

Minutes of the Town Board Meeting held at Town Hall, 511 Route 32, Highland Mills, New York on November 20, 2008 at 7:30PM

Present: John Burke, Supervisor  
Geraldine Gianzero, Councilwoman  
Amidee Haviland, Councilman  
Carlton Levine, Councilman  
Michael Queenan, Councilman

Absent: None

Also Present: Richard Liberth, Attorney for the Town; Thomas McDonagh, Town Labor Attorney; Stephen Welle, Village of Harriman Mayor; Robert Kwiatkowski, Police Chief; Peter Stabile, Highway Superintendent; employees of the Police and Highway Departments

### **I. Administrative Business:**

#### **a. Acceptance of Minutes:**

Motion was offered by Councilwoman Gianzero, seconded by Councilman Haviland, to accept the minutes of the regular held November 6, 2008.

**ADOPTED** AYES 5 Burke, Gianzero, Haviland, Levine, Queenan  
NOES 0

Motion was then offered by Councilman Levine, seconded by Supervisor Burke, to accept the minutes of the special meeting held November 12, 2008.

**ADOPTED** AYES 5 Burke, Gianzero, Haviland, Levine, Queenan  
NOES 0

Motion was then offered by Councilman Haviland, seconded by Councilman Levine, to accept the minutes of the worksession held November 17, 2008.

**ADOPTED** AYES 5 Burke, Gianzero, Haviland, Levine, Queenan  
NOES 0

#### **b. Approval of Abstract:**

Motion was offered by Supervisor Burke, seconded by Councilman Levine, to approve Revised Abstract 23 by voiding Voucher 20082277 (check #17462), which reduces the total of the abstract to be \$133,667.33.

**ADOPTED** AYES 5 Burke, Gianzero, Haviland, Levine, Queenan  
NOES 0

Motion was then offered by Councilwoman Gianzero, seconded by Councilman Levine, to approve Abstract 24, Vouchers #20082363 - #20082465, totaling \$818,304.75.

**ADOPTED** AYES 5 Burke, Gianzero, Haviland, Levine, Queenan  
NOES 0

#### **c. Budget Modification:**

Motion was offered by Supervisor Burke, seconded by Councilwoman Gianzero, to approve a modification to the budget of the Police Department by decreasing B3120.444 (Schools and Dues) by \$1,200 and increasing B3120.430 (Transportation/Travel) by \$1,200.

**ADOPTED** AYES 5 Burke, Gianzero, Haviland, Levine, Queenan  
NOES 0

Motion was then offered by Councilman Haviland, seconded by Supervisor Burke, to approve a modification to the budget of the Highway Department by decreasing DB5110.415 (Engineering) by \$1,337 and increasing DB5110.414 (Bonding/Legal) by \$1,337.

**ADOPTED** AYES 5 Burke, Gianzero, Haviland, Levine, Queenan  
NOES 0

d. Advertise for Bids – Utility Work Machine:

Motion was offered by Councilman Haviland, seconded by Supervisor Burke, to authorize the Town Clerk to advertise for bids for the purchase of a utility work machine for the Buildings/Grounds Department.

**ADOPTED**      AYES    5            Burke, Gianzero, Haviland, Levine, Queenan  
                  NOES    0

e. Acceptance of Resignation – Dispatcher:

Motion was offered by Councilman Levine, seconded by Councilwoman Gianzero, to accept the resignation of Matthew Stack from the position of part-time dispatcher effective November 14, 2008.

**ADOPTED**      AYES    5            Burke, Gianzero, Haviland, Levine, Queenan  
                  NOES    0

f. Appointment of Part-Time Dispatcher:

Motion was offered by Councilman Haviland, seconded by Councilman Queenan, to appoint Thomas Hefferon as part-time dispatcher effective on or about December 1, 2008, pending Civil Service approval and the signing of all required Town documents.

**ADOPTED**      AYES    5            Burke, Gianzero, Haviland, Levine, Queenan  
                  NOES    0

**II. Old Business:**

There was no old business to discuss.

**III. New Business:**

There was no new business to discuss.

**IV. Department Reports:**

a. Supervisor's Report:

Motion was offered by Councilwoman Gianzero, seconded by Councilman Levine, to approve the October 2008 Supervisor's report with receipts totaling \$485,377.31 and disbursements totaling \$1,343,564.58.

**ADOPTED**      AYES    5            Burke, Gianzero, Haviland, Levine, Queenan  
                  NOES    0

b. Town Clerk's Report – October 2008

c. False Alarm Report – September 2008

d. Parks/Recreation Minutes – November 18, 2008

e. Animal/Goose Control Report – October 2008

f. Police/Communications Report – October 2008

g. Beautification Commission Minutes – September 16, 2008

h. Library Minutes – None Received

i. Budget vs. Actual – October 2008

**V. Public Hearing:**

a. NYS PERB Fact-Finder Report:

Town Clerk Potvin stated the public notice was published in the Times Herald Record on November 14, 2008 and read as follows with the following comments received:

## NOTICE OF PUBLIC HEARING

<b>SUBJECT:</b>	Impasse in collective bargaining negotiations between the Town of Woodbury and the Town of Woodbury Police Benevolent Association, Inc.
<b>PURPOSE:</b>	To conduct a public hearing at which the parties shall be required to explain their positions with respect to the report of the New York State Public Employee Relations Board fact-finder.
<b>Date:</b>	<b>Thursday, November 20, 2008</b>
<b>Time:</b>	<b>7:30PM (or as soon thereafter)</b>
<b>Location:</b>	The Town of Woodbury Town Hall 511 Route 32 P.O. Box 1004 Highland Mills, NY 10930
<b>Presiding Members</b>	Geraldine Gianzero, Council Amidee Haviland, Council Carlton Levine, Council Michael Queenan, Council

The initial collective bargaining agreement (“CBA”) between the Town of Woodbury (the “Town”) and the Town of Woodbury Police Benevolent Association (the “PBA”) expired on December 31, 2005. Near the expiration of the initial CBA, the Town and the PBA commenced negotiations for a successor CBA. After negotiations failed, the PBA filed a declaration of impasse. The parties engaged in one session before a mediator appointed by the New York State Public Employee Relations Board (“PERB”). After the mediation session failed to resolve the impasse, the PBA requested that PERB appoint a Fact Finder to make public recommendations for the resolution of the dispute pursuant to section 209.3(b) of the New York State Civil Service Law.

On July 8, 2008, the parties engaged in a Fact Finding hearing before Peter A. Korn, a neutral Fact Finder appointed by PERB. After the hearing, each side submitted post-hearing briefs, setting forth the parties’ arguments with respect to each of the issues before the Fact Finder.

On September 19, 2008, the Town of Woodbury received the Fact Finder’s Report and Recommendations (the “Report”). Section 209 of the New York Civil Service Law states that should either party fail to accept (in whole or in part) the Report within ten days after receipt of the Report, the chief executive officer of the public employer must submit a copy of the Report to the legislative body of the government involved, together with the chief executive officer’s own recommendations for settling the dispute.

In a letter dated September 25, 2008, counsel for the Town of Woodbury informed the PBA that although the terms recommended by Mr. Korn would provide substantial increases in wages and benefits to the dispatchers in excess of those proposed or contemplated by the Town, that the Town would accept the Report in its entirety in the interest of drawing the lengthy bargaining process to conclusion. The PBA did not respond to this letter. As a result, we are holding this public hearing in accordance with section 209.3(e) of the New York State Civil Service Law.

Supervisor Burke stated the initial collective bargaining agreement with the dispatchers expired December 31, 2005. Prior to its expiration, the Town Board and PBA commenced negotiations which failed. The PBA filed a “declaration of impasse” and after one meeting, requested PERB to appoint a Fact Finder (at the cost of the town taxpayers). On July 8, 2008 the fact finding hearing was held and both sides presented arguments. On September 19, 2008 the report of the Fact Finder was received with the following recommendations:

Wages: 3.5% increase for each year of the four-year contract (Jan 1, 2006 – Dec 31, 2009).

Differentials: Higher rates for afternoon and evening shifts.

Sick Leave Accrual: Increased maximum sick leave accrual.

Uniform Allowance: Increase money for purchase of shoes/boots.

Health Insurance: All hired as of January 1, 2006 contribute towards health premiums

Supervisor Burke noted that no current dispatchers were hired after January 1, 2006. He stated that the Fact Finder recognized that it is normal today for employees to contribute towards health care premiums. He believes that all dispatchers should be contributing to premiums, regardless of hire date. He also feels that the recommended wage increases are very high since our dispatchers are currently one of the best paid in the area. However, the Town Board agreed to accept the recommendation in a letter they sent to the PBA on September 25, 2008. The PBA did not respond which states they were not accepting the report. The Taylor Law requires that he, as Supervisor, state his opinion to the Town Board for consideration. He feels the following should be considered:

Contract Duration: He recommends that the contract term be four years (Jan 1, 2006 – Dec 31, 2009). He feels this will give both sides an opportunity to relax before negotiations begin again.

Wages: He feels that the dispatchers are paid high and recommends a 2% increase. He noted the Board advocated 1% during negotiations.

Health Insurance: He recommends that all dispatchers hired as of January 1, 2004 contribute 20% of health insurance premiums costs. He noted the Board advocated 25% during negotiations.

He also recommended that all other terms of the initial contract remain as they are. He believes this is a fair and reasonable contract for all involved.

John Grant, Attorney for the PBA-Dispatchers Unit, stated the Town currently employs six part-time and four full-time dispatchers. He noted that he is present on behalf of the PBA, pursuant to Civil Service Law Section 209(3)(e) and that the PBA is only participating because it is mandated. By appearing, it is not waiving any of its rights with respect to and does not consent to any change in any term of the expired collective bargaining agreement to the detriment of the PBA. This appearance cannot and should not be construed as the PBA’s consent to any change in the terms of the expired agreement to the PBA’s detriment and the Town cannot make any such change without the PBA’s consent. He stated that the PBA rejects the Fact Finder’s recommendations and feels they are an “utter abomination”. He believes the Fact Finder failed to show an understanding of the Taylor Law or the operation of the position of dispatcher. He noted the following:

Wages: He believes evidence showed that the Town has the ability to pay the wage increase sought based on the fund balance in the Police budget. He noted the Office of State Comptroller recommends 5 – 10% of fund balance be retained and the Town currently holds 40%. He also noted that the Village of Harriman contributes towards salaries of the dispatchers so there would be little to no impact on the taxpayers. He also noted the Fact Finder recommended a wage increase that was significantly lower than other employees of the Town are receiving. The Fact Finder also rejected the issue of longevity, which is used to reward employees for experience. He feels experienced personnel are a benefit for the residents of the community.

Differentials: The Fact Finder recommended a switch from an hourly rate for afternoon and evening shifts to a flat dollar amount. He believes this suggested amount is nominal and will create more problems in the future.

Sick Leave Accrual: He is opposed to the recommendation that the maximum accrual be increased to 120 days from the current 75 days. The union requested the increase be to 150 days citing the Town of Cornwall's practice, which is 140 days.

Health Insurance: He feels the Fact Finders recommendation that retired and active employees pay 20% is a very substantial concession and believes it makes no sense when combined with the recommended wage increase. He believes that it would result in a 15% decrease in salary. He noted that the employees only sought representation to preserve their insurance.

Bidding on Tours: He feels this is a significant concern. He believes employees with seniority should have the ability to choose which tour they wish to work. The Fact Finder agreed but stated the Chief of Police should have the final say. He believes this does not solve the issue.

In conclusion, he recommends the Town Board review the exhibits and testimony and then return to the negotiation table so both sides can agree to address all concerns.

With no further comments received, a motion was offered by Councilman Levine, seconded by Councilman Haviland, to close the public hearing.

**ADOPTED**      AYES    5            Burke, Gianzero, Haviland, Levine, Queenan  
                     NOES    0

**VI. Public Comment:**

Clerk Potvin stated the Women of Woodbury will be holding their annual craft fair on November 29, 2008 at the Highland Mills Firehouse from 10AM – 3PM.

Chief Kwiatkowski reminded the public that the upcoming Thanksgiving holiday is expected to have high traffic volume at Woodbury Common. He urged residents to take different routes to get to their destinations when possible.

Maria Hunter stated she feels the dispatchers do a terrific job and, as a taxpayer, she is dismayed that they are not being treated appropriately.

**VII. Adjournment:**

With no further comments received or business to discuss, a motion was offered by Councilman Queenan, seconded by Councilman Haviland, to adjourn the meeting at 8:20PM.

**ADOPTED**      AYES    5            Burke, Gianzero, Haviland, Levine, Queenan  
                     NOES    0

*NOTE – The Town Board entered into a closed session to seek legal advice after the meeting was adjourned.*

Desiree Potvin, Town Clerk