

Resolution #28 of 2015
Town of Olive
Terminate Appointments to Police Commission

WHEREAS, the Town of Olive Town Board voted on a April 14, 2015 on whether or not to approve the Police Chief obtaining a free 10-20 KW single phase generator from the US Army Surplus; and,

WHEREAS, a roll call vote was taken and the motion failed: Roll vote being; Kelder, no; Friedel, yes; Sofranko, yes; and Rozzelle, no; VanBuren, absent; and

WHEREAS, in late October 2015 Town Board member/Police Commissioner VanBuren contacted by phone Town Board Member Kelder and Sofranko alleging Police Chief Tom Vasta improperly acquired a military surplus generator without Town Board approval in direct conflict with the wishes of the Town Board; and

WHEREAS, Town Supervisor Rozzelle was also contacted by Board Member VanBuren stating Police Chief Vasta should be held accountable for his actions; and

WHEREAS, on November 5, 2015 at the Town of Olive Town Board meeting at the request of Board Member VanBuren the Town Board entered into executive session to discuss personnel issues regarding Police Chief Tom Vasta; and

WHEREAS, during the November 5, 2015 executive session there were questions about the details of the acquisition of the generator by Police Chief Vasta and questions as to where the paperwork regarding the transfer of equipment was to which there were no clear answers; and

WHEREAS, it was established at the November 5, 2015 executive session that the military diesel generator does, in fact, sit on Town property near the Highway Garage; and

WHEREAS, the Police Commission met on April 30, 2015 with Commissioners Friedel, VanBuren, Ostrander and Police Chief Vasta present and the official Police Commission Minutes of the April 30, 2015 meeting were filed with the Town Clerk on May 29, 2015; and

WHEREAS, the official April 30, 2015 Police Commission Minutes state "Some of the items discussed were the upcoming awards, budget, DCJS equitable sharing, software items, paperwork that needs the Supervisors signature, obtaining metal surplus containers, and a generator, picking up the items at the Military location, payment for gas etc." and the aforesaid minutes are devoid of any mention of a motion authorizing Police Chief Vasta to secure for the Town of Olive a generator from the US Army; and

WHEREAS, during the November 5, 2015 executive session Supervisor Rozzelle asked Town Clerk Giuditta if audio recordings of the Police Commission meetings would be available to which the Town Clerk responded they had reached their retention period and were deleted; and

WHEREAS, Police Commissioners Friedel, VanBuren, and Ostrander each stated at the November 5, 2015 executive session that Police Chief Vasta acted without the authority of the Police Commission; and

WHEREAS, Town Board Member/Police Commissioner VanBuren stated at the November 5, 2015 executive session that Police Chief Vasta should be held accountable for his actions stating that he should be dismissed; and

WHEREAS, Supervisor Rozzelle stated at the November 5, 2015 executive session that if a vote was taken on requesting Police Chief Vasta tender his resignation it would become a part of the official Minutes of the Town Board and it being a small town she would prefer to not add a blemish on Chief Vasta's personal and/or professional life; and

WHEREAS, based on the information provided by Police Commissioners Friedel, VanBuren, and Ostrander at the November 5, 2015 executive session all Town Board members were in agreement, though no formal vote was taken, that the Police Commissioners at their November 19, 2015 meeting should request Police Chief Vasta tender his resignation; and

WHEREAS, on Friday morning, November 6, 2015 Town Clerk Giuditta informed Supervisor Rozzelle that the Town Clerk had deleted the audio recordings of Police Commission meetings from her computer; however, they are available in the recycle bin and stated to Supervisor Rozzelle that she felt the Supervisor should listen to the April 30, 2015 Police Commission meeting audio recording; and

WHEREAS, Supervisor Rozzelle listened to the audio recording of the April 30, 2015 Police Commission meeting on Friday morning, November 6, 2015 and Town Board member Sofranko listened to said recording on Friday afternoon, November 6, 2015 and Town Board member Kelder listened to said recording on Saturday morning, November 7, 2015; and

WHEREAS, the audio recording of the April 30, 2015 Police Commission meeting reveals the fact that the Police Commission on a VanBuren/Friedel motion voted to grant Police Chief Vasta permission to obtain the generator; and

WHEREAS, town officials are bound by NYS Public Officers Law to endeavor to pursue a course of conduct and acts that instills public confidence and trustworthiness; and

WHEREAS, Supervisor Rozzelle was gravely concerned that unjust dismissal of an employee is not responsible government and could be a liability for the Town; and

WHEREAS, on Sunday, November 8, 2015, Supervisor Rozzelle and Town Board Member Kelder met in the Supervisor's office with Attorney for the Town Dan Heppner to obtain legal advice on how to proceed; and

WHEREAS, Attorney Heppner reviewed Town Board Minutes, Police Commission Minutes, listened to the audio recording of the April 30, 2015 Police Commission meeting, and received information from Board Member Kelder and Supervisor Rozzelle regarding the November 5, 2015 Town Board executive session; and

WHEREAS, Attorney Heppner advised the audio recording of the April 30, 2015 Police Commission meeting should be transcribed and certified by a stenographer plus a resolution drafted outlining what transpired at the November 5, 2015 executive session to overturn the general consensus of the Town Board at the November 5, 2015 executive session to have the Police Commission at its November 19, 2015 meeting request Police Chief Vasta's resignation; and

WHEREAS, the Town Board at its November 9, 2015 meeting adjourned to executive session to discuss personnel issues regarding Police Chief Tom Vasta and Executive Session Resolution November 9, 2015 drafted by Attorney Heppner summarizing what transpired at the November 5, 2015 Town Board Executive Session was presented by Supervisor Rozzelle, seconded by Board Member Sofranko with roll vote being: Friedel, no; VanBuren, yes; Sofranko, no, Kelder, no; and Rozzelle, no; and

WHEREAS, Executive Session Resolution November 9, 2015 did not pass and can be read in its entirety in the November 9, 2015 Town Board Meeting Minutes; therefore, the Police Commission is not authorized to request Police Chief Vasta resign his position; and

WHEREAS, the certified transcript of the audio recording (a copy of which is annexed hereto as Exhibit "A") of the April 30, 2015 Police Commission meeting clearly states that Police Commissioners Friedel, VanBuren, and Ostrander passed a motion authorizing Police Chief Vasta to obtain a surplus military diesel generator which motion was in total defiance of the Town Board's vote of April 14th, 2015; and

WHEREAS, we as public officials are charged with upholding the trust of the citizens of the Town of Olive and must act in the public interest, have respect for governmental process, insure proper conduct at public meetings, guarantee that decisions are made based on trustworthiness, and ensure that effective clear ethical standards exist in public administration;

THEREFORE, BE IT RESOLVED, the Town Board of the Town Board of Olive hereby terminates the appointment of Town Board Members Friedel and VanBuren from the Board of Police Commissioners.

AND MOVES ITS ADOPTION

Motion made by:

Seconded By:

A Vote was Duly Taken:

	Aye	Nay
Sylvia Rozzelle, Supervisor	_____	_____
Don VanBuren, Board Member	_____	_____
Scott Kelder, Board Member	_____	_____
Jim Sofranko, Board Member	_____	_____
Peter Friedel, Board Member	_____	_____

Dated this 8th day of December, 2015

Dawn Giuditta, Town Clerk