

**TOWN OF CHATHAM
REGULAR TOWN BOARD MEETING
November 18, 2010**

The Regular Meeting of the Town of Chatham, Town Board was held on Thursday, November 18, 2010 at 7:00 PM at the town hall. Present were: Supervisor Jesse DeGroot, Councilman Rohde Councilman – Henry Swartz, Jr., Councilman - Maria Lull, Rec. Director Shari Franks, Comptroller Earl Kelsey, Town Clerk - Beth Anne Rippel and Town Attorney - Tal Rappleyea, Tri-Village Fire Co. members and others.

Supervisor DeGroot opened the meeting at 7:00 PM and Councilman Swartz. Led the pledge to the flag.

A **Public Hearing** was held at 7:00 PM for the purpose of considering whether the Town of Chatham's proposed skate park is immune from the applicability of the Town of Chatham's land use law including Town Zoning.

- ◆ Randi Walker requested that the "9 Points" within the Resolution be reviewed. Town Attorney read whose points.
- ◆ Jim Temple wanted to know how much the park would cost. If the Town can't take care of what we have why are we building a skate park?
- ◆ Shari Franks spoke to that. The skate park will cost approximately \$150,000. over all, with funds being raised through grants and private donations. The concern about increased insurance rates was addressed. Crellin Town Park is an open park used for recreational activity which carries with it an assumed risk.
- ◆ Deidre Henderson asked if there had been any thought of establishing an maintenance endowment.
- ◆ Shari Franks stated that a 501C3 was set up in July 3, 2007 for that purpose. The Public Hearing was closed at 7:15 PM.

The Regular Meeting of the Town of Chatham resumed at 7:15 PM.

Motion was made by Supervisor DeGroot, seconded by Councilman Swartz and carried to enter into Executive Session at 7:15 PM to discuss highway contract negotiations and personnel matters. Motion was made by Supervisor DeGroot, seconded by Councilman Swartz and carried to leave Executive Session at 8:45 PM.

CORRESPONDENCE

A. Columbia County Office for the Aging re: Senior Citizen of the Year recognizing senior citizens who have made a significant contribution to their community. Completed nomination forms and three letters of recommendation are to submitted to the OFA by March 1, 2011.

PUBLIC COMMENT

- ◆ Deidre Henderson felt that the Public Hearing on the 2011 Budget should not have been held at 6:00 PM on November 4, 2010. It's too difficult for most people to attend a meeting scheduled for that hour. The 2011 Budget is very high compared to other towns. Did the Town Board do a thorough analysis given the tough economic times? Where other towns contacted ?
- ◆ Supervisor DeGroot stated that yes, other towns were contacted and the Board did a thorough analysis. The Town of Chatham's 2011 Budget is specific to our circumstances. If the Town can keep their taxes flat then they have accomplished their goal.
- ◆ Deidre Henderson wants a line by line budget comparison to other towns. Can the Town increase revenue by cutting costs? The Town Court budget is high why can't court be held at the Town Hall to save money?
- ◆ Judge Doris Appel invited everyone to attend a court session on Wednesday nights at the Tracy Memorial in the Village of Chatham to see just how things are run. The Court handles about ¾ of a million dollars /year. 2/3 of that revenue goes to New York State and the Town gets about \$280,000.00. It's a very busy place and holding court in the Town Hall is just not feasible.
- ◆ Jim Temple asked about the unexpended fund balance and would the Town be able to go to that balance next year?

- ◆ Bob Balcom requested that there be more than one budget hearing and would like to see a citizens committee formed to review the budget in the future.
- ◆ Supervisor DeGrootd attempted to have board members review the highway budget several years ago and the results were not as expected.
- ◆ Randi Walker would like to see the Board give a presentation on the budget.
- ◆ Bill Jackson presented the Board with a petition from citizens concerned about the closing of the Old Chatham Fire Station..

REPORTS

- A. Highway report on file.
- B. Dog Control report on file
- C. EMC – Deidre Henderson met with Ken Flood to talk about how other towns deal with environmental issues. CLC along with CC Planning Board and County Environmental Management Council are presenting Down the Drain, Not So Fast on storm water regulation. Information on file.
- D. Justice Court report on file.
- E. ZIC - *Zoning Implementation Committee* will now meet twice per month, the 2nd Wednesday and the 4th Monday of each month at 7PM. According to Jim Temple, ZIC Chairman, the committee conducted interviews for an attorneys for the ZIC and it was decided that Town Attorney Tal Rappleyea will serve as council. Since he is most familiar with the Comprehensive Plan and he would not have to spend billable hours getting up to speed.
- F. Supervisor (county business) The County is looking at an County tax increase of about 2.1%.
- G. Recreation Department report on file.
- H. Comptroller report on file.

RES. #117-10 to hire Attorney Tal Rappleyea to serve as council to the ZIC at a rate not to exceed \$10,000.00 for 2011. Supervisor DeGrootd offered RES. #117-10 and moved its adoption to hire Attorney Tal Rappleyea to serve as council to the ZIC at a rate not to exceed \$10,000.00 for the year 2011. Councilman Rohde seconded the motion

VOTE: Ayes; DeGrootd, Lull, Rohde, Swartz
Nays; None, Resolution adopted

RES. #118-10 to exempt the TOWN OF CHATHAM RECREATION DEPARTMENT SKATE PARK PROJECT from land use laws. Councilman Lull offered RES. #118-10 and moved its adoption.

WHEREAS, the Town of Chatham Recreation Department (the “Applicant”) has requested that the Town Board of the Town Chatham make a determination with regard to whether it shall be exempt from the applicability of the Town’s land use laws in relation to its proposal to utilize and develop a portion of the Town Park for the purpose of the construction and use of skate park; and

WHEREAS, the Town Board recognizes that there is significant case law on point, with regard to the exemption of such a project including In the Matter of the County of Monroe, 72 NY2d 338 (1988), which held that a balancing test must be performed to determine whether a project of a municipality or agency thereof, is exempt from the local land use regulation weighing the following factors: 1) Legislative intent; 2) Nature and scope of the instrumentality seeking immunity; 3) The kind of function or land use involved; 4) The extent of the public interest to be served; 5) The effect local land use regulation would have on the enterprise; 6) Impact on legitimate local interests; 7) Alternative locations for the facility in less restrictive zoning areas; 8) Alternative methods of providing the needed improvement; 9) Intergovernmental participation in the project development process; and 10) Opportunity of the public and others to be heard; and the Nanuet Fire Engine Co. No. 1, Inc. v. Amster, 177 Misc. 2d 296 (Rockland County S. Ct., 1998) wherein the Court determined that the construction of fire houses are municipal projects and must undergo the County of Monroe “balancing test” to determine whether such action is exempt from local land use regulation; and

WHEREAS, the Applicant is a duly created and appointed department of the Town of Chatham; and

WHEREAS, specifically the project includes a proposal to construct a small skateboard park on lands currently owned by the Town and has been used as a Park for decades; and

WHEREAS, the subject matter property is located in a Hamlet-1 (H-1), and

WHEREAS, the Town caused a notice to published in the official newspaper of the Town notifying the public of the public hearing on the issues herein and allowed the public an opportunity to be heard and there being testimony from several members of the public in favor of the project and no opposition voiced either against the project or against the granting of an exemption pursuant to the County of Monroe and Nanuet cases, and

WHEREAS, following a discussion and analysis of the aforementioned issues and testimony, Councilman Lull offered a motion which was seconded by

Councilman Rohde and carried:

NOW, THEREFORE, BE IT RESOLVED, that the Board finds that the Legislative intent as it relates to the within matter is found in the Comprehensive Plan of 2009 and the Town Code of the Town of Chatham. The Comprehensive Plan acknowledges the existence of the Town Park and the excellent service it provides to Town and states that

“Recreation in the Town encourages present and future generations to actively participate in indoor and outdoor activities for the benefit of their physical and emotional health. The Town's recreation programs provide high quality, active and passive recreation for all ages and abilities. Town of Chatham, Comprehensive Plan, 2009 at Page 75.

and **IT IS FURTHER RESOLVED**, that the Town Board finds that the nature and scope of the instrumentality seeking immunity, the kind of function or land use involved and the extent of the public interest to be served are as follows: The project is being funded and undertaken by the Town Recreation Department which provides one of the most important public services to the citizens of the Town. The proposed project will construct a small skateboard park to allow children of all ages to have a safe, secure and appropriate location for this popular recreational activity, and

IT IS FURTHER RESOLVED, that the Town Board finds that the effect local land use regulation would have on the enterprise would be minimal since as discussed above, the proposed project is for the construction of a small skate board park on lands which have utilize by the Town of decades as park and recreational area, and

IT IS FURTHER RESOLVED, that the Town Board finds that it is obvious that there will be no negative impacts on legitimate local interests; and

IT IS FURTHER RESOLVED, that the Town Board finds that there are no alternative locations for the facility in less restrictive zoning areas and that there are no alternative methods of providing the needed improvement since the project is proposed on lands which have utilize by the Town of decades as park and recreational area; and

IT IS FURTHER RESOLVED, that the Town Board finds that there has been and shall continue to be considerable intergovernmental participation in the project development process since the Town Board and its Recreation Department have jointly planned, funded and created the project and such joint oversight shall continue and

IT IS FURTHER RESOLVED, that the Town Board finds that there has been ample opportunity for the public and others to be heard. The public hearing was conducted in an open meeting at the Town Board's regular meeting, following notice thereof being published in the Town's official; and

IT IS FURTHER RESOLVED that the Town Board of the Town of Chatham hereby finds that upon the balancing of all factors in relation to the proposed skate board park is exempt from the applicability of the Town of Chatham land use regulations; and

BE IT FURTHER RESOLVED, that the Town Clerk is directed to file this Resolution in the appropriate index within five (5) business days.

Unanimous vote of 5 to 0. The Town Board of the Town of Chatham hereby determines under the County of Monroe “balancing test” that the construction of the skate board park herein is exempt from the applicability of the Town of Chatham land use regulations, including subdivision, site plan and zoning.

Councilman Rohde seconded the motion.

VOTE: Ayes; DeGroot, Lull, Rohde, Swartz
Nays none. Resolution adopted

RES. #119-10 to set *Zoning Implementation Committee* meetings twice per month. Councilman Rohde offered RES. #119-10 and moved its adoption to set ZIC meetings for the 2nd Wednesday and the 4th Monday of each month at 7PM at the Town Hall. Councilman Lull seconded the motion.

VOTE: Ayes; DeGroot, Lull, Rohde, Swartz
Nays; None, Resolution adopted

NEW BUSINESS

- ◆ Tri Village Fire Company is requesting \$180,000.00 in the 2011 budget. An increase of \$20,000.00 over last year. The increase will amount to about .7%. This will be revisited in 2012.
- ◆ Tri-Village Fire Company has been historically low.
- ◆ The Town contracts with the fire companies to provide emergency services to the community.
- ◆ It currently costs approximately \$5,000.00 to outfit and train each member of a fire company.
- ◆ Councilman Swartz supports the request for an increase. He respects the decision of Tri-Village has made. They have done their homework and he will support the increase. Councilman Lull agrees.
- ◆ Several members of the public feel that they are not being heard by the fire company and would like to know when they can address the fire company 's budget and the closing of the Old Chatham Fire Station. Supervisor DeGroot stated that the proper forum is when the fire company holds their Public Hearing on the new contract next year.

OLD BUSINESS

A. 2011 Town Budget increase DCO line to show new salary of \$7,000.00 for an Animal Control Officer.

B. Assessment exemptions increases for Cold War, Veterans, Low Income and Disabled citizens, and Senior Citizen exemptions.

RES #120-10 to approve the Town of Chatham 2011 Budget . Councilman Rohde offered RES. #120-10 and moved adoption to approve the Town of Chatham 2011 Budget. Copy attached. Councilman Lull seconded the motion.

VOTE: Ayes; DeGroot, Lull, Rohde, Swartz
Nays; None, Resolution adopted

RES #121-10 to hold a Public Hearing to increase property tax exemptions. Supervisor Degroot offered RES #121-10 to hold a Public Hearing on November 30, 2010 at 7:00 PM at the Town Hall, 488 Route 295, Chatham, NY concerning enactment of four local laws relating to the level of exemption of payment of real property taxes for 1.) senior citizens, 2.) low income disabled citizens, 3.) Cold War Veterans, 4.) Veterans. Councilman Rohde seconded the motion.

VOTE: Ayes; DeGroot, Lull, Rohde, Swartz
Nays; None, Resolution adopted

RES. #122-10 to approve the minutes of the October 21, 2010 regular town board meetings and the November 4, 2010 special town board budget meeting. Councilman Swartz offered RES. 122#-10 and moved its adoption to approve the minutes of the October 21, 2010 regular town board meetings and the November 4, 2010 special town board budget meeting . Councilman Lull seconded the motion.

VOTE: Ayes; DeGroot, Lull, Rohde, Swartz
Nays; None, Resolution adopted

RES. #123-10 to set a public Hearing for regulating the licensing of dogs. Supervisor DeGrootd offered RES #123 and moved its adoption to hold a Public Hearing on December 16, 2010 at 7:00 PM at the Town Hall, 488 Route 295, Chatham, NY 12037 for the purpose of regulating the licensing of dogs. Councilman Swartz seconded the motion.

VOTE: Ayes; DeGrootd, Lull, Rohde, Swartz
Nays; None, Resolution adopted

RES. #124-10 to set a Public Hearing to create the position of Animal Control Officer. Councilman Rohde offered RES #124-10 to set a Public Hearing to create the position of Animal Control Officer. Councilman Lull seconded the motion.

VOTE: Ayes; DeGrootd, Lull, Rohde, Swartz
Nays; None, Resolution adopted

RES. #125-10 to authorize the Town Comptroller to pay 2011 NYS Retirement System invoice on December 15, 2010. Councilman Swartz offered RES #125-10

Whereas: The NYS Employees Retirement System Annual Invoice for \$94,381, covering the fiscal year ending March 31, 2011, has been received. Payment of this invoice is required by February 1, 2011. If the invoice is paid before December 15, 2010 the payment is reduced to \$93,447, a savings of \$904. \$70,085 is chargeable to 2010 with the remaining \$24,266 being deferred to 2011.

Therefore, be it resolved that, the Town Board authorizes the Town Comptroller to pay the NYS Retirement System invoice for \$93,447 prior to December 15, 2010.

Councilman Rohde seconded the motion.

VOTE: Ayes; DeGrootd, Lull, Rohde, Swartz
Nays; None, Resolution adopted

RES. #126-10 to authorize the Town Comptroller to make appropriations. Councilman Rohde offered RES. #126-10 and moved its adoption to make the following appropriations.

WHEREAS, the Chatham Town Board authorizes the Town Comptroller to make the following Amendments to the Budget Appropriations:

FROM	TO		
A1990.4	A9060.8 FR. Contingency to Medical Insurance (Town Share)	Increase in Employees Covered by Medical Insurance.	\$11,000.00
DB5130.2	DB5130.4	Fr. Machinery EQ. to Machinery CE Increase in cost of repair parts and not having a mechanic in house.	<u>\$25,000.00</u>
		TOTAL FUNDS	\$36,000.00

Councilman Swartz seconded the motion.

VOTE: Ayes; DeGrootd, Lull, Rohde, Swartz
Nays; None, Resolution adopted

RES. #127-10 Councilman Lull offered RES #127-10 and moved its adoption

Whereas, the White Mills Road (CSX Bridge) Project total cost to date is \$204,767.14.

Whereas, the Town of Chatham is responsible for \$10,238.35 of the \$204,767.14 total cost,

Therefore, be it resolved that, the Town Board authorizes the Town Comptroller to appropriate (charge) \$10,285.35 to "DA" 5120.4 – Bridges CE. That will leave a balance of \$20,322.74 in this line item.

Councilman Rohde seconded the motion

VOTE: Ayes; DeGroot, Lull, Rohde, Swartz
Nays; None, Resolution adopted

PUBLIC COMMENT

- ◆ Supervisor DeGroot stated that the White Mills Road bridge work will not commence in 2011 as they had hoped. They are now looking at 2012. \$204,000.00 covers just the engineering costs of the project. 85% of the money comes from the Federal government and 12.5% from NYS.

Motion was made by Councilman Rohde, seconded by Councilman Lull and carried to adjourn at 8:50PM.

Respectfully submitted by,

Beth Anne Rippel
Town Clerk