

TOWN OF DEERPARK BOARD MEETING
MONDAY, MAY 16, 2011
Meeting was held at Town Hall, 420 Route 209, Huguenot, NY 12746

Attendance

Supervisor: Karl Brabenec

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

Attorneys: David Bavoso

Invocation: Arthur Trovei

Call to Order at 7:32 p.m.

Pledge of Allegiance by Gary Spears

Additions/Changes to Agenda

Councilman Spears asked to go into Executive Session following the meeting to discuss an ethics issue.

Motion to Amend Agenda to Add Executive Session for Update on Highway Negotiations and Potential Litigation Re: Deerpark Village

Motion by Karl Brabenec, 2nd by Gary Spears to amend the agenda adding Executive Session following Closing Board Comments, for the purpose of an update on Highway Negotiations and potential litigation regarding Deerpark Village.

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

MOTION CARRIED

Motion to Strike Update on Ethics Board Recommendation Concerning Deerpark Village Complaint under Old Business

Motion by Karl Brabenec, 2nd by Arthur Trovei to strike the update on Ethics Board Recommendation concerning Deerpark Village Complaint under Old Business.

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

MOTION CARRIED

Motion to Add to Agenda Recreation to use Town Facilities for Port Jervis Youth Football

Motion by Karl Brabenec, 2nd by Gary Spears to add Recreation to Use Town Facilities for Port Jervis Youth Football.

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

MOTION CARRIED

Opening Board Comments

Supervisor Brabenec congratulated two Town of Deerpark residents graduating from Leadership Orange Class of 2011: Gary Spears and David Hoovler.

Councilman Dean welcomed the Port Jervis School District administration. He stated that he continues to have conversations with town residents about the taxes and wanted to state that he believed in living within your income and felt they could work towards bringing down the budget. He appreciated their hard work, but did not believe it was low enough. He announced a website (www.seethroughny.net) for anyone wondering what school salaries were (without benefits). The Town Board worked very hard to cut taxes in town and though it was unpleasant, they were able to cut taxes the previous year. Also, the fire departments in town kept their taxes stable and did not raise theirs. The County also held the line on taxes for the residents of the town. Unfortunately, the proposed school budget is roughly 4.49% and personally thinks that is an unconscionable number. He made other comments in regards to the economic conditions. He asked the school to put the GASBY unfunded liabilities on their website. He recommended that those complaining of their taxes go out to vote the next day on the school budget.

Presentations/Communications

Port Jervis School District Superintendent of Schools John Xanthis and Assistant Superintendent for Business, Lori Case were welcomed by the Board. Mr. Xanthis addressed Councilman Dean and thanked him for his candid comments stating he brought out a lot of great points though he didn't agree with all of them. The presentation regarding the school budget was recorded and the tape is on file in the Town Clerk's Office for six months. They listened to comments and fielded questions from the audience.

**TOWN OF DEERPARK BOARD MEETING
MONDAY, MAY 16, 2011**

Councilman Trovei recommended "Waiting for Superman" movie about the education system in America. Councilman Hoovler pointed out the differences between the school board and the town board and the choices they have opportunities to make.

Public Comment Period

George Lombardi lives in Huguenot – Regarding BRIM Recyclers, he asked if they found out who owned the side road and Supervisor Brabenec mentioned the site plan created in 1995 and stated that road was not included in that site plan. He asked what was included on the list of requirements given to BRIM to be in compliance. (The update is on the agenda.)

Damian Brady, 9 Lombardi – Attorney for Deerpark Manor spoke about the ethics complaint. He asked the board for a date for a hearing for his client. He asked the Board to consider this when they meet in Executive Session.

Patty Ey, Samyn Road – She asked that the cleanup on the property would not get shoved aside. The porch is falling apart, the place stinks and the owner has not come back and wants to know what the next steps are that it gets taken care of. Siding is falling off the house, wires are on the trees, kennels and crates are in the back of the house. She thinks the freezer on the porch has rotten meat in it. She wanted to know who was responsible.

Lenny Ey, Samyn Road – Also complained about the property on Samyn Road. An update is on the agenda.

Mercedes Gill – A new homeowner on Samyn Road and was thankful that the loose dog was no longer a problem, but the smell and other things were still a problem. The rodents are more of a problem due to the garbage still sitting there rotten.

Rev. Bill Wildeman – Spoke about how he appreciated the town board and the county working to not increase taxes, and how it benefits others in the community and himself. He mentioned three groups needing help. There were 236 properties were on a back taxes list--the poor (people under the poverty level) yet some older people refuse to go on welfare. He suggested that perhaps a seminar letting them know that getting a job, though they may not make much money--they could then file an IRS form indicating earned credit income. The third group is children in positions needing to get beyond the status quo. He recommended capping salaries for those in the school system.

Robert Honders – Read a letter from Burt Thelander on Guymard Turnpike in regards to BRIM Recyclers. (A copy of the letter is on file with the official minutes.) He did not want the license renewed.

Noel Malsberg – Showed a tax map and felt the encroachment was verified by that and the 1995 site plan. He stated he saw no change nor any attempt to remove any materials from that area.

Jerry Vandermark – The Senior Shuttle was given to the town with a grant from Senator Bonacic. Did that have anything to do with turning that bus over to another company? Supervisor Brabenec answered no. He added that the bus was purchased with a grant, but it was the property of the Town of Deerpark. There were no restrictions.

Old Business

Motion to Approve Resolution 18 of 2011 - Quality Bus to Take Over Operations of Deerpark Senior Shuttle

Motion by Gary Spears, 2nd by David Dean to approve Resolution 18 of 2011 – Quality Bus to take over operations of the Deerpark Senior Shuttle effective May 30, 2011 and authorize Supervisor Brabenec to sign any agreements between the Town and Quality Bus Service.

Discussion: Councilman Hoovler verified the level of service would remain the same and the cost savings per year were estimated at \$15,000-\$20,000 a year. Supervisor Brabenec reported that currently they are spending \$35,000 a year and are looking at going anywhere from \$10,000-15,000. Councilman Spears asked Mr. Martucci if they would continue the five days a week and he answered that he had met with the supervisor and Councilman Dean. Quality Bus would do a more detailed ridership study to know who really utilizes the bus and what the need of the community was. Supervisor Brabenec emphasized the huge amount of accountability that would be achieved. They will attend meetings and provide reports. The phone number and the bus driver would remain the same. Mr. Martucci clarified that the town owned the bus, but Quality Bus would be the operator. Quality Bus would also service the bus. Councilman Dean was interested to know how many Port Jervis residents were utilizing the bus. Councilman Hoovler thought the bid was reasonable and provided considerable savings. He verified that the bus driver would stay the same. Mr. Martucci stated there would be very few changes

**TOWN OF DEERPARK BOARD MEETING
MONDAY, MAY 16, 2011**

and they would cut out redundancy in running the bus. Councilman Trovei thanked him for his community minded help with the bus, stating it was not for the profit to them. The town board would set the rates.

VOTE: 5 AYES (Roll Call): Gary Spears, Arthur Trovei, David Hoovler, David Dean, Karl Brabenec

MOTION CARRIED

Supervisor Brabenec stated that on May 2, 2011 the board approved a letter to go to Mr. Bradley Burnett, President of Burnett Enterprises and BRIM Recycling regarding the Junkyard Permit - Section 22, Block 1, Lot 90, regarding a Violation Notice from the Building Inspector. He then read the letter (on file), which was delivered around May 2 and a letter from FUSCO Engineering was received stating that as of May 16th BRIM's facility was inspected and met compliance requirements and recommended the Building Inspector issue the annual renewal permit. Councilman Spears asked for confirmation that the immediate requirements listed in the letter were complied with and the Supervisor stated they were. Councilman Hoovler inquired about the encroachment issues with this road and asked if it encroached on county property. Councilman Spears replied that a piece of this property was owned by the Land Trust and an existing road serviced Callahan Industries and been used by the Junkyard. He didn't know how that applied to the permit, rather an issue for the land owners. Councilman Dean asked if the encroachment was listed on any letters, and it was stated it was not. More discussion followed. Councilman Spears commented that the letter sent had requirements that were met, and other issues should not hold up his license for this year. He thought they should approve this license, and then address other site plans. Mr. Bavoso clarified that other items of concern could be addressed during the year, and the license can be suspended if issues are not addressed once specified by the Board citing Section 515, Sub-Section 10. Councilman Hoovler asked the attorney where they were in updating this section and there are two laws currently, one in the Zoning Law and a Junkyard Law with slight contradictions and they are now condensing the two laws into one that makes sense to the attorneys.

Motion to Approve BRIM Recyclers, Inc. Junkyard Permit for 2011

Motion by Gary Spears, 2nd by David Dean to approve BRIM Recyclers, Inc. Junkyard Permit for 2011.

Discussion: Councilman Trovei recused himself due to the nature of the business. Councilman Hoovler urged the law on this matter to be updated so the board does not have to act as the Planning Board.

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

1 ABSTENTION: Arthur Trovei

MOTION CARRIED

Supervisor Brabenec offered an update on the 6 Samyn Lane, Sparrowbush clean up. This has been a continuing issue for a couple of months. The Attorney and Supervisor visited the site and instructed the Building Inspector or Code Enforcement Officer, under Section 119-5 of the Deerpark Town Code, to conduct an inspection of the house inside and outside of the house and property. He also asked for written recommendations (Section 119-13) by May 16, 2011. He then read the report from the Code Enforcement Officer stating there were no outstanding issues and saw no reason to enter and inspect the house and thought it could open up possible lawsuit due to Fourth Amendment issues. The supervisor re-inspected the property and listed the items found to be issues and asked him to not close the file. He would go to the Building Inspector's office to make sure something would be done. The Supervisor then asked Mr. Bavoso, Town Attorney what action the Board could do at this time. Mr. Bavoso mentioned that this would fall under the unsafe building law. The Emergency Procedure under the new Unsafe Building Law could be applicable as well. He recommended the board wait until they get the updated report from the Building Inspector regarding the property. Supervisor Brabenec asked if they should pursue a warrant to inspect the inside of the building and Mr. Bavoso said he would consult William Bavoso who has more experience with this, but obtaining a search warrant in the meantime wouldn't be a problem. Councilman Hoovler suggested starting with the Unsafe Building procedure. More discussion followed and the Supervisor stated they would begin researching their options the next day.

Motion to Order Code Enforcement Officer Make 6 Samyn Lane a Priority and Authorize the Supervisor to Act on Unsafe Building

Motion by Gary Spears, 2nd by David Hoovler to order the Code Enforcement Officer to make the Inspection at 6 Samyn Lane a priority and authorize the Supervisor to start the process of Unsafe Building on recommendation of counsel.

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

MOTION CARRIED

**TOWN OF DEERPARK BOARD MEETING
MONDAY, MAY 16, 2011**

Old Business

Supervisor Brabenec mentioned being awarded a \$52,000 grant from Orange County to replace the Town Hall windows for energy efficiency and the bids are available at the Town Clerk's Office. They are due on Wednesday, June 15 at 2:00 p.m. This will be posted on the website as well.

New Business

Supervisor Brabenec explained that they need to adopt the resolution in order to join the New York State Deferred Compensation Plan when they signed the PBA contract, similar to a 401K, 457, 403B, etc. It does not cost the town anything; it would be available to all town employees, even part-time employees. It is a necessity in order to institute the policy and due to being negotiated with the Police Union, they are making it available to all town employees.

Motion to Approve Resolution 20 of 2011 – Town of Deerpark Adoption of the New York State Deferred Compensation Plan

Motion by David Hoovler, 2nd by Gary Spears to approve Resolution 20 of 2011 – Town of Deerpark Adoption of the New York State Deferred Compensation Plan.

VOTE: 5 AYES (Roll Call): Gary Spears, Arthur Trovei, David Hoovler, David Dean, Karl Brabenec

MOTION CARRIED

Supervisor Brabenec read the following resolution and stated that JNS Towers is the agent for the cell tower erected near the Highway Garage and JNS has chosen to transfer some of its assets to Crown Communications, Inc. Now, the payments for the Town will remain the same (half to JNS and half to the Town).

Motion to Approve Resolution 21 of 2011 – Authorization to Sign Management Agreement Confirmation Between JNS Towers, Crown Communications, Inc., and the Town of Deerpark

Motion by David Hoovler, 2nd by Davie Dean to approve Resolution 21 of 2011 – Authorization to Sign Management Agreement Confirmation Between JNS Towers, Crown Communications, Inc., and the Town of Deerpark.

Discussion: Councilman Dean expressed concern that the consolidation of providers, limiting ability to have providers on the tower. If that is the case, they may need to negotiate a proviso that the carriers consolidating may need to increase the percent in the contract. Supervisor Brabenec reported discussing with JNS Towers that they negotiate with the carriers and every five to ten years will provide updates on that agreement. The town would not lose income if the mergers happen, as the carrier would need to remove their equipment at their cost and continue to pay us the contracted amount. The leases per contract are renewable for five years. New contracts would be negotiated with Crown Communications.

VOTE: 5 AYES (Roll Call): Gary Spears, Arthur Trovei, David Hoovler, David Dean, Karl Brabenec

MOTION CARRIED

Supervisor Brabenec reported that Officer Gaylor was recently hired for a part-time police officer position for the town, but has just accepted a full-time position with the Monroe Village Police Department effective June 1, 2011. He has returned all equipment.

Motion to Accept Regretfully the Resignation of Police Officer James Gaylor

Motion by Karl Brabenec, 2nd by Gary Spears to accept regretfully the resignation of part-time Police Officer James Gaylor.

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

MOTION CARRIED

Supervisor Brabenec reported that Edward Quick had called the Police Chief a couple months ago about his interest in returning to the Deerpark Police Department. He would need to fulfill the requirement of a refresher course and the Police Chief saw no problem with him working in that position. He was a former police officer in the town.

Motion to Appoint Edward Quick as Part-Time Police Officer

Motion by Karl Brabenec, 2nd by Gary Spears to appoint Edward Quick as part-time Police Officer in accordance with the current PBA contract.

**TOWN OF DEERPARK BOARD MEETING
MONDAY, MAY 16, 2011**

Discussion: Councilman Spears acknowledged he was happy to have Officer Quick return, but thought the motion should include that the appointment was based on following proper protocol. The Supervisor amended his motion to include that. Councilman Dean verified this was a part-time position with no benefits. Councilman Hoovler confirmed that he would be paid as a new employee, not the salary he left at.

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

MOTION CARRIED

Supervisor Brabenec announced he was pleased to receive a letter from Orange County Executive Edward Diana, appointing him to the HOME Program, which is part of the Office of Community Development for Orange County. He is currently a member of the Community Development Block Grant Program, which is also part of the Office of Community Development, so this is pretty big for the Town of Deerpark. HOME provides grants to states and localities that communities use often to partnership with not-for-profits. They do a wide range of activities that rehabilitate affordable housing for rent or home ownership and provide directs rental assistance to low income people. He'll be serving with the Port Jervis Community Development, Kathy Hendrickson and Maria Bruni from the City of Middletown, pretty much representing the western end of the county. He appreciated the County Executive's appointment and looked forward to serving. The other council members congratulated him.

Councilman Hoovler announced the Port Jervis Youth Football League starts August 1st and runs through November 30th and would like to use the town's field for practice. They provided insurance certificates and if they are approved, they would list the town as additional insured.

Motion to Approve the Port Jervis Youth Football League

Motion by David Hoovler, 2nd by Gary Spears to approve the Port Jervis Youth Football League for their use of the town's fields for their upcoming season August 1, 2011 through November 30, 2011.

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

MOTION CARRIED

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 #10 of 2011 for a total of \$66,941.48

Highway Fund Abstract #10 of 2011 for a total of \$55,994.40

Schoolhouse Abstract #2 of 2011 for a total of \$250.00

Engineering Fund Abstract #2 of 2011 for a total of \$3,624.25

Deerpark Manor Lighting District Abstract #5 of 2011 for a total of \$303.15

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

MOTION CARRIED

Closing Board Comments

Councilman Spears thanked those who came to the meeting and expressed their concerns and accolades because sometimes it is a thankless job. He thanked Rev. Wildeman for his comments made and assured him they were working hard on behalf of all the citizens of Deerpark.

Councilman Trovei mentioned the movie, Waiting for Superman again and that the country is heading in a very bad direction. He encouraged everyone to vote on the school budget. He asked residents to call Senators also about needing relief on some of the programs being mandated to the schools.

Councilman Hoovler acknowledged the very tough position of the school board. He urged people to vote and learn how their budget worked. It was a difficult budget system and thought over all, they did a very good job. The BRIM decision probably left some people unhappy, but he thought people should be aware of the many people working there. He referred to Mr. Bavoso's comment at an earlier meeting in regards to two different laws the town has. The Town Board should not have to

**TOWN OF DEERPARK BOARD MEETING
MONDAY, MAY 16, 2011**

evaluate, decide and investigate like that have had to do in regards to the junkyard license, rather the law needs to be rewritten in a more fair manner. He thanked Mr. Wildeman also. The financial condition of the town has improved and it was in the paper. It was improved because of the cuts that were made. Those cuts made were difficult and affected people living and working in town, but saving \$140,000 in one year expands over time. He hoped that the town would get an encumbrance based accounting system where monies would be set aside and no one would be able to get at it until the bill is paid.

Councilman Dean thanked the Superintendent of Schools and Lori Case for coming. She has a difficult job. His comments were not personal, just business. He realized the school board worked hard on their budget and while he was critical of the final result, he was not critical of the work that went into it. He reminded everyone to vote the next day and urged them to the web site at Seethroughnewyork.net. It shows the salaries of all public employees. It is very informative. He also thanked Mr. Wildeman for his kind comments. He also thanked those who came out to speak and cautioned those who speak that they were not going back to the 'free for all' days. It was not a place for people to fight. They need to handle the junkyard law and make it fair.

Councilman Trovei added that great teachers make a great education system. The good teachers should be rewarded and he thanked them. They need to find a way to let go of bad teachers.

Supervisor Brabenec again congratulated both Councilman Spears and Hoovler for their graduation from the Leadership Orange 2011. This is a highlight for the town. The YMCA Signup was a huge success and over 130 kids were signed up for the camp. This should provide for a good experience for the kids. The Bulk Clean up weekend was bigger than expected, but it was the first cleanup since 2007 and it was done differently. Those who were turned away that hold a permit, would be allowed to go until the end of the month. They would probably expand the time allotment if they do it again. He agreed with the encumbrance based accounting system. Many towns in Orange County use this system and don't have the problems the town has had financially. They are examining the vendors offering these programs. Lastly, he thanked the school and Rev. Wildeman and appreciated his service as well. He felt many changes need to happen in Albany and they need to look at real solutions.

Florence T. Santini mentioned that a packet was being prepared to send to General Code and the council suggested she put that on hold since they were looking over the entire code book. Councilman Hoovler asked her to wait as long as possible because he would have the recommendations to the board by July 1st. She recommended sending the laws passed in 2010 but ask them not to produce it.

Motion to Enter Executive Session for the purpose of Update on Highway Negotiations and Potential Litigation Involving Deerpark Village vs. a Member of the Planning Board at 10:00 p.m.

Motion by Karl Brabenec, 2nd by Gary Spears to enter Executive Session for the purpose of providing an update on the Highway negotiations and potential litigation involving Deerpark Village vs. a member of the Planning Board at 10:00 p.m. with Attorney David Bavoso.

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

MOTION CARRIED

Motion to Re-enter Regular Session at 11:06 p.m.

Motion by Karl Brabenec, 2nd by Gary Spears to re-enter regular session at 11:06 p.m.

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

MOTION CARRIED

Motion to Adjourn at 11:06 p.m.

Motion by Karl Brabenec, 2nd by Gary Spears to adjourn the meeting at 11:06 p.m.

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

MOTION CARRIED

Respectfully submitted by,

Florence T. Santini
Town Clerk