

## **Minutes of the First Regular Town Board Meeting on January 8, 2009**

Supervisor Connell called the meeting to order at 7:00 p.m.

Members present on a roll call vote were:

Councilman Tyler  
Councilman Paquette  
Councilman Sherman  
Councilman Smith  
Supervisor Connell

Others present:

Sheila Borden, Town Clerk  
Jerrold Sherman, DPW Superintendent  
George Hainer, Zoning and Codes Officer  
Gary Wilson, Attorney for the Town

### **RESOLUTION #26 MINUTES APPROVAL**

A motion was made by Councilman Tyler seconded by Councilman Paquette and approved on a roll call vote.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

RESOLVED to approve the minutes of the Town Board Meeting of 12/23/08.

**PUBLIC COMMENT – None**

### **COMMITTEE REPORTS**

**GARAGE** – The next meeting of the Joint Municipal Garage Committee has been changed to January 15, 2009 at 6:00 p.m. at the Town Hall.

**YOUTH COMMISSION** – There was a meeting on January 5, 2009. There are still no representatives from Student Council.

- The Basketball program will start soon.
- In March the Hiking program will start.
- The Dance program is on going.
- The Skating rink is not ready to be used yet. Councilman Tyler and Councilman Sherman were assigned to research the possibility of having a

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- rink on the Town Beach that would be open longer. They are expected to have a decision or recommendation back to the Board by September.
- The Hiring committee is working on the Summer Program.
- The School is making plans for the Summer Academic Program.
- The Sportsmanship Guidelines are still being worked on.

**OLD BUSINESS**

- **Future of Westport** - The individual committees are meeting.
- **Wadhams Water Project** – Drilling was postponed for a week but should begin on Monday, January 12.
- **Merriam Forge Project** – Russell Paquette who is serving as a volunteer Clerk of the Works reviewed with the Board what worked had started and that they are on the planned timeline.

**RESOLUTION #27**

**CHANGE ORDER FOR BLASTING ON MERRIAM FORGE PROJECT**

On a motion by Councilman Smith seconded by Councilman Sherman and approved on a roll call vote.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

**RESOLVED** to approve the Change Order for blasting from Kubricky Construction at a cost of \$3,990.00.

- **Noise Evaluation at Sewer Plant** – Councilman Tyler needs to speak with the Engineers of AES Northeast.
- **Enhanced Business Systems** – George Hainer reported that the new financial software program has been installed and there are two days within the next week that are set up for training.

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**NEW BUSINESS**

**RESOLUTION #28**  
**CARRY OVER OF VACATION DAYS**

On a motion by Councilman Tyler seconded by Councilman Sherman and approved on a roll call vote.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

**RESOLVED** to authorize Jerrold Sherman to carry over three days of vacation into the 2009 year.

**RESOLUTION #29**  
**JUSTICE ASSISTANCE PROGRAM**

On a motion by Councilman Tyler seconded by Councilman Smith and not approved after discussion and a roll call vote.

1 Ayes              Tyler  
4 Nays              Paquette, Sherman, Smith, Connell

**RESOLVED** not to authorize the Clerk to the Justices to apply for a grant to install carpet in the Courtroom and Clerk Office.

**RESOLUTION #30**  
**DUES ADIRONDACK ASSOCIATION OF TOWNS AND VILLAGES**

On a motion by Councilman Smith seconded by Councilman Sherman and approved on a roll call vote after discussion.

4 Ayes              Paquette, Sherman, Smith, Connell  
1 Nay                Tyler

**RESOLVED** to join the Adirondack Association of Towns and Villages and pay the dues of \$445.00.

**RESOLUTION #31**  
**OPPOSITION OF REAL PROPERTY TAX LAW SECTION 544**

On a motion by Councilman Sherman seconded by Councilman Smith and approved on a roll call vote after discussion.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

**RESOLVED** to support the following resolution opposing the amending of Section 544 of the Real Property Tax Law that follows.

**Opposition to Amending Section 544 of the Real Property Tax Law**

**WHEREAS**, the State Legislature created the Adirondack Forest Preserve in 1886 to conserve ecologically and recreationally significant tracts of land for watershed protection and ultimately the benefit of all New Yorkers, and in creating said Preserve, legally obligated the State of New York to pay full local property taxes, “as though privately held”, on all Forest Preserve lands, and

**WHEREAS**, the legitimacy of the State’s tax payments on the Forest Preserve was upheld by the NYS Supreme Court’s Appellate Division earlier this year, in the case of Dillenburg vs. NYS, in which the outcome in that case gave all Adirondack and Catskill communities assurance that state land taxes on the Forest Preserve were neither arbitrary nor capricious and that these taxes are based on the State’s legitimate powers granted to the State Legislature to waive its sovereign immunity from taxation in specified places such as the New York State Forest Preserve, and

**WHEREAS, WHILE WE ALL UNDERSTAND THE ECONOMIC DIFFICULTIES THAT THE** State is facing, the Adirondack Association of Towns and Villages is appalled by the idea that the Division of Budget would confuse their obligation to pay ad valorem property taxes with state aid to local communities by proposing a cap on state property tax payments on Forest Preserve lands to Adirondack towns, counties and school districts, when it would be far more constructive for state government to work cooperatively with local governments and school districts to reduce state mandates and help reduce property taxes for everyone, and

**WHEREAS**, the proposed tax cap would set a dangerous precedent by creating two separate ad valorem tax rates, one for the State and another for private property owners, and by doing so would shift the State’s financial responsibility unequally to local taxpayers, hitting hardest those towns and districts with the fewest residents and the greatest amount of state land, which is often 60 to 70 percent of their property tax base,  
**NOW, THEREFORE, BE IT**

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**RESOLVED**, that the Adirondack Association of Towns and Villages, which views the payment of taxes on Forest Preserve lands as a permanent, essential and inviolate commitment from the people of New York State, who benefit so greatly from the Preserve, is hereby adamantly opposed to any plan that shifts State spending by amending Section 544 of the Real Property Tax Law by adding a new subdivision 3, which in effect, would cap the State of New York's legal obligation to pay full local property taxes, "as though privately held", on all Forest Preserve lands, and, be it further

**RESOLVED**, the Adirondack Association of Towns and Villages, respectfully requests the Governor to eliminate this injurious proposal to cap property taxes on the Forest Preserve and rescind the amendment to Section 544 of the Real Property Tax Law, paragraph 3, within the thirty day amendment period of his proposed executive budget and thus provide for the economic survival of our small rural communities which depend on his leadership to dispense "shared sacrifice" equitably, and, be it further

**RESOLVED**, that a certified copy of this resolution be forwarded to the Honorable Governor David Paterson and Adirondack legislators: Honorable Senator Elizabeth Little, Honorable Hugh Farley, Honorable Joseph Griffo, Honorable James Seward, Honorable Assemblywoman Teresa Sayward, Honorable Marc Butler, Honorable Tony Jordan, Honorable Janet Duprey, Honorable Dede Scozzafava and Honorable David Townsend.

**RESOLUTION #32**  
**BOQUET RIVER ASSOCIATION AGREEMENT**

On a motion made by Councilman Smith seconded by Councilman Paquette and approved on a roll call vote.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

**RESOLVED** to authorize Supervisor Connell to execute agreement with the Boquet River Association which will provide technical and management services for the furtherance of conservation, education, and recreation along the Boquet River and its tributaries within Town of Westport for the 2009 year at a cost of \$1,000.00

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**RESOLUTION #33**  
**AGREEMENT FOR SPCA CONTRACT**

On a motion made by Councilman Paquette seconded by Councilman Smith and approved on a roll call vote.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

**RESOLVED** to authorize Supervisor Connell to execute agreement with the North Country Society for the Prevention of Cruelty to Animals, Inc. for the 2009 year at a cost of \$1,362.00

**TOWN CLERK REPORT**

- Supervisor Connell is in receipt of the Town Clerk's report for the month of December 2008 and a copy has been given to each councilman.

**AUDIT COMMITTEE APPOINTMENT**

- The Audit Committee will be comprised of Councilman Smith, Supervisor Connell and alternate Councilman Tyler that will audit the records of Town Justices, Town Clerk and the Clerk to the Supervisor and then shall report back to the full Board.

**RESOLUTION #34**  
**AUDIT OF BILLS**

On a motion made by Councilman Smith seconded by Councilman Paquette and approved on a roll call vote.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

**RESOLVED** to authorize the payments of bills as audited on Abstract 01A Vouchers 2009-1 to 2009-43 in the amount of \$61,265.21.

**DPW SUPERINTENDENT REPORT – Jerrold Sherman**

The pump station at the marina was plugged again.  
Plowing and sanding is going on as needed.  
Received a memo from Fred Buck stating that the CHIP funding is down 43 %.  
We need to order more salt.

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The sewer pump next to Schwoebel's in Wadhams has come in.  
The 35mph sign has been put up on Stevenson Road.  
Mr. Sherman questioned whether the purchasing of fuel oil should be put out to bid. Supervisor Connell will seek out more information from the Supervisor from Town of Essex and present it at the next meeting.

**SUPERVISOR'S COMMENTS**

Jerrold Sherman has agreed to continue to serve as the Town Safety Coordinator.

**COUNCILMAN COMMENTS**

Councilman Tyler requested that anyone attending conferences in the future report back to the board with a report on what they learned.

**RESOLUTION #35**

**WHITE APPRECIATION**

On a motion made by Councilman Tyler and with a unanimous second,

**RESOLVED** to extend a Resolution of Appreciation to Betty White for the service she provided as the Westport Town Clerk as follows:

***WHEREAS***, Betty White, lifelong resident of the Town of Westport, has been and will continue to be active in the community serving the general population, and

***WHEREAS***, Betty White, accepted the position of Westport Town Clerk, Tax Collector and Registrar at a time when that position in the town of Westport was vacated, and

***WHEREAS***, Betty White, not only maintained the daily operations associated with the office of Town Clerk, Tax Collector and Registrar but took upon herself the laborious task of establishing and organizing all manners of files and record keeping.

***WHEREAS***, Betty White, through her fastidious efforts began the process of restoring faith and trust in the position of Town Clerk, Tax Collector and Registrar.

***THEREFORE BE IT RESOLVED***, The Westport Town Board extends its thanks and appreciation for all of the time, effort and conscientiousness of Betty White.

**ARTICLE 78 filed on Ware Variance granted by the Zoning Board of Appeals.**

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**RESOLUTION #36**  
**EXECUTIVE SESSION**

On a motion made by Councilman Paquette seconded by Councilman Smith and approved on a roll call vote.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

**RESOLVED** to enter into Executive Session at 8:08 p.m. to discuss a legal matter. Gary Wilson, Attorney for the Town, was invited join the Board in Executive Session.

**RESOLUTION #37**  
**CLOSE EXECUTIVE SESSION**

On a motion made by Councilman Smith seconded by Councilman Sherman and unanimously approved.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

**RESOLVED** to close Executive Session and return to the regular board meeting at 8:55 p.m.

**RESOLUTION #38**  
**ARTICLE 78 NEGOTIATIONS**

On a motion made by Councilman Smith seconded by Councilman Sherman and unanimously approved.

5 Ayes                      Tyler, Paquette, Sherman, Smith, Connell  
0 Nays

**RESOLVED** to authorize the Attorney for the Town to enter into negotiations with the petitioner of the Article 78 against the Zoning Board of Appeals and at his discretion prepare the answer to the court concerning this matter.

**FURTHER RESOLVED** to authorize the Attorney for the Town to consult with litigation council.

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**RESOLUTION #39**  
**ADJOURNMENT**

A motion was made to adjourn at 9:30 p.m. by Councilman Smith with a unanimous second.

Respectfully submitted \_\_\_\_\_ Sheila Borden, Town Clerk