

Town of Niles
Regular Meeting
March 11, 2010
Niles Town Hall

Present: Rickey Slagle, Supervisor
Alberta Winters, Councilwoman
Bernard Juli, Councilman
Clarence Edmonds, Councilman
Barbara Eberhardt, Councilman

Others: Rich Winters, Dick and Lorna DeWitt, Fred Eberhardt, John Nolte, Bill Sheppard, Brian and Ken Stoyell, Stacey Morris, Charlie Mellor, Albert Mantey, Fred Covert, Glenn Porter, Douglas Weed, Dale Weed, Allan Badman, Mary Osgood and Brody Smith..

The meeting was opened at 7:00 by Supervisor Slagle with the Pledge of Allegiance to the Flag.

February 11, 2010 Meeting Minutes

Minutes were reviewed and approved with the correction of the History Room item to read as follows: The Board will look into the cost of completion of the basement with the intent to move the History Room. Motion was made by Councilwoman Winters and seconded by Councilman Juli to approve the minutes as amended.

Brian Stoyell- Eagle Scout Project

Brian presented his project to improve the Millard Fillmore Boyhood Home Site picnic area and asked to be funded by the Town of Niles for gravel and material cost of \$200. Councilwoman Winters made a motion and was seconded by Councilman Edmonds to fund the project. It was approved by all with Councilwoman Eberhardt abstaining as Brian is her grandson.

Meeting was opened to the floor

Dale Weed asked to read his letter (see attached) regarding the interpretation of the "Junkyard Law for the Town of Niles". He posed several questions and asked for a 1yr moratorium on the enforcement of the existing law and requested a written response per the NYS Open Meeting Law. Supervisor Slagle will address this issue. He also said that he could not reply within 5-10 days, which was not a problem with Mr. Weed.

Bill Sheppard asked if the Board had changed the rate of payment for Board members from Hourly to per session. Supervisor Slagle said that the rates were intended to be the same and he would review.

Dick Dewitt questioned the response of Councilman Juli for the sale for the pickup truck at last months meeting and had the Board approved the sale location. Also was it required to have a resolution to dispose of a fixed asset? Supervisor Slagle will check last years meeting minutes to confirm that this was done at the time the purchase of the new truck was approved.

Councilwoman Eberhardt requested that anyone interested in the senior citizen trip to Pigeon Forge, please call Elaine Axton as she is looking for 5 more people or the trip may be canceled.

Town Attorney and Town Engineer

A slide with the definitions of “Attorney for the Town” and Town Attorney” was reviewed and discussed to answer the question posed by Dick Dewitt at last months meeting.

Resolution #2010-23. Be it resolved that the Niles Town Board re-establish a Town Clerk Petty Cash fund of \$200.00. Motion was made to approve the resolution by supervisor Slagle and seconded by Councilwoman Eberhardt. Roll call: Edmonds, Eberhardt, Slagle, Juli, and Winters were ayes. Resolution passed.

Resolution #2010-24. Be it resolved that the Niles Town Board establishes a permit fee of \$50 for prefabricated storage sheds less than 12 feet by 20 feet. Motion was made to approve the resolution by Councilman Juli and seconded by Councilman Edmonds. Roll call: Edmonds, Eberhardt, Slagle, Juli, and Winters were ayes. Resolution passed.

Assessor:

Mr. Stanford stated that the re-valuation was moving forward and the data was being verified out in the field. He is requesting a Data Clerk for a temporary position to assist in confirming lake properties are accurate. He would like the position to start May 1st, Supervisor Slagle said that it would entail about 500 properties and wants to interview the candidate. Councilman Edmonds asked what the ramifications were if the data was not entered within NY States require 1yr period. Mr. Stanford was unsure of the penalty if any.

Code Enforcement:

Mr. VeVone stated that building permits will now be going to the Assessor so improvement will not be missed as in the past. Also noted was a demolition permit is needed to remove structures and would be needed to remove structured from the tax roll.

Town Clerk:

Mrs. Nolte was not present due to illness and there was no report.

Highway:

Mr. Steger reported that they had pushed the snow away from the ditches to allow any rain/run-off to flow better.

He went to Albany with about 15 other representatives of Cayuga County and stated the representatives are reviewing a 5yr plan and suggesting a date change for the budget completion be moved to June 1. Concerns were voiced that the new date will be to close to the start of road work for towns to budget for the CHIPS funds.

There have been equipment issues with the grader and Mr. Steger asked the Board to think about the need to upgrade this piece of equipment. Having a wing on the grader would benefit the upkeep of the roads and help in snow removal. Supervisor Slagle noted that there have been 3 instances of damage to the “dualie” with the wing attachment.

Mr. Steger agreed and had added parts to stabilize the wing and has ordered parts to have on hand.

Attorney:

Mr. Smith had helped the clerk with some forms that required updates. He also drafted a lease for Stacey Morris, as required by NYS, to lease the kennels for \$1 per year. A motion was made by Councilman Juli and seconded by Councilwoman Eberhardt to approve the lease agreement. Mr. Smith will send the paperwork to the state.

Supervisor Slagle advise that the windmill information was passed on to the Planning Board at their last meeting.

2010 Census –forms are being mailed March 15th and on March 19th the” Assistance Center and Be Counted” sites will be opened. Supervisor Slagle said the Town Hall will be sited for use. April 1 is Census Day and May 1 workers will start knocking on doors.

Broadband Update—Supervisor Slagle stated that we will not be funded on our application at this time. Senator Schumer and Councilman Arcuri have been helpful with the application process. We are in the process of applying to the second round by March 29, 2010.

Judges Bench—is in construction phase and should be completed by next month.

Town Barn water issue—VIP and Hardy Construction met and confirmed it is a humidity issue. The insulation will be reinstalled. The crew is now removing melted snow with a squeegee and there may be a need for a de-humidifier.

Work Place Violence Policy— A neighboring town has been cited for not having a policy in place. Supervisor Slagle and Mr. Smith will work on a draft to present to the board. An SOP has also been started by Supervisor Slagle to improve the efficiency of the Board.

Williamson Contract— A motion was made by Councilman Juli and seconded by Councilwoman Winters to sign and pay the contract for Highway, Payroll and Municipal Accounting modules. Roll Call: Edmonds, Eberhardt, Slagle, Juli, and Winters--- all voted in favor.

Abstracts:

A motion was made by Councilman Juli and seconded by Councilwoman to pay the abstract as noted with the addition of the Williamson contracts and the Bond, Shoeneck & King Invoice. All voted in favor.

Creamery update: Councilman Edmunds has been working on a proposal and will be ready to present it next month.

Other Business:

Financial School in Rochester: School will be April 5-7 if anyone is interested in attending the town will pay the fee.

Feher Rubbish has requested payroll information in accordance with the Freedom of Information Act and Supervisor Slagle and Mr. Smith will sent the information by 3-19-10.

Cascella billing issues from January have been resolved.

The Board of Elections has sent a form regarding the disposal of the old lever voting machines. Councilman Winters stated that the town bought one of the machines and it should be kept for the History Room. A motion was made by Councilwoman Winters and seconded by Councilman Edmonds to keep the machine the town had purchased and let the Board of Elections dispose of the second machine.

Executive Session:

A motion was made by Supervisor Slagle to go into Executive Session at 8:03 to discuss a pending litigation and was seconded by Councilman Edmonds. All voted in favor. Supervisor Slagle noted that there would be no other business discussed after this session.

Regular Session:

A motion was made at 8:48 by Councilwoman Winters and seconded by Councilman Juli to return to regular session. All voted in favor

Adjourn:

A motion was made at 8:49 by Councilman Juli and seconded by Councilwoman Eberhardt to Adjourn. All voted in favor.

Respectfully Submitted by,
Barbara A. Eberhardt

Dale Weed
181 York St, Auburn, NY 13021
March 11, 2010

Dear Town of Niles Town Board;

I am providing this written request for written answers to questions concerning the interpretation of the "Junkyard Law for the Town of Niles" as follows:

1. Does the Junkyard Law define the New Hope Mills millstones, overshot waterwheel, and other outside displayed or stored antiques as "JUNK"?
2. Based on the inclusion in the definition of " GENERAL JUNKYARD (NOT AUTOMOTIVE)" in Section 123-5 of the Junkyard Law, of the wording:

"... any material or materials which are used, ... but are capable of being reused in some form; including but not limited to metals; ... fibers; ... rubber; ... machinery which is not self-propelled; tools; appliances; ..."

would the following items be considered to be included in that definition of "JUNK":
outside stored picnic tables, barbeque grills, swing sets, firewood, lawn or garden ornaments and implements, lawn and patio furniture, standing fences, hoses and sprinklers used for watering lawns and gardens, swimming pools?

If not, why?

3. In fact, based on the wording "... any material or materials which are used ..., but are capable of being reused in some form; including but not limited to ...", what items stored outside would not be considered as "JUNK"?

According to the above wording, and based on events that have transpired in recent years on this Junkyard Law, the definition of "JUNK" could be interpreted to include almost everything and exclude almost nothing. In fact, the author of this law - Attorney Richard Zwirn, confirmed publicly last week that he is now unsure of the interpretation of this law (which he wrote 21 years ago), and never ever anticipated that it would be interpreted and applied as now has been done.

I am requesting that the Town Board of the Town of Niles put a one-year moratorium on the enforcement of this Junkyard Law so that it can be rewritten in such a manner that not only attorneys, but lay men and women, can easily read and understand how the law is to be applied, and with proper exemptions included that exempt agricultural operations and businesses, and also historic artifacts.

As noted at the beginning, I am requesting a written response to this letter, which - recognizing the time constraints of the NYS Open Meeting Law on this town board, I am requesting within 5 to 10 days.

Thank you,

