

MINUTES January 24, 2017

Minutes of the meeting of the Town Board of the Town of Durham held January 24, 2017 at the Town Hall commencing at 6:00 pm.

**Present:** William Carr, Supervisor  
Joan Breslin, Council Member  
Jerry Cunningham, Council Member  
Nick Nahas, Council Member  
Shawn Marriott, Deputy Supervisor

**Recording Secretary:** Janet Partridge, Town Clerk

**Others Present:** David Cunningham, Building Inspector  
Mark Overbaugh, Code Enforcement Officer  
Thomas Sutton, Police Sergeant  
Linda Sutton, Police Dispatcher  
Cindy Moore, Bookkeeper

Supervisor Carr called the meeting to order at 6:07 pm with the Pledge to the Flag.

Supervisor Carr called Attorney Tal Rappleyea to have him on speaker throughout the meeting since the weather prevented him from getting to the meeting.

Supervisor Carr provided an overview on the timeline of events pertaining to the appointment of Mark Overbaugh on January 3, 2017 as our Code Enforcement Officer. His recollection was that the board agreed during the budget process at the end of last year that the CEO would change from a salaried position in 2016 to an hourly paid position in 2017. The rate would be \$18/hour and the CEO would work 10 hours a week. He also explained Lenny Asaro would not be reappointed as CEO, and the new appointee would be Mark Overbaugh.

Supervisor Carr met with Overbaugh last week to go over his appointment. During the meeting, he felt Overbaugh had questions about duties and compensation for the position. All of these questions led to the special meeting tonight.

Councilmember Breslin clarified that the 10 hours per week was not brought up as a limit but they were figuring about 500 hours a year and on average 10 hours per week with the understanding that there will be times throughout the year that less would be needed and other times more hours would be needed to perform the duties. Councilmember Nahas then explained what data that they used to come up with an average of 500 hours a year.

Since the CEO signs off on the department's report to NYS, Overbaugh believes he is responsible for Building Inspector Cunningham's work and should be involved in more of the inspections. Therefore he will have to put together more reports and that will take more hours. He feels not everyone is on board with the same guidelines and compensation for the CEO position and he would be more comfortable if a consensus would be met.

MINUTES January 24, 2017

Supervisor Carr opened the meeting up to a discussion on the 2015 Town Building Law. Attorney Rappleyea reminded the board he recommended against the law in 2015 and he would like the current board to repeal the law. Councilmember Nahas has gone over the NYDOS Legal Memorandum LG03 and believes the town is in compliance with the minimum standard. He would like the board to go over the 13 compliances for minimum standard. Attorney Rappleyea has read this memorandum and he doesn't believe our law falls in the requirements of the New York State. Councilmember Nahas would like to go over it to see where our town does not fall in.

Overbaugh asked for clarification on the duties of CEO advised by NYS and what are the duties set by the town. Attorney Rappleyea believes the state advises on a broad base and the town should fine tune it. Under our current law he feels it is still too broad based.

Deputy Marriott asked if we are in compliance with the state in the duties of the CEO and Building Inspector. Attorney Rappleyea has not looked into that.

Discussion began about what would work best for the office of CEO, hourly or salary pay. Since the job is seven days a week, with issues popping up at all hours, consensus was it should be a salaried. Furthermore, with issues needing both CEO and Building Inspector to be involved, Overbaugh was asked if he could agree to \$12,000/year. He felt he could execute the job for the town at that agreement.

Overbaugh and Cunningham agreed they could work together and report to the board.

**Deputy Supervisor Marriott moved to amend the 2017 Organizational Resolution to read \$12,000 salaried payment for Code Enforcement Officer, seconded by Councilmember Breslin, all in favor, carried.** (5-Yeas, Carr, Breslin, Cunningham, Nahas, Marriott)

Councilmember Cunningham will not be at the next meeting. He hopes the board really looks at the town employees' hourly pay across the board, especially the highway department, and comes up with a pay scale to increase their rates according to years of service. He feels in order to keep our employees; we need to pay them accordingly. He stated he is in favor of increasing MaryEllen Brooks' hourly rate along with Lois Rockefeller's hourly rate.

Discussion returned to the Building Code Law of 2015. Rather than repeal the Law since it is structured on the 2009 Law that is directly from the State, Councilmember Breslin suggested revisiting it and amending the sections that Attorney Rappleyea has issues with. Supervisor Carr suggested looking up the memos Attorney Rappleyea sent a while ago outlining these issues, so the board members can review them before they go any further. Deputy Marriott wants our law to stand up on its own merits. He is in favor of revisiting the Law and making adjustments to move forward with this issue and have everyone work together in a professional manner. Councilmember Cunningham agreed.

Attorney Rappleyea will find the email from earlier and highlight the enhancements he feels necessary, and share it with the board to review.

NYS will not audit the Building Department unless there a request or claim is brought to them by the town. Deputy Marriott would like to wait to contact the State until the board comes to an agreement on the 2015 Law and Building Inspector Cunningham and CEO Overbaugh have time to work together. He would like

MINUTES January 24, 2017

everyone working together. Supervisor Carr will not ask the State to come in but will wait for them to want to come.

**Councilmember Nahas motioned to adjourn, seconded by Councilmember Cunningham, all in favor, motion carried.** (Yeas-5, Carr, Breslin, Cunningham, Nahas, Marriott)

Respectfully submitted,

---

Janet Partridge  
Town Clerk/Collector