

Public Hearings & Regular Meeting, Town of Barrington, October 26<sup>th</sup>, 2016

A regular hearing and public hearings of the Town of Barrington, County of Yates and State of New York was held at the Town Hall located at 4424 Bath Road of October 26<sup>th</sup>, 2016.

Present:	Nate Olney	Deputy Supervisor
	Bruce Castner	Councilman
	Calvin Crosby	Councilman
	Sue Lange	Councilwoman
	Steven Wheeler	Highway Superintendent
	Joy L. C. Perry	Town Clerk

Absent:	Phil Warren	Town Supervisor
	John Griffin	Code Enforcement/Watershed Inspector

Also Present: Richard Buck, Jr., Town Attorney; Kelly Houck; Jeff Houck; Jerry Lange; Rick & JoEllen Cronin; Christopher Bason; Paul Danielson; Fred Goossen; Bob Scharf; Ken Christensen, Jr., Randy Knapp; Penny K. Coon; Bob Knapp; Gwen Chamberlain; Bryan Yarrington; Sarah Yarrington; Nick Olney; Lara Olney; Mike & Kelly Leavy; Jessica L. Bryant, Esq.; Chuck Tolbert; Tom Murrin; Ken Gan; Colleen Gan; Linda Petro

Deputy Supervisor Olney called the Town Board meeting to order at 7:00 pm with The Pledge of Allegiance.

1. Dundee Fire Contract Hearing

A motion to open the Dundee Fire Contract Hearing at 7:01 pm was made by Castner and seconded by Lange.

4-Ayes (Castner, Crosby, Lange, Olney) 0-Noes

There were no comments.

The public hearing closed at 7:02 pm.

**Resolution 2016-111** to accept the 2017 Dundee Fire contract in the amount of \$88,462.26 was made by Castner and seconded by Lange.

Bruce Castner	Aye
Sue Lange	Aye
Nate Olney	Aye
Calvin Crosby	Aye

0-Noes

2. Penn Yan Fire Contract Hearing

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A motion to open the public hearing on the Penn Yan Fire contract at 7:02 pm was made by Castner and seconded by Lange.

4-Ayes (Castner, Crosby, Lange, Olney) 0-Noes

There were no comments.

A motion to close the public hearing at 7:03 pm was made by Crosby and seconded by Castner.

4-Ayes (Castner, Crosby, Lange, Olney) 0-Noes

**Resolution 2016-112** to accept the 2017 Penn Yan Fire contract in the amount of \$77,869.00 was made by Castner and seconded by Lange.

Bruce Castner	Aye
Sue Lane	Aye
Nate Olney	Aye
Calvin Crosby	Aye

0-Noes

3. Budget Hearing

The Deputy Supervisor opened the budget hearing at 7:04 pm.

Crosby pointed out that there is a 0% increase in the budget for 2017.

Fred Goossen asked what the attorney's fees were for 2016 and 2017. Crosby stated that it's \$15,000 and staying the same.

A motion to close the budget hearing at 7:07 pm was made by Crosby and seconded by Castner.

4-Ayes (Castner, Crosby, Lange, Olney) 0-Noes

4. Kelly Houck-Dundee School Project

Dundee School Superintendent Kelly Houck presented information regarding three propositions that will be voted on November 10<sup>th</sup> from Noon until 8:00 pm at the public meeting room.

5. Approve Minutes of 8/29/16 & 9/28/16

A motion to approve the minutes of August 29<sup>th</sup>, 2016 was made by Lange and seconded by Castner.

4-Ayes (Castner, Crosby, Lange, Olney) 0-Noes

A motion to approve the minutes of September 28<sup>th</sup>, 2016 was made by Crosby and seconded by Lange.

4-Ayes (Castner, Crosby, Lange, Olney) 0-Noes

#### 6. Public Participation on Non-Agenda Items

Deputy Supervisor stated that everyone will have three minutes to speak and they must state their name.

Fred Goossen of 1081 East Lake Road asked the Board if it was the Board's position that they never gave Seth Olney permission to serve alcohol in his addition.

Attorney Richard Buck introduced himself as the Town Attorney and stated that they will not be answering any questions related to the Olney Place tonight because there are two pending lawsuits. He further stated that they will listen to the public comments but will not be answering any questions because it's not appropriate when there is active litigation.

Bryan Yarrington of 5580 Andrews Hill Road questioned whether the Town Board and Zoning Board are in agreement regarding the Olney Place. His second question is who gave John Griffin permission to contact the State Liquor Authority and claim that Seth Olney was never granted permission to serve beer in his addition. He also questioned who is communicating the Town's position to the Attorney. Buck stated that he would not answer any of those questions. Yarrington asked again if he could get the Attorney's point of contact for the Town. Buck stated that it was Attorney-Client privilege information.

JoEllen Cronin of 1105 East Lake Road asked if there was an insurance policy that covers the Town in this matter and if so has it been activated yet. She also wanted to know what types of damages were being sought; compensatory or punitive.

Jessica Bryant, Attorney for Seth Olney stated that she would be happy to answer that question. She stated that she would also like to note that the Town's insurance has not been invoked for the Article 78 specifically regarding the alcohol issue at Seth Olney's business. Regarding the defamation lawsuit that they filed personally against John Griffin is both for compensatory and punitive damages in the amount of 6.25 million dollars. She stated that they filed a notice of claim separately against the Town as employer for employer liability for a smaller amount of \$1.25 million.

Rick Cronin of 1105 East Lake Road wanted to know if the Town used any mediation or conciliation services such as American Remediation Services. Attorney Buck stated that they do not. He urged the Board to use it in the future to save money.

Attorney Buck stated that there is only one discreet issue left in the lawsuit and that is the issue of preemption. He stated that he believes that it will be fairly quickly dispensed with. Bryant asked when he plans to do that. Buck stated that as soon as Bryant serves him with a copy of the order as they discussed in August. Bryant stated that the order has been served long ago. Buck stated that she did not serve an order on him. Bryant stated that she had certified mail to prove that she did. Buck stated that he would be happy to look at that receipt because he hasn't received it.

Ken Gan of 942 East Lake Road spoke in favor of the Board to take Seth Olney up on his previous offer to drop the lawsuit if they would just let the State Liquor Authority know that they support Seth and allow the serving of alcohol in his addition. He doesn't want to see the Town spend anymore money in this lawsuit and supports the Olney Place's business.

Chuck Tolbert of 917 East Lake Road spoke in support of the Olney Place. He wants to see this situation resolved and put behind everyone so next season is free and clear of the nonsense.

Attorney Buck stated that at this point it is an issue of the law. He explained that the people he is working with are trying to balance what Seth is trying to do with his business together with the needs of the residents in that district. He further stated that he or the Town is not out to crush Seth Olney. Buck said that in the end the Zoning Law is the Zoning Law; the liquor law is the liquor law and he doesn't see any other way, than a court deciding on a matter of the law, out of this.

Rebecca Flynn of 828 East Lake Road who is a neighbor of the Olney Place spoke in support of the Olney Place. She also questioned the mileage invoices submitted to the Town Board from the Code Enforcement Officer.

Robert Scharf of 953 East Lake Road who is a Member of the Zoning Board of Appeals stated that he will leave emotion out of his statements. He said he was going to state five facts. To understand the situation with the Olney Place you must understand the zoning laws in Barrington. Two, the Olney Place is not in a commercial zone. Three, it can operate because it has a special use permit in a lake residential zone. The establishment is therefore able to operate if it does not interfere with the rights and privileges of the owners in the lake residential zone. Five, it has operated in such a way that some of the neighbors in the lake residential zone have been able to have their tax assessment reduced.

There was much chatter going on.

Leo Kenyon spoke in favor of the Olney Place.

Paris of 554 South Glenora Road of Dundee stated that he works at the Olney Place. He asked if they were expected to believe that the Zoning Board is to put the finite touches

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on what the New York State Liquor Authority has probably spent millions of dollars researching before they hand out these permits.

Mike Leavy of 2620 Knapp Road stated that because of the Town Board he is embarrassed to admit that he is a Barrington resident.

7. Approve Monthly Accounting-September

**Resolution 2016-113** to accept the monthly accounting for September was made by Castner and seconded by Lange.

Bruce Castner	Aye
Sue Lange	Aye
Nate Olney	Aye
Calvin Crosby	Aye

0-Noes

8. Approve Justice Audit-September

**Resolution 2016-114** to accept the Justice's audit for September was made by Crosby and seconded by Castner.

Calvin Crosby	Aye
Bruce Castner	Aye
Nate Olney	Aye
Sue Lange	Aye

0-Noes

9. Supervisor's Correspondences

None

10. Planning Board Report

The Planning Board is waiting for the Town Board to look at the Comprehensive Plan for approval. They are also working on their first major subdivision.

11. Highway Superintendent's Comments/Concerns

Superintendent Wheeler stated that the headwall by the Viking is done. All the mowing is complete for the year and the department is preparing for snow.

12. Code Enforcement/Watershed Inspector Report

Olney acknowledged the Code Enforcement Report.

13. Approve Yates County Snow & Ice Contract

**Resolution 2016-115** to accept the Yates County Snow and Ice Contract was made by Castner and seconded by Crosby.

Bruce Castner	Aye
Calvin Crosby	Aye
Nate Olney	Aye
Sue Lange	Aye

0-Noes

14. Appoint Paul Danielson to ZBA

**Resolution 2016-116** to appoint Paul Danielson to the Zoning Board of Appeals as an Alternate was made by Castner and seconded by Lange.

Bruce Castner	Aye
Sue Lange	Aye
Nate Olney	Aye
Calvin Crosby	Aye

0-Noes

The Town Board will interview David Garrett at their next Town Board meeting for a position as an alternate to the Zoning Board of Appeals.

15. Public Participation on Agenda Items

None

16. Elected/Appointed Official's Comments/Concerns

None

17. Pay General Bills

**Resolution 2016-117** to pay the general bills numbered 253 thru 281 in the amount \$14,234.39 which have been audited by the Town Board was made by Castner and seconded by Lange.

Bruce Castner	Aye
Sue Lange	Aye
Nate Olney	Aye

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Calvin Crosby            Aye

0-Noes

18. Pay Highway Bills

**Resolution 2016-118** to pay the highway bills numbered 223 thru 257 in the amount of \$87,749.05 which have been audited by the Town Board was made by Castner and seconded by Lange.

Bruce Castner            Aye

Sue Lange                Aye

Nate Olney                Aye

Calvin Crosby            Aye

0-Noes

19. Pay T-Abstract-Benevolent Associations

**Resolution 2016-119** to pay the T-Abstract numbered 1 thru 3 in the amount of \$6,367.75 which have been audited by the Town Board was made by Castner and seconded by Crosby.

Bruce Castner            Aye

Calvin Crosby            Aye

Nate Olney                Aye

Sue Lange                Aye

0-Noes

20. Next Meeting-November 23<sup>rd</sup>, 2016

The next meeting will be November 23<sup>rd</sup>, 2016.

21. Adjourn

A motion to adjourn at 8:10 pm was made by Castner and seconded by Lange.

4-Ayes (Castner, Crosby, Lange, Olney) 0-Noes

*Respectfully Submitted,*

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*Joy L. C. Perry, RMC*