

**TOWN OF DELHI
BOARD MEETING**

**February 13, 2018
7:30PM**

Supervisor Tuthill called the meeting to order at 7:30pm.

Those present: Council members Janet Tweed, Al Perkins, Bill Cairns, Hwy Superintendent Daren Evans

Absent: Councilmember Matt Krzyston

Residents: Richard Gumo, Jeffrey Barthelmes, Kyrra Howard, Roy Schrimshaw, Fred Onasch, Kathy Mario, Paula Brown

Lillian Brown - The Reporter

The Pledge of Allegiance was led by Councilmember Perkins.

Privilege of the Floor:

Richard Gumo of Delhi was given privilege of the floor by Supervisor Tuthill. He stated that he along with his neighbors are opposed to Delaware County DPW purchasing the McFarland Farm. There is information relative to whether the county has or enjoys immunity from respecting the town zoning laws. From what Gumo has been told the Board of Supervisors of Delaware County has been advised that the county is immune and does not have to and is automatically exempt from town zoning laws. This has changed; Gumo has FOILED the information that was given to the Board of Supervisors, the document specifically shows that up until 1988 that used to be the law of the State of New York. Counties would be exempt from town and village zoning laws, but in 1988 the highest court of New York, the Court of Appeals adopted a new procedure in which now there is a balancing of interest which has to be undertaken so that if a county intrudes into town property, they have the burden of proving that their use is superior to whatever the existing zoning laws are. They are not automatically exempt from following and being bound by the town zoning laws. This document states there is a balancing of interest. The town has priority as there is a presumption that when the intruding party (being the county) comes into the town (being called the "host" party) there is a presumption they are automatically bound by the town zoning law. Before any action can be taken there has to be a minimum of nine separate factors that have to be reviewed to determine whether or not the town's laws and zoning regulations take precedence over the county. A DPW building on the location of the McFarland Farm would be a complete violation of the town.

Mr. Gumo asked Supervisor Tuthill if the Town Board had received petitions asking the Town Board to take all steps necessary to oppose the construction at the proposed site. Mr. Gumo requested that the Town follow NYS Town Law Section 268 Subdivision 2 that specifically burdens the town board to enforce the zoning rules and regulations of the town. This law requires the board to take steps to oppose any illegal construction of a structure that does not comply with the zoning of a particular area. The proposed site of the McFarland property violates the town code Mr. Gumo stated. He further asked if the board received petitions from

residents asking the board to take actions to stop the construction of the McFarland property, to which Supervisor Tuthill stated they had.

Mr. Gumo also stated that he attended a joint meeting with the town and village for the flood mitigation and questioned with the proposed mitigation of the river this would remove the current DPW area from the flood plain. Supervisor Tuthill stated that this has been brought up to the Board of Supervisors by himself and the Mayor of Delhi.

Also Gumo mentioned that at the DPW presentation at Delaware Academy it was stated by DPW that the roof was in imminent danger of collapsing the first snowfall, to which Supervisor Tuthill answered they are still parking trucks in the building; there in goes the one snowflake theory. Supervisor Tuthill also wanted to address and clarify; the entire town of Delhi is zoned residential any business, commercial, municipal building is allowed with a special use permit and site plan review, so it is not specifically eliminating the DPW garage. They would have to go through other channels, to which Gumo stated he does not agree with that as the town code specially states the specific permitted uses, the specific structures that can be erected in an agricultural and rural zone. With "special use permits" there would have to be an application, public hearings and SEQR reviews before anything could take place. Supervisor Tuthill states it is not cut and dry. Mr. Gumo requested that the board adopt a resolution that the town opposes the construction of a DPW building on County Highway 18; this resolution should be given to the Board of Supervisors. Supervisor Tuthill stated that this has already been done.

Resident Jeff Barthelmes questioned "special use permits" and if given does the town just "throws" out existing zoning rules and regulations; whereas Supervisor Tuthill stated there are limits in which the Planning Board must take surrounding areas into consideration. Mr. Gumo stated in the evaluation of factors to be considered if there is a contest where the county disputes the town right to enforce its own right to the zoning law, one of the factors has to be that the county would have to prove that that property is the only viable piece of property for the erection of a new DPW building. Our county in geographical size exceeds the state of Rhode Island and it is inconceivable to him that any judge would agree with the county that that location is the only place the DPW building can be built. He objects to how the Board of Supervisors set the parameters for investigating the relocation of the DPW building. Many of the sites required building of a bridge or the refurbishing of an existing bridge. He also stated if a lawsuit must be implemented in order to stop the county from purchasing this County Highway 18 location he will join in to enforce the zoning laws of the town. Should the town not enforce the zoning rules, there will be litigation.

Mr. Fred Onash representing the citizens of the Hamilton Drive area stated he and many of his neighbors have also signed this petition. He stated that should the DPW go through with the proposed location on County Highway 18, Elk Creek Road will become a main highway, property values will go down also as will the quality of living in that area. He also stated that American Indian artifacts have also been found in that area. There are a number of factors that make this site not desirable location. He also reiterates what Mr. Gumo stated that residents will do what they have to in stopping the County purchasing the location.

Councilman Perkins stated that Supervisor Tuthill has been vigilant in his efforts against the purchase and should be commended. It is important that citizens back him and show support, our town board has made it clear that they are against the purchase.

Roy Schrimshaw spoke on behalf of the American Legion and wished to thank the Town of Delhi Highway for plowing the Legion parking lot.

Approval of January 9, 2018 Regular Board Meeting Minutes:

Councilmember Cairns made a motion to accept the minutes of the January 9th Board Meeting with Councilmember Perkins seconding. Motion carried.

Old Business:

Supervisor Tuthill stated that we are on hold for the student and short term rentals we will be working on them shortly again.

Councilmember Perkins stated that we are waiting on NYS Parks & Recreation as the individual that they are working with is on vacation. Supervisor Tuthill has received the paperwork from the O'Connor Foundation for the other \$200,000 grant and requested a motion be made allowing him to sign. Councilman Perkins made the motion allowing Supervisor Tuthill to sign the grant paperwork with Councilmember Tweed seconding. Motion carried.

New Business:

Supervisor Tuthill stated that Highway Superintendent Evans has chosen Brian Rosenthal as his Deputy Highway Superintendent. He also has done interviews for the highway mechanics position and requested to hire Matthew Condon for the position. Councilmember Cairns made the motion to hire Mr. Condon with Councilmember Perkins seconding at a pay rate of \$21.76 per hour. Motion carried. Mr. Condon must give his current employee two weeks' notice; he will be starting March 5th.

Highway Superintendent has given his Agreement for the Expenditure of Highway Monies for 2018 to the board for approval. All councilmember's that were present signed the agreement. Highway Superintendent Evans will return the original to Delaware County DPW and the clerk will keep one on file in her office.

A motion was made by Councilman Perkins for Supervisor Tuthill to sign the 2018 ISD Maintenance and Support Agreement. Councilman Cairns seconded the motion, motion carried.

Supervisor Tuthill announced that the Justice Court has received a Justice Court Assistance Program Grant of \$25,962.98. He noted that the Court Clerk Cathy Fletcher does a phenomenal job. She has saved the town much money with her efforts in obtaining grants for the court.

An invoice from Lakeside Engineering was presented to the board for approval. Councilman Perkins explained that this invoice (No. 18-013) for \$8,565.52 finishes up the first contract with them. He believes there will still be roughly \$6,000 due after this. Councilmember Perkins made a motion that Invoice No. 18-013 be approved for payment from the pool funds, with Councilmember Cairns seconding. Motion carried.

All audits for town departments have been completed. Councilmember's Tweed and Krzyston audited the Court, with Councilmember's Tweed and Perkins completing the Town Clerk/Tax Collector and Bookkeeper. Councilmember Tweed stated that it is impressive how the records are kept. The councilmember's have a list from the NYS Comptroller's office as to what they are to be looking for and everything our town does was

marked off really well. It is reassuring that we are doing the right thing and following the rules the way they are laid out. Councilmember Tweed thanked the offices.

Supervisor Tuthill stated a request has been received from the St. Patrick's Day Parade committee requesting use of the Town Hall for the March 24th St. Patrick's Day Parade. Councilmember Perkins made the motion to again allow use of the building for the bag-pipers with Councilmember Tweed seconding. Motion carried. The Clerk will notify Economic Development.

Supervisor Tuthill informed the Councilmember's that there is a group that is trying to rebuild the Bramley Mountain Fire Tower. He is not sure of the exact location it will be somewhere near the Bramley Mountain Trail. He will be meeting with NYCDEP on that, there is an issue as no one wants to own the tower.

The Town discussion of credit cards was put on hold until the board can receive more information.

Supervisor Tuthill welcomed Paula Brown of the Rehab Center. She stated the new facility is running well there are now 22 residents. Our board wishes them well.

Supervisor Tuthill stated a motion was necessary for approving the 2018 NYS Retirement Standard Workday and Reporting Resolution for Elected and Appointed Officials. There will be a change to the reporting resolution as to the Deputy Highway Supervisor appointment. Councilmember Perkins made the motion to approve the filing of the Standard Work Day and Reporting Resolution for Elected and Appointed Officials for 2018 (RS 2417-A) with the correction with Councilmember Cairns seconding. Motion carried.

Supervisor Tuthill stated a motion was necessary for the 2017 budget amendments. Councilmember Perkins made a motion to authorize the bookkeeper to make the necessary adjustments to amend the 2017 budget. Councilmember Cairns seconded. Motion carried.

Supervisor Tuthill stated a motion was also necessary to accept the amended December 2017 detail of expenditures report. Councilmember Perkins made the motion to accept the December 2017 amended expenditures report, with Councilmember Tweed seconding. Motion carried.

Committee Reports:

Highway/Machinery: (Councilmember's Perkins & Cairns) – Written report from Superintendent Evans was given. A motion was made by Councilmember Tweed to allow the Highway Department to purchase another 55 gallon drum of degreaser solvent. Councilmember Perkins seconded. Motion carried. Councilmember Cairns questioned how long a barrel is expected to last to which a response was made by both Supervisor Tuthill and Highway Superintendent Evans that the expectancy is roughly a year.

Councilmember Cairns stated per the report a request was received from the Catskill Mountain Club for the removal of snow from the parking lot of the hiking trail off Glen Burnie Road. He wanted to make sure the understanding is our intention is to do this, but it is going to have to revolve around when our equipment is there. Chances are for plowing it will only be when our crews can be there, the lot may not be cleared immediately after a snowfall or under the circumstances of a major snowfall where the smaller equipment cannot do the job, the lot may not be opened up at all unless a bucket loader is needed in the area to push back snow banks, intersections, etc. Both sides understand that it is all based on "as available." This also

applies to the hauling and leveling of gravel (donated by other contractors) at the time that our equipment is in the immediate area for scheduled road work.

Supervisor Tuthill questioned Highway Superintendent Evans as to which project he intended to do this year as he had been questioned by the county. Superintendent Evans stated he would be the stream bank on Hamden Hill as it is the more significant of the projects. The Delaware County Planning Department will be working together on the completion of the application for funding.

Councilmember Cairns questioned what was going on in terms of the excavator or other items planned to be purchased this year. Supervisor Tuthill stated the paperwork was ready to go in for the grant for the ten-wheeler. Councilmember Cairns stated one of the issues he and Evans discussed was with the \$165,000 in the equipment line and with taking out the annual Terrastar and lease payment for the Cat-loader; we do not want to wait too long for the excavator to make the commitment. They are currently in stock at a cost of \$101,827.07. If we were to just do the new compact excavator and not the three point hitch ditch and bank mower, we would have roughly \$20,789.00 in the equipment line. If we were to do the mower also it would leave us with \$10,789.93. Supervisor Tuthill stated that we had budgeted for the excavator as such a motion should be done for the purchase. Councilmember Perkins made the motion to purchase the excavator, with Councilmember Cairns seconding. Motion carried. After discussion on the mower Councilmember Cairns made the motion to purchase the three point hitch mower, Councilmember Perkins seconded. Motion carried. Both pieces of equipment will be purchased through state bid.

Councilmember Cairns thanked the highway department for the hard work they have done on the roads.

Health/Youth: (Councilmember's Tweed & Cairns) – Councilmember Tweed stated open gym is still going on. The ice rink has been running well.

Economic Development/Shared Services: (Councilmen Perkins & Krzyston) – Councilmember Perkins stated they will be having a meeting tomorrow. A new hotel will be forthcoming; the college is working with the state to transfer land.

Recreation: (Councilmember Perkins) – N/A

Personnel: (Councilmember Perkins) – Audits were mentioned above.

Building: (Councilmember's Cairns & Krzyston) – Councilmember Cairns stated during rainstorms the highway garage has been leaking. A contractor is coming to make recommendations. When the building was originally put up an awning was installed above the rear doorway. Councilmember Cairns would like to see a small roof put back over that doorway.

The town hall has had to contact Kiff's several times for problems with the heating system. Kiff's has stated that the last time the furnace was serviced was 8 years ago; he is not sure about the highway garage.

Councilmember Perkins stated that he was under the impression that they had been serviced, he believes they may have been done by someone else.

IT: (Councilmember Tweed) – Councilmember Tweed has been working with Dave Kopecek as to putting the town resolutions on line. This will be forthcoming. Councilmember Tweed also stated that meeting minutes per NYS Opening Meeting Law are to be available within 2 weeks, and could be publicized in a draft format which would help stay in compliance with the law. Supervisor Tuthill stated as long as they are made available putting drafted minutes on the site may lead to confusion. Town Clerk requested to speak and stated that Councilmember Tweed is correct per the Open Meetings Law that minutes must be made available to the public within 2 weeks, but the problem she could foresee happening would be by putting a "drafted" copy of the minutes on the site; if they are misconstrued it could hold one liable, as such the town clerk does not want such liability. Should the board request drafted minutes be placed on the town website, the Clerk requested a motion be made by the board directing such and also should minutes be marked "draft" all

liability be taken by the board/council should there be any misinterpretation of unapproved minutes, thus leaving the clerk not responsible such. Councilmember Perkins as long as they are available to the public complying with the law making minutes available. Any information that the board requests be made public will be placed on the blog portion of the website.

CODES: (Councilmember Cairns) – Councilmember Cairns announced there were two permits issued, 8 inspections, 1 fire inspection and 1 certificate of compliance.

CODES Monthly Report:

A motion was made by Councilmember Perkins to accept the January 2018 Code Report. Councilmember Cairns seconded the motion. Motion carried.

Justice Court Report:

A motion was made by Councilmember Perkins and seconded by Councilmember Cairns to accept the January 2018 Justice Report. Motion carried.

Clerk’s Monthly Report:

A motion was made by Councilmember Perkins to accept the January 2018 Clerk’s Report, and seconded by Councilmember Tweed. Motion carried.

Supervisor’s Financial Report:

Supervisor Tuthill stated no January report was available.

Supervisor’s County Report:

Supervisor Tuthill stated that several members went to Kingston for a meeting with DEP regarding land acquisitions. Pete Lopez of Washington joined the meeting for EPA. He made it clear to the city that his approval of their filtration avoidance paperwork was with conditions he expects the issues he raised in his conditions letter to be addressed. He mentioned that possibly it was time to halt the land acquisition program and reevaluate. Developable land is being depleted in Delhi most of the sales in 2017 were of existing homes and knocking them down to rebuild. There will be more ongoing meetings. Supervisor Tuthill is optimistic there will be progress.

There has been no news on the DPW front, he expects there to be more in March.

Abstracts:

Councilmember Perkins made the motion to approve Abstract #002 - 2018 accounts A – DB Voucher No. 34 - 79 equaling \$49,398.10 account TA Voucher No. 143-146 equaling \$9,733.74 . Total of presented vouchers for Abstract #002-2018 - \$59,131.84. Councilmember Cairns seconded the motion. Motion carried.

Adjourn:

A motion to adjourn the regular monthly meeting at 8:55pm was made by Councilmember Cairns and seconded by Councilmember Perkins. Motion carried.

Respectfully submitted,

Elsa Schmitz

Elsa Schmitz, Town Clerk, Town of Delhi