June 1, 2009 to October 12, 2009.

Mr. Yanchitis explained that groups who travel into town, specially the horseshow, do not get out until 9:00pm which is why it is very important to run until 9:30pm.

Supervisor Politi invited Wayne Bickford to address the Board. He did not wish to come forward but to remain in the back of the room.

Mr. Bickford would like the Board to know that there are two sides to every story. Mr. Bickford expressed his right to coexist in that area the same as Mr. Yanchitis does. He and his wife are concerned about the volume expressing that the noise been disturbing them. Mr. Bickford estimated the stage to the building is about 60 feet. He stated the noise is so loud that he can barely hear a conversation at his house or his son's. Mr. Bickford once again reiterated that all he is asking is to turn the noise down. He stated he can live with all the rest of it. If Mr. Yanchitis is going to have something going on like rugby and he might need a little more volume, then Mr. Bickford would like a phone call. He stated nine out of ten times I would say sure and then go up to the lake for a little while.

Mr. Yanchitis disagreed with the volume issue. He stated if my waitresses can't hear to take an order and talk to the customers then I'm not going to make any money. I judge the volume on the ability for staff and customers to be able to communicate. The bandstand is much more than 60 feet from the restaurant and the customers can still hear the waitresses.

Supervisor Politi suggested a canvas type sound deflection on the roadside, and Mr. Yanchitis explained he planted balsams which help to block the sound and the visibility of Mr. Bickford's house. He can make sure the plastic roll side is down all the time. He stated again if the waitresses can hear to take an order than I don't know what else to do.

Mr. Bickford stated turn the noise down. He stated last weekend it was so loud that it was rattling his windows. If your girls can hear people talk to them there then there is something wrong with them. He stated you could even hear the noise on the golf course. It doesn't need to be that loud and if you want to play it loud during something then let us know. That is all we are asking.

Mr. Yanchitis agreed to call Mr. Bickford when he is expecting a large group, and as a neighbor he will work on that.

Mr. Bickford continued by pointing out if someone came to Mr. Yanchitis house on Upper Saranac and pulled up with a barge playing loud music for 8 hours, he wouldn't like it. He stated I pay taxes over there just like you do.

Councilman Rand said he has been involved with this personal conflict year after year. He suggested they get together and adjust the volume to events. Whiteface Mountain has the same situation at Cloudspin Lounge in regards to live music. People do stop in to ask that the volume be turned down. There is always a happy medium. I suggest the two of you find yours.

Supervisor Politi stated it is the live music that attracts people. I don't think it has anything to do with the volume. The problem is that you have it. Mr. Yanchitis reminded the Board that he does not have a rock n' roll bar setting; he caters to families. He said he does approximately 500 meals and by 9:30 they are done for the night.

Councilman Rand stated if you live up to what you said, communicate with Mr. Bickford and adjusting the volume accordingly for events, then I don't think there should be a problem.

Supervisor Politi asked Mr. Yanchitis to give a \$500 security for the time and \$500 security for the volume. This Board would judge at the end of the year to determine if you complied with each of those. Councilman Damp stated the time is easy to measure; the volume is such a gray area unless you get into checking decibels. Unless the town is going to buy a device that measures decibels, then this is a very difficult thing to measure. He stated he could take Blue as

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loud as it gets, but when it comes to Rap he would prefer the volume very low. Supervisor Politi stated he believes the town has a decibel reader and in conjunction with how the law reads we would know if Mr. Yanchitis were in violation. The reading will be checked after numerous complaints from the surrounding neighbors. The Board discussed the adequate number of complaints before Mr. Yanchitis would forfeit his sound ordinance deposit. The number three to five times was mentioned. Maintaining a deposit is the only way the Board knows how to make sure Mr. Yanchitis does not push that envelope.

Supervisor Politi asked Mr. Yanchitis which he preferred, making a \$500 deposit for maintaining an acceptable volume or work together with Mr. Bickford and agree on an acceptable volume.

Mr. Yanchitis asked for a copy of the decibel law so he knew what he was agreeing to. Supervisor Politi stated the law applies to everyone at all times so he cannot violate it anyway. Mr. Yanchitis continued the discussion stating he won't violate any law. If Jim Morganson said to turn it down, then I would turn it down. Attorney Briggs will provide Mr. Yanchitis with a copy of the sound ordinance law.

Although Mr. Yanchitis did not agree with the \$500 for Volume control, he confirmed the deposit needed for his live music permit to be \$1000; \$500 for the time ordinance and \$500 for the decibel law. All money will be returned if Mr. Yanchitis has not violated either agreement.

Councilman Damp questioned whether asking for a \$500 deposit was actually changing the law and Attorney Briggs assured him it was just a condition of the permit. The decibel reading will be done at Mr. Yanchitis' place of business and not on Mr. Bickford's property.

Mr. Yanchitis will pick up a copy of the sound ordinance law prior to the live music planned this coming weekend.

Mr. Bickford stated the sound ordinance law states the decibels are checked at property lines. He also added that the same law states there will be no amplified music. For the Board to give Mr. Yanchitis this permit, you are violating your own ordinance. I don't care that he plays his music. All I ask that he turns it down.

Supervisor Politi informed Mr. Bickford that the new law of 1998 supersedes the old and it now does not state anything about amplified music. He asked Attorney Briggs to gather the information needed to address this issue, and informed Mr. Yanchitis that Jim Morganson will be in touch.

Mr. Yanchitis thanked the Board for their time. The Board wished him well.

Supervisor Politi moved onto budget amendments. The first is deferred revenue against Justice Court Grant expenditures in the amount of \$2,424.49, from the Airport Capital Project \$5,215.44 will be allocated to the athletic field, \$77.98 of interest and earnings will be transferred to the athletic field capital project, and \$11,907.16 remains in the account for the athletic fields grant proceeds which is being offset by \$16,890.60 of topdressing for the fields and \$309.98 for an entry gate. The last item is the transfer of \$12,443.90 from the Park District contingency funds for the purchase of the mower.

Councilman Rand moved and Councilman Favro seconded the motion to approve the audits as presented. Councilman Damp continued the discussion regarding the mower. The mower is being funded by the Park District and not the athletic field grant because Cathy Gregory thought it could be used at Craigwood as well. The grant money must be used only for the fields. The topdressing cost will come from the bond. Supervisor Politi asked for a roll call vote, Councilman Miller; Aye, Councilman Favro; Aye, Councilman Rand; Aye, Councilman Damp; Aye, and Supervisor Politi; Aye. The motion was unanimously carried.

Supervisor Politi transitioned to a request made by Highway Superintendent, Larry Straight. He asked that a John Deere riding mower be made surplus for purposes of authorizing it for sale to the public or highest bidder.

Councilman Rand moved and Councilman Favro seconded the motion to approve the transfer of a John Deere riding mower to surplus for the purpose of authorizing it for sale. There being no

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further discussion, the motion was unanimously carried with the exception of Councilman Miller who was temporarily absent.

Supervisor Politi asked for approval to write off uncollected funds from the transfer station in the amount of \$517.60 and are receivables dating back to the year 2006. If the collection efforts result in recovery, then the proceeds will be recognized as income. The parties who are no longer in business included are J&T Properties Management with a balance of \$278.23, Lodging Unlimited with a balance of \$194.01, and William O'Leary with a balance of \$45.36.

Councilman Damp moved and Councilman Favro seconded the motion to approve the writing off of uncollectable funds from the transfer station. There being no further discussion, the motion was unanimously carried.

Supervisor Politi moved onto consolidated sewer districts. The Board has reviewed the Engineers report with the proposal to consolidate seven sewer districts into one. Since the original workshop discussion, new material has been brought to the Board's attention. There has been a long standing agreement between the town and the village which resulted in the village taking over the billing process of the water and sewer and also receiving all revenues. Supervisor Politi explained that at the time, which is long before the current Board was involved, it was a verbal agreement. The village was paying down 56.9% of the debt service on average, and the town was paying 43.1% of that debt service. The problem is that it applied to six of the sewer districts. The Liberty Hill sewer district was not part of that agreement. The owners of that district have been paying down the debt service on that agreement. Supervisor Politi explained they are faced with a few things, one the village participating in only a portion of those districts, and we are talking about adding additional properties into this overall district who were not part of that agreement.

Attorney Briggs had earlier asked Cathy Gregory if there is a written agreement or resolution on either of the two municipalities directing the payments. It looks as though it was an informal arrangement where the village has been paying different percentages for each district; for example the Peninsular Sewer District it pays 25.01% of the annual debt service, for Fawn Ridge Sewer District the village pays 50%, the Whiteface Inn it pays 85.66%. Councilman Damp questioned if the percentages are paid out of the usage fees and Supervisor Politi said he believed it was paid out of the revenues it receives from sewer funds. Councilman Damp continued to question if the Village was billing, for example, the Peninsular District only for that % due for that particular sewer debt service. Councilman Rand was under the impression that each district took care of itself.

Supervisor Politi, Councilman Rand, and Attorney Briggs continued to discuss the percentage of debt service paid. It is unclear as to how they came up with the breakdown. Supervisor Politi explained that this administration, both village and town, do not have answers. Virginia Gilmore or Lloyd Levitt may have answers to how this percentage formula was developed.

Attorney Briggs suggested the Village continue to pay what they are paying while going through with the consolidation. This brings the cost down less.

Councilman Miller asked how to handle the percentages if it becomes one district.

Supervisor Politi stated it is only a matter of a few years that debt service will be paid off. The Village could then feel as though they will have no obligation to pay anything because the districts are paid off. According to Brad, there was an agreement that allowed the Village to charge the town \$20,000 a year for maintenance of sewer lines outside the village which over the years they have chosen not to charge us. The question is, after the debt service is paid off, will the village continue to pay their percentages while collecting and keeping the revenue. The town does not receive revenue. The Village pays for the overhead and keeps all the revenue which is why they have not sent the town a bill each year. They have adjusted the revenues so those who live outside the village are paying greater water and sewer rates.

Supervisor Politi suggested this is the time for a memorandum of clearer understanding. Unfortunately, Phil Perry was the only one who knew for sure. Potentially, Virginia Gilmore and Lloyd Levitt could have the answers. They decided to get together and find the answers before

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discussing a public hearing. Attorney Briggs would like to have the Public Hearing on July 14, 2009.

The Public Hearing date of July 14, 2009 to discuss the consolidation of sewer districts was agreed to by the Board. Supervisor Politi will talk to Virginia Gilmore in regards to this matter.

Attorney Briggs requested the Board adopt a resolution scheduling the Hearing on July 14<sup>th</sup>.

Councilman Damp moved and Councilman Favro seconded the motion to adopt a resolution for a Public Hearing on July 14, 2009 to discuss the consolidation of sewer districts. There being no further discussion, the motion was unanimously carried.

Supervisor Politi transitioned to the CPS monthly service agreement for Craig Wood which is for computer software upgrades to allow the Craig Wood pro shop and golf course to establish better advertising and replacement of coupons. The total cost is \$1,550 for the software and \$700 to \$1,000 for technical training of the system. The company, Club Profit Systems, will send a representative on site to train Jim Wasson and his staff. The money will come from the advertising line item at Craig Wood which is still unspent in the budget so would not be an additional cost to the tax payers.

Councilman Damp moved and Councilman Favro seconded the motion to approve the Club Profit Systems monthly service agreement for Craig Wood. There being no further discussion, the motion was unanimously carried.

Supervisor Politi transitioned to the North Elba website. The estimated cost for establishing a template could run into thousands of dollars. We received a proposal from Advertisers Workshop and are agreeable to create the site for a flat fee of \$5,000 because it is for the town. The money will come from the fund balance.

Discussion continued agreeing that the current site is outdated and needs to be updated for many reasons, including finding better ways to market Craig Wood. Advertisers Workshop will produce a template for all North Elba departments and will provide one hour of onsite training.

Councilman Damp agreed this is a great deal. The sites built by Advertisers Workshop are generally easy to use.

Councilman Miller moved and Councilman Damp seconded the motion to approve a new website by Advertisers Workshop at the cost of \$5,000 which will be paid for by the fund balance. There being no further discussion, the motion was unanimously carried.

Supervisor Politi received a request from Bill Billerman of the Mirror Lake Watershed Association to declare July, Lake Appreciation Month. He asked for a motion to approve the proclamation.

Councilman Damp moved and Councilman Favro seconded the motion to approve the proclamation declaring July, Lake Appreciation Month. There being no further discussion, the motion was unanimously carried.

Councilman Damp offered to take one for the team and hang out on the lake to represent the town for the month.

Supervisor Politi also requested a resolution approving the reservation of funds with regard to the fuel distribution system. Cathy Gregory would like to reserve \$14,364.90 of town general funds for the period running from December 2004 to April 2009 as per the agreement with the school and the village as our share of reserve funds for the fuel distribution system.

Councilman Damp moved and Councilman Favro seconded the motion to approve the reservation of funds for the fuel distribution system. There being no further discussion, the motion was unanimously carried.

There being no other new business, Supervisor Politi transitioned to Committee reports asking Councilman Rand for an update on the Town Hall roof.

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Councilman Rand explained that the last time Monahan & Loughlin came over they did not see Kimball Daby. They did repairs but the roof was still leaking. Councilman Rand called Joe Garso who advised him to call the company direct. With Kimball Daby on the line, they set up a time to meet. The leaks are around the bell tower and the south side of the roof. They are honoring the warrantee.

Councilman Rand also spoke with Peter Kroha about the programmable thermostats. Mr. Kroha believes that the thermostats lower the heat in the evening and that it takes more energy to heat the building back up during the day. He is in favor of the insulated curtains. Although Councilman Damp and Councilman Rand are not convinced the idea of having programmable thermostats should be dismissed, they are open to the idea of the curtains. They both agreed time will tell.

Councilman Damp told the board about the energy analysis at his Saranac Lake office which uses oil. The first item on the list was programmable thermostats. He noticed about a 700 gallon savings. He stated he did not know the difference in temperature from year to year, and he does not have electric heat as the town does. Although he purchased three thermostats at a cost of \$80 each, he realizes the expense to the town would be much greater due to the number of thermostats needed.

Councilman Rand recalled the Bob Run leaving their lights on all night because it took more energy to turn them on. He also reported that Peter Kroha looked into the attic and mentioned blown in insulation. The back of the building was insulated, but the front was still not completed. Councilman Rand is checking with Joe Garso of North Woods Engineering to see if the roof contractors (Monahan & Loughlin, Inc) were responsible for installing the blown insulation in the front part of the attic. Councilman Rand stated that's the end of the roof report.

Supervisor Politi asked Councilman Damp for the update on the Convention Center.

Councilman Damp explained Chip Bissell has attended meetings. Bob Hammond was very receptive to the group of drawings however they have not come back with material and/or pricing. Everyone is in agreement that it looks good. The question is whether it is affordable. The ORDA Board has not yet signed off on the design. He stated it was a very positive move to have the Planning Board involved in the process; they did not recommend changes but were favorably impressed. It appears they have addressed the issue of the leaky roof and gained extra room which they hope to finish at some point. Councilman Damp stated there will be drawings available sometime in July.

Attorney Brigs asked for a few minutes in an executive session.

Supervisor Politi continued onto the Essex County update. He stated Chris Morris did a good job reporting and getting DOT to repave Cascade Road. Although this repair is just a band aid for now, it will be done before the 1<sup>st</sup> week in July.

Supervisor Politi asked for an approval of the audits per the audits numbers as follows:

TOWN OF NORTH ELBA		
CLAIMS APPROVED FOR PAYMENT 5/12/09		
	<b>Regular</b>	<b>Prepaid</b>
A FUND	60,028.04	30,926.45
DA FUND	5,385.18	8,931.54
DB FUND	41.74	-
H31-CODE UPDATE	7,500.00	-
H43 2008 CAPITAL PROJECTS	309.98	-
SP PARK DISTRICT	341,057.87	12,717.09
SW2 MCKENZIE	-	74.91
SW3 RAY BROOK	4,579.00	-
T TRUST & AGENCY	-	549.93
TE PRIVATE PURPOSE TRUST	-	-
	418,901.81	53,199.92
9787-9795;9797-9817;9837-9926;9928-9944;9946-9953; 9955-9957		

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

Supervisor Politi opened the floor to the press. Heather Sackett asked if the Board had discussed the Old Mountain Road. She stated the Keene Town Board is planning to make regulations tonight. Supervisor Politi stated the Board has not discussed the road. If Keene passes regulations not allowing motorized vehicles in the Town of Keene, then it does not make sense for someone to unload a snowmobile in North Elba and take it down the road about ½ a mile just to turn around and go back. The section of the road that is in North Elba is not very long. He stated he does not foresee the Town of North Elba maintaining the Old Mountain Road at any cost to the North Elba tax payers. Councilman Damp spoke up in agreement. They continued to discuss the trail and the value it has for mountain biking as well as x-country skiing.

There being no further business to come before the Town Board, Councilman Damp moved and Councilman Favro seconded the motion to go into Executive Session for the purpose of pending litigations at 8:55 p.m. Supervisor Politi recused himself from the Executive Session.

There being no motions made Councilman Rand moved and Councilman Miller seconded the motion to come out of Executive Session and adjourn the Regular Town Board meeting at 9:35 p.m.

Respectfully submitted,

Laurie Curtis Dudley  
Town Clerk