

PATTERSON TOWN BOARD MEETING
PATTERSON TOWN HALL
1142 ROUTE 311
PATTERSON, NEW YORK 12563
July 23, 2014

MINUTES

PRESENT: MICHAEL GRIFFIN, SUPERVISOR
KEVIN BURNS, COUNCILMAN
CHARLES W. COOK, DEPUTY SUPERVISOR
PETER DANDREANO, COUNCILMAN
SHAWN ROGAN, COUNCILMAN
ANTOINETTE KOPECK, TOWN CLERK
MICHAEL LIGUORI, TOWN COUNSEL

Salute to the Flag and Roll Call.

Supervisor Griffin called the Patterson Town Board meeting to order at 7:00 p.m. with 12 in attendance.

AUDIT OF BILLS

Mr. Cook made a **motion** to accept Abstract No. 13 as written:

General Fund \$106,865.26, Highway Fund \$195,061.77, Waste Water Treatment Plant \$11,431.09, Capital Fund \$10,742.50, Putnam Lake Light District \$1,103.73, Patterson Light District \$1,064.56, Putnam Lake Refuse District #1 \$20,454.55, Patterson Refuse District #2 \$9,600.81, Patterson Park District \$896.68, Putnam Lake Park District \$1,327.15, Alpine Water District \$1,725.00, Fox Run Water District \$20.95, Debt Service \$87,445.00, Grand Total Abstract \$447,739.05.

Seconded by Mr. Burns. Roll Call Vote: Mr. Burns, yes; Mr. Cook, yes; Mr. Dandreaano, yes, Mr. Rogan, yes; Mr. Griffin, yes.

KEVIN BURNS

HIGHWAY REQUEST(S) NEW HIRE

Mr. Burns made a **motion** to approve the Highway Superintendent, Russ Goff's request to hire Dennis Nichols to fill the vacancy of the MEO position.

Seconded by Mr. Cook. All In Favor: Aye. Carried.

PUTNAM LAKE DAM

Mr. Burns stated we are requesting an opinion from the Town Attorney regarding our use of funds to maintain the lake and the dam. The legal opinion, as I understand it, would be appropriate to use General Funds to repair the dam, but not to maintain the lake and that it would be appropriate to assess either or both of those costs to the District. Currently, I understand we do not assess (inaudible) to the District and I think at our last meeting we discussed the fact that there are safety issues related to neighboring properties.

Mr. Griffin stated essentially on what basis was the Town using General Funds to maintain the dam and the Attorney's opinion is essentially what you outlined. More people benefit from it than just the people in the Park District or the 13 maps, so it isn't an appropriate use of General Funds.

Mr. Burns stated I was surprised by No. 3, because he said both costs for repairing and maintaining the lake and dam may be properly assessed against properties within the District. We don't do that currently, we only assess the Park Lake District to that District. So, the question is, are we going to change that policy. He is not saying we have to, we can. Do you follow.

Mr. Griffin stated yes, I understand what he is saying in there, but he also puts the caveat in there that the dam.....

Mr. Burns stated (inaudible) benefit more than the District.

Mr. Griffin stated as of right now, to the best of my knowledge, the only time we ever expended money out of General Fund has been specific to the dam.

Mr. Burns stated right, I don't think there is a need to change our policy now. We are not making a motion, right.

Mr. Griffin stated yes, we did it, everyone was to review it and if they had any questions they should speak to the Attorney. Originally this was given to us as "Confidential Attorney Client" work product for discussion purposes. I assume everyone has had a chance to read and review this. Bruce do you have questions.

Mr. Major stated as of right now it is confidential. Once you move on it, I would like a copy and I will FOIL for it tomorrow morning.

Mr. Griffin stated ok.

Mr. Cook stated and since we discussed it tonight, it is no longer just a work.....

Mr. Major stated that is what I have to wait for.

Mr. Griffin stated it will be available in the Clerk's office tomorrow morning.

Mr. Major stated thank you.

CONFERENCE REQUEST(S)

Mr. Burns made a **motion** to approve three (3) conference requests as submitted.

Seconded by Mr. Cook. All In Favor: Aye. Carried.

PETER DANDREANO

TRAFFIC DETOUR – ROUTE 311

Mr. Dandreano stated this is in reference to the MTA Project to fix the crossing right out front. MTA does not have a date on this but they say it will be prior to the start of school in September. I have a memo from David Raines, Fire Marshall. He submitted a detour plan to reroute traffic. He is proposing approximately two to three weeks prior to the closing to put up electric signs to be installed at Route 311, west bound in the vicinity of the A&P and Route 311, east bound in the vicinity of I-84 near the park and ride. The sign should read Route 311 closed at rail road crossing, use alternate routes, dates should be included on the sign.

Mr. Griffin stated I received a phone call late today from Jeff Hamel. They have a tentative date of September 12, 2014 and reopening the road at 4:00 a.m. on September 14, 2014, but they will be paving one side and watering it down so it cools off and then paving the other side. Our Town Planner recommended a third sign or move the sign from I-84 to somewhere in the proximity of Route 292. We will reach out to the DOT and see if they want to bring us a third sign or we will move the other sign.

PUTNAM LAKE FD – APPROVE NEW MEMBERS

Mr. Dandreano made a **motion** to approve Kaitlyn Roth and Kamal Johnston as new members to the Putnam Lake Fire Department.

Seconded by Mr. Rogan. All In Favor: Aye. Carried.

Mr. Dandreano made a **motion** to add one item to his agenda.

Seconded by Mr. Rogan. All In Favor: Aye. Carried.

Mr. Dandreano made a **motion** to hire the three (3) swim team coaches for the Putnam Lake Swim Team. Head Coach, Monique Lawlor at \$9.60/hr.; Assistant Coach, Molly Roche at \$6.10/hr.; and Assistant Coach, Katelyn Dolan at \$4.40/hr. They should all have 120 hours for the season.

Mr. Rogan stated are these hourly rates correct.

Mr. Griffin stated yes.

Mr. Burns stated can we pay someone \$4.40 an hour.

Mr. Rogan stated that is what I was going to ask.

Mr. Dandreano stated Patricia Brooks, Town Comptroller asked the Department of Labor if we can go below the minimum wage and they approved it. They said it is okay since the beach is only a short season.

Mr. Cook stated I sent an email out late this afternoon after receiving this. My take is where Trish says about the intended pay for the season for Head Coach \$1,100.00, Assistant Coach 1 \$700.00 and \$500.00 for Assistant Coach 2, that's what we should pay them, whatever that hourly rate comes out to be and if more hours are required then we just make a budget adjustment at the end of the season.

Mr. Burns stated it is self funding and is raised by fees charged for the lessons.

Mr. Burns made a **motion** to amend the motion to go with these hourly rates to the extent that if they exceed the 120 hours we will authorize additional time to be paid.

Seconded by Mr. Rogan. All In Favor: Aye. Carried.

CHARLES COOK

COMCAST AGREEMENT

Mr. Cook introduced the following **Resolution for Renewal of Cable Television Franchise with Comcast of New York, LLC:**

R-0714-02

WHEREAS, the Town Board of the Town of Patterson ("Town") previously authorized and permitted Comcast of New York, LLC ("Comcast") to construct, install, repair, operate and maintain a cable television system on and under the streets, highways and public places within the Town pursuant to a certain franchise, which commenced on May 19, 2006; and

WHEREAS, the Town Board has considered Comcast's technical ability, financial conditions and character, and its plans for constructing, maintaining and continuing to operate the Town's cable television system; and

WHEREAS, the Town Board desires to renew the non-exclusive cable television franchise with Comcast for a period of ten (10) years on the terms and conditions set forth in the "Renewal of Cable Television Franchise for the Town of Patterson, New York" (the "Franchise"), annexed hereto and hereby made a part hereof; and

WHEREAS, the terms of the Franchise are subject to the approval of the New York Public Service Commission;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Patterson hereby approves the renewal of the non-exclusive cable television franchise with Comcast of New York, LLC on the terms and conditions set forth in the annexed Franchise; and

BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized and directed to execute the annexed Franchise with Comcast and any and all other documents necessary to give effect to this Resolution, consistent with the terms hereof, all in form satisfactory to the Supervisor and the Town Attorney.

Seconded by Mr. Burns. All In Favor: Aye. Carried.

SHAWN ROGAN

ZBA RECOMMENDATION – BUCCIERI REQUEST

Mr. Rogan stated the above applicants are requesting relief for the construction of a pool. While they did the work out there, there were two existing sheds that were on the property that also required variances. The Town had charged, in essence, a doubling of fees on those variances for the existing sheds, and the Zoning Board is recommending that \$200.00 is returned to the applicant.

Mr. Rogan made a **motion** to refund the Buccieri's \$200.00 on this application fee. They paid a total of \$636.00 initially, so it would make their fees minus \$200.00.

Seconded by Mr. Dandreano. All In Favor: Aye. Carried.

ANNOUNCEMENTS

Mr. Rogan stated this weekend; July 24 through July 26, 2014 is Patterson's Volunteer Fire Department Carnival on Thursday and Friday 6:00 p.m. to 10:00 p.m. and Saturday 4:00 p.m. to 11:00 p.m. The parade is Friday night at 7:00 p.m. and the Town Board is invited to be on the reviewing stand on Friday night for the parade.

Mr. Rogan stated this coming weekend starting on Friday, July 25, 2014 is the annual Putnam County 4H Fair at the Veterans Memorial Park on Gypsy Trail Road in Carmel. That is a great event that I hope people will turn out to support.

Mr. Rogan stated this weekend; July 26, 2014 at the Recreation Center is the All American Concert, which is free, starting at 7:00 p.m. On August 6, 2014 will be the Military Concert, Southern Dutchess Concert performing a free show at 7:00 p.m.

MICHAEL GRIFFIN

BQ ENERGY – LEASE AGREEMENT RESOLUTION

Mr. Griffin introduced the following **Resolution for Solar Lease Agreement with PatterSun, NY LLC:**

R-0714-03

WHEREAS, PatterSun, NY LLC ("PatterSun"), an affiliate of BQ Energy, LLC, desires to lease certain land from the Town of Patterson located at 271 Cornwall Hill Road, Patterson, New York (the "Premises") for the installation and operation of a solar electric generating facility (the "Facility"); and

WHEREAS, the Premises is a portion of the site of the former Patterson landfill which is the subject of a closure plan approved by the New York State Department of Environmental Conservation; and

WHEREAS, the Town Board previously authorized, and the Town Supervisor executed, on the Town's behalf, an Option Agreement, which provided for a Solar License Agreement, for the Premises with BQ Energy, LLC; and

WHEREAS, the Lease Agreement referred to herein is intended to and will, upon execution of an agreement between the Town and BQ Energy, supercede and replace said Option Agreement; and

WHEREAS, the Town Board of the Town of Patterson desires to lease the Premises to PatterSun for the installation and operation of the Facility on the terms and conditions set forth in the Solar Lease Agreement (the "Lease Agreement"), a full and complete copy of which is annexed hereto; and

WHEREAS, pursuant to a certain Remote Net Metering Agreement and Sublease by and among PatterSun and Trinity-Pawling School, a full and complete copy of which is annexed hereto, PatterSun will be obtaining financing from Manufacturers and Traders Trust Company ("M&T") for the installation and operation of the Facility, and as a condition thereto M&T has required that the Town execute (i) a certain Landlord Waiver, Consent and Agreement (the "Waiver") to extend such financing to PatterSun; and (ii) a certain Subordination, Recognition and Attornment Agreement (the "SRAA"), full and complete copies of which are also annexed hereto;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Patterson hereby approves the lease of the Premises for the installation and operation of the Facility on the terms and conditions set forth in the Solar Lease Agreement annexed hereto; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Patterson hereby authorizes and directs the Supervisor to execute the annexed Solar Lease Agreement with PatterSun, and the Waiver and SRAA, and all other documents necessary to give effect to this Resolution, consistent with the terms hereof and in such form as is satisfactory to the Town Planner and Town Attorney; and

BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized and directed to sign an agreement with BQ Energy, LLC, confirming that the Lease Agreement supercedes and replaces the Option Agreement, in the form annexed hereto.

Seconded by Mr. Burns.

Mr. Major stated I would like to discuss this. When you brought up the topic of their lease, I raised concerns about if they walk away the removal of all that equipment can be very expensive, some of it is actually toxic. I recommended that the Town Board look into them being required to have an insurance policy to insure that if 20 or 25 years from now they walked away with their money and they just walk away from it, they are an LLC, so you won't be able to sue them, that there is an insurance policy in place, so that the residue that is left on that property doesn't become a cost factor for the residents of the Town of Patterson. Thank you.

Mr. Williams stated the lease provides for a 20 year lease with two potential five year extensions. At the 20 year mark, they are requiring to post a bond to ensure that they remove the equipment from the site if they chose to abandon the project.

Mr. Major stated why 20 years.

Mr. Williams stated because they are so valued to the equipment prior to 20 years. The 20 years is really reaching its useful life, so we were concerned, you did raise the issue before and we did take another look at that and we thought it was appropriate to post a bond to remove the equipment in 20 years. That is the way it is written.

All In Favor: Aye. Carried.

TOWN PLANNER'S MEMO – NEW HIRE

Mr. Griffin made a **motion** to approve the recommendation from the Town Planner to appoint Mary Elizabeth Schartau to the position of Secretary of the Zoning Board of Appeals at \$16.50 per hour (annually \$30,030.00) pending all paperwork and to move Sarah Mayes to the position of Planning Board Secretary and increase her annual salary to \$20.00 per hour starting immediately (annually \$36,400.00) to commensurate with the new position. There is no fiscal impact, as the funds for the salary increase are within the department's budget.

Seconded by Mr. Cook. All In Favor: Aye. Carried.

OTHER BUSINESS

Mr. Cook stated I would like to acknowledge that we received from the Patterson Fire Department that they notified us that the following individuals have been removed from the roles of membership for the Patterson Fire Department. They will be removed from the Fire Department Insurance Program:

Patrick O'Connell
Sherry Citron
David Cho
Danielle French

Mr. Cook stated I would also like to acknowledge that the Patterson Fire Department has sent us their first report and interesting enough it covers the activity report for the second quarter of 2014. We will have to chat with them about the first quarter.

Mr. Cook stated we received notification from Greg Ball that the project notification form has been submitted to the State Finance Department for \$60,000.00 for the Veterans Memorial Park. Once we get the paperwork and they send us a check, we will have that money to go toward all the improvements that took place at the park.

PUBLIC RECOGNITION

Ms. Dede Lifgren stated I was going to comment on some of the discussion that went on at the July 9, 2014 meeting and I just got an opinion from Mike Liguori that has affected some of what I have to say. To my knowledge none of the restaurants have been informed on any decisions, so I'm not clear yet if anything has been made. The residents in the neighborhood have notified the Town of the smoking and the restaurant has caused negative impact in the area with excessive smoke, odor, noise and operations go on all night long. The Town was asked if it could do something to mitigate the odor and smoke, perhaps filters or sound barriers. If I interpret it correctly, what was said that night, perhaps some of what is in the opinion here is that basically there is no action under the code. Of course, from the viewpoint of those impacted by the discharge and those close enough to hear industrial fan and compressors 24 hours a day when nothing existed before, it still doesn't compute that the Town can do nothing to restrict the restaurant from causing those impacts. If this is the case, then every burden, including possible decrease in property value and impact to the quality of life in this area has to be borne by the residential district, without any reciprocal responsibility whatsoever placed on the restaurant. As I understand it, the purpose of the zoning code seeks to find a beneficial relationship and healthy coexistence between each district, in this regard; I think there is a failure in the code to do so. I would like you to consider, based upon what was said at the July 9, 2014 meeting, the argument that the same use as a restaurant perhaps should not automatically protect this business from every impact it places on the neighborhood. It's not only unfair, but ill-defined if everything they do is covered by the same clause. Using information from their own website and Facebook page, the owners openly discuss how their catering and vendoring service operates as an outside function and supplies fairs and carnivals. I would ask why it would also fall under the same use without any review at all, especially if extra cooking hours and operation through the night is necessary to supply it. I would suggest that these double duty services contribute to the reason why so many smokers, fans (inaudible) are required in the first place, because extra demand only adds to impact, noise level and the cooking hours. A normal restaurant serves customers from the restaurant during open business hours. The owner themselves are admitting that extra hours are needed to smoke for all these non-restaurant outside events, so it's difficult to understand why these extra activities could not be limited or why they automatically fall under the same use instead of an additional one. I would appreciate if you would consider that point. I have some questions, but I will review the opinion before I go further.

Ms. Lifgren continued, I would just like to say we have lived adjacent to a commercial district for 26 years without any of these kinds of impacts. Some of my neighbors double that time. It just doesn't seem right that one restaurant has the freedom to impact so many and get away with it. It's just sad.

Mr. Liguori stated I would like to say to the Board, Dede and I had a few minutes to talk outside and I'm certainly going to take a look at the catering and vendoring and discuss that with Bob McCarthy, because our definition of "restaurant" is intended for consumption on site. Bob and I will take a look at that and we will also take a look at the noise issue. Bob and Dede had a discussion that Dede was telling me about and I will look at that with Bob too. I think Bob's response to Dede on the noise issue was almost in the nature of going out there and measuring, but not being able to certify it, kind of like a speeding ticket. You get a speeding ticket and if you have a trial on it, the Trooper will actually testify to verifying the radar. There is a process that goes on, but I will take a look at it with Bob. I looked at Public Nuisance and the Zoning Code and what I would want to be there just wasn't there. I will report back to the Board.

Mr. Burns stated have we tried to sit down with the owners to say there are issues with the community and what can be done without any actions being done by the Town or residents.

Mr. Griffin stated everything has been handled through Codes Enforcement. The other question is, is there any place else they can do their overnight smoking.

Ms. Lifgren stated I think Dave Raines has been discussing certain aspects. On Facebook we have been going back and forth without good success. There hasn't been any measurement of noise.

Mr. Griffin stated it's pretty tough. Rich took some measurements in the back of someone's house that is close to the rail road tracks and they actually didn't go over the 83 decibel.

Ms. Lifgren stated well this is 45 and it's chronic.

Mr. Griffin stated we do have the ability to check that and we will ask Bob to do some monitoring.

Mr. Cook stated Mr. Liguori if you won't be at the next Town Board meeting, please have Don have a memo on this to follow-up.

ADJOURNMENT

There being no further business, Mr. Cook made a **motion** to adjourn the Town Board meeting at 7:30 p.m.

Seconded by Mr. Burns. All in favor: Aye. Carried.

Respectfully Submitted,

Antoinette Kopeck, Town Clerk