

TOWN OF DEERPARK BOARD MEETING
MONDAY, APRIL 18, 2011
Meeting was held at Town Hall, 420 Route 209, Huguenot, NY 12746

Attendance

Supervisor: Karl Brabenec

Councilmember's: Gary Spears, David Hoovler, David Dean

Absent: Arthur Trovei

Attorneys: William Bavoso and David Bavoso

Invocation: Gary Spears

Call to Order at 7:08 p.m.

Pledge of Allegiance by David Hoovler

Public Hearing Proposed Local Law No. 2, 2011 – “A Local Law Repealing Chapter 119 of the Town of Deerpark Code and Creating a Procedure for the Repair, Vacation, and Demolition of Unsafe Buildings in the Town of Deerpark”

Town Clerk, Florence T. Santini read the Public Notice of the proposed Local Law No. 2 of 2011 and a copy is attached to the official minutes.

Supervisor Brabenec pointed out that this would amend the current Local Law drafted by Councilman Hoovler. Councilman Hoovler clarified that he provided input, but David Bavoso assisted greatly with it. After looking at the old one, he thought they needed some improvements and he thinks it is satisfactory and up to date now. Supervisor Brabenec thanked Mr. Bavoso and stated the original code was created in 1983 and that this is part of an overall effort to update the local laws.

Public Comment

George Lombardi, Route 209, Huguenot: He read over the law and thought it was a good law. It was one the town needed. Passing the laws is fine, but he asked who is responsible to determine when a building should be demolished. The supervisor replied that typically that person is the Code Enforcement Officer. He asked if things are only taken care of when a call is made to report unsafe buildings. The supervisor agreed that when a complaint is lodged it is taken care of 100% of the time. The Code Enforcement Officer could take care of anything noticed in violation of the code. Mr. Lombardi clarified that if he reports something, and if the building is determined to be unsafe, how long of a process would be for the building to come down. Typically, the time would be estimated at six months. Mr. Lombardi then asked about structures that are completely dangerous or unsafe buildings according to the New York State law. He thought the town could do something fairly quick. Mr. Bavoso mentioned the emergency procedure in the amended law. He referred to the time element involved with the flooding in previous years. He mentioned structures on Route 209 and 175 Peenpack, and Rose Street. He asked how long buildings can stay empty and not maintained. Councilman Spears said if the building is not unsafe and the taxes are paid, they would need to know if it is unsecured, etc. He's glad they are working on these problems with these buildings because they kill real estate and they are dangerous.

Motion to Close Public Hearing on Local Law No. 2 of 2011 at 7:21 p.m.

Motion by David Dean, 2nd by Gary Spears to close the Public Hearing on Local Law No. 2 of 2011 at 7:21 p.m.

VOTE: 4 AYES: Gary Spears, David Hoovler, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Public Hearing on Orange County Community Development Block Grant (CDBG) Program for 2012

Town Clerk, Florence T. Santini read the Public Notice of the proposed Local Law No. 2 of 2011 and a copy is attached to the official minutes.

Ms. Santini read that under the program a variety of physical improvements were listed as eligible for funding:

1. Acquisition & Disposition of Real Property
2. Public Work, Public Facilities or Site Improvements
3. Code Enforcement (Housing & Health Codes)
4. Clearance, Demolition & Rehabilitation for Public Use or Economic Development
5. Housing Rehabilitation Loan and Grants

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6. Special Projects for Elderly & Handicapped
7. Provision of Public Services (Shelters, Clinics, Senior Nutrition, Etc.)
8. Payment of Non-Federal Shares of Other Grant Programs
9. Relocation Payments and Assistance

Supervisor Brabenec said this was the annual application for the Community Development Block Grant (CDBG), money given by the Department of Housing and Urban Development to the County. This program has been a huge asset for the town and historically has used it for paving projects. The County Executive appointed the supervisor to serve on the CDBG committee to consider applications. There were monies already awarded to the Town of Deerpark and this year they will use them for paving Boehmler Road (\$72,500). This application is in regards to next year and roads needing consideration are Skinners Lane Development (1 mile), Painted Aprons Development (1 mile), Deerpark Manor Development or possibly Prospect Hill Road.

Ed Hughson, Highway Superintendent spoke about the paving needs and was leaning towards applying for \$125,000 to pave Skinners Lane Development. Councilman Spears asked if the cost was \$125,000 a mile and Mr. Hughson thought it might be closer to \$108,000 a mile, and Skinners Lane is about a mile and a half. He added that he would be paving two miles of Prospect Hill Road this year and would like to hold off a while on Painted Aprons, due to some water pipes issues.

Public Comment:

Jerry Vandermark –Prospect Hill Road: He was wondering what the plans were for Big Pond Road. The supervisor asked if he meant the bridge and he said yes. The Highway Superintendent would report on that later, and Supervisor Brabenec said he wasn't sure that would be eligible for the CDBG funds. It may fall under Emergency Management and the county is trying to apply for funds. He was glad they were going to do something with Prospect Hill Road.

Motion to Close Public Hearing on Orange County Community Development Block Grant (CDBG) Program for 2012 at 7:31 p.m.

Motion David Hoover, 2nd by Gary Spears to close the Public Hearing on the Orange County Community Development Block Grant Program for 2012 at 7:31 p.m.

VOTE: 4 AYES: Gary Spears, David Hoover, David Dean, Karl Brabenec
1 ABSENT: Arthur Trovei

MOTION CARRIED

Opening Board Comments

Presentations/Communications

Supervisor Brabenec introduced *Andrew Smith* and Regina Smith, by reading about Andrew's wrestling accomplishments and his being captain of the Varsity Football, Varsity Wrestling and Varsity Baseball teams and maintains a respectable grade point average as well. He will be playing football for the State University at Morrisville. The council presented a certificate for his achievements locally and statewide. The supervisor invited anyone knowing of others with outstanding accomplishments in the town to make it known to him and they would recognize them as well.

Ed Hughson, Highway Superintendent: His report is attached to the official minutes on projected paving projects. He mentioned a new way to pave that they learned from Sullivan County called hot in place. The process is estimated at about \$80,000 per mile of road. They have CHIPS money that has been awarded and will be used. Discussion continued about the new paving process. He also mentioned the packet of information he provided at the councils request on the municipal lease terms on trucks from Navistar. The board would look at the paving schedule and put on the next meeting agenda.

Supervisor Brabenec read a letter received from the Tri States Naval Ship VFW #7241 requesting the annual donation of \$500 to purchase grave flags for deceased veterans in cemeteries in Rio, Cuddebackville and Sparrowbush. The supervisor pointed out it is budgeted this year.

Motion to Allocate \$500 to the VFW for Grave Flags

Motion by Karl Brabenec, 2nd by Gary Spears to allocate \$500 to the VFW for the purchase of grave flags for deceased veterans in the Town of Deerpark cemeteries.

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Discussion: Councilman Spears inquired whether the new Veteran's Committee would recommend this and the supervisor answered they would.

VOTE: 4 AYES: Gary Spears, David Hoovler, David Dean, Karl Brabenec
1 ABSENT: Arthur Trovei

MOTION CARRIED

Supervisor Brabenec mentioned that at the next meeting under presentations, a group of citizens who volunteered by picking up garbage in the town would be recognized.

Public Comment Period (3 minutes per person/Agenda Items Only)

Robert Honders – Stated that the community should have responsible recycling facilities and that the local officials should enforce the law where violations of the law damage the community. He pointed out that the responsibility belongs to the elected representatives and stewards of the town. He mentioned the junkyards licensing and that Brim should not be re-licensed because of long standing and violations. A Regional Groundwater Study by the Town of Deerpark for the Orange County Water Authority noted poisonous findings in June 1994. More was stated regarding the need for recyclers and the local government had the responsibility to make sure they are properly cited and operating within the law so as to cause no harm to any neighbors or the environment. (A copy of his letter is on file with the official minutes.)

Warren Cuddeback – Lives in Cuddebackville close to the BRIM Junkyard. He recommended their license not be renewed. He referred the board to his letters dated March 18 and April 4 of 2011 detailing ongoing violations of the zoning law similar to what they just heard. He also submitted pictures of the junkyard where there is an assortment of trailers, trucks, containers and flat beds. Referring to a picture that was outside the site plan on property owned by Calahan Industries, in violation of Section 5.15 No. 14 of the Zoning Law indicating any person to expand their junkyard in the Town of Deerpark should be submitted to the Planning Board. It is also in violation of Article 6.1.4 regarding the HMU zone. There is also a violation of Section 5.1512C and that the junkyard is not screened from view from the adjoining properties and Route 209 Highway. A violation of Section 5.1513D referring to not having an 8 foot fence around the junkyard expansion.

Bill Graham – Lives on Route 209 and owns property directly across the street from Brim and his quality of life is going, down, down, down. He hears trucks running across the street at 2:00, 3:00 and 4:00 in the morning with different state plates. He feels the ground shaking from the trucks 500 feet away from him during the night. It is very bad.

Noel Malsberg – Lives near to the BRIM Recycling. He is completely off of his site plan on the County Road and cannot believe a business could be so far out of whack in terms of violations and the zoning code and still operate. He wouldn't belabor the point because they heard it all. He displayed what is visually seen.

Supervisor Brabenec added that a letter was received from Burt Thelander, 85 Guymard Turnpike, Godeffroy, NY 12729 for the record. The council had a copy.

Old Business

Supervisor Brabenec reported that a Public Hearing was held earlier in the meeting in regards to the Local Law No. 2 of 2011, Amendment to Unsafe Buildings Law.

Councilman Dean mentioned it is a law of good intentions, but hoped everyone understood that it may not do everything everyone wants as soon as they want.

Supervisor Brabenec highlighted the amended changes included engineering or legal fees incurred with taking down the structures, so the town could be reimbursed.

Motion to Adopt Local Law No. 2 of 2011 – “A Local Law Repealing Chapter 119 of the Town of Deerpark Code and Creating a Procedure for the Repair, Vacation, and Demolition of Unsafe Buildings in the Town of Deerpark”

Motion by Karl Brabenec, 2nd by Gary Spears to adopt Local Law No. 2 of 2011 as presented.

VOTE: 4 AYES (Roll Call): Gary Spears, David Hoovler, David Dean, Karl Brabenec
1 ABSENT: Arthur Trovei

MOTION CARRIED

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New Business

Supervisor Brabenec introduced the Consideration of the Orange and Rockland (O & R) Rate Increase Lawsuit, which was introduced last November by the local association of towns who had hired an attorney to start a class action suit due to the proposed increased rates. Street Lighting by almost 40%, residential was about 25% and the board approved a motion to contribute in the O & R Litigation with a contingency of a minimum of 20 towns and villages for the maximum contribution of \$3,000. Mr. Bavoso advised them to consider an acceptable retainer agreement with that attorney stipulating what is being paid for and clarifies what the \$3,000 will provide the town. He assumed that amount would pay for the attorney to oppose the O & R rate proposed by the Public Service Commission. The attorney called confirming that they do have 20 towns and villages. This Resolution would authorize the Supervisor to go ahead and sign the paper work to file this suit against O & R.

Motion to Authorize Supervisor to Sign Agreement Entering Orange & Rockland Rate Increase Lawsuit-Resolution 15 of 2011

Motion by Gary Spears, 2nd by David Dean to authorize the Supervisor to sign the agreement to enter the lawsuit against the Orange and Rockland Rate Increase with a limit of \$3,000 as Resolution 15 of 2011.

VOTE: 4 AYES (Roll Call): Gary Spears, David Hoovler, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Supervisor Brabenec read the following letters of recommendations from both the Building Inspector, Robert Emerson in regards to Junkyard License Renewals:

Motion to Approve Eckes Auto Body (Upper Brook Road) – Junkyard License Renewal

Motion by Karl Brabenec, 2nd by David Hoovler to approve Eckes Auto Body-Junkyard License Renewal, Upper Brook Road, Sparrowbush, NY 12780.

VOTE: 4 AYES: Gary Spears, David Hoovler, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Motion to Approve Eckes Auto Body (787 State Route 42) – Junkyard License Renewal

Motion by Karl Brabenec, 2nd by David Hoovler to approve Eckes Auto Body-Junkyard License Renewal, 787 State Route 42, Sparrowbush, NY 12780.

VOTE: 4 AYES: Gary Spears, David Hoovler, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Motion to Approve Mullers Auto Body (417 State Route 97)-Junkyard License Renewal

Motion by Karl Brabenec, 2nd by David Dean to approve Mullers Auto Body-Junkyard License Renewal, 417 State Route 97, Sparrowbush, NY 12780.

VOTE: 4 AYES: Gary Spears, David Hoovler, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Motion to Approve Tenke's Body Shop & Garage (609 State Route 209)-Junkyard License Renewal

Motion by Karl Brabenec, 2nd by Gary Spears to approve Tenke's Body Shop & Garage-Junkyard License Renewal, 609 State Route 209, Godeffroy, NY 12729.

VOTE: 4 AYES: Gary Spears, David Hoovler, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Motion to Approve Arthur Trovei & Sons, Inc. (82 Sleepy Hollow Rd.)-Junkyard License Renewal

Motion by Karl Brabenec, 2nd by Gary Spears to approve Arthur Trovei & Sons, Inc.-Junkyard License Renewal, 82 Sleepy Hollow Rd., Sparrowbush, NY 12780.

VOTE: 4 AYES: Gary Spears, David Hoovler, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

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The letter in regards to *BRIM Recycler's Inc. Junkyard License Renewal at 23 Route 211, Cuddebackville, NY 12729* referred to the inspection by Alfred A. Fusco, Engineer and Robert Emerson, Building Inspector had the following comments: a) fence to be repaired is necessary, b) parking of trailers not in accordance with the site plan on Section A, c) some material in zone 2 and 5 needs to be relocated, not in compliance with the site plan, d) junk pile in containers on Calahan property not in accordance with the site plan. A meeting on April 13, 2011 with Brad Burnett and Robin Geiger, Brim Recycler's Inc. resulted in their agreement to repair the fence as needed and that new evergreen planting would take place when the weather permits, Brad said the containers on Calahan property were from demolition of old steel building. Mr. Burnett will be filing with the Planning Board for offsite parking of trucks. The Building Department would recommend a one year conditional license. No. 1 and No. 4 for compliance to site plan or revision to site plan. Next year's license to be No. 2 and No. 3 denied if site plan is not consistent with the new inspection. They also read the letter from the Engineer. The numbers coincided with the a, b, c and d. The supervisor asked the council for comments, Councilman Spears thought the idling of the trucks whether they are from BRIM or somebody else needs to be checked out and addressed. If they are on BRIM's operation, that should be added to this list if he is granted the conditional license. Councilman Hoover asked about the compliance requirements and they were re-read. Supervisor Brabenec asked the attorney for clarification on the difference between conditional and regular approval. The Attorney claimed to not being consulted on any of this. They are not sure the law permits a conditional license. Any violation should have a time limit. He asked to look at these reports and look at the statutes and make a recommendation to the Building Inspector. Mr. Bavoso said he will look at it and make a recommendation for the next meeting.

Motion to Table the BRIM Recycler's Inc. Junkyard License Renewal

Motion by Gary Spears, 2nd by David Hoover to table until the next regular Board Meeting (May 2) the BRIM Recycler's Inc. Junkyard License Renewal so the Town Attorney has an opportunity to look over the letters and research whether there is a conditional licensing or issue violations with a time frame to correct.

VOTE: 4 AYES: Gary Spears, David Hoover, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION TABLED

Supervisor Brabenec read the following letters of recommendations from both the Building Inspector, Robert Emerson in regards to Campground License Renewals:

Motion to Approve KOA Campground (aka American Family Campground) Application

Motion by Karl Brabenec, 2nd by David Dean to approve the application for the KOA Campground on Guymard Turnpike, Godeffroy, NY.

VOTE: 4 AYES: Gary Spears, David Hoover, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Supervisor Brabenec read the April 5, 2011 letter from Mr. Michael Pillmeier, Chairman of the Orange County Legislature asking to be designated as Lead Agency for Guymard Turnpike Bridge Scour Protection Project allowing them to install scour protection, sheet piling and stone riprap to mitigate any future damage caused by flooding pursuant to requirements of the State and Environmental Quality Review Act (SEQRA) describing the potential impacts, and to respond within 30 days from the day of the letter. The Legislature will assume lead agency status required by SEQRA and to conduct a coordinated review of the project pursuant to 6NYCRR Section 617-6B3. This is a county road and county project.

Motion Approve the Orange County Legislature Assuming Lead Agency Status on Guymard Turnpike Bridge Scour Protection Project

Motion by David Hoover, 2nd by Gary Spears to approve the Orange County Legislature Assuming Lead Agency Status on Guymard Turnpike Bridge Scour Protection Project.

VOTE: 4 AYES: Gary Spears, David Hoover, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Supervisor Brabenec asked the Town Attorney to provide an update on the *Coleman Drive Paper Road Bidding Process*. Mr. William Bavoso stated the Board has created procedures with regards to these issues and potential sale of unused abandoned road property. The Highway Superintendent confirmed it has never been a road on his inventory. They now have metes and bounds description and a map of the property. They need to make a determination of consent adopted by the Town Board with

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regard to this property. He would prepare a Determination Consent for the board to review before the next meeting (May 2), at which time they could vote to adopt it including notification of adjacent property owners, setting a minimum price for the property and setting a date by which bids for the purchase must be returned to the Town Clerk, then acted on by the Town Board. Supervisor Brabenec asked Mr. Bavoso to go ahead and prepare that and they would put it on the May 2nd agenda.

Appropriations, Budget and Payment of Bills

Motion to pay bills:

Motion by Karl Brabenec, 2nd by Gary Spears, to pay bills that have been signed by three council members, and may be viewed in the Town Clerk's office.

General Fund Abstract #8 of 2011 for a total of \$102,475.01

Highway Fund Abstract #8 of 2011 for a total of \$51,406.60

Deerpark Manor Lighting Abstract #4 of 2011 for a total of \$309.62

Recreation Committee Abstract #1 of 2011 for a total of \$549.81

VOTE: 4 AYES: Gary Spears, David Hoovler, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Closing Board Comments

Councilman Spears thanked the people who came out and gave public input on their concerns. He wanted to bring up that they had a very well attended public input session on the proposed D & H Canal Trail going through town. Many good comments both pro and con. If other people are interested, they are continuing to take written comments in the next month or so in that regard.

Councilman Hoovler thanked the people who came out and spoke about the junkyard. Obviously that is an issue for some residents who live around there. They will get an opinion and that should be back on the agenda very shortly. He would ask that all residents come and look at where the finances go, they are available at the end of every month. All the money spent is accounted for.

Councilman Dean thanked everyone who participated in the litter clean up on Greenville Turnpike and the Highway Superintendent confirmed they had three single axle dump loads and 35 tires. Litter is created by people who drive and asked anyone living in the Town of Deerpark to please help clean up around their place. Litter attracts litter. There is a strong littering law in the town and if anyone sees someone littering, they should call the police department. He also thanked people for their public participation at the meeting.

Supervisor Brabenec mentioned that there was an opening of bids for the RFP in regards to the Senior Shuttle Bus earlier that day. He read it into the record. A copy will be given to the Board. They hope to put it on the May 2 Agenda. He also mentioned that the littering fines are up to \$1,000 and \$5,000 for second time offenders. They have put out signs notifying people of the law. It takes all the residents to help enforce it by calling in license plate numbers and reporting any littering. At some time they may want to schedule a town cleanup day. The Town Engineer, the Mamakating Supervisor and himself and some other Mamakating officials, and Highway Superintendent Ed Hughson all met at the Pine Kill Creek near Deerpark Manor and the border of Mamakating due to constant flooding since the 2004 floods. The river bed and the water table have both risen and homes are being affected. The engineer is working on a plan to be submitted to the DEC for their approval. Then they will need to look for money to do that project along with Mamakating. They will pursue through Sullivan County and Maurice Hinchey and Orange County will ask Nan Hayworth to find some money to do this. The Bulk Cleanup Day will be May 13th and 14th during the regular business hours for the Port Jervis Transfer Station and everyone should pick up a free permit if you are a town resident or town business at the Town Clerk's office 8-4, Monday through Friday. They allow one truck load per household. This Saturday, April 23 will be the quarterly constituent day at Town Hall 10 – 12 p.m. County Legislator Dennis Simmons and councilmen will all be there if anyone has concerns. April 28th at 7 p.m. a special meeting with Congresswoman Nan Hayworth who will do her town hall meeting and everyone is invited regarding any federal issues or anything going on in Washington. Also, you may see a big pile of mulch at Deerpark Manor, Space Park or Sparrowbush paid for by the town for insurance upgrades for the playgrounds and for that purpose only. If you have taken mulch, please return it.

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Attorney Bill Bavoso has been fortunate to give legal advice to the Town of Deerpark for over 30 years and in that time they have had great people, but he has never seen such a hard working team to provide good policies, procedures and has attempted to work on behalf of the citizens in the Town of Deerpark to have an efficient, functioning town government as this administration. He mentioned the upgrade of Local Law No. 2 and other things that have needed it for so long. He stated it has been a pleasure to work with this board and the Town Clerk's office with regard to the policies for a much more effective and much more efficient form within the government in the Town of Deerpark. The board expressed their thanks.

Motion to Adjourn at 8:44 p.m.

Motion by Gary Spears, 2nd by David Hoovler to adjourn at 8:44 p.m.

VOTE: 4 AYES: Gary Spears, David Hoovler, David Dean, Karl Brabenec

1 ABSENT: Arthur Trovei

MOTION CARRIED

Submitted by

Florence T. Santini
Town Clerk