

Town of Olive  
County of Ulster  
State of New York  
January 4, 2005

Minutes of the regular monthly meeting of the Town Board of the Town of Olive held Tuesday, January 4, 2005, 8:00 pm at the Town Meeting Hall in Shokan, NY.

Members Present: Berndt Leifeld, Supervisor  
Henry Rank, Town Board Member  
Helen Chase, Town Board Member  
Bruce La Monda, Town Board Member  
Linda Burkhardt, Town Board Member  
Recording Secretary: Sylvia B. Rozzelle, Town Clerk  
Others Present: Jimmy Fugel, Highway Superintendent; Peter Kraft, Ulster County Legislator; Patrick Seely, Special Counsel for the Town; Dorothy Martin, Ulster County Real Property Director; Everett Cook, ZBA Member; Mike Sommer, Sole Assessor; Ronald Wright, Town Justice

On a Chase/Rank motion the Town Board unanimously approved the November minutes as submitted by the Town Clerk.

On a Leifeld/La Monda motion the Town Board approved payment of General Fund Voucher #1 for \$620.00.

Supervisor Leifeld introduced Dorothy Martin, Ulster County Real Property Services Director, who volunteered to attend tonight's meeting to explain Olive's 91% county tax increase due to the county legislature enacting the large parcel law.

Ms. Martin stated one of the major questions asked concerns the confusion regarding the 28% and 91% county tax rates for Olive. She distributed correspondence #1-05 -- Ulster County tax rates without the large parcel law being adopted and correspondence #2-05 -- Ulster County tax rates with the large parcel law adopted showing Olive going up 28%, Hurley up 10%, Warwarsing up 24%, and the remainder of the towns in Ulster County going down 2¼%. She stated that prior to voting on the budget legislators want to know exactly how every town is affected by the tax rate from the prior year to the current year. She distributed correspondence #3-05 that shows the Town of Olive experiencing a 91% tax increase. She stated she doesn't expect it to make a lot of sense but sometimes seeing it in black and white helps. She stated she had the assumption that the Town Board thought they were being misled by the 28% increase. Each Town Board member concurred. She stated the actual impact of the large parcel adoption was 28%. Council Member La Monda stated the only problem with that is that Ms. Martin faxed the town information confirming a 28% increase without completely explaining the increase. He noted that based on her figure of 28% the town went to the county legislators to plead our case; however, the town pled our case based on the figure Ms. Martin provided us and not on the actual figure of a 91% increase. She stated that 28% was correct. He stated that the cumulative was 91% and she never told the town that and she should have told the town that. She stated there is no way she would have known that because she did not know what the budget was. Council

Member La Monda replied that she must have had a general idea of this. She stated the question was "What difference would it make in apportionment of taxes if the county adopted this and that is what it made."

Council Member La Monda requested that Ms. Martin provide the Town Board with information regarding some concerns he has. He stated it is his belief that taxes are based on the wealth of the towns within the school district noting that if you are a richer town you pay more of the taxes. Ms. Martin replied that you draw more of the budget towards yourself because it is apportioned to the wealth of the communities within that district. Council Member La Monda stated that if a town is under assessing their properties then they are not paying their fair share of the taxes noting when a town has a large amount of land owned by one owner that is under assessed then in essence they are giving themselves a tax break. He stated that since we have these other Town Supervisors hovering over us like crows over a road kill, what he would like to know is the total assessed value of the Town of Shandaken, the total assessed value of the state lands in Shandaken, and he would like to have a comparable property assessed value for private forest lands. He noted we should investigate the state lands' assessment in Shandaken. Ms. Martin stated if you look at the Onteora school tax extension, probably assessed wise the Town of Olive would be the lowest. Council Member La Monda stated he believed the charts show that Shandaken was paying approximately 16% of the school budget and Olive's paying a greater share. She stated that Council Member La Monda is correct; but the equalization rate has to be figured into the issue. Council Member La Monda stated then simply he would like to know if Shandaken is using the same assessed value for state land as they are for private forest land and if they are not, he would like to know why. She stated she did not know; but her office would have the assessed values. Council Member La Monda stated that he simply wants to know if state lands in Shandaken are being assessed at the same rates as privately owned large parcels since this is what Shandaken Supervisor Cross stood up in front of the school board screaming is fair and equitable. Council Member La Monda stated that if a parcel on Broadstreet Hollow is worth \$3,000.00 per acre and state land is being assessed at \$1,600.00 per acre then that is a big disparity and Olive should be informed about it. Council Member La Monda stated that if everyone is circling around the Town of Olive looking for equity then the Town of Olive should be looking for equity also. In response to questions from Council Member La Monda, Assessor Mike Sommer explained what he could do to come up with a full value of what they are assessing property at; however, he stated he can't basically tell Council Member La Monda what he is asking since he is not the assessor in Shandaken. Council Member La Monda stated he wants to know what the state is paying per acre in Shandaken and what the private residential owner is paying or are they paying the same. He stated it seems that these figures should be somewhere. Joe Friedel stated the Cruikshank piece in Shandaken was recently appraised for sale noting it is forested land so that should give a fair value of what their neighbor, New York State, is paying. Ms. Martin stated that is a good comparison and starting point; however, a town cannot randomly make adjustments to vacant lands based on a sale. She stated that unless they do a reassessment and look at all the properties within that town they cannot legally change all the vacant lands. Council Member La Monda stated there has to be some way that one can tell what the state is paying per acre and if it is the same as what individual property owners are paying. He stated that if these amounts are not equal then he can only assume the state lands in Shandaken are under assessed; and, therefore, the Town of Shandaken is giving itself a tax break in school taxes. Blake Killin stated that state land in Shandaken is being assessed at under \$600.00 per acre and private land is being

assessed at about \$5,200.00 per acre. Council Member La Monda stated then Shandaken is giving itself a major tax break further noting that as long as Shandaken is screaming equity from the Town of Olive then it's time for Olive to stand up and scream equity from the Town of Shandaken.

Marlene Colgate expressed concern about the calculations used by ORPS noting how can a community be sure that everything is correct if there is no way to scrutinize it. Ms. Martin stated that ORPS values a community and when they determine that value they then take the assessed value of that community and divide one figure into the other, which then gives you the equalization rate. She stated that the assessor has the right to challenge these values. Ms. Martin stated that equalization rates are done strictly sales versus assessment. She stated that part of the problem that Olive, Wawarsing, and Hurley found themselves in is ORPS possibly not valuing the reservoirs as much as the towns thus creating a discrepancy in the equalization rate. Ms. Martin stated that the same methodology is used to assess reservoirs in all of New York State. Joe Friedel asked if that is only New York City reservoirs or would include Woodstock's reservoirs. Ms. Martin responded she believes it should all be the same.

Henny Wise stated she would like to make a statement that the large parcel bill was designed to prevent wild swings in taxes and read from co-sponsor of the bill Senator Larkin's letter of June 2004 stating that the law was never intended to apply to reservoirs. Mrs. Wise asked if Ms. Martin could explain how this bill came to rest on a reservoir that has never had a swing whatsoever in its taxes noting in falling on Olive it actually caused a wild swing in taxes. Ms. Martin responded that obviously what Senator Larkin intended was not how the bill was written and if he wanted to preserve that, he didn't in the bill.

Charlie Blumstein asked if the county has a list of properties that are eligible for application of the large parcel status. Ms. Martin stated that it applies only to the five reservoirs in Ulster County noting that state land doesn't fit the criteria. Mr. Blumstein asked Ms. Martin to provide them with that information on how properties are evaluated. She responded she does not evaluate the properties but the state will notify the communities as to what parcels could be deemed large parcels within the county and the school districts noting this information usually is available around July for the school and in September for the county. She stated that ORPS takes the criteria from the law that was passed by the state and will notify the assessor, school, county, and supervisor as to what parcel qualifies.

Cindy Johansen asked how the county went from 28% to 91% and at what point did she as County Real Property Director know the rates went from 28% to 91%. Ms. Martin responded when the rates came out in the first part of December. Ms. Johansen asked at what time did the legislature know. Ms. Martin stated they knew it was 91%. Several Town Board members responded that the county told us 28% and that is what the town argued before the members of the legislature.

District #1 Ulster County Legislator Peter Kraft stated that the General Services Committee of the UC Legislature voted against the large parcel. He stated that Mike Stock and a few other people tried to introduce the legislation to the whole county legislature. He noted that at that time the legislature was presented with the number of 28% and the law had to be passed by November. He stated that this number Ms. Martin is talking about came out after the legislature voted on the budget; so, that is not factual

that the legislature was totally aware of the effect noting there were fourteen of the legislators that voted against the large parcel. He stated he feels that if the county fully understood the ramifications of the large parcel impact on a countywide basis that they would have had more people vote against the large parcel enactment. He stated that the Town of Olive was heavily impacted in September by the school increase and there were several members of the legislature who were concerned that they would be piling on an unnecessary burden to one town to absorb that much of a tax increase. He noted that the full legislature voting on the large parcel did not understand the full ramifications of implementing the large parcel. Ms. Martin apologized stating that Legislator Kraft is absolutely correct noting she might have been thinking about something else than the question that was asked. She stated the large parcel bill was voted on prior to the budget and the legislature did not know the 91% at the time of voting and she again apologized for giving false information.

Charles Blumstein asked Legislator Kraft if he is suggesting that the ramifications of this bill were circumvented to the legislature at the vote. Legislator Kraft stated that the legislature has a committee system and the General Services Committee voted against the large parcel. Legislator Kraft stated at that time there were people in the legislature who wanted the issue passed and they circumvented the committee process. He stated the committee process is very important because the public has the right to attend these meetings and speak out. He stated they were not given the opportunity to express their opinions since the General Services Committee had voted to not bring this up on the floor of the legislature until the following year. He stated they circumvented that process, brought it up on the floor that night, and again stated that they were told the increase would be 28%. He stated it is too late for this year noting they must focus on the year 2006 and educate the school board and the legislature as to the impact on communities of the large parcel bill.

Cindy Johansen asked what the impact would have been without the large parcel bill and with the ORPS decision to increase the value of the reservoir. Ms. Martin replied \$437.00 per thousand versus \$557.00 per thousand. When asked if this is correct, Assessor Sommer stated he doesn't have the numbers in front of him but we most certainly would have seen an impact. Mrs. Johansen asked if this information was relayed to the legislators.

Charles Blumstein stated it should be noted that the sponsors memo, which is basically a description of what the law contains, is what most state legislators read since there is so much verbiage in the actual law. He noted the cover sheet that describes the law clearly states that large parcel enactment can only occur when all municipalities involved are in agreement. However, nowhere in the law is that mentioned so that is another blatant misrepresentation to a legislator. He stated if he were a state senator or assemblyman having read the summary he would have thought this a no risk bill since it can't be implemented since all municipalities must be in agreement. Mr. Blumstein stated it is interesting to note that these misrepresentations have occurred from the very top and through every step down to implementation at the local level.

Beverly Stein noted that Ms. Martin had stated that this is a fair implementation. She stated that over 50% of our land is owned by NY City and we can do nothing with it. She stated that now we have outside communities who are benefiting from our tax base that we can't do anything about. She stated that she might not understand all the ramifications of this but she does have a sense of what's fair. She stated that in

meetings with the county regarding welfare she remembers being asked by Jeannette Provensano that “aren’t you your brothers keeper” and now finds the Town of Olive is back in that situation again further questioning how do we get out of something like this. She stated she can’t consider it fair that other people are enjoying our tax base and we can’t.

Ms. Martin stated she can’t answer that. However, Joseph Angerami stated he could answer that. He noted this was a gift from our State Senator and Assemblyman who felt we didn’t have enough votes to give them.

Henny Wise stated that people settle where they can afford to live and what this large parcel has done is gentrify this community noting we can no longer afford to live here. She stated this is a new trend of gentrifying areas and asked where are poor people to go in this new system of fairness.

Supervisor Leifeld stated that he is not happier about this than anyone else but stated he admired Dorothy Martin for coming here on her own to address us and he thanked her for that.

Charles Blumstein stated that ORPS has a vision which is on the alliance page of their website noting that this vision is to remove parochial boundaries which in our case is the town line. He noted that losing more than half of our tax base is ORPS’ vision. He stated it is unfortunate that people like Ms. Martin are implementers of this and are taking the heat for it. He noted ORPS’s website gives a clear picture of what is yet to come.

Council Member Linda Burkhardt stated with the implementation of the large parcel law, what gain would any community have in having a large parcel or big entity coming into their town. She stated the large parcel actually wipes out any tax break that any town could offer businesses for economic development. She stated it would be suicidal for a town to want such an entity in their jurisdiction. Ms. Martin stated the town would benefit if ORPS agrees with the town’s value.

Council Member La Monda responded to Ms. Martin that what she stated would be valid if you’re talking about a large power plant or big manufacturing plant; but, if you’re talking about a reservoir whose value you can’t increase the way the residential market is escalating then there is no way we can ever get ORPS to escalate the value on the reservoir the way the residential market goes.

Supervisor Leifeld introduced Patrick Seely, Special Counsel for the Town of Olive.

Charlie Blumstein asked if a water system is considered a utility in a court of law. Mr. Seely responded that most times more often than not. Mr. Blumstein responded that then the large parcel law is doing exactly what it was designed to do even though it was misrepresented to the state legislature and to the county legislature.

Marlene Colgate stated the law is vague and abstract and doesn’t read like a normal act in that it doesn’t refer to any prior act as most laws do.

Kathleen Ruiz asked if Mr. Seely could address certain legislator’s attempts to make large parcel a permanent decision taking it out of the hands of the school board and the

county. Legislator Kraft noted they have not heard that. Ms. Martin stated that when the bill was originally written it was written very specific that it was to be mandatory; yet, they wanted it to be on a local level and not say it has to happen. She stated even for the state there is emphasis on home rule.

Charles Blumstein asked who enlightened the school board on the issue of the large parcel law. Assessor Sommer replied the Shandaken Supervisor and the Woodstock Supervisor.

Henny Wise stated that Assemblyman Cahill has stated in a letter that he would like to change the assessment of the reservoir from value assessment to income assessment noting this sounds a lot like privatization. Mr. Seeley explained approaches to assessment and stated there is a statute on the books that municipal water systems can only be transferred to a very short list of entities all of which are quasi-governmental.

Mr. Seeley explained how knowing the school had pretty much promised they would implement the large parcel bill the town went to ORPS to challenge the figure on the reservoir and was able to get that figure increased. Due to this there was less of the tax burden to be shared by the townspeople when the large parcel was implemented. He noted that New York City picked up a larger share of the taxes, approximately a half million more in county taxes. Assessor Sommer stated that as a result of the ORPS value increase on the reservoir it saved a little more than \$100.00 per assessed value in the tax rate.

In response to Henny Wise's question on how we got ORPS to move from their value, Mr. Seely stated Olive's up to date appraisal coupled with the Judge's decision

Lengthy discussion occurred in response to questions regarding the 11% increase due to the county budget increase and 28% increase due to the large parcel implementation, then where does the 91% increase come from. Mr. Seeley stated he hasn't been able to tie exactly where that 91% increase comes from; however, he stated he would attempt to explain where he thinks it came from. He stated that last year the tax rate was \$290.00 per thousand and this year it is \$557.00 per thousand. Ms. Martin stated Olive is sharing this piece of pie over 21 communities so a lot of it has to do with what happens within those 21 communities over that year's period. She stated a lot of it was shifting in taxes as communities become more valuable and when the equalization rate dropped in half it did draw more to them. She stated you cannot compare last year's tax rate with this year's tax rate. Mr. Seely spent lengthy time answering questions regarding equalization rates, assessments, reservoir value, and ORPS value plus he introduced a drawing on a board (#4-05) explaining the county increase noting 11% is the county tax increase, 10% market, 50% ORPS and equalization rate, and 28% large parcel implementation.

In response to a question from Carole La Monda, Mr. Seeley stated that if the town took ORPS' value on the reservoir it still would not take us out of the large parcel status.

Henny Wise asked about the constitutionality of the law. Mr. Seely stated he has researched the most principal issues but tonight the Town Board has given him names of attorneys at Albany Law School that may specialize in constitutional law and have requested he contact them.

In reference to whether or not state lands in Shandaken could qualify under the large parcel law, Mr. Seely stated there is at least an argument that state lands in the Town of Shandaken probably would qualify.

All questions being posed to Attorney Seely, at 9:30 pm Supervisor Leifeld thanked everyone present for their attendance. He stated that Legislators Kraft, Rob Parete, and Rich Parete did one heck of a job on the floor fight at the Ulster County Legislature. He also stated he would like to thank all thirteen legislators for their yes vote at the county. He stated we have our work cut out for us with the county and the school board.

Supervisor Leifeld noted the annual auditing of the books was held on December 30<sup>th</sup> at the Town Office Building.

Supervisor Leifeld stated that on January 18<sup>th</sup> at 7 pm the Town Board will have an informational meeting regarding Olive creating its own school district. He noted that Arthur Scheuermann, Legal Advisor for the School Administrators Association of New York State, would be present to answer questions and address concerns.

Supervisor Leifeld read correspondence #5-05 addressed to the Trustees of the Onteora Board of Education from the Town Board. Said letter states that the Olive Town Board would like assurance from the school board that this devastating imbalance in taxation will not occur in the 2005-2006 school tax year. The letter notes that as long as the Ashokan Reservoir is included, no matter who adopts the Large Parcel Legislation, the resulting loss of tax revenue by our citizens will have the same effect on the school's future budgets. Supervisor Leifeld stated this letter was sent certified mail to the school on December 30<sup>th</sup>.

All business pertinent having been discussed the Town Board adjourned at 9:45 pm on a Leifeld/La Monda motion.

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Sylvia Rozzelle, Town Clerk