

Town of Olive  
County of Ulster  
State of New York  
Monday, March 12, 2012

Minutes of the monthly audit meeting of the Town Board of the Town of Olive held Monday, March 12, 2012, 7:30 pm at the Town Meeting Hall in Shokan, NY.

Members Present:           Berndt Leifeld, Supervisor  
                                  Donald VanBuren, Board Member  
                                  Linda Burkhardt, Board Member  
                                  Bruce La Monda, Board Member  
                                  Peter Friedel, Board Member

Others Present:           Jimmy Fugel, Highway Superintendent; Gene Sorbellini,  
                                  Recreation Director; and Drew Boggess, Planning Board Chairman

In the absence of the Town Clerk notes for the meeting minutes were submitted by Supervisor Leifeld.

Elizabeth Higgins, Program Coordinator, Cornell Cooperative Extension (CCE) of Ulster County, Ashokan Watershed Stream Management, reminded all that the Third Annual Ashokan Watershed Conference will be held Saturday, April 21<sup>st</sup>, at the Bearsville Theater in Woodstock, NY.

Kevin Christofora addressed the Town Board regarding the Mountain Valley Little League program which includes Olive Little League and Shandaken/Woodstock Little League (#24-12). He stated that Olive is no longer involved with Hurley Little League. Volunteers will be working on the Shokan Park Little League field to bring it up to standards. Mountain Valley Little League now has its own charter and evaluations will be held March 16<sup>th</sup> at the Onteora High School gym. Registration can be done online at [www.OSWMLL.com](http://www.OSWMLL.com).

The Town Board audited the bills for the month of February and discussed the agenda for the March 13<sup>th</sup> meeting.

Supervisor Leifeld stated that Steve Nissen contacted him regarding the cable television tower located on his property off of Bostock Road. He stated that Time Warner has equipment located there as does the Town of Olive with the Highway Department's radio equipment. Supervisor Leifeld stated that when the lease is up Time Warner will be removing their equipment and Mr. Nissen wants to transfer the property to the original owner or to the Town of Olive. Supervisor Leifeld stated that Mr. Nissen was very cooperative and in no hurry to throw the town off the tower. Supervisor Leifeld stated that Art Snyder informed him that the Tonshe tower is full and would have no place for the town's equipment. He stated that cell phones were mentioned as an option; however, there are areas without cell service.

All business pertinent having been discussed the Town Board adjourned at 9:00 pm on a Leifeld/La Monda motion.

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Sylvia B. Rozzelle, Town Clerk

Town of Olive  
County of Ulster  
State of New York  
Tuesday, March 13, 2012

Minutes of the regular monthly meeting of the Town Board of the Town of Olive held Tuesday, March 13, 2012, 7:30 pm at the Town Meeting Hall in Shokan, NY.

Members Present:           Berndt Leifeld, Supervisor  
                                  Donald VanBuren, Board Member  
                                  Linda Burkhardt, Board Member  
                                  Bruce La Monda, Board Member  
                                  Peter Friedel, Board Member

Recording Secretary:       Sylvia B. Rozzelle, Town Clerk

Others Present: Bill Cook, Sole Assessor; Jimmy Fugel, Highway Superintendent; Tim Cox, Town Justice; Drew Boggess, Planning Board Chairman; and Jennifer Vasta, Highway Clerk

On a Burkhardt/La Monda motion the Town Board approved the minutes of the February meetings as submitted by the Town Clerk.

The following correspondence was read and filed:

#25-12

On a Friedel/La Monda motion the Town Board approved the following members to the Olive Fire Department No. 1, Inc.; Stewart Benjamin and Andrew Friedel.

#26-12

Michael Gallagher of the West Congregation of Jehovah's Witnesses stated they will be renovating the Kingdom Hall starting on April 9<sup>th</sup> and due to the influx of volunteers they will need adequate parking for approximately 100 vehicles. He stated they will be parking their cars at Woodstock Percussion and are asking to utilize the parking lot at Shokan Park as a backup parking area. Supervisor Leifeld stated the town does not have a problem with this.

On a Leifeld/Burkhardt motion the Town Board approved the appointment of Rob Shultis (#27-12) as member to the Recreation Committee.

On a La Monda/Friedel motion the Town Board approved payment of the following audited bills: Highway Vouchers #49-#90, \$27,975.58; General Fund Prepaid Voucher #69, \$270.00; General Fund Vouchers #70-#105, \$34,514.80; Special Lighting Voucher #3, \$56.42; and Special Wastewater February vouchers, \$29,033.20.

Supervisor Leifeld noted the cash received for January as \$3,741,056.59 and interest received for February as \$654.65.

On a Leifeld/La Monda motion the Town Board approved the following budget modification:  
Transfer \$713.00 from 1990.4 Contingency to 3310.4 Traffic Control Equip. (Cont.)

Supervisor Leifeld stated that the Third Annual Ashokan Watershed Conference will be held Saturday, April 21<sup>st</sup>, 9 am - 3:30 pm in Woodstock.

RESOLUTION #8 OF 2012  
TOWN OF OLIVE  
OPPOSING PROPOSED AMENDMENT TO VTL SECTION 1806

WHEREAS, the Town of Olive Justice Court, on average, resolves over one thousand cases each year; and

WHEREAS, many of the cases heard by the Town of Olive Justice Court involve violations of New York Vehicle and Traffic Law, such as speeding, operating a vehicle while on a cell phone, passing on the right, passing in a no passing zone, failure to use a seatbelt, etc; and

WHEREAS, in Ulster County, most Vehicle and Traffic Law violations are prosecuted by the police officer who issued the uniform traffic ticket; and

WHEREAS, presently, if an individual pleads not guilty in writing to a violation of Vehicle and Traffic Law, they are notified of an appearance/trial date by the Town of Olive Justice Court; and

WHEREAS, at the appearance/trial date, if an individual and citing police officer cannot agree upon a resolution of the alleged violation, the Town of Olive Court holds a non-jury trial that same evening wherein the officer has to prove guilt beyond a reasonable doubt; and

WHEREAS, Vehicle and Traffic Law violations where an individual previously plead not guilty are thereby resolved in a single court appearance at the Town of Olive Justice Court; and

WHEREAS, Governor Andrew Cuomo's 2012 Executive Budget – Public Protection and General Government Article VII Legislation, Part C, proposes to amend Vehicle and Traffic Law section 1806 to require that a defendant be provided an appearance date, and if the matter is not resolved at that appearance date, a separate trial date for all alleged violations of Vehicle and Traffic Law; and

WHEREAS, the proposed amendment places an undue burden on Town and Village Justice Courts by requiring an additional court appearance if an individual maintains his/her not guilty plea and requests a trial, instead of holding a trial on the same date; and

WHEREAS, the proposed amendment also penalizes individuals charged with a violation of Vehicle and Traffic Law by requiring them to make an additional court appearance if they maintain their innocence and decline to accept a plea bargain; and

WHEREAS, the appearance date will be meaningless for matters involving New York State Police, because New York State Police are forbidden by their superiors for engaging in or agreeing to any plea bargains.

NOW THEREFORE BE IT RESOLVED, that the Town of Olive Town Board opposes the proposed amendment to Vehicle and Traffic Law section 1806, because it serves no useful purpose in that it would slow the timely resolution of cases on the Town of Olive Justice Court docket by mandating at least two court appearances for all Vehicle and Traffic Law Violations, and it unfairly penalizes an individual who desires to maintain their innocence to a minor traffic offense because the offense could no longer be adjudicated at a single court appearance.

NOW THEREFORE BE IT FURTHER RESOLVED, that a copy of this resolution be mailed to Governor Andrew Cuomo, Senator John Bonacic, Assemblyman Kevin Cahill, and the Association of Towns.

	Aye	Nay
Berndt Leifeld, Supervisor	_____	_____
Donald VanBuren, Board Member	_____	_____
Linda Burkhardt, Board Member	_____	_____
Bruce La Monda, Board Member	_____	_____
Peter Friedel, Board Member	_____	_____

Dated this 13<sup>th</sup> day of March, 2012

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Sylvia B. Rozzelle, Town Clerk

Supervisor Leifeld introduced Town Justice Tim Cox to explain the need for the upcoming resolution. Town Justice Cox stated if someone pleads not guilty then they are given an appearance and trial date for the same night and everything is resolved in one night. He stated the State Police cannot plea bargain anything so they go to trial on the same night. The Governor's budget will require an appearance date and then a new date has to be set to come back for a trial date. He stated it will add to police costs if you can't resolve things the first night then you will have to come back again. The State is trying to get the County DA to prosecute all traffic violations so the State Police do not have to go to local courts. He stated it will have an immediate impact on the court, the police department, and people appearing in court. It was noted that Town Justice Ron Wright is also in agreement with this resolution.

Supervisor Leifeld read and introduced Resolution #8 of 2012: Opposing Proposed Amendment to VTL Section 1806. On a Leifeld/Burkhardt motion and unanimous roll vote the Town Board approved Resolution #8 of 2012. Roll vote being: VanBuren, yes; Burkhardt, yes; La Monda, yes; Friedel, yes; and Leifeld, yes.

Charlie Blumstein submitted a copy of a petition, Charles Blumstein, Pro Se against the Town of Olive Town Board, (#28-12) filed in Supreme Court today and asked Board Member Friedel to make copies since he is the only one who responds to him. He stated the Supreme Court will assign a judge and the Town will receive a certified copy in a day or two by mail. He stated the petition is answerable in court.

Supervisor Leifeld stated that Hurricane Irene did more damage than we can see stating we need generators to take care of the Highway Department and also in the Town offices. He stated an electrician looked at our needs and came up with specifications. He stated we would need three generators at an approximate cost of \$46,000.00. He stated the board discussed this last night and feels the Highway Garage is most important to keep the fuel pumps going. He stated we will need to put these out to bid and would like to do it piece by piece. Supervisor Leifeld made a motion to empower the Supervisor to apply for bids for a generator for the Highway Garage. Board Member La Monda stated if there is money in the capital reserves then we need to do all three as we keep putting this off. Supervisor Leifeld stated there are a lot of things that haven't been resolved yet with FEMA with a lot of big numbers—one being the gas tanks and the other the landfill. He stated we don't know what FEMA will be paying, if anything. It was stated by Board Members Friedel and Burkhardt that we could start the bid process on each one separately. Supervisor Leifeld noted that three generators are needed; one for the highway garage, one for the town offices, and one for the dog coop and sand shed. On a Leifeld/Friedel motion the Town Board approved advertising for bids for three separate generators as described above. Supervisor Leifeld stated not to count on FEMA money because we're not going to see it.

Supervisor Leifeld stated that FEMA money was received for Haver Road, Moonhaw Road, and Upper Samsonville Road with \$42,419.58 received on February 9<sup>th</sup> (#29-12) and \$71,115.50 received February 14<sup>th</sup> (#30-12). Highway Superintendent Fugel stated we should be getting more money for highway projects as applications were signed at different times.

On a Leifeld/La Monda motion the Town Board authorized the Highway Superintendent per his request #31-12 to advertise for a 2012 or newer 4WD Backhoe Loader.

The following committee reports were submitted:

RECREATION liaison Board Member Burkhardt submitted March report #32-12 noting that youth baseball will again be played within the town noting the chartered name for the Olive Little League program is Mountain Valley Little League. Youth basketball is coming to a close with 58 children participating in the program; Day Camp will start on July 2<sup>nd</sup> and conclude on August 9<sup>th</sup>; and plans are underway to create a competitive youth swim team in Olive.

POLICE Commissioner La Monda submitted February report #36-12 showing a total of 260 calls responded to for the month. Cindy Johansen stated that she has never seen a police car on Burgher Road and expressed concern that we've not seen a car on the back roads just to say that the police are here. She stated that traffic and speeding on Route 28 is handled by three agencies and her concern is the burglaries and break-ins that are happening. Board Member La Monda stated he can assure Mrs. Johansen that they are patrolling the back roads as Sgt. Creagan took the initiative to see that cars stop into several places in the hamlets. Sgt. Creagan stated they are a local agency and it's imperative they patrol the entire town. He stated it is a large town for one person to handle but the entire town is patrolled. He stated the Department of Transportation has requested the department patrol Route 28 and they are doing so to see that their family members arrive home safely. Board Member La Monda stated the visibility is probably pretty good in that there is only one burglary reported in this past month's report. Board Member La Monda stated the officer on duty can only be in one place at a time and, unfortunately, we're not always there when a crime is committed; however, the department looks into who's causing the problems.

FIRE DEPARTMENT February report #33-12 showed 47 responses for the month.

TRANSFER STATION liaison Board Member Friedel presented January report #34-12 showing total revenues of \$6,460.00 and a total expense of \$6,449.05. February report #35-12 showed total revenues of \$3,875.00 and a total expense of \$4,666.06.

HIGHWAY liaison Board Member VanBuren submitted report #37-12 noting trees and brush were cut on Weber Lane, Sahler Mill Road, and Dryboork Road. Ditches were cleaned on Sheldon Hill, manholes were repaired in Boiceville, item 4 was hauled, plowed snow four times, installed speed limit signs on Deerfield Road, moved 4 voting machines, and started building a new chip truck from the old bucket truck cab and chassis.

TOWN CLERK Rozzelle submitted February revenue report #38-12 showing \$364,361.36 in taxes collected and \$9,028.28 in monthly revenues. She noted volunteers are needed for the home delivered meals program and anyone interested should contact her. Ulster County Clerk Nina Postupack is currently presenting an exhibit entitled Ashokan Reservoir Collection on the second floor of the County building. She presented the Town Board with Planning Board members training certification hours (#39-12) as follows: Drew Boggess, 62.5 hrs; Helene Grant, 31.25 hrs; David Sorbellini, 30.75 hrs.; Edwin Maldonado, 25 hrs.; David Jones, 47.5; and Jim Konjas, 22 hrs. She stated the town is in compliance with the NYS law regarding posting of proposals before the Town Board on the town website. She noted that [www.town.olive.ny.us](http://www.town.olive.ny.us) is the official town website and the agenda and any resolutions are posted under Town Business.

Supervisor Leifeld stated the Town Board would like more information about hydro-fracking but first would like to talk to the public about it.

Mrs. Halstead stated that she, Helen Jeffs and a fellow from the Town of Rochester have been following this for over a year. She stated her concern is that there is no way of knowing where

the toxicity can pop up. She stated in Ohio many of the earthquakes are being caused by fracking. She stated they were in a restaurant in PA and the only way they can get potable water is to truck it in.

Steve Cadette stated that fracking has been used in this country for over 40-50 years. He stated we're going to need energy sooner or later and natural gas is cheap. It can replace an awful lot of oil and an awful lot of coal.

Board Member La Monda stated he would rather err on the side of caution noting that it's not cheap if you get cancer from it.

Christina Humberger stated she has spent over a year at hearings in Albany and has heard all sides at the hearings—geologists, oil and gas industry, and Better Business Bureau. She stated we want energy and jobs; but, there has not been one ounce of information that says that it is clean energy by the time you take it out with this method. She stated the process is very complicated and the 70 year old process is different from when they are blasting the shale with chemicals. She stated she can't drink liquid natural gas and there is no replacing water. She stated she is working with George Koury who had sent a letter to the board members to consider an ordinance. She stated there is a lot of positive feedback from residents and thanked the board for looking into this.

Board Member La Monda stated at this point he is not comfortable with the process of fracking.

Board Member Burkhardt stated she has concerns that companies are not stating what the chemicals are that they are putting in the fluids they are using to extract the gas. She stated if they aren't telling us what the chemicals are then "why" aren't they telling us.

Liz Hansen stated that Board Member Burkhardt touched on her point. She stated you can't get a mortgage on a house next to a natural gas well.

Lengthy discussion occurred on the issue of hydro-fracking.

Board Member La Monda stated there is also an issue with the brine waste from the procedure which is stored in large ponds; however, there have been accidents with these. He stated at this point he has a problem with the process.

Henny Wise stated the science isn't in because they unhooked it from the Clean Water Act and the Clean Air Act. She stated what they are putting in the ground are proprietary chemicals that are carcinogenic, neurotoxic affecting the neurological development of children, and genotoxic which means it passes on from one generation to the next. These are all poisons that are being put into the ground and to call them proprietary and put them in the ground is criminal. They are unhooking it from all the laws that would protect people from these chemicals. Duke University did studies and found that the wells near where they were fracking are filled with methane. The DEC hid that information and actually said that the Duke University study had no effect on the wells around fracking.

Supervisor Leifeld stated they are not making a decision tonight; but, wanted to bring it up tonight to see how most people felt.

Board Member La Monda stated he would rather err on the side of safety and made a motion to proceed with drafting a resolution addressing the fracking issue in the Town of Olive. Supervisor Leifeld seconded the motion.

Board Member Friedel stated that he is against fracking. If it can be done safely, then he is for it. But what he is hearing right now is that it can't be done safely because of cost. It should be banned until they can prove that the way of getting it out of the ground can be done safely. He stated he doesn't know what is hype and what isn't.

Drew Boggess stated if and when the Town Board decides to pass a resolution it should not just address fracking, but, should also ban disposal of the material.

Supervisor Leifeld received an all in favor vote from members of the Town Board in response to Board Member La Monda's motion.

Supervisor Leifeld stated the National Guard is using C-17's to train over the Watson Hollow Road area. He stated he contacted Congressman Hinchey, Assemblyman Cahill, and Senator Bonacic to see if they can get them to fly higher.

Vince Barringer stated when you come down County Road 3 near Acorn Hill Road there are two big limbs ready to come off the tree and are dangerous. He stated you could put the county on prior notice but perhaps call the county to see if they can remove them.

Donald VanBuren asked if there is any money left over from the grant for the comprehensive plan. Supervisor Leifeld stated that money is gone; but, we will need to get a cost of what it is to revise the draft.

All business pertinent having been discussed the Town Board adjourned at 8:45 pm in memory of Patrick McLoughlin.

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Sylvia B. Rozzelle, Town Clerk