

Town of Olive
County of Ulster
State of New York
Monday, December 7, 2015

Minutes of the monthly audit meeting of the Town of Olive Town Board, held Monday December 7, 2015, 7:00 pm at the Town Offices in Shokan, NY.

Members Present: Sylvia Rozzelle, Supervisor
Scott Kelder, Board Member
Peter Friedel, Board Member

Members not present: Donald VanBuren, Board Member

Recording Secretary: Dawn Giuditta

Others Present: Drew Boggess, Deputy Supervisor & Planning Board Chairman; Rich Ostrander, Police Commissioner; James Fugel, Highway Superintendent; Brian Burns, Deputy Highway Superintendent; Ronald Wright, Town Justice

Supervisor Rozzelle called the meeting to order at 6:59 pm.

The Town Board discussed the following topics:

1. Resolutions #24-#27 of 2015
2. Supervisor Rozzelle advised the Town Board that Jimmy Fugel was retiring as of 12/30/2015, and she would like to appoint Brian Burns interim Highway Superintendent starting January 1, 2016.
3. Supervisor Rozzelle received the resume of Steven Dibbell who is interested in a seat on the Planning Board.
4. Supervisor Rozzelle brought to the Town Board's attention a potential conflict of interest with Judith Boggess Senior Program Art Director and her husband Andrew Boggess, new Town Board member effective 1/1/16. Under General Municipal Law 800-803 Judith cannot continue as an independent contractor for the Senior Art Program while her husband is on the Town Board. Therefore, Judith will be stepping down as of 1/1/16 as the Art Program Director. She can maintain her position through 2016 because Mr. Boggess was not a Town Board member at the time the 2016 budget was passed. To avoid any impropriety she has agreed to step down.
5. The Town Board received the Professional Services Proposal for the salt shed from LaBerge Group.
6. Supervisor Rozzelle asked the Town Board if the Town of Olive was interested in taking over Olive Day. A grant for this year has been approved from the Catskill Scenic Byway.
7. Pat Olsen, who has been cleaning the three main buildings since 1996 is retiring as of 1/1/16. Request for Proposals will be accepted through December 17th, 2015.
8. Supervisor Rozzelle wanted the Town Board to be aware that Central Hudson is pushing smart meters. She received about four phone calls concerning this matter.

Budget Modifications:

On a Rozzelle/Kelder motion, the Town Board approved the following Modification.

AYE- VanBuren, Kelder, Sofranko, Friedel, Rozzelle **Nay**

Health Savings Accounts (HSA):

Transfer \$25,500 from DA9060.8 Hospitalization (Highway) to Health Savings Account

Transfer \$22,500 from A9060.8 Hospitalization (General) to Health Savings Account

On a Rozzelle/Kelder motion, the Town Board approved the following Modification.

AYE- VanBuren, Kelder, Sofranko, Friedel, Rozzelle **Nay**

Highway Fund:

Transfer \$1,000 from 5130.4 Machinery (Cont.) to 5140.4 Brush & Weeds (Cont.)

Transfer \$5,114 from 5130.4 Machinery (Cont.) to 5142.4 Snow Removal (Cont.)

On a Rozzelle/Kelder motion, the Town Board approved the following Modification.

AYE- VanBuren, Kelder, Sofranko, Friedel, Rozzelle **Nay**

General Fund:

Transfer \$50 from A1410.4 Town Clerk (Cont.) to 1410.2 Town Clerk (Equipment)

Transfer \$5,936 from 1990.4 Contingency:

 \$1,553 to 1460.4 Records Management (Cont.)

 \$4,383 to 1440.4 Engineers (Cont.)

Approve Payment of Audited Bills: On a Rozzelle/Sofranko motion, the Town Board approved the following payments:

AYE- VanBuren, Kelder, Sofranko, Friedel and Rozzelle **Nay**

Approve Payment of Audited Bills:

Highway Vouchers #382-#428	\$ 45,509.11
General Fund Voucher #504-#534	\$ 26,328.86
Sewer District	\$ 28,133.84
Special Fire District #5	\$251,671.10

Cash Received:

September cash received	\$23,539.55
September Interest	\$ 27.50

Additional Business:

Supervisor Rozzelle appointed Brian Burns, Ed Kahil, and Michael Bernholz to the Evaluation Committee to Select Engineer for Town Facilities Rehabilitation RFP.

On a Rozzelle/Kelder motion, the Town Board empowered the Supervisor to sign a 3 yr. contract with Olive Fire Dept. Co. No. 1, Inc.

AYE- VanBuren, Kelder, Sofranko, Friedel and Rozzelle **Nay**

On a Rozzelle/VanBuren motion, the Town Board appointed Brian Burns Highway Superintendent effective January 1, 2016.

AYE- VanBuren, Kelder, Sofranko, Friedel and Rozzelle **Nay**

On a Rozzelle/Kelder motion, the Town Board authorizes Highway Superintendent to sign the Shared Service Agreement with NYSDOT.

AYE- VanBuren, Kelder, Sofranko, Friedel and Rozzelle **Nay**

On a Rozzelle/VanBuren motion, the Town Board unanimously approved Resolution #24 of 2015.

Town of Olive
Resolution #24 of 2015
Adopt Schedule of Fees
Pursuant to Chapter 91 of the Town of Olive Code

Whereas, the Town of Olive Code Chapter 91-2 provides for a single comprehensive schedule of fees and charges to be levied in the administration of town laws, ordinances, regulations and resolutions; and, that schedule shall be set forth in a resolution to be adopted by the Town Board; and,

Whereas, Chapter 91-2 of the Town of Olive Code requires annual review and updating of fees consistent with the annual budgeting process, based on the actual costs to the town of providing those services, by the simple process of adopting and amending, from time to time, a resolution containing such fees; and,

Whereas, Chapter 91-3 of the Town of Olive Code states that fees or charges currently levied in other regulations that are not included in this revised fee schedule shall remain effective pending incorporation in this standard schedule

THEREFORE, BE IT RESOLVED, the Town Board of the Town of Olive adopts the following comprehensive schedule of fees and administration charges. Said fees and charges shall become effective January 1, 2016.

(Schedule of Fees Attached)

AND MOVES ITS ADOPTION

Motion made by: Supervisor Rozzelle
Seconded by: Board Member VanBuren

A Vote was Duly Taken:

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

Dated this 8th day of December, 2015

Dawn Giuditta, Town Clerk

Town of Olive
 Schedule of Fees and Administrative Charges
 Adopted per Resolution #24 of 2015
 Pursuant to Town of Olive Code Chapter 91
 Effective date: January 1, 2016

REPORTS, MAPS, & TOWN CODE SUPPLEMENTS

Town Code Chapter 155 Zoning Ordinance	\$ 15.00
Town Code Chapter 133 Subdivision of Land	\$ 15.00
Zoning Map	\$ 10.00
Street Report	\$ 15.00
Accident Report	\$ 10.00

The complete TOWN OF OLIVE CODE can be purchased from:
 General Code Publishers 1-800-836-8834

PERMITS & APPLICATION FEES

Planning & Zoning Fees

Zoning Permit	\$ 30.00
Fence Permit	\$ 30.00
Site Plan/Special Use Application	\$ 75.00
Variance Application	\$ 75.00
Subdivision fee	\$70.00 per lot
Plus Recreational Trust Fee	\$100.00 per lot
Lot Line Adjustment with Zoning Officer	\$ 50.00 per lot line
Lot Line Adjustment with Planning Board	\$ 50.00 per lot line
Plus cost of Public Hearing Legal Notice	

Building Department Fees

Building Permit (Residential)	.30 cents per sq. ft.
Building Permit (Commercial)	.35 cents per sq. ft.
Building Permit Renewal	\$100.00
Demolition Permit	\$100.00
Generator Permit	\$ 50.00
Woodstove Permit	\$100.00
Roof Installed Solar Permit	\$ 55.00
Swimming Pool Permit (above ground)	\$ 50.00
Swimming Pool Permit (below ground)	\$150.00
Deck Permit	.35 cents per sq. ft. with minimum of \$ 75.00
Certificate of Occupancy	\$ 50.00
Certificate of Occupancy (Temporary)	\$ 50.00
Certificate of Occupancy Exemption Letters	\$ 50.00
Certificate of Compliance	\$ 50.00

Highway Permit Fees

Driveway Permit	\$ 50.00
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On a Rozzelle/Sofranko motion, the Town Board unanimously approved Resolution #25 of 2015.

Town of Olive
Resolution #25 of 2015
Request NYS Equally Fund the MTA & NYSDOT

Whereas, a reliable transportation infrastructure is vital for the safety of New York's traveling public and its economy; and

Whereas, 85 percent of New York's roads and bridges are maintained by local governments; and

Whereas, despite well-timed and targeted preventative maintenance treatments, the age and condition of many of our locally-owned transportation assets means that they are beyond preservation and in need of much more costly rehabilitation and reconstruction; and

Whereas, estimates by the State Comptroller, DOT and independent studies show a large portion of road mileage is deteriorating and many bridges in the state are rated structurally deficient and functionally obsolete; and

Whereas, the State Comptroller estimates that there will be \$89 billion in unmet local infrastructure needs over the next 20 years; and

Whereas, the New York State Association of Town Superintendents of Highways commissioned its own fifteen year analysis that indicates an annual funding gap of \$1.3 billion for the local system (excluding NYC) alone; and

Whereas, funding for our local system has been far short of what is needed and we've fallen further and further behind in maintaining the vast and aging transportation infrastructure over this long period with severe consequences for conditions ratings; and

Whereas, the New York State Consolidated Local Street and Highway Program (CHIPS) provides essential funding for every municipality in the state and is part of the New York State Department of Transportation (NYSDOT) capital program; and

Whereas, in the early 1990's the Governor and Legislature created the Dedicated Highway and Bridge Trust Fund (DHBTF) to pay for the NYSDOT capital program and the Dedicated Mass Transit Trust Fund(DMTTF) to assist with the Metropolitan Transportation Authority (MTA) and other transit systems' capital programs; and

Whereas, when the DHBTF was created, it was agreed that the NYSDOT and MTA five-year capital programs would be similar in size and would be negotiated concurrently; and

Whereas, through 2005-09, both five-year capital programs were similar in size and adopted within months of each other; and

Whereas, in 2010 the Executive and Legislature broke traditional parity and enacted a five-year capital program for the MTA but not the DOT; NOW THEREFORE BE IT

RESOLVED, that the Town of Olive calls upon the Governor and the state Legislature to make additional state funding and resources available at levels that accurately reflect the critical needs of local roads and bridges; and increase CHIPS funding in the 2016-17 state budget; and BE IT FURTHER

RESOLVED, that the Town of Olive calls upon the Governor, and members of the state Legislature to fully fund and submit a new NYSDOT five-year transportation capital plan; and BE IT FURTHER

RESOLVED, that the Town of Olive calls upon the Governor and members of the state Legislature to recognize the equality of roads, bridges and transit by restoring funding equality between the MTA and NYSDOT five-year programs and by voting on the plans simultaneously.

AND MOVES ITS ADOPTION

Motion made by: Supervisor Rozzelle
Seconded By: Board Member Sofranko
A Vote was Duly Taken:

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

Dated this 8th day of December, 2015

Dawn Giuditta, Town Clerk

On a Rozzelle/Friedel motion, the Town Board unanimously approved Resolution #26 of 2015.

TOWN OF OLIVE, NEW YORK
RESOLUTION No. 26 of 2015

A RESOLUTION APPROVING THE SELECTION OF AN ENGINEER FOR THE TOWN OF OLIVE’S NEW YORK RISING COMMUNITY RECONSTRUCTION PROGRAM COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY (CDBG-DR) “TOWN FACILITIES REHABILITATION” PROJECT.

WHEREAS, pursuant to Town Resolution No. 16 of 2014 and subsequent execution of a Subrecipient Agreement between the NY Housing Trust Fund Corporation and the Town of Olive, the Supervisor appointed an Evaluation Committee to evaluate responses received from design engineer firms in response to a “Request for Proposals for Design/Engineering Services,” which convened on December 1, 2015 to evaluate responsive statements;

WHEREAS, the Evaluation Committee evaluated and scored all responsive submittals based on Technical Evaluation Criteria and Cost; and,

WHEREAS, the Town of Olive Evaluation Committee recommends “Fellenzer Engineering, LLP,” based on the highest points awarded by the Evaluation Committee on Technical and Cost Evaluation criterion.

BE IT RESOLVED by the Town Board of the Town of Olive acting as governing authority of said Town enters into contract selection negotiations with the aforementioned firm:

On a motion by Supervisor Rozzelle and seconded by Board Member Friedel, the following resolution was offered:

A Vote was Duly Taken:

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

Dated this 8th day of December, 2015

Dawn Giuditta, Town Clerk

On a Rozzelle/Friedel motion, the Town Board unanimously approved Resolution #27 of 2015.

Town of Olive
Resolution #27 of 2015
Designate Olive Day 2016 as Town of Olive Event
Celebrating the Catskill Mountains Scenic Byway

WHEREAS, Olive Day has been a 44 year annual event sponsored by the Olive Democrats; and

WHEREAS, many residents have expressed concern that this should be a Town of Olive sponsored event encouraging more individuals and community groups to become involved in this annual event; and

WHEREAS, the Olive Democratic Committee has agreed to have the annual event be sponsored by the Town of Olive; and

WHEREAS, the Catskill Mountains Scenic Byway (CMSB) has secured a grant in the amount of \$4,166 per town in the byway to provide funding for annual CMSB municipal events that will highlight each town's culture, history, and scenic assets bringing the community together to celebrate as a byway community; and

WHEREAS, when sponsored by the town, Olive Day would become an eligible event for receipt of said funding with approved costs being exhibits, music, stipend for event coordinator, event banners, equipment rentals, photography and paid advertisements;

THEREFORE, BE IT RESOLVED, the Town of Olive Town Board officially designates Olive Day 2016 as a Town of Olive sponsored event celebrating the Catskill Mountains Scenic Byway to be held on Saturday, September 10, 2016 at Lester S. Davis Park in West Shokan, NY.

AND MOVES ITS ADOPTION

Motion made by: Supervisor Rozzelle
Seconded By: Board Member Friedel

A Vote was Duly Taken:

	Aye	Nay
Sylvia Rozzelle, Supervisor	<u> X </u>	<u> </u>
Don VanBuren, Board Member	<u> X </u>	<u> </u>
Scott Kelder, Board Member	<u> X </u>	<u> </u>
Jim Sofranko, Board Member	<u> X </u>	<u> </u>
Peter Friedel, Board Member	<u> X </u>	<u> </u>

Dated this 8th day of December, 2015

Dawn Giuditta, Town Clerk

Supervisor Rozzelle read aloud Resolution #28. Board Member Friedel wanted to discuss this resolution before voting, he requested a copy of the recording. Supervisor Rozzelle stated he was issued an official transcript of the meeting. Board Member Friedel stated that this was a witch hunt and a political thing. Supervisor Rozzelle stated it was not political but ethical. Board Member Kelder found the comment insulting and stated that it was not political and asked Board Member Friedel if he was saying the Attorney for the Town was political. Board Member Kelder stated the Attorney for the Town advised them on how to proceed with this issue. Board Member Friedel denied given authorization for the generator. Board Member Friedel stated the Commission is supposed to work autonomous from the Town Board.

On a Rozzelle/Kelder motion, the Town Board unanimously approved Resolution #28 of 2015.

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: Supervisor Rozzelle
Seconded By: Board Member Sofranko

A Vote was Duly Taken:

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

Dated this 8th day of December, 2015

Dawn Giuditta, Town Clerk

Board Member VanBuren abstained to look into it further and Board Member Friedel stated he "abstained because we did not vote".

