

**CHATHAM TOWN BOARD MEETING**  
**AUGUST 16, 2007**  
**7:00 PM**

The regular meeting of the Town Board was held on August 16, 2007 at 7:00 pm at the Town Hall on Route 295 in the Town of Chatham.

<b>Present:</b> Jesse DeGrootd, Supervisor Bob Balcom, Councilman Don Hegeman, Councilman Jean Rohde, Councilwoman	<b>Others:</b> Joseph Rickert, Highway Supt. Tal Rappleyea, Attorney
	<b>Absent:</b> Beth Ann Rippel, Councilwoman

**Call to Order:** Supervisor DeGrootd opened the meeting at 7:00 pm.

**Pledge to the Flag:** Councilman Hegeman led the pledge to the flag.

**Resumption of Public Hearing on Local Law & Livestock Committee Recommendations.**

**Supervisor Jesse DeGrootd** stated that the Town Board saw six months of the Livestock Committee creating recommendations and the Town Attorney transforming such suggestions into a proposed local law. However, no matter what way the Committee or the Board turned, the ideas were still non-flexible and difficult to implement. The Supervisor thanked the Committee for their help, but advised the public that the Board had new plans. He said that since the draft law was obviously not going to work, they would disregard it and have the Town Attorney work on a new, much less rigid and more flexible ordinance. DeGrootd concluded that the new law is still being developed and will be posted on the website before the next hearing in September.

**Town Attorney Tal Rappleyea** gave some information on the law he was working on, stating that many people say if a law is offending everyone, get rid of it. However, he said that the Town can't get rid of zoning so he will have to work on other things that can be changed. Rappleyea gave his opinion that it is better to have a special use permit for residents wanting agriculture animals rather than be offensive and to have regular agricultural use. He said those who live in a hamlet and want to own domestic livestock would simply have to get a permit.

**DeGrootd** interjected at this point that the Board is looking for a good resolution that will include everyone instead of passing something unfeasible and inflexible. **Rappleyea** replied that some things are developed as permitted uses, depending upon what area it is; other uses are special, such as hospitals, and in this instance, agricultural use would be better labeled under special. **DeGrootd** again affirmed that the Board is looking for easier things, nothing harder. **Rappleyea** replied that by making agricultural under the domain of a special use permit, it would be easier.

**Councilwoman Jean Rohde** stated that having been on the Livestock Committee, she understood how the recommendations were beat out in many different ways. Basically, the committee went around in circles and, no matter what they did, objections were always raised. Chatham has such a diverse selection of hamlets that it is very difficult to create one law to fit them all. **Rappleyea** agreed, stating that because of the recommendations that the committee gave, the infrastructure for the new draft law was already in place. The Zoning Board of Appeals members are required to have certain training and, in his opinion, are extremely knowledgeable about these certain things, and therefore are very eligible for handling this kind of thing.

**DeGrootd** stated that the Livestock Committee backed up the fact that Chatham is agricultural and, in addition, there was a petition received from many citizens of Chatham to allow residents to keep and raise animals. He admitted that though all these proceedings are frustrating, it is better to work on something new than have nothing or to keep the current law. **Rappleyea** noted that the draft law is not too new since the committee's last recommendations included ZBA variances for those who did not fit into the specified categories.

**Dan Horst** asked if anyone had thought through how much information a land owner was required to present to the ZBA for the new law. **Rappleyea** replied that the information was already there in writing—a land owner must provide proof for the permit. **Jim McKay** asked what proof would be required. **Rappleyea** replied that the ZBA would need information of a lot's size, locale, district, proposed buildings for animals, fences, and other specific requirements for agricultural areas as found in the Town Code book.

**Councilman Bob Balcom** reminded that it was important to focus on the law in seeking improvement to allow agriculture and domestic livestock in the hamlets. **Rappleyea** ascertained that he was in the process of creating that kind of law since there are no specific guidelines for agriculture in the current law. **Balcom** said that his scientific mindset liked the detailed work done by the committee and the specific regulations that they encouraged, but over time he realized that such a law would be very cumbersome, especially because of the diversity in the

Chatham hamlets. He also noted that such laws would drive the Code Enforcement Officer crazy because of all the new issues that would arise. Balcom stated that the Town needed something better, and though the ZBA could be used as a stray reference, a good definition for agricultural use was needed instead of having the uncertainty bring up more problems.

**Jim McKay** asked if he would be required to run through the whole ZBA gauntlet again. **Rappleyea** replied that he would have to submit an application to the board and go through that process.

**Patti McKay** asked if the permission of neighbors was required for a special use permit. **Rappleyea** stated that no, with a special use permit, it was just a matter of submitting the application and going before the ZBA.

**Randi Walker** asked if there was a cost to pay for a special use permit. **Rappleyea** replied that there was a cost to submit the application, which was about \$50. **Walker** added that to her, it seems troublesome to go through that process. The law appears to be unbalanced to require a special use permit for 2 quiet chickens but not for 10 yapping dogs.

**Terri Buck** asked if there was a defined agricultural use or no. **DeGroot** replied, yes, as stated in the Town Code book. **Rappleyea** added that while the ZBA had no legislative capabilities in those areas, they denied certain applications because of the lack of specific rules of the Town.

**Jim McKay** suggested that the Town adopt a law like many other areas implement, such as in Madison, Wisconsin. That area allows small animals such as fowl but larger animals like horses or more varied groups of animals are required to have a permit.

**Dan Horst** asked if the Town had thought of how big of a problem this would be for both the residents and the town. He stated that there are around 400 properties in the hamlets and if all—or perhaps only half—wanted animals and those people came to the ZBA for a special use permit, how much time would that take? Horst suggested that it would be better if the Town just allowed animals in general and not incriminate those who have agricultural use unless someone complains of a situation and, in that case, take care of that particular problem. **Rappleyea** replied that, not to criticize the Building Inspector, but he does not have nor does his job allow the time to go to every property to see if people are violating the law. He added that, though he hated to admit it, unless there is a complaint there is no way of knowing who is breaking the law. **Horst** reiterated, if no one complains, what is the problem?

**Patti McKay** added that if indeed someone complained, that complaint should be substantiated. **Rappleyea** wondered, legally, what it was for a complaint to be substantiated.

**Horst** encouraged the Board to look at this proposed law a different way: Suppose that someone came into Chatham to buy 100 acres—or perhaps only 10 acres—in a hamlet and were told that in order to have animals, they would be required to apply for a special use permit. In his opinion, as an assessor for the town, this kind of law would be a big turn-off for real estate.

**Rappleyea** protested that the law would only apply for hamlets, prompting **Horst** to reply that there are a ton of hamlets in Chatham. **Councilwoman Rohde**, having been on the committee and having studied the hamlets, agreed with that statement.

**Supervisor DeGroot** stated that the Board does not wish to make everyone outside of the law upset, since there are a lot of people currently breaking the law. Rather they are trying to make a more flexible and less invasive law.

**An undisclosed male** asked what kind of law the Board was trying to implement; to him the very idea of regulating what animals could be in a town was ridiculous. The Board explained that, rather, they were trying to undo some mistakes of the past. **An undisclosed female** asked if that meant, as of now, having agricultural use in the hamlets was de facto. **Rappleyea** ascertained that it is now illegal. She replied that such a decision is backwards! **Rappleyea**, explained to those who did not understand the situation that back in 1972, the zoning was changed. **Jim McKay** added that, more recently, the ZBA interpreted agricultural use to be anything other than a dog or a cat and thus decided it was illegal. **Rappleyea** corrected that the ZBA didn't have a definition so they didn't interpret. One question was raised: What is the problem with taking out that law or adding a different law that says animals are allowed, with permits for those who have something large such as 100 head of cow.

**Terry Buck** stated that the problem was not animals, but pollution. **Jim McKay** added that making a law for problems of noise, odor, etc. is much simpler to take care of than saying no animals all together. He argued that the Board should make a law allowing any activity unless there is excessive noise or smell. **DeGroot** stated that such a law is already in place and the Town has a case like that now they are bringing to court. **McKay** added that, like in such an instance, if there is a *problem* then call the law. **Rappleyea** stated that since there *was* a problem, the law *was* called; the problem of crowing chickens bothering the neighbors. **Chloe Barker-Benfield** argued that chickens do not crow; roosters do.

**Councilwoman Rohde** stated that the problem is that agriculture and agricultural uses need to be defined so the ZBA can operate. **Patti McKay** argued that two chickens is not agricultural use and in her family's instance, a law allowing agriculture is not pertinent. **Jim McKay** agreed, stating that if he planted two rows of corn on his property it would not be

considered agriculture. **Rappleyea** interjected that it depends upon the use of such plants or animals. If it is for ones one own use, it is not considered agricultural use. **Dan Horst** asked if it he understood correctly, produce for ones own use is not agriculture, but produce for others is agriculture. **Rappleyea** said yes, that is correct. **Patti McKay** asked what about eggs, since those are used for their own use and not anyone else's. **Rappleyea** stated that animals are different. **Dan Horst** argued that did not make any sense, since if it is true that if only for his own personal use, it is okay, than animals shouldn't be any different. **Jim McKay** referred to his situation on Eberly Road and stated that his situation was a residential use, not agricultural. In fact, McKay said that he called the Department of Agriculture and Markets and spoke to them. He asked the attorney if he had spoken to Ag & Markets and what had they said about the issue. **Rappleyea** replied that it depended on who one spoke with.

**Dan Horst** asked what next step the Town was looking for. He suggested that they define agriculture and bring back the original ordinance to the ZBA; if the Town's goal is to allow agriculture, then create something simple allowing it. He concluded that everything included in this new idea with special use permits prohibits more than it supports. **An undisclosed female** offered her support of that and added that since Chatham is historically agricultural, the Town should continue that. She added that she would rather be on the right side of law. **An undisclosed male** also noted that it appeared that the Board wanted to keep agriculture, with Chatham Keep Farming. However, he wondered what was going on with this new law, as it seems counter-intuitive.

**Chloe Barker-Benfield** asked how someone can buy a \$50 permit from the ZBA if they are poor and cannot even buy food from the store. If people need their animals for food like eggs, then the Town shouldn't take that from them.

**Councilwoman Rohde** raised the question whether or not they actually needed to consider special use permits to allow agriculture. **Terry Buck** stated that she wanted to see the issue resolved, even if it took a very long time. **DeGrootd** agreed, noting that the Town would resolve the issue, and though they couldn't be fair to everyone, it was better to be sooner rather than later.

**Terry Buck** stated that when she went to court in the village over her animals, she spent a year and a half arguing that her animals were not agricultural but pets and educational. She suggested that the Town use that to allow more people to keep animals in the hamlets. **Patti McKay** agreed, saying that would be a good suggestion. **Dan Horst** disagreed, stating that the Town should not go the pet route, since people don't murder their pets.

**An undisclosed female** noted that allowing animals in hamlets should be an assumed right. She added that if agriculture is just a permitted use, it would make more sense for anyone to be free unless there is a complaint, which needs to be done on several points. She also said that there are many people in hamlets that no one would ever think they had animals until one walks down their driveway.

**An undisclosed male** spoke regarding the issue of two goats in the village. Some people made a big deal because they were afraid there would be a horrible smell and rats. He argued that such complaints weren't valid until they happened and people tend to make a big deal out of nothing.

**Jim McKay** asked what the ZBA decided last September about the Hallenbeck case and if that was pertinent to the situation. **Rappleyea** stated that since the ZBA didn't have a definition of agriculture, they were trying to determine whether a pot-bellied pig was considered a pet or agricultural use. They finally decided that it was a pet, but because of all the other livestock, it became a problem anyway. **McKay** agreed, stating that his situation was negative to begin with since he had over 30 animals on one tiny parcel.

**Patti McKay** asked if the Town Board had the authority to redirect a decision, such as the one the ZBA made regarding no agriculture in the hamlets. **Rappleyea** stated that the only way to do that is if all the current members vote to redirect the decision and then the law can be amended. **Dan Horst** added that another way to make that result happen is to make agriculture use acceptable in hamlets. **Patti McKay** agreed that would be the simplest way. She added that making the board reconvene and redirect their decisions would take too long anyway.

**Chloe Barker-Benfield** asked how the Board could prove if there is excessive smell from a certain property. She stated that in her situation, the neighbors complained of smell, but when asked about it, they said their was no smell, they actually were afraid of coyotes hurting their grandchildren.

**Rappleyea** stated that the ZBA is a very learned board and has done many things in the past to take care of serious issues. He added that he would trust them to take care of special use permits for people who wish to have agricultural use in the hamlet zones. **An undisclosed male** stated that if agricultural use is permitted than a permit from the ZBA is not required! **An undisclosed female** agreed that would be easier, since one would not have to prove that their animals are pets and it would be easier for someone to complain if there was a real problem.

**Supervisor DeGrootd** thanked everyone for their comments and stated that the hearing would be tabled to continue in September once the attorney completed the new law.

**Correspondence:**

1. District Attorney Beth Cozzolino, re: Safe Phones program
2. Paul Howard, son of Mo Howard, re: Three Stooges Day proclamation
3. Petition for keeping livestock in hamlets

**Public Comment:**

**Henry Swartz** stated that, speaking on behalf of the residents on Chapel Drive, he wanted to thank Joe Rickert and the Highway Department for getting a children-at-play sign up on their road.

**Reports:**

1. Highway: Highway Superintendent Joe Rickert presented his report to the Board. The clerk's copy is on file.
2. Building Report (On file)
3. Justice Court (On file)
4. Supervisor (County business): Supervisor DeGroot informed the Board that the County is still dealing with the episode with the Office of the Aging. A lot of money was requested for them, so they are still working on the 2007 funds, but he hopes it will be resolved soon.
5. Recreation Department (On file)

**New Business:**

1. RestoreNY Grant (Solaqua): Shari Schwartz spoke on behalf of Jodi Rael and the Columbia Box Board Company. She provided the Board with grant information and a proposal regarding the phases, goals, and other stages of Rael's plans for Solaqua. Schwartz gave the Board a letter of intent to apply for Restore NY Funding that would need to be signed and approved by Monday in order for Rael to be applicable. Supervisor DeGroot stated that the Board would enter executive session to discuss this issue at the end of the regular meeting and a decision would be made after that time. Schwartz was invited to stay and wait, which she agreed to do.
2. LOSAP Program: Peter Harvey from the Niverville Fire Company informed the Board on several details regarding the Program for active firemen. He made it clear that this was strictly informational—a time for questions and answers—and that as of now, it is not an issue with the Fire Departments.

**Old Business:**

1. Local law regulating the keeping, harboring, and care of domestic livestock animals within the hamlet districts.  
The Board agreed to set another public hearing in September for the new proposed law that the Town Attorney is working on.
2. Comprehensive Plan: Set date for Public Hearing  
The Board decided to set a public hearing in September for the Comprehensive Plan. Also, Randi Walker and Attorney Rappleyea agreed to check on a few last minute items to present to the Board in time for the hearing.

**Resolution #117-07 To reschedule old business until the 20 September 2007 board meeting.**

Offered by Supervisor DeGroot, moved adoption to reschedule the old business of Domestic Livestock in the Hamlets and the Comprehensive Plan until the 20 September regular board meeting and to assign public hearings for each of those matters.

Councilman Hegeman seconded the motion.

**Vote:** *Ayes*, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

*Nays*, none

The resolution was adopted.

**Resolution #118-07 To continue the public hearing for Domestic Livestock in the Hamlets.**

Offered by Supervisor DeGroot, moved adoption to continue the public hearing for Domestic Livestock in the Hamlets on the 20 September 2007 town board meeting at 6:00 PM.

Councilwoman Rohde seconded the motion.

**Vote:** *Ayes*, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

*Nays*, none

The resolution was adopted.

**Resolution #119-07 To schedule a public hearing for the Comprehensive Plan.**

Offered by Supervisor DeGroot, moved adoption to schedule a public hearing for the Comprehensive Plan for the 20 September 2007 town board meeting at 6:30 PM.

Councilwoman Rohde seconded the motion.

**Vote:** Ayes, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

Nays, none

The resolution was adopted.

**Resolution #120-07 To approve the minutes of the 19 July 2007 regular Town Board meeting.**

Offered by Councilwoman Rohde, moved adoption to approve the minutes of the 19 July 2007 regular Town Board meeting..

Councilman Balcom seconded the motion.

**Vote:** Ayes, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

Nays, none

The resolution was adopted.

**Resolution #121-07 To authorize the Town Court to apply for a grant under the 2007 Justice Court Assistance Program.**

Offered by Supervisor DeGroot, moved adoption to authorize the Town Court of Chatham to apply for a grant under the 2007 Justice Court Assistance Program in order to purchase new equipment.

Councilman Hegeman seconded the motion.

**Vote:** Ayes, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

Nays, none

The resolution was adopted.

**Resolution #122-07: Regarding the sale of gravel mined from Town Hall property.**

Offered by Councilwoman Rohde, moved adoption as follows:

*WHEREAS, any revenue received from the sale of gravel mined on town hall property is a recovery of expenses associated with the purchase and maintenance of town hall property,*

*NOW THEREFORE BE IT RESOLVED AS FOLLOWS, that any revenue received from the sale of gravel mined on town hall property will be credited to the Miscellaneous Reserve General Fund "A" account #A889.30.*

Councilman Balcom seconded the motion.

**Vote:** Ayes, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

Nays, none

The resolution was adopted.

**Resolution #123-07 To appoint Janie Trumpy to the Chatham Agricultural Partnership.**

Offered by Councilwoman Rohde, moved adoption to appoint Janie Trumpy to the Chatham Agricultural Partnership.

Councilman Hegeman seconded the motion.

**Vote:** Ayes, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

Nays, none

The resolution was adopted.

**Resolution #124-07 To accept bids for winter sand.**

Offered by Councilman Balcom, moved adoption as follows:

*WHEREAS, the Chatham Town Board accepts the following bids for the period of August 17, 2007 through March 31, 2008 and*

*WHEREAS, the Chatham Town Board awards portions of the bids below to more than one Bidder based upon availability, location of material, and/or price of the various materials from lowest bidder to highest bidder.*

- **Winter Sand**
  - a. Rifenburg Construction*                      \$ 6.00/ton FOB
  - b. Bob Boll Excavating*                      \$ 8.50/ton FOB

Councilwoman Rohde seconded the motion.

**Vote:** Ayes, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

Nays, none

The resolution was adopted.

**Resolution #125-07 To accept the bid for the sale of one Used 1996 GMC 4WD Truck.**

Offered by Councilman Balcom, moved adoption as follows:

*WHEREAS, the Chatham Town Board accepts the bid for the sale of (One) Used 1996 GMC 1500 Sierra 4WD Pick-Up Truck with a 7-1/2 Foot Fisher Plow, (Truck#1), VIN #MCATCHTM001, sold "as is" "where is" to Michael Heffner, Jr. for a bid price of \$ 425.00.*

Councilman Hegeman seconded the motion.

**Vote:** Ayes, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

Nays, none

The resolution was adopted.

**Resolution #126-07 To authorize the borrowing of funds, subject to permissive referendum, to complete Crellin Park land donation contractual obligations.**

Offered by Councilwoman Rohde, moved adoption to authorize the borrowing of funds, subject to permissive referendum, to complete Crellin Park land donation contractual obligations.

Councilman Balcom seconded the motion.

**Vote:** Ayes, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

Nays, none

The resolution was adopted.

**Resolution #127-07 To approve the Town Comptroller's report.**

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

Councilman Balcom seconded the motion.

**Vote:** Ayes, Supervisor DeGroot, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

Nays, none

The resolution was adopted.

Supervisor DeGrootd moved, Councilman Balcom seconded, and it was carried to enter executive session at 8:30 PM.

Supervisor DeGrootd moved, Councilman Hegeman seconded, and it was carried to leave executive session at 8:45PM.

On the matter of the RestoreNY Grant (Solaqua), the Board told Shari Schwartz that they would accept the letter of interest in time to submit it by Monday if Jodi Rael agreed to allow Building Inspector Walt Simonsmeier have access to his project on Highland Road. Schwartz stated that she would present that matter to Rael as soon as she could get in touch with him. The Board also agreed to have a public hearing on this matter at the next Town Board meeting at 7:00 PM.

**Resolution #128-07 To approve the Intent to Apply for Restore NY Funding.**

Offered by Supervisor DeGrootd, moved adoption to approve the Intent to Apply for Restore NY Funding for and Phase 1 rehabilitation of the former Columbia Box Board Mill. Councilwoman Rohde seconded the motion.

**Vote:** *Ayes*, Supervisor DeGrootd, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

*Nays*, none

The resolution was adopted.

**Resolution #129-07 To set a Public Hearing for Restore NY Funding.**

Offered by Supervisor DeGrootd, moved adoption to set a public hearing for Restore NY Funding on the 20 September 2007 regular Town Board meeting at 7:00 PM.

Councilman Balcom seconded the motion.

**Vote:** *Ayes*, Supervisor DeGrootd, Councilman Balcom, Councilman Hegeman, and Councilwoman Rohde

*Nays*, none

The resolution was adopted.

**Motion to Close Meeting:** Councilwoman Rohde made a motion, Councilman Hegeman seconded, and it carried to adjourn the 16 August 2007 Town of Chatham regular Town Board meeting at 9:00 PM.

Respectfully submitted by,

Elizabeth Horst  
Deputy Town Clerk