

**TOWN OF DELHI  
BOARD MEETING  
November 14, 2022  
7:00PM**

Supervisor Tuthill called the meeting to order at 7:00pm.

Those present:

Councilmember's: Margaret Baldwin, Matt Krzyston, and Christina Viafore, Bill Cairns.

Highway Superintendent Daren Evans, Code Enforcement Officer Dale Downin

Residents: Cynthia Cobbe, Sarah Burkert, Matthew Burkert

**The Pledge of Allegiance** was led by Councilmember Krzyston.

**Privilege of the Floor:**

N/A

**Approval of October 10, 2022 Regular Board Meeting, October 25, 2022 Public Hearing & Special Board Meeting Minutes:**

Councilmember Cairns made the motion to accept all the above minutes as presented with Councilmember Baldwin seconding. Motion carried.

**Old Business:**

Councilmember Baldwin announced we had received the Certificate of Inspection for the playground. The benches are in concrete although we are still waiting for the plaques. The hydro-seeding is creeping in; thank you's to Tomas and Will of PAC for blowing off the leaves. Baldwin told the board a picnic table has been moved and is over on the soccer field; she requested help to get it back. Baldwin then stated due to the issues getting the plaques from Parkitect they will be giving us a free swing bench for Phase II in our plan. Supervisor Tuthill stated that he saw in the report that tree branches need to be cut and some bolts by the main gate are sticking out too far.

Baldwin stated she met with Oneonta Fence and received a quote for replacing the opening and the entry gates. The estimate came in at \$1,820.00 for the spring of 2023. A motion was made by Councilmember Baldwin to accept the bid from Oneonta Fence Company with Councilmember Cairns seconding. Motion carried.

The board decided on a "soft opening" of the playground effective immediately as we have received the inspection. An official grand opening will happen in the spring.

Supervisor Tuthill announced he had received a letter from the O'Connor Foundation stating that they would not be giving funding for Phase II of the playground project. Councilmember Baldwin stated community members are investigating other grants.

**New Business:**

Supervisor Tuthill requested a motion to approve the 2023 Tentative Budget as the 2023 Final Budget. Councilmember Cairns made the motion to approve the 2023 budget as presented, Councilmember Viafore seconded the motion. Motion carried.

Supervisor Tuthill requested a motion to sign the ISD Contract for 2023-Network Maintenance and Support Agreement the cost \$3,825.00. Motion made by Councilmember Baldwin and seconded by Councilmember Cairns to have Tuthill sign. Motion carried.

## **Committee Reports:**

**Highway/Machinery: (Councilmember's Baldwin & Cairns)** Written report from Superintendent Evans provided to councilmembers. Evans further announced that Webster Brook has been signed off on. The only thing lacking is guardrails. Evans provided before and after photos. Evans stated on Federal Hill #2 the footers are poured and the structure should be here by the end of the month. We are hoping to have it done early December.

Evans stated the plows are on the trucks and ready to go. The 92 Oshkosh radiator will be here tomorrow. Krzyston asked if the price was as quoted; Evans stated the price was as quoted.

Councilmember Baldwin stated good job. Councilmember Cairns asked if the cover would be installed on the AC out front; Evans stated hopefully before Thanksgiving. Also, Cairns said the speed limit sign by the substation on Sherwoods is quite faded. Cairns added to Evans keep up the good work.

**Personnel: (Councilmember's Viafore & Baldwin):** N/A

**Recreation/Health/Youth: (Councilmember's Viafore & Baldwin):** Highway Superintendent Evans put the pool handicap chair back on Auctions International the highest bid was \$210.00. The board agreed not to accept the bid and have Evans relist the chair in February. Evans will contact Auctions International to decline the offer.

Councilmember Cairns noted that our local sports teams had a stellar season. Cross country is still going Councilmember Krzyston noted.

**Economic Development/Shared Services:** Councilmember Krzyston stated the cooperation with SUNY (lights in the courtroom and pool area) has been delayed due to wording in the agreement. The contract is still in the works up there. No work can be done until the document is signed.

Councilmember Krzyston stated the ice rink is shared services; it's the Village's property but we do all the work and pay the bills. Krzyston is proposing that we do not open it this year as last year there weren't many people utilizing it. Krzyston has spoken with the mayor about having the village run it and that is not going to happen. Krzyston went on to say with the time and money put into the rink and the usage of the last couple of years he can't justify it opening. The board agreed; Krzyston will post it to the ice skating rink page on social media.

**Buildings:** Supervisor Tuthill noted that with the waiting of the contract with SUNY once received we will be set to go. Councilmember Baldwin questioned the status of the windows; Councilmember Krzyston stated he has found a replacement part but is not sure it is the right one. Councilmember Cairns will look to see if he can find information on the parts.

**IT:** Councilmember Viafore stated we have one more subscriber for Nixle. We are up to 108 subscribers. Councilmember Baldwin asked about the state of the upgrades for Town Hall between DTC and ISD. Tuthill and Viafore stated the price difference is similar. Councilmember Baldwin and Cairns both agreed there was a voucher which was presented which was concerning. Tuthill will ask Joe de Mauro for the county to explain both quotes. Councilmember Viafore said she could be there if Tuthill lets her know.

**Codes:** Dale Downin, Code Enforcement Officer informed the board that roughly a year and a half ago there was a campground found up on Dirt Road that had been operating without a special use permit. They had also built building without any permits. We gave them almost a year to get their plans together and apply to the planning board. They appeared before the planning board once and then never followed up. This summer we finally sent them a notice to cease and desist after they hadn't followed through with anything to the town.

We asked them to apply to the planning board, we asked them to apply for building permits; it took them from July to mid-September to apply for the building permit. When they did apply they sent in one application and just listed the building they had already built and their sizes. This gave us no indication of how they were built. We in turn sent them back a notice, their building permit back

requiring that they get an engineer to do a code study on how the buildings were built and to make recommendations if they were out of code to bring them up to code or to remove them. At this time we are still waiting; they were supposed to get an engineer at the site but no one has contacted him as to when the engineer will be there so he doesn't know if it has happened or not. The Planning Board is in limbo because they will not entertain a special use permit with the code violations. The problem is he cannot issue the building permit(s) knowing that they are in violation of zoning. That is per the recommendations from the attorney.

Councilmember Krzyston said even if you are provided with the stuff that has already been asked for,

you still would be unable to give building permits because they are violating zoning laws. Downin responded legally he cannot issue a building permit if he knowingly knows they are in violation of zoning. Supervisor Tuthill said if he hires an engineer and he shows how they are going to bring everything into building code compliance then Dale could send a letter to the Planning Board saying if they follow through with the engineer's recommendations that would take care of the building violations. Then they could go ahead and issue the special use permit, Downin said it does not guarantee they will issue the permit.

Councilmember Krzyston asked after a cease and desist how long people continue to operate. Downin said usually within several days and we know for a fact that he has continued to operate. We have neighbors that are recording the activity and at any given time you can go on their website to book a place. Councilmember Baldwin questioned when does this become a criminal thing; Downin stated it is not criminal but we can start fining them for failure to comply. Tuthill added we would have to go before a judge and start a legal process. Tuthill then said everyone needs to start pondering as we can't sit here and do nothing; Downin added he believes we have been more than fair, normally we could have just shut him down the day we found it. Tuthill added they have hired an attorney and she has been in contact with our attorney and at this point we do not seem to be making any progress. Krzyston asked if they have asked for anything we have not done for them; Tuthill said they have requested lots of stuff, things we cannot do. They want us to schedule a public hearing for a special use permit, we cannot do it without an actual complete application. Downin added they went ahead and scheduled their own public hearing and Tuthill added their attorney wanted one and said we could always cancel it. Krzyston then said the ball is actually in their court and they need to get this engineer's opinion of how the buildings pass code or how they need to remedy, then once you get that if it satisfies your requirements then Downin would be able to write the letter to the Planning Board, then it would be in their court. Downin said yes, it would be to their discretion.

Krzyston asked if there had been any penalties issued yet; Downin stated no. Krzyston stated in less than ten minutes he understands what is required and needs to be done. Tuthill stated we had another individual that came in and shut down and did the proper things and was able to get his approval; it's not a difficult process. Krzyston then suggested that a letter be written starting December 1<sup>st</sup> penalties are going to accrue for operating. Tuthill stated it's up to the board at some point we to take a stand; Krzyston stated that's the way it works. Downin said we were trying to stay friendly but at some point if we don't do anything we might as well throw out the zoning laws out and stop enforcing it. Tuthill asked if the board wanted Downin to talk to the town attorney and start the process to get them in front of the judge and start the penalty phase. Councilmember Baldwin said because of the lack of response/respect it seems that we have to initiate some action. The planning board has done a really nice job professionally under the pressure of what occurred the last meeting. Downin added they knew he and the town attorney were not going to be there so they decided to come and attempt to pressure the planning board. Krzyston asked if a letter could be sent prior to court stating this is the way it is heading if we don't have your documents by a specific date (within 3 weeks) then the next step is to discuss penalties with the judge; adding he wasn't sure what the next step should be. He asked Downin what he thought; Downin will speak with the town attorney

tomorrow and said if we give them till January 1<sup>st</sup> it will give the attorney time to send the letter and time for them to get things in order. Councilmember Cairns felt that was more than fair. Councilmember Baldwin asked if the engineer would be required to have credentials; Downin said yes and that he would have state codes involved with the review so we have a backup with it. A motion was made by Councilmember Krzyston to have Downin contact the attorney and draft a letter that we are going to start going after penalties January 1<sup>st</sup> if we don't receive the required documents and documentation. Councilmember Baldwin seconded the motion. Motion carried.

Downin alerted the board that he has been receiving a number of complaints from the neighbors on Holmes Hollow about Stonewall Estates as the loud music and fireworks late into the nights Fridays, Saturdays and Sundays. It is becoming a problem for the neighbors. Downin added he will speak to the planning board.

Supervisor Tuthill read the Code Officer's report there were 9 building permits issued.

### **CODES Monthly Report:**

A motion was made by Councilmember Cairns to accept the codes report for October 2022. Councilmember Krzyston seconded the motion. Motion carried.

### **Justice Court Report:**

A motion was made by Councilmember Baldwin to accept the October 2022 Justice Court Reports. Councilmember Viafore seconded the motion. Motion carried.

### **Clerk's Monthly Report:**

A motion was made by Councilmember Baldwin to accept the October 2022 Clerk's Report seconded by Councilmember Krzyston. Motion carried.

### **Supervisor's Financial Report:**

Supervisor Tuthill presented the board with the October 2022 Financial Report. Councilmember Baldwin made the motion to accept the October 2022 Supervisor's Report with Councilmember Viafore seconding the motion. Motion carried.

### **Supervisor's County Report:**

Supervisor Tuthill stated the county budget was at .94% under a 1% increase this year; there will be a public hearing on it at the next board meeting. The building at the corner of Bridge and Main is moving along opening is potentially scheduled for April. They finally received plans for the homeless shelter building. There were two bidders and they will hopefully be awarding the project at the next meeting.

Councilmember Cairns thanked Tuthill for his vote on the paid ambulance. Cairns was disappointed that they chose to go the way they went. Tuthill stated a lot of them were and discussed the situation.

### **Abstracts:**

Councilmember Krzyston questioned concern over Voucher #481 DTC Tech Services as did other members and felt it should be discussed. Councilmember Baldwin then made the motion to approve Abstract #0011 – 2022 accounts A – DB Voucher No.00419-00482 less Voucher #481 for the amount of \$318.75 remaining vouchers equaling \$281,790.04 account TA No. 0081 – 0083 equaling \$12,824.59. Total vouchers approved equaled \$294,614.63. Councilmember Cairns seconded the motion. Motion carried.

### **Executive Session:**

Supervisor Tuthill requested a motion to enter into executive session for a personnel issue and

to discuss the employment history of a particular individual. Councilmember Cairns made the motion to enter into executive session with Councilmember Viafore seconding. Motion carried to enter into executive session at 8:05pm. Tuthill requested that Matthew Burkert remain.

A motion was made by Councilmember Cairns to exit executive session at 8:38pm and seconded by Councilmember Viafore. Motion carried.

**Adjourn:**

The board entered back into regular session at 8:38pm and made the following motion. Motion by Councilmember Baldwin to appoint Matthew Burkert as acting justice effective January 19, 2023 contingent upon successful completion of training classes required. Councilmember Cairns seconded the motion. Motion carried.

Councilmember Cairns made a motion to adjourn the meeting at 8:45pm, Councilmember Viafore seconded the motion. Motion carried.

Respectfully submitted,

*Elsa Schmitz*

Elsa Schmitz, Town Clerk, Town of Delhi