

**TOWN OF DEERPARK  
TOWN BOARD MEETING  
MONDAY, NOVEMBER 15, 2010**

Meeting was held at Town Hall, 420 Route 209, Huguenot, New York 12746

**Attendance**

**Supervisor:** Karl Brabeneč

**Councilmember's:** Gary Spears, Arthur Trovei (7:48 p.m.), David Dean, David Hoovler

**Attorney:** William Bavoso

**Invocation:** Gary Spears

**Pledge of Allegiance:** Gary Spears

Call to Order at 7:35 p.m.

Supervisor Brabeneč proposed having a Holiday House Lighting Contest, an idea brought up by the Town Clerk that was a familiar practice in previous years. For those interested in entering the contest, a committee of Town employees, chaired by Florence Santini would meet after hours and check out the lights. Anyone interested in entering this contest, should submit their name, address and phone number by December 15<sup>th</sup> to the Town Clerk's office. The winners will be announced at the December 20<sup>th</sup> Town Board Meeting and donated gifts will be given out. He then congratulated Councilman Dean on his recent election November 2<sup>nd</sup>.

Councilman Hoovler announced the names of those on the football team he coached as promised to them, and stated they were not only undefeated, but unscored upon as well. He began by reading the Gazette article about their season, then announced the names: Louis Ursera, Brandon Morse, Robert Harris, Freddy Blue, George Knaugh, Andrew Gillian, Michael Radigan, Andrew Decker, Michael James, Robert Van Orden, TJ McGillis, Michael Gillan, Heath Hoovler, Zeke Bowden, Asher Pelton, Corey Alexander and Hunter Olenick. There was a round of applause for these players.

Councilman Dean thanked the residents for the support he received on election day and appreciated the votes. He was also encouraged by other election results.

Supervisor Brabeneč apologized for the Agenda on the website that apparently was encrypted. They were not able to resolve the issue allowing residents to view the agenda earlier in the day but was able to post it by the afternoon.

**Presentations/Communications**

*Historian* – Norma Schadt reported and a copy of her report is attached to the official minutes. Her question about the historical markers was whether they were on the insurance policy. Supervisor Brabeneč stated these markers should be listed on the insurance if they are town property and they would need to consult with their insurance carrier. The upcoming tree lighting on December 6<sup>th</sup> was coming together. The supervisor invited Ms. Schadt to contact him the next day regarding the historical markers and the insurance coverage.

Supervisor Brabeneč commented on receiving a phone call at 2:30 that morning because the Town Building security alarms were going off due to the building and the new 9/11 memorial being hit by paintballs. He asked that anyone who saw anything (or ever sees anything suspicious), should report it to the State Troopers and local police.

*Upper Delaware Council* – Phil Chase reported on the recent meeting he attended in regards to the Upper Delaware Council. Many organizations sent representatives and the three states, Pennsylvania, New Jersey and New York were well represented. The goals of this organization were to: 1) identify interests of different stake holders; 2) educate representatives and environmental organizations both the public and voluntary regarding existing positions and provide them an opportunity to begin to prioritize alternatives; 3) build an alliance of environmental organizations from the public and voluntary sectors and determine the next step for alliance. Summarizing, he stated that the meeting was good and another meeting will be set in a month.

**Motion to Table Approval of November 1, 2010 Minutes**

Motion by Gary Spears, 2<sup>nd</sup> by Karl Brabeneč to table the approval of November 1, 2010 Minutes until they have been read by all the board.

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoovler, Karl Brabeneč**

**MOTION CARRIED**

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Old Business

Supervisor Brabenec gave an update on the vacancy created September 30<sup>th</sup> on the Board of Assessment Review board and applications were sought for that position and one was received, Judy Kehlenbeck, the board member whose term expired and indicated her desire to be reappointed.

**Motion to Appoint Judy Kehlenbeck to the Board of Assessment Review**

Motion by Karl Brabenec, 2<sup>nd</sup> by Gary Spears to appoint Judy Kehlenbeck to the Board of Assessment Review for a term to end on December 30, 2015.

Discussion: Councilman Spears mentioned that Judy served for a few years and seems to do an excellent job. Supervisor Brabenec agreed with those comments and believed she was an asset to that board and was glad she reapplied for the position.

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoovler, Karl Brabenec**

**MOTION CARRIED**

Supervisor Brabenec reported on the notification by a group of towns in the Association of Towns for Orange County that Orange & Rockland are considering heavy increases in 2011 for delivery rates. He explained that Orange & Rockland can charge for the delivery of the electricity, and residential customers may see an increase of 24.7% and small commercial businesses an average of 20.7%, and mid-commercial 20.6% and large-commercial 19.8% and street lighting a 41% increase in their delivery rates. A total average was 23.3%. An attorney involved with fighting these increases wants as many towns as possible to join them for a cap of \$60,000 collectively to fight these rate increases. Locally, the cap for a minimum of 20 townships would cost Deerpark \$3,000 out of next year's budget. A request for a resolution pledging the town's commitment.

**Motion to Create Resolution of Participation in Orange & Rockland Litigation With Contingency**

Motion by Karl Brabenec, 2<sup>nd</sup> by Arthur Trovei to create a resolution stating the Town of Deerpark is interested in participating in litigation against Orange & Rockland for proposed rate increases on delivery in 2011 with a maximum contribution of \$3,000 contingent upon a minimum of 20 towns, cities, villages, school districts actually joining the lawsuit.

Discussion followed about what would happen when the \$60,000 goal is met; the Public Service Commission's oversight; stocks and dividends; towns involved at this point; purpose of lowering rate increases, not abolishing them, etc. Mr. Bavoso, the town's attorney, advised as part of the criteria being requested to consider an acceptable retainer agreement with that attorney. This would stipulate exactly what is being paid for and clarifies what the \$3,000 will provide the town. Mr. Bavoso assumed the cost of \$3,000 would be to pay the attorney to oppose the Orange & Rockland rate proposed before the Public Service Commission. Councilmen Hoovler and Dean agreed this would be like hiring a lobbyist. Councilman Dean added that expressing their interest does not express their commitment. Another conference call would happen on Friday.

Amended motion by Karl Brabenec, 2<sup>nd</sup> by Arthur Trovei to create a resolution stating the Town of Deerpark would participate in litigation against Orange & Rockland for proposed 2011 delivery rate increases with a maximum contribution of \$3,000 contingent on a minimum of 20 towns, cities, villages and school districts also joining in lawsuit, and upon receipt of retainer fee.

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoovler, Karl Brabenec**

**MOTION CARRIED**

Supervisor Brabenec explained the 2011 Agreement with Donohue, Thomas, Auslander & Drohan, LLP as an annual agreement for potential labor disputes that might need to go to court. This group works with the Town Attorneys and this agreement would be good for the year of 2011 for the rate of \$195 per hour for attorneys and \$90 per hour for paralegal services. This agreement would be in place should the town need their services. Councilman Spears commented that this would be on file to lock in their rates should their services be necessary. Mr. Bavoso concurred they would not be billed if they were not requested to provide a service, and when asked about Stuart Waxman's abilities, he stated he was excellent at what he does.

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**Motion to Authorize the Supervisor to Sign 2011 Agreement with Donohue, Thomas, Auslander & Drohan, LLP**

Motion by Karl Brabeneč, 2<sup>nd</sup> by Gary Spears to authorize the Supervisor to sign the 2011 Agreement with Donohue, Thomas, Auslander & Drohan, LLP.

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoover, Karl Brabeneč**

**MOTION CARRIED**

**Motion to pay bills:**

Motion by Karl Brabeneč, 2<sup>nd</sup> by David Hoover, to pay bills that have been signed by three council members, and may be viewed in the Town Clerk's office.

General Fund Abstract #21 of 2010 for a total of \$66,050.42

Highway Fund Abstract #21 of 2010 for a total of \$30,201.65

Schoolhouse Abstract #2 of 2010 for a total of \$501.16

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoover, Karl Brabeneč**

**MOTION CARRIED**

Supervisor Brabeneč mentioned the 2011 Preliminary Budget with the recommended totals from the Comptroller's office and additional changes made at the November 1<sup>st</sup> meeting.

**Motion to Modify 2011 Preliminary Budget**

Motion by Karl Brabeneč, 2<sup>nd</sup> by David Hoover to modify the Cuddebackville Fire Department line to \$206,950; the Huguenot Fire Department \$240,245; the Sparrowbush Fire Department \$251,020; A1460.1 Record Management Officer increase from \$0 to \$2,000; A3989.4 Emergency Management Contractual increase from \$200 to \$1,200; and A1990.4 Contingency Account increase from \$56,300 to \$68,247.

Discussion: Supervisor Brabeneč offered information about the changes to A1460.1 Record Management Officer (Town Clerk), which would initially create a stipend due to increased responsibilities for the dog licensing law. This had been a paid stipend years ago and thought it should be restored due to the added work. The Emergency Management contractual would enable them to spend about \$1,200 for used radios, sirens for the Emergency Management Officer's car. The contingency amount, along with the Highway Department's 3% is held should a contract settlement include a pay raise, there would be money set aside. With all these changes, the supervisor said, the tax levy was still lower by about \$7,600 and a .28% decrease from 2010.

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoover, Karl Brabeneč**

**MOTION CARRIED**

Supervisor Brabeneč inquired if there were any other 2011 Preliminary Budget modifications. Councilman Spears didn't know where they were at with the contract negotiations with the Highway and asked if there should be any money moved into contingency in case they need it. Councilman Hoover said they had set apart 3% and Councilman Spears asked what the amount was because of the benefits and costs going through the roof. He said it was hard to estimate how they would meet this obligation in the future. The previous 20 years of town boards had not dealt with this issue and he mentioned they do not want the town to go bankrupt. They need to make adjustments as they go along, as they do not want people planning on benefits that the town wouldn't have money to provide. Councilman Trovei mentioned that other towns are beginning to privatize snow plowing and they need to examine every aspect for the survival of the town. Councilman Hoover mentioned the memo stating the benefit costs are estimated at \$934,000 per man. More discussion followed. Supervisor Brabeneč stated that a reserve account had been established called Employee Benefit Accrued Liability in the General Fund, A1980.4 and \$2,000 has been allocated to that. Ed Hughson, Highway Superintendent spoke about two staff positions still unfilled, old equipment and expressed how hard it is to work with the budget and disappearing benefits. Councilman Spears addressed the fact that the New York State Retirement System is paid each week and would be fully funded, but the medical retirement benefits given by previous town boards were never funded and no attempt was ever made to fund them. As leaders, they need to make hard decisions or those retiring won't have the benefits promised. Supervisor Brabeneč posed the question to the Highway Superintendent, asking where they should raise a maximum of \$7,520,000 in that liability account. Mr. Hughson replied he had no idea. Supervisor Brabeneč stated that if he went to the taxpayers, the taxes would need to be raised 300%. Mr. Hughson said he couldn't cut any more from his department and spoke of the \$80,000 cost of repairs to Highway vehicles being ludicrous, and was concerned about his staffs safety with snow plowing. The councilmen and Highway Superintendent had a lively exchange of information. In summary, as they work together over the next year, concessions will need to happen with the bargaining unit and they will have to find

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solutions to these issues. Councilman Hoovler thought Mr. Hughson ran the Highway Department very well. More discussion continued.

Councilman Hoovler read the letter from the State Comptroller (a copy of which is attached to the official minutes). The Comptroller requires the preliminary budget for review before the Board passes it. The letter dated November 2 regarding their review of the budget: *“Dear Supervisor Brabenec and Members of the Town Board: Chapter 270 of the Laws of 2008 authorize the Town of Deerpark to issue debt totaling \$868,000 to liquidate the accumulated deficit in the districts general fund as of December 30, 2008. Local Finance Law Section 1010 requires local governments that have been authorized to issue obligations the fund operating deficits to submit to the State Comptroller each year starting with the fiscal year during which the local government is authorized to issue obligations and for each subsequent fiscal year during which the deficit obligations are outstanding, their tentative or preliminary budget for the next succeeding fiscal year. The budget must be submitted no later than 30 days before the date scheduled for the governing board’s vote on the adoption of the budget with the last date on which the budget may be finally adopted, whichever is sooner. The State Comptroller must examine the tentative budget and make recommendations for any changes that are needed to bring the proposed budget into balance. Such recommendations are made after the examination into the estimates or revenues and expenditures of the Town. Our office has recently completed an audit of the Town’s budget for the 2011 fiscal year. The objective of the audit was to provide independent evaluation of the tentative/proposed budget. Our audit addressed the following question related to the town’s budget for the 2011 fiscal year. Are the significant revenue and expenditure projections in the towns tentative/proposed budget reasonable? We conducted this performance audit in accordance with the generally accepted government audit standards (GAGAS) with the exception of reporting you of responsible officials. (Councilman Hoovler and Supervisor Brabenec were interviewed) The officials views were not solicited for this report due to the necessity of providing the town with time-sensitive information. However, the results of this audit have been discussed with town officials and their comments have been considered in preparing this report. GAGAS requires that we plan and perform audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe this evidence obtained provides a reasonable basis for our findings and conclusions regarding the estimates in the tentative proposed budget. To accomplish our objectives in this audit, we requested your tentative proposed budget along with other pertinent information, we analyzed the composition of revenues and expenditures in order to determine if revenue and expenditure estimates were reasonable. We do not offer any comments on public policy decisions, such as the pipe and the level of services he provided. The tentative budget packet submitted for audit for fiscal year ended 2011 consisted of the following: a cover letter, the 2011 tentative budget, supplementary information.”*

Councilman Hoovler then went to the end of the letter: *“Our review of the tentative budget initially presented for our examination disclosed a few minor concerns and we communicated verbally to the supervisor and board members. The town subsequently modified the 2011 tentative budget and we determined that the budgeted estimated revenues and appropriations appear reasonable.”*

**Motion to Adopt the 2011 Budget**

Motion by Karl Brabenec, 2<sup>nd</sup> by David Hoovler to adopt the 2011 Budget and submit it to the Town Clerk.

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoovler, Karl Brabenec**

**MOTION CARRIED**

**Closing Board Comments**

Councilman Spears congratulated Councilman Dean on being elected and expressed looking forward to working with him the next year. He congratulated Councilman Hoovler’s football team for their undefeated and unscored upon season. He hopes to keep working on cost-saving measures for the town because they are still in a heap of trouble in the Town of Deerpark due to shrinking sales tax and mortgage tax and mentioned there would need to be more changes made down the road. Councilman Trovei added that reading the papers help you see that everyone is in deep trouble. The country is in big trouble with promises made that are unsustainable. The town board needs to keep working on these issues. He’s thankful and pleased to work with this board as they work hard and plan for the future. Councilman Hoovler again congratulated his football team, stating the kids did a wonderful job. Solutions are unattainable in most circumstances and the state cannot pay for benefits they promised and they are striving to be able to pay benefits when necessary. Councilman Dean invited any input to help solve these problems. They are trying to do a good job and they need to be fiscally responsible. He offered his phone number (856-5090) if anyone had any ideas. Supervisor Brabenec was very happy the budget process was over and thought they had a good product and the State Comptroller thinks so. They all worked hard putting it together. For everyone who worked together, he was grateful and hoped the residents would be

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very happy with the results of the budget. There would be changes throughout the year. Every department will be looked at trying to find ways to save money. He then wished everyone a very nice Thanksgiving.

**Motion to Enter Executive Session to Discuss Police Department Personnel at 9:01 p.m.**

Motion by Karl Brabenec, 2<sup>nd</sup> by David Hoovler to enter Executive Session for the purpose of discussing Police Department Personnel and invite in Town Attorney Bill Bavoso and Police Chief Bill Werner in at 9:01 p.m.

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoovler, Karl Brabenec**

**MOTION CARRIED**

**Motion to Re-enter Regular Session at 11:15 p.m.**

Motion by Karl Brabenec, 2<sup>nd</sup> by David Hoovler to re-enter Regular Session at 11:15 p.m.

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoovler, Karl Brabenec**

**MOTION CARRIED**

Discussion continued on various positions in the town by the Town Board.

**Motion to Adjourn the Meeting at 11:33 p.m.**

Motion by Karl Brabenec, 2<sup>nd</sup> by David Hoovler to adjourn the meeting at 11:33 p.m.

**VOTE: 5 AYES: Gary Spears, Arthur Trovei, David Dean, David Hoovler, Karl Brabenec**

**MOTION CARRIED**

Respectfully submitted,

Florence T. Santini  
Town Clerk