

Minutes of the Town Board Meeting held at Town Hall on June 3, 2010 at 7:30PM

Present: John Burke, Supervisor
Amidee Haviland, Carlton Levine, Frank Palermo and James Skoufis, Councilmen
Absent: None
Also Present: Robert Kwiatkowski, Police Chief; Fred Ungerer, Parks Commission

I. Administrative Business:

a. Acceptance of Minutes:

Motion was offered by Councilman Skoufis, seconded by Councilman Palermo, to accept the minutes of the regular meeting held May 20, 2010.

ADOPTED AYES 5 Burke, Haviland, Levine, Palermo, Skoufis
NOES 0

b. Approval of Abstract:

Motion was offered by Councilman Levine, seconded by Councilman Haviland, to approve revised Abstract 11 by voiding voucher #20100974 (check #2765) in the amount of \$4.02. This reduces the total of the abstract to \$554,946.77.

ADOPTED AYES 5 Burke, Haviland, Levine, Palermo, Skoufis
NOES 0

Motion was then offered by Councilman Palermo, seconded by Councilman Skoufis, to approve Abstract #12, Voucher #20100995 - #20101074, totaling \$188,557.01.

ADOPTED AYES 5 Burke, Haviland, Levine, Palermo, Skoufis
NOES 0

c. Budget Modification(s):

Motion was offered by Supervisor Burke, seconded by Councilman Levine, to approve a modification to the budget of the General Fund by increasing A599 (Appropriated Fund Balance) by \$11,160 and increasing A1620.453 (Gas/Oil/Repairs) by \$11,160.

ADOPTED AYES 5 Burke, Haviland, Levine, Palermo, Skoufis
NOES 0

II. Old Business:

a. Discussion - Information Technology Policy:

Supervisor Burke stated correspondence was received from the labor attorney regarding his opinion of the proposed Information Technology Policy. The Board will discuss the issue at the June 14 worksession.

III. New Business:

a. Resolution – Authorization for Litigation:

Motion was offered by Supervisor Burke, seconded by Councilman Levine, to adopt the following resolution:

WHEREAS, the County of Orange (“County”) operates the Harriman sewage treatment plan (“Harriman STP”) on behalf of the municipalities in Orange County Sewer District #1 (the “District”); and

WHEREAS, substantial portions of the Town of Woodbury are either in or adjacent to areas in the District; and

WHEREAS, Supreme Court, Orange County, Environmental Claims Part directed the County to update the environmental impact statement for the upgrades to the Harriman STP to ensure the

adequacy of capacity to handle growth in the District and in neighboring communities, including the Town of Woodbury; and

WHEREAS, the County Department of Environmental Facilities & Services completed an amended final environmental impact statement (“AFEIS”) under the State Environmental Quality Review Act (“SEQRA”) in January, 2010; and

WHEREAS, the AFEIS contains projections which do not appear to fully reflect the prospective growth of the municipalities intending to use the Harriman STP to treat wastes; and

WHEREAS, the Orange County Legislature issued a statement of SEQRA findings on February 4, 2010 (“Findings Statement”); and

WHEREAS, the AFEIS and Findings Statement reference and rely on a contract between the County and the District to expand the Harriman STP (the “Contract”); and

WHEREAS, there appear to be significant defects in the adoption of the AFEIS, the Findings Statement and the Contract; and

WHEREAS, the Village of Kiryas Joel (“Kiryas Joel”) was directed by the Supreme Court, Appellate Division, Second Judicial Department to prepare an amended final environmental impact statement for its proposed pipeline into New York City’s Catskill Aqueduct, to review issues of growth and capacity at the Harriman STP; and

WHEREAS, Kiryas Joel issued its amended final environmental impact statement (“Kiryas Joel AFEIS”) during February, 2009 and issued an amended findings statement (Kiryas Joel Amended Findings Statement”) in March, 2009; and

WHEREAS, among other things, the Kiryas Joel AFEIS and Kiryas Joel Amended Findings Statement should have analyzed the projected growth of Kiryas Joel, the extent that such growth would be increased by the proposed connection to the Catskill Aqueduct, and resulting impacts at the Harriman STP; and

WHEREAS, in October, 2009 the County filed an Article 78 petition to challenge the Kiryas Joel AFEIS and Kiryas Joel Findings Statement; and

WHEREAS, on February 16, 2010 the County’s Article 78 petition against Kiryas Joel was discontinued by stipulation (the “Stipulation”), based in part on the existence of the Contract, and without approval or authorization of the County Legislature.

NOW, THEREFORE, the Woodbury Town Board resolves to authorize such litigation against the County, Kiryas Joel and related respondents as necessary to annul the AFEIS, Findings Statement, Contract, Stipulation, Kiryas Joel AFEIS and Kiryas Joel Findings Statement; and be it

FURTHER RESOLVED to retain James Bacon, Esq. and David Gordon, Esq. as its special attorneys at a rate of \$175.00 per hour to pursue such litigation.

ADOPTED AYES 5 Burke, Haviland, Levine, Palermo, Skoufis

NOES 0

Councilman Levine stated the community is outraged that the County has “dropped the ball” on these issues and he is glad that Supervisor Burke found an attorney able to litigate on behalf of the Town. Councilman Skoufis added that the Villages of Harriman and Woodbury are also joining the Town as complainants. Supervisor Burke stated that many officials and residents have attended numerous meetings regarding these issues for quite some time. Approximately two weeks ago many individuals attended a meeting before the County Legislature and stressed their concerns/issues which opposed the County’s actions to date on these issues. The attorneys hired this evening do not live in the County and have reviewed all the documentation they were supplied regarding the issues at hand. They presented convincing evidence that they will be successful. They feel that enough technical issues/procedures were bypassed, not paid attention to or ignored during the County’s process. The papers will be served upon the County tomorrow. Councilman Levine then went into detail about the purpose of the Article 78 and why the Town, and Villages, feel they will be successful in this litigation.

EXTRA ITEM – Advertise for Bids – Fuel Oil No. 1:

Motion was offered by Supervisor Burke, seconded by Councilman Haviland, to authorize the Town Clerk to advertise for bids for the purchase of Fuel Oil No 1 for 2010/2011.

ADOPTED AYES 5 Burke, Haviland, Levine, Palermo, Skoufis
 NOES 0

EXTRA ITEM – Awarding of Bid – Fencing for CV Pond Improvements:

Supervisor Burke stated that the County Department of Health notified the Town that fencing is required to be erected around the CV Pond. They acknowledged that this was an oversight by them during the initial survey so they are giving the Town two years to comply. Bids for the fencing were let out in two phases. Phase I consisted of chain link fence (998LF), three single leaf manway gates and two double leaf swing gates. Phase II consisted of chain link fence (541LF), one single leaf manway gate and one double leaf swing gate. Supervisor Burke noted Town personnel will be doing Phase II over the summer and into the fall so the only bids to be entertained at this time is Phase I. The following bids were received:

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|--------------------------------------|----------|
| Bilt-Well Fence Co., Inc. Monroe, NY | \$28,800 |
| Yaboo Fence Company, West Nyack, NY | \$31,154 |
| Montana Construction, Lodi, NJ | \$42,664 |

Councilman Haviland asked that the bidding process that was followed be explained and Supervisor Burke do so, again. Councilman Skoufis asked if the money to pay this project would be from the bond and Supervisor Burke stated it would be. Motion was then offered by Supervisor Burke, seconded by Councilman Skoufis, to accept the bid received from Bilt-Well Fence Company for Phase I of the fencing plan at the Central Valley Pond at a cost of \$28,800. The work is required to be completed by June 18, 2010.

ADOPTED AYES 5 Burke, Haviland, Levine, Palermo, Skoufis
 NOES 0

IV. Public Comment:

Town Clerk Potvin stated the County is planning on holding informational sessions this summer to give the public an opportunity to see the new voting machines and learn how they work. She will provide more information as soon as it is available. Councilman Levine asked if there the machine could be at the Woodbury Firecracker Festival on July 3 and Clerk Potvin stated she believes a member of that committee is working on that but not sure what the status was.

Jonathan Swiller listed some additional items that should be included in the litigation against the County and the Village of Kiryas Joel. Supervisor Burke stated he will send any additional information received from anyone on to the attorneys for them to consider it and add it if they feel it is valid.

Ralph Caruso stated he was pleased that the Board is moving forward with the lawsuit and feels the County must answer questions that they avoided in the AFEIS.

Willa Freiband thanked the Board for taking action and feels all the residents of the County should be thanking them as well. She then asked what a “win” would be considered. Councilman Levine stated the Board believes that the yield that tied the sewer treatment plant, the increased capacity and the timing of the County/Town lawsuit against Kiryas Joel being dropped is a “house of cards” and all should be nullified. They would then need to start over and have an open process to allow the public to participate. Supervisor Burke added the local municipalities should have a say as to what is going on since they are directly affected. Councilman Haviland added that he believes the judge

that ruled in the case did so based solely on information provided to him that was erroneous and is an embarrassment to that judge.

Jonathan Swiller noted the grounds of the first lawsuit filed five years ago were to require the Village of Kiryas Joel to answer questions to specific areas of the pipeline FEIS. The County filed this lawsuit and the court ruled in its favor. Then a court in Brooklyn ruled that the Village only needed to completed an AFEIS to answer the questions, which did not require public input.

Councilman Skoufis stated the future of the County-run nursing home and rehabilitation center called Valley View was discussed this afternoon by the County Legislature. Some members of the Legislature want to sell the facility to the highest bidder which he feels will affect many residents that use the facility and are Medicare.

8:30PM – Executive Session:

Motion was offered by Councilman Levine, seconded by Councilman Palermo, to enter into an executive session pursuant to Article 7 of the Public Officers Law to discuss one item of contractual negotiations regarding engineer services for the repairs of the Estrada Road bridge.

ADOPTED AYES 5 Burke, Haviland, Levine, Palermo, Skoufis
 NOES 0

Supervisor Burke noted that he has met twice with a representative from FEMA to see if the repairs will qualify for funds.

VI. Adjournment:

With no further business to discuss, a motion was offered by Supervisor Burke, seconded by Councilman Palermo, to end the executive session and adjourn the meeting at 9:25PM.

ADOPTED AYES 5 Burke, Haviland, Levine, Palermo, Skoufis
 NOES 0

Desiree Potvin, Town Clerk