

**CHATHAM TOWN BOARD MEETING  
MAY 17, 2007**

The regular meeting of the Chatham Town Board was held on May 17, 2007 at 7:00 pm at the Town Hall. Present were the following: Supervisor Jesse DeGroot, Councilman Don Hegeman, Councilman Bob Balcom, Councilwoman Jean Rohde, Town Attorney Tal Rapplelea, Assessor Dan Horst, Deputy Town Clerk Elizabeth Horst, and several others. Councilwoman Beth Ann Ripple was absent.

Supervisor DeGroot opened the meeting at 7:00 p.m. and Councilman Hegeman led the pledge to the flag.

***Bid opening for 1989 International 2574 Dump Truck***

Supervisor DeGroot opened two bids offered on the sale of one used 1989 International 2574 Dump Truck.

1. Don Mackenzie of 36 Ricci Road, Accord, NY, 12404, offered \$1153.99.
2. Stan Cohen of 112 Jordan Lane, Nassau, NY, 12123, offered \$777.00.

The board decided per Highway Superintendent Joseph Rickert's recommendation that the truck would be auctioned.

***Correspondence***

1. James Van Deusen, re local fire departments
2. Albert Wassenhove, re livestock
3. New York State Department of Health, re health advisory on eating local fish

***Public Comment***

**Jim McKay** spoke regarding the livestock in the hamlets issue. He stated that he was awaiting the new livestock proposal supposed to be at next month's meeting. While he commended the town for its efforts to correct the current laws, he said there is a lot of pressure on other people who do not speak their opinion and numerous violations that are not being taken care of. He said that the town is either not enforcing the law in many instances, or enforcing selectively, which led him to ask that the Town Board consider a moratorium for two, three, five, or however many months it would take to allow him to bring his chickens home.

***Reports***

1. Highway (The Superintendent's report is on file.)
2. Justice Court (The Clerks' report is on file.)
3. Supervisor (County business)

Supervisor DeGroot stated that the county is searching for college-aged applicants for summer positions at \$10/hour. Anyone interested can contact him at the Town Hall.

4. Comprehensive Plan Committee

Van Calhoun stated that the committee has finished its work and will be presenting an executive summary, holding two public discussions, and having a public hearing. The public will have access to their final report in several ways—the copy on the town website will be free, CDs will be sold at a low charge, the full executive summary will be a higher cost, and several full prints of the plans will be limited and expensive. Two public discussions will be held—Saturday, June 2<sup>nd</sup>, 10am, at the North Chatham Firehouse and Monday, June 4<sup>th</sup>, 7pm, at the Town Hall. A public hearing will be held sometime in the future; the date, time, and place are to be determined.

5. Recreation Department

Recreation Director Shari Franks was absent due to the passing of her father, Judge Dixon, but a report is on file, and a resolution for the park was passed later in the meeting.

***New Business***

1. Zoning Board of Appeals vacancy

The Town Board and Zoning Board of Appeals Chairman David Everett held an executive session on May 10, 2007, at 6pm to review the applications of and speak with J. P. Hinkle,

Donna Starron, Cy Balton, and Courtney McDonnell. The decision was to appoint J. P. Hinkle as a member of the Zoning Board of Appeals to replace Michael Hart.

**Resolution #89-07 To appoint J. P. Hinkle as member of the Zoning Board of Appeals.**

Offered by Councilwoman Rohde, moved adoption to appoint J. P. Hinkle as member of the Zoning Board of Appeals in replacement of Michael A. Hart for the term of 2004 to 2010.

Councilman Hegeman seconded the motion.

Vote: Ayes, three  
 Abstained, one  
 Nays, none

The resolution was adopted.

2. NYSERDA energy audit

Supervisor DeGrootd stated that NYSERDA contacted the town and stated it would be \$100 to audit the records. The board agreed it would save money for the town to do it through NYSERDA.

**Resolution #90-07 To appoint NYSERDA as the auditor of the Chatham Highway Department and Town Hall.**

Offered by Supervisor DeGrootd, moved adoption to appoint NYSERDA to audit the Chatham Highway Department and Town Hall at \$100.

Councilwoman Rohde seconded the motion.

Vote: Ayes, all present  
 Nays, none

The resolution was adopted.

3. Code enforcement

The Town Board discussed several code enforcement violations that Code Enforcement Officer Walt Simonsmeier brought to their attention.

**Resolution #91-07 To proceed with legal action against Mr. Hallenbeck for code violations.**

Offered by Councilwoman Rohde, moved adoption to allow Code Enforcement Officer Walt Simonsmeier to proceed with the necessary legal action to bring Mr. Hallenbeck of Route 203 to the Chatham Town Court for violations of the Town Code.

Councilman Hegeman seconded the motion.

Vote: Ayes, all present  
 Nays, none

The resolution was adopted.

**Resolution #92-07 To proceed with legal action against Mr. James Dalzell for code violations.**

Offered by Councilman Hegeman, moved adoption to allow Code Enforcement Officer Walt Simonsmeier to proceed with the necessary legal action to bring Mr. James Dalzell, III, of Highland Road to the New York Supreme Court for violations of the Town Code.

Councilman Balcom seconded the motion.

Vote: Ayes, all present  
 Nays, none

The resolution was adopted.

The Town Board raised the issue of putting a moratorium on the law that prohibits agricultural animals from being raised in the Chatham hamlets. Town Attorney Tal Rappleyea spoke on this issue for a few minutes and stated that while he did not research it, as far as he knew, moratoriums could not be put on town codes but only on laws or actions that towns instated. Rappleyea added that putting a moratorium on a law like this would be tying the hands of the town board in certain cases, but that "selective enforcement" would be more viable. He raised the example of speeding tickets, explaining that while there are many speeders on the roads, police officers only issue tickets to the most dangerous drivers. In the same way, the town would have to enforce the law on the most serious animal cases while working to create a better and more efficient law. Rappleyea concluded that while many animal owners would "remain in a state of suspended disbelief", the shortest time to make a law would be July, which would be faster than a moratorium could be placed on a law.

The board decided against putting a moratorium on the hamlet law but would be looking at the Livestock Committee's recommendations in the near future. In addition, a public hearing would be held at next month's board meeting and possibly a local law could be created then.

### ***Old Business***

#### 1. Alternates to Planning Board and Zoning Board of Appeals

Town Attorney Tal Rappleyea spent several minutes informing the board of the issues that he researched. He stated that the board would have to determine if alternates should be paid, if they should have terms, and how much knowledge of the appropriate issues they would be required to have. Also, Attorney Rappleyea said there are two ways to select alternates: 1) Under New York State law, alternates take the place of a board member when there is a conflict of interest, or 2) Under the home rule law that overrides the NYS alternate law, alternates may sit on the board at any point that a member cannot attend—due to illness or any other reason. He recommended that the board make a decision based on the second option.

The board discussed alternates for a few minutes and came to the decision that they would be hired without pay for the experience. Attorney Rappleyea stated that after creating a Local Law, the paying aspect could be added in a resolution.

#### **Resolution #93-07 To schedule a hearing for a Local Law on alternates to the Planning Board and Zoning Board of Appeals.**

Offered by Councilman Balcom, moved adoption to schedule a hearing on June 21<sup>st</sup> at 7pm regarding a Local Law of 2007 for creating alternates for the Planning Board and Zoning Board of Appeals.

Councilman Hegeman seconded the motion.

Vote: Ayes, all present

Nays, none

The resolution was adopted.

### ***Resolutions***

#### **Resolution #94-07 To authorize Barton & Loguidice for the preparation and submission of an EPF grant.**

Offered by Supervisor DeGroot, moved adoption to authorize Barton & Loguidice for the preparation and submission of an EPF grant for Crellin Park's water system.

Councilwoman Rohde seconded the motion.

Vote: Ayes, all present

Nays, none

The resolution was adopted.

#### **Resolution #95-07 To authorize the Town Comptroller to make budget amendments.**

Offered by Supervisor DeGroot, moved adoption follows:

**Whereas,** The Chatham Town Board authorizes the Town Comptroller to make the following Amendments to Budget Appropriations:

A1990.4	A1010.2	Fr Contingency to Town Board EQ: New Sound System	\$3000.00
A7510.2	A7510.4	Fr Historian EQ to Historian CE: Storage Supplies	\$1000.00
B8020.4	B3620.2	Fr Planning CE to Safety Inspection EQ: Computer System	\$5500.00

**Total Funds: \$9500.00**

Councilman Balcom seconded the motion.

Vote: Ayes, all present

Nays, none

The resolution was adopted.

Supervisor DeGroot stated that he needed to discuss a resolution to authorize proceeding with federal aid and NYS "Marchiselli" program-aid eligible costs for a project for White Mills Road over CSX Railroad with Town Comptroller Earle Kelsey before finalizing it with the board.

**Resolution #96-07 To approve the Town Clerk's minutes of two board meetings.**

Offered by Councilwoman Rohde, moved adoption to approve the minutes of the April 19, 2007, regular town board meeting and the minutes of the May 10, 2007, special town board meeting.

Councilman Hegeman seconded the motion.

Vote: Ayes, all present

Nays, none

The resolution was adopted.

**Resolution #97-07 To approve the Town Comptroller's report.**

Offered by Councilman Balcom, moved adoption to approve the Town Comptroller's report.

Councilwoman Rohde seconded the motion.

Vote: Ayes, all present

Nays, none

The resolution was adopted.

***Public Comment***

**Jim Temple** stated that he was glad the comprehensive plan was hitting ground. He asked what the committee did to address the cost of recommendations.

**Van Calhoun**, as member of the Comprehensive Plan Committee, addressed Mr. Temple's question and stated that the plan directs the Town Board to conduct studies of inventories but does not address cost as it is directing, not planning an action.

**Temple** stated that he was sure when the US planned to go to the moon, they thought of how much it would cost.

**Calhoun** agreed but added it is up the Town Board to look at the plan and decide whether to accept some of it, all of it, or none of it and plan accordingly to take a course of action, but costs are not part of the original plan.

**Jim McKay** stated that the Comprehensive Plan is basically a plan *to* plan.

**Dan Horst** addressed the issue of hamlets and the zoning code by asking the Town Board what the history of animals in hamlet areas really is.

**McKay** added that the zoning code says no agricultural use is permitted, which he thought would refer to no big dairy operation in a small area, but he realized that this really depends on the interpretation of the law. He spoke of the original issue of 28 animals on less than ¼ of an acre, which caused the town to make the law that if there are any agricultural animals, they have to go. McKay stated that he asked the Zoning Board of Appeals to reinterpret 3 chickens as not agricultural use opposed to a farm like the one that Eric Ooms operates, but he was denied. At the same time, he added that he was not operating a system like James Dalzell did. What McKay stated that he didn't understand was why his chickens of approximately 12 lbs are not allowed in a hamlet but his neighbor has about 25 dogs and that is fine. He ascertained that he was not trying to "jam up anyone" but he and his family have been dealing with this issue for almost a year now. McKay admitted to the board that he was breaking the law at the moment since he has a sick chicken in his basement and cannot put it in his chicken house because his neighbors sued him over a completely different issue and will complain. McKay concluded that he finds it unfair that all over the hamlets there are horses, sheep, chickens, and many other animals but he cannot keep several small chickens.

**Horst** referred to Attorney Rappleyea's example of the town board enforcing the animal law like police enforcing speeding laws to his situation. He stated that if Jim McKay and his family are considered the most dangerous "speeders" in the area, he is in danger!

**Attorney Rappleyea** stated that there is some disagreement with the Zoning Board of Appeals (ZBA) over interpretation of the law. First of all, the ZBA cannot make laws as they are not a legislative body. While Mr. McKay was not necessarily a "fast speeder", people complained in his neighborhood and it was made an issue to the Town Board through Code Enforcement Officer Walt Simonsmeier, the ZBA, and others.

**Supervisor DeGroot** said at this point that basically the Town Board is trying to decriminalize people because of this law.

**Nancy Baker** asked the board if Columbia County is a "right to farm" county. She stated that she often sees signs in other counties to this effect so that new people who move in do not complain.

**Attorney Rappleyea** stated that as far as he knew, Columbia County didn't have those signs, but town zoning regulations would override the county statements.

**McKay** added that everyone is trying to decide where this town is going for the future. He said that he believes it is out of proportion since the issue started over only chickens. McKay addressed Attorney Rappleyea and stated that while the ZBA did interpret, they are not to write laws, and their interpretation was inaccurate.

**Attorney Rappleyea** responded regarding the ZBA's interpretation: it depends who one talks to. **Supervisor DeGroot** affirmed that the Town Board was looking at June for a next decision date for the Livestock Committee's recommendations.

**Temple** stated that he tries to follow the going-ons of the town as he cannot attend all the meetings. He asked that the minutes be posted on the website as the latest ones are from the February meeting.

**Nancy Baker** suggested that at the end of meetings, the clerk's minutes be read through so can be corrected then and approved. She added that organizations such as the Fire Companies, Republican Committee, Village Board, and others do this so errors can be picked up immediately.

**Van Calhoun** disagreed, stating that it is better if one thinks about what happened the next day, or next week before making a decision on the minutes.

**Attorney Rappleyea** added that making a draft and finalizing the minutes after the original meeting is especially important for the ZBA and Planning Board because of the length and content of the meetings.

**Jim Baker** stated that the public could help correct the minutes.

**The Town Board** agreed that having a draft is better, for both the clerk and the board members, since details are often necessary to add at a later time. In addition, Supervisor DeGroot stated that he would look into the minutes on the town website and have the managers put them in a more timely manner.

The Town Board agreed that the next Town Board meeting would hold a Public Hearing on the Local Law to accept Alternates to the Planning Board and Zoning Board of Appeals at 7:00pm and a Public Hearing for the improvements of the Livestock Committee at 7:10pm.

Councilman Hegeman made a motion, Councilwoman Rohde seconded, and it carried to adjourn the May 17, 2007 Town Board Meeting at 8:00pm.

Respectfully submitted by,

Elizabeth Horst  
Deputy Town Clerk