

June 13, 2013

The regular meeting of the Town Board of the Town of Warwick was held on Thursday, June 13, 2013 at the Town Hall, 132 Kings Highway, Town of Warwick. Supervisor Sweeton called the meeting to order at 7:30 p.m.

ATTENDANCE: Supervisor Michael Sweeton
Councilman Floyd DeAngelo
Councilman Russell Kowal
Councilman James Gerstner
Councilman Mickey Shuback

**Town Attorney, John Hicks – Absent
Deputy DPW Commissioner, Benjamin Astorino
Police Chief, Thomas McGovern, Jr.**

PRESENTATION OF AWARDS: POLICE CHIEF THOMAS F. MCGOVERN JR. Police Chief, Thomas McGovern. Lieutenant Thomas Maslanka and Lieutenant John Rader read and presented the following commendation to Police Officer Michele Kozlowski with a citation to be worn on her uniform and a commendation will be placed in her file for assisting an unconscious victim in a stream into safety. Police Officer Steve Pascal was presented with a citation to be worn on his uniform and a commendation placed in his file for assisting a 20 year old male having a seizure. Police Officer John Harter, Police Officer Thomas Welch, Sergeant Alton Morley, Detective Gary Sisco and Police Officer Peter Guastamacchia who was not present for the award were presented with a commendation and a citation to be worn on their uniforms for assisting with an armed robbery in the Village of Warwick.

Supervisor Sweeton – On behalf of the Board certainly and the residents of the Town we appreciate the job that you do each and every day. I said many times before most people never get to know half of what you folks do, so we're very grateful and we thank you and we are very proud of all of you.

ACCEPTANCE OF MINUTES

1. Regular Meeting, May 23, 2013

Motion Councilman DeAngelo, seconded Councilman Kowal to accept the minutes as written from the Regular Meeting held on May 23, 2013.

Motion Carried (5 ayes, 0 nays)

CORRESPONDENCE:

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Memo to the Town Board requesting a budget transfer from Plymouth Rock Insurance in the amount of \$1,090.77 to the Police Auto Maintenance budget line (B02.00.3120.403).

THOMAS F. MCGOVERN, JR. – Police Chief, Town of Warwick Police Department – Memo to the Town Board recommending that Nickolous Passamano be appointed as a part time Police Officer effective July 5, 2013.

DEBORAH EURICH – Assessor, Town of Warwick – Letter to the Town Board requesting approval to attend the Institute of Assessing Officer’s Seminar on Appraising at Cornell University July 16-20, 2013. Funds have been appropriated for this training in the current budget.

DAN DOYLE – 10 Fence Rd., Warwick, NY 10990 – Application submitted to the Town Board and the Town Clerk requesting participation in the Town of Warwick Agricultural Protection Overlay District.

CONNIE SARDO – Planning Board Secretary, Town of Warwick – Letter to the Town Board requesting that Parkland Fees in the amount of \$7,500.00 be refunded to Lehigh & Hudson Professional Building, LLC as the applicants amended their application to file the subdivision in sections.

CONNIE SARDO – Planning Board Secretary, Town of Warwick – SEQR Notice of Public Re-Scoping for Homarc Office, Retail and Food Service Development was distributed to the Town Board. The Town of Warwick Planning Board, as SEQR Lead Agency, is reviewing Site Plan and Special Use Permit applications from Homarc Land, LLC for a proposed development of a ±5.1 acre parcel on State Route 94 near Warwick Turnpike.

RICHARD MURTIE – Barbecue Express, LLC, 172 Route 94 South, Warwick, NY 10990 – Letter to the Supervisor and Town Board stating his dissatisfaction with the Building Inspector because a customer canceled a large event that was to be held at his establishment on May 3, 2013 following a telephone call placed by the Building Inspector who indicated that the restaurant could not facilitate the number of people who were to attend. Mr. Murtie states that no Notice of Violation or any other kind of communication was received from the Building Dept. prior to this event.

JOHN D. SCORE – Principal Public Health Sanitarian, Department of Health, 124 Main St., Goshen, NY 10924-2199 – Letter to Wayne Stevens, Building Inspector, in response to his inquiry dated May 23, 2013. “Barbeque Express, LLC currently has been issued a permit to operate a food service establishment at 17 Route 94 South in the Town of Warwick that expires on June 30, 2013 and limited to a seating capacity of 19 persons. Our records indicate that Barbeque Express, LLC has also applied for a permit to operate a catering operation on May 21, 2013. That permit has not been issued at this time.” The letter goes on to define the difference between a food service establishment and caterer as per Subpart 14-1 of the New York State Sanitary Code.

ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY – County Government Center, 255 Main Street, Goshen, NY 10924 – Notice to the Town Supervisor that on June 10, 2013 at 9:00 a.m. at the Florida Village Offices, 33 South Main St., Florida, NY 10921, the Orange County Development Agency will conduct a public hearing regarding Pharmline, Inc.

BOARD’S DISCUSSION ON CORRESPONDENCE

VISITING ELECTED OFFICIALS

REPORTS OF BOARDS AND COMMISSIONS

- 1. Katie O’Reilly – Warwick Valley Central School District Liaison**

COMMITTEE REPORTS

ENVIRONMENTAL CONSULTANTS REPORT

Town Of Warwick-Water and Wastewater Operations Report-May, 2013

Wickham Water District

Wells #1, #5 #6, #8, #10 monthly production	2,604,900 gal
Average daily use	86,800 gal
Sodium Hypochlorite used	172 qt
Orthophosphate used	72 qt
Caustic Soda	90 gal

Bellvale Park Water District

Total monthly production	102,300 gal
Average daily use	3,300 gal
Sodium Hypochlorite used	4 qt

Eurich Heights Water District

Total monthly production	219,100 gal
Average daily use	7,100 gal
Sodium Hypochlorite used	9 qt
Orthophosphate used	24 qt

Pine Island Water District

Total monthly production	239,800 gal
Average daily use	7,7000 gal
Sodium Hypochlorite used	20 qt

Westside #1 Water District

Total monthly production	2,686,100 gal
Average daily use	86,100 gal
Sodium Hypochlorite used	180 qt
Orthophosphate used	108 qt
Caustic Soda	20 gal

The Fairgrounds

Total monthly production	300,300 gal
Average daily use	9,700 gal
Sodium Hypochlorite used	20 qt

Sewer District #1 Wastewater Treatment Facility

Mid-Orange Correctional District	0 gal	0%
Wickham Village District	2,352,141 gal	57%
Kings Estates District	1,774,909 gal	43%
<u>Total District Flow</u>	4,127,050 gal	100%
<u>Average Daily Flow</u>	131,131 gal	

All facility maintenance has been done for the month. (Oil grease, filters)

The belt press ran for 42 hrs. and 5.5 gal of polymer was used.

40 cu. Yd. of sludge and 7.5 cu. ft. of grit were removed from the site this month.

Sewer District #2 Wastewater Treatment Facility – The Fairgrounds

<u>Total District Flow</u>	212,141 gal
<u>Average Daily Flow</u>	6,843 gal

DEPARTMENT OF PUBLIC WORKS

WORK BEING

DONE

LOCATION

REASON FOR WORK

CULVERT PIPES	20 East Shore Rd. & 26 East Shore Rd.	Install 140' x 12" HDPE pipe and 24" x 24" catch basin
CATCH BASINS	Kings Estates	Repair basins
DITCH WORK	Blooms Corners Rd. Bellvale Lakes Rd.	Clean ditches Clean ditches
MOWING	Town wide Town wide	Roadside mowing Medians & cul-de-sacs
POT HOLES	Town wide	As needed

ROAD SIGNS	Town wide	As needed
HAUL		
MATERIAL	Haul # 1A stone	To stockpile

COUNCILMAN DE ANGELO REPORT

1. On June 14th “Zumba For The Cause Party For The Paws” at the Warwick Valley Middle School at 225 West Street with a tricky tray and 50/50 and all proceeds to benefit the homeless animals at the Warwick Valley Humane Society. For further information please contact Michelle at the Warwick Valley Humane Society at 986-2473 or Anne at 494-0413.

2. On June 14th at the Thomas P. Morahan Waterfront Park in Greenwood Lake there is a George F. Baker Choir Concert at 6:00 p.m.

COUNCILMAN KOWAL REPORT

1. As always, it is a pleasure to be asked to participate in the events on Memorial Day. I was in Pine Island and Warwick this year.

2. On June 1st the Warwick Valley Gardeners had their annual plant sale at the Pine Island Park. A lot of people came up to me with numerous compliments on how well maintained the park was and they were really happy with the new bathrooms that were refurbished. I think they had a record sale amount for the plants and I hope they come back again next year.

3. The material being added to the Union Corners Park, the topsoil, is being done.

Deputy DPW Commissioner Astorino – Stated the last four loads were delivered this morning and they are going to level it with the land leveler.

Supervisor Sweeton – That’s the soccer club and they are covering that drainage area with soil and then seed it which will widen that field a little more for them.

4. The athletic fields in Greenwood Lake are coming along, Councilman Shuback and I went out there and with his expertise in growing sod we determined that it’s making good progress. This is good grass growing weather this time of year with all the rain we are getting.

COUNCILMAN GERSTNER REPORT

1. Our beach in Greenwood Lake is open on weekends.

2. I would like to wish all of our fathers a Happy Father’s Day and I hope you and your families enjoy your day.

COUNCILMAN SHUBACK REPORT

1. I am having a lot of inquires in regards to being behind on our mowing. We can’t mow the sides of the roads when it’s raining. This is the problem and eventually they will catch up we just need some clear weather.

2. As far as the park in Greenwood Lake I said it would be fall time before they can use the baseball field, but in another 4 or 5 weeks I may change my mind

because of the rain we've had this past week. We had 7 inches of rain so that's going to make it grow, so I would say the middle of July you will be able to use the baseball field. I will take another look in two weeks at the sod section which is coming along also.

ATTORNEY'S REPORT – Absent

TOWN CLERK'S REPORT

- 1. Fees Collected – Month of May, 2013 – Wickham Lake Resident Permit Fees, \$140.00; Wickham Lake Non-Resident Permit Fees, \$180.00; Wickham Lake Additional Stickers, \$44.00; Wickham Lake Replacement Keys, \$40.00; Wickham Lake Permits Resident Renewal, \$250.00; Wickham Lake Permits Non-Resident Renewal, \$200.00; Certified Marriages, \$110.00; Photocopies, \$2.25; Peddler's Permit, \$100.00; Use of Kitchen Fee, \$50.00; Interest in Checking Account for Month of April, \$0.52; Dog Impoundment Fees, \$350.00; Town Park Pavilion Fees, \$200.00; Marriage License Fees, \$350.00; Conservation Licenses, \$84.98; Dog Licenses Issued/Renewed, \$1,794.00; Use of Room Fees, \$180.00; Registrar Fees, \$390.00; Police Impound Fee, \$60.00; Waterfront Park Resident Adult Season Passes, \$100.00; Waterfront Park Resident Family Season Passes, \$1,540.00; Waterfront Park Senior Season Passes, \$450.00; Waterfront Park Commercial Passes, \$60.00; Waterfront Park Group Deposits, \$200.00; Town Park Deposits, \$300.00. Total Fees Collected: \$11,262.77**
- 2. Fees Paid – Month of May, 2013 – New York State Dept. of Health for Marriage Licenses, \$450.00; New York State Dept. of Ag & Markets for Spay/Neuter Program, \$218.00; New York State Dept. of Environmental Conservation for Conservation Licenses, \$1,563.02; Village of Warwick for Registrar Fees, \$1,440.00. Total Fees Paid to the Supervisor, \$7,591.75**

SUPERVISOR'S REPORT

- 1. On East Shore Road the stabilization project was completed. All the equipment was taken out and the road is open again. We just got a tentative agreement with the contractor who had done the original stimulus project out there with the drainage. We had run into an issue with them and the New York State DOT, who is the entity that oversees that stimulus money, as to the top course they put on. The DOT did not accept it, so we've been wrangling with that contractor and reached an agreement and hopefully the DOT will signoff on that in the next week. That project will then get completed the week of July 8th to the 12th but there will be notices. There will be some temporary traffic closures and things but it won't be closed permanently while they do that. They are going to re-mill it and put on the proper topcoat, do the striping and repair a couple of small settled areas. That will be good to wrap that up because the stimulus funding needs to be completed by the end of August.**
- 2. The Community Preservation Fund receipts for the month of May were \$30,413.07 and that brings the total in the fund to \$2,904,999.75.**
- 3. Flag Day is June 14th so if you have a flag we encourage you to display it properly.**
- 4. Supervisors Corner is published each week in the Warwick Dispatch, with**

excerpts printed in the Warwick Advertiser.

PRIVILEGE OF THE FLOOR (AGENDA ITEMS)

There were no comments or questions on the agenda items.

NEW BUSINESS:

#R2013-152 BUDGET TRANSFER – POLICE DEPARTMENT

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to approve the following Police Department budget transfer:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Check from Plymouth Rock Assurance for repairs of police car	Auto Maintenance (B02.00.3120.403)	\$1,090.77

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2013-153 AUTHORIZATION TO REFUND PARK FEE – KAITLYN ROCHE

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to authorize a refund in the amount of \$30.00 paid for the use of the Thomas P. Morahan Waterfront Park for a wedding ceremony to Kaitlyn Roche as the event was cancelled at this location.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2013-154 AUTHORIZATION TO SELL USED POLICE MOTORCYCLE ON GOVDEALS

Motion Councilman DeAngelo, seconded Councilman Gerstner to adopt a resolution to authorize the sale of the following used police motorcycle to be sold in “AS IS” condition on GOVDEALS.com.

1983 Kawasaki K1100 Motorcycle 1100 cc, shaft drive, 17,999.90 miles
VIN# KJAKZBA11DA011116

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2013-155 APPROVAL OF THOMAS P. MORAHAN WATERFRONT PARK BEACH USE – VILLAGE OF GREENWOOD LAKE SUMMER EVENTS

Motion Councilman Kowal, seconded Councilman Gerstner to adopt a resolution to approve the use of the Thomas P. Morahan Waterfront Park for

various Village of Greenwood Lake summer events which include the Summer Concert Series, Triathlon, Seaplane Fly-In and swimming lessons (list attached).
Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that they have a full line up and the beach will get well used in the off hours.

**#R2013-156 CONTRIBUTION TO VILLAGE OF GREENWOOD LAKE –
FIREWORKS**

Motion Councilman Shuback, seconded Councilman Gerstner to adopt a resolution to contribute \$500.00 from the Celebrations account to the Village of Greenwood Lake towards the fireworks display.
Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that we've done this in the past and they've requested it again.

**#R2013-157 AUTHORIZATION TO SIGN COOPERATIVE AGREEMENT
WITH NRCS FOR FUNDS TO PURCHASE CONSERVATION
EASEMENT OF FAIRMEADE FARM**

Motion Councilman Gerstner, seconded Councilman Shuback to adopt a resolution to authorize the Supervisor to sign a cooperative agreement with the Natural Resources Conservation Service (NRCS) to accept FRPP funds in the amount of \$250,000.00 for the purchase of the conservation easement of the Fairmeade Farm.
Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

**#R2013-158 AMEND RESOLUTION #2013-144 – RATE OF PAY FOR RAFAEL
WARNON**

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution to amend resolution #R2013-144 changing the hourly rate of pay for Rafael Warnon from \$9.50 per hour to \$9.75 per hour.
Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that he is a senior lifeguard and his hourly rate was inadvertently set at his old rate from last year and that's why we are adjusting it.

**#R2013-159 APPOINTMENT OF PART TIME POLICE OFFICER –
NICKOLOUS PASSAMANO**

Motion Councilman DeAngelo, seconded Councilman Shuback to adopt a resolution to appoint Nickolous Passamano as a part time Police Officer at a rate of pay of \$21.18 per hour effective July 5, 2013.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2013-156 UNIFORM NOTICE OF CLAIMS CERTIFICATE

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt the following resolution:

WHEREAS General Municipal Law, §53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim; and

WHEREAS, General Municipal Law, §53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary as the town's agent; and

WHEREAS, pursuant to General Municipal Law, §50-e(1)(a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Warwick, County of Orange designates Marjorie Quackenbush, in her capacity as Town Clerk, to receive notices of claims served upon the Secretary of State by mail at Town Hall, 132 Kings Highway, Warwick, NY 10990 and email at townclk@warwick.net.

BE IT FURTHER RESOLVED, that the Town Board hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before July 14, 2013.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this was a new law passed that allow people to serve this notice of claim directly on the state as opposed to the municipality itself. This makes sure that if one is served on the state that the town does receive it in a timely fashion.

#R2013-161 APPOINTMENT OF MARRIAGE OFFICER – MICHAEL NEWHARD

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to appoint Michael Newhard as a Marriage Officer for the remainder of 2013.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2013-162 APPROVAL TO ATTEND THE INSTITUTE OF ASSESSING OFFICER'S SEMINAR ON APPRAISING – DEBORAH EURICH

Motion Councilman Gerstner, seconded Councilman DeAngelo to adopt a resolution granting approval for Deborah Eurich to attend the Institute of Assessing Officer's Seminar on Appraising held at Cornell University July 16-20, 2013. Funds have been appropriated for this training in the 2013 budget.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

#R2013-163 AUTHORIZATION TO REFUND PARKLAND FEES – DAVID GETZ, LEHIGH & HUDSON PROFESSIONAL BUILDING, LLC.

Motion Councilman Gerstner, Seconded Councilman DeAngelo to adopt a resolution to authorize a refund in the amount of \$7,500.00, the Parkland Fees paid for SBL#24-1-20.1 & 35 (Pochuck Views) to Lehigh & Hudson Professional Building, LLC as per the recommendation of the Planning Board Secretary; letter dated June 7, 2013.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this was originally a 5 lot subdivision that was approved by the Planning Board and the applicant paid the Parkland Fees as one of the conditions to file his map. He ran into some bonding issues and never filed the map and essentially the subdivision sat in limbo. The applicant since has come back to the Planning Board to file in sections and the section 1 that they filed for simply subdivides off the existing house so there's no new lots created at this point and that's why they are asking for their deposited Parkland Fees back. If they do pursue with section 2 somewhere down the road they'll end up paying those fees for however many lots they create. That's why it's being refunded.

#R2013-164 BOND REDUCTION – FAIRWICK, LLC

Motion Supervisor Sweeton, seconded Councilman DeAngelo to adopt a resolution to reduce the Performance Bond #105614266 from Travelers Casualty and Surety Co. of Amercia, from \$670,705.92 to \$419,662.79 and to authorize the release of \$251,043.14 to Fairwick, LLC as per the recommendation of the Town Engineer, letter dated June 13, 2013. Upon the receipt of a bond in the amount of \$419,662.79 the Town of Warwick agrees to release the aforementioned bond.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this is routine on the release of bonded money for that project that's known as the Price Chopper, AutoZone area.

#R2013-165 BOND RELEASE – FAIRGROUNDS LLC

Motion Supervisor Sweeton, seconded Councilman Gerstner to adopt a resolution to authorize the release of a Performance Bond #105176691B, in the amount of \$48,951.76 to Fairgrounds LLC for the satisfactory completion of improvements on site plan SBL# 51-1-41.22 as per the recommendation of the Town Engineer, letter dated June 13, 2013.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that it's the reduction of the bond for the site inspection work on that project.

#R2013-166 BOND RELEASE – FAIRGROUNDS LLC

Motion Supervisor Sweeton, seconded Councilman DeAngelo to adopt a resolution to authorize the release of a Landscaping Maintenance Bond #105176690, in the amount of \$90,000.00 to Fairgrounds LLC for the satisfactory completion of site plan SBL# 51-1-41.22 as per the recommendation of the Town Engineer, letter dated June 13, 2013.

Motion Carried (5 ayes, 0 nays) Supervisor declared this resolution duly adopted.

Discussion: Supervisor Sweeton stated that this is a landscape bond; landscaping is in place and doing well so we can release the bond.

BILLS: Motion Councilman DeAngelo, seconded Councilman Shuback to pay the bills as audited. Motion Carried (5 ayes, 0 nays)

PRIVILEGE OF THE FLOOR (GENERAL)

Richard Murtie – Resident, Town of Warwick, NY 10990 – You all know what the events have been with me and the Building Department and I just want to explain to everybody how the process works through the County which I am governed by. My catering permit is a seasonal thing and what I have to do is make a list of dates, times and locations of my events. The county has to be able to come out and inspect me at any given time whether it Saturday's or Sunday's, they don't care. With what you have on the agenda tonight saying that I was operating without a permit to begin with I didn't have any at that time in the beginning of May. For me to put in an application I don't have any dates and times for the County to come in and address me and inspect me. I'm still with the belief that the Building Department acted totally out of the scope of authority to contact my client down in Houston, Texas. All the correspondence that I've had and you've had with the Board of Health Mr. Score even said himself to me and to you that it was a very gray line of what I was allowed to do on my property. They don't have a problem with it as long as I'm not setting up and having an event there every week. Everything that's being written up about me not being permitted even by the County...

Supervisor Sweeton – I just relayed to what was in the letter that you're welcome to have a copy of.

Richard Murtie - I would also like to point out to the Board that this sticker dated July 13th this was before I opened my business. The building inspector told me that my place was not permitted. That was between the landlord and the Building Department.

Supervisor Sweeton – Right.

Richard Murtie – It had nothing to do with me.

Supervisor Sweeton – Right.

Richard Murtie – Since then I've had four visits from the Building Department and they're just there to count chairs. They are not there to do anything else and I've contacted Wayne Stevens about this and he said they are allowed to do two fire inspections a year. The man who came out to inspect me I have the upmost respect for, he was a gentleman. We had talked about what had happened and what was going on and after the last time, the fourth time I called Wayne on it and right away he started getting argumentative about it saying they are allowed to do two fire inspections a year. I don't have a problem with that. I do have a problem when the man doesn't flip a card on a fire bottle and he's doesn't look at my sprinkler system so he's not really doing a fire inspection. He's just there to count chairs. He's told what to do and that's what he does come in and counts chairs.

Supervisor Sweeton – Can I just ask which inspector it was?

Richard Murtie – Jim Obratka, he's a true gentleman.

Supervisor Sweeton – He ought to be doing a fire inspection if that's what he's there for and that's for us to address.

Richard Murtie – If Wayne sent him to do that in that capacity all well and good, but I firmly believe his presence there was to count the chairs. We have an ongoing issue about the chairs and that issue is between me and the Orange County Board of Health. The Town Board has no jurisdiction over that. If they are coming to do a fire inspection that's one thing and I would also like to point out since I've been coming here for over two years that light has not been on and that has been off for over two years. Let's take care of what's going on in this house before you come over to my house and start criticizing what I'm doing. I would also like to point out the correspondences, the phone calls that were made when I put in a foil request I got the outgoing phone calls. I didn't receive the paperwork on the incoming. I still would like to know and I should be able to face my accuser who contacted the town, ok because you know and I know the right policy was that it has to be a written statement in order for the building inspector to act. I can only assume.

Supervisor Sweeton – I didn't get involved in what phone records you were given.

Town Clerk – We don't get a list of incoming calls. That's all we get is the outgoing. I would have given them to you if we had.

Richard Murtie – I know what time the phone call was made from Wayne Stevens to my client in Texas. I still don't know who filed the complaint or an anonymous

phone call, who placed the call or who has a problem with me and I would like to get to the bottom of this.

Supervisor Sweeton – Again, we said normally we require something to come in, in writing. We do get a lot of calls that come in, normally anonymous.

Richard Murtie – Wayne acted out of his authority to contact my client.

Supervisor Sweeton – Again, I'm not going to argue that with you and we did get an opinion from outside counsel that he didn't.

Richard Murtie - That he didn't act outside his scope of authority?

Supervisor Sweeton – His authority, correct in following up on a complaint.

Richard Murtie – So now Wayne Stevens is Orange County Board of Health.

Supervisor Sweeton – No, I'm not saying it's Board of Health. The act of finding out whether there was an event there or not was within his authority in following a complaint. You came here first, then you called me and I came out to see you as a gentleman.

Richard Murtie – Yes.

Supervisor Sweeton – And we discussed the issue and I promised you that I would look into what happened which I did. Part of that was clarifying with the Health Department what is the story and we got the letter from them and it talked about what your permits were allowing you to do and not allowing you to do.

Richard Murtie – They also told me if in the event I wanted to host an event out there I would have to come and see them.

Supervisor Sweeton – Right, and again we're not saying that. They act for us on the health department issues. We don't have a health officer so they act for us in that capacity. Now if they say you can do this or you can do that or you can have this number of people then send us that correspondence and then we do have an enforcement obligation to make sure that it's not twice that or three times that or whatever it is. That's my point with it.

Richard Murtie – Had the event taken place, Wayne acted way before the Orange County Board of Health got involved.

Supervisor Sweeton – He acted on what knowledge he had. It turns out now it's been clarified. Now it's been clarified and again I'm not sure of the issue. You're saying if you wanted to have the event that you had or you had planned to have you

would have to go to the Health Department and get a permit to do it. Is that what you just said here or no?

Richard Murtie – I didn't require a permit. The permit I operate my catering business out of the Board of Health says there's a fine line. I can pitch a tent across the street and have the same event on your lot but not on my lot.

Supervisor Sweeton – That's what the letter from the Health Department says to us.

Richard Murtie – That to me is vague.

Supervisor Sweeton – Ok, but that's what it says.

Richard Murtie – I understand that but again this is an official sticker from before I even opened up my restaurant.

Supervisor Sweeton – But that wasn't between you and the Building Department.

Richard Murtie – That was the Building Department and the landlord.

Supervisor Sweeton – Correct.

Richard Murtie – But this was addressed to me and stuck in my door of the building that I'm leasing. This was addressed Rich call me in my office. It didn't say Mike Siegel call me in my office.

Supervisor Sweeton – Ok.

Richard Murtie – Since then four visits from the Building Department.

Supervisor Sweeton – We'll look into why if he's there to do a fire inspection that's what he should be doing so we'll address that issue, clearly. He should be doing a fire inspection if that's what he's there for.

Richard Murtie – Wayne is a little overzealous here. They are allowed to do two fire inspections a year and I was inspected four times within seven months. That to me is bending more towards harassment. Let's nip this in the bud and be done with it because I'm willing to do what I need to do.

Supervisor Sweeton – That's good.

Richard Murtie – I've asked the Board to even consider and there's been no talk of reprimand or anything else. The man acted totally out of his authority calling my client; you know that and I know that. The Building Department verses the Board of Health Department is a very fine line here.

Supervisor Sweeton – The letter from the Health Department that we received is not vague at all.

Richard Murtie – I got the same letter.

Supervisor Sweeton – It says that the catering permit does not allow you to have the kind of event you wanted to have on your piece of property. Now you've had conversations with them and we've had conversations with them. They may say whatever they want to say but the letter clearly says that, that permit does not allow you to do what you wanted to do on your site. You could have had it in my driveway which is crazy but that's them and if they want to change that position that's fine.

Richard Murtie – Their position, as I sat down with Mr. Score, was it was very vague, a very gray line but we don't have a problem with you doing it just as long as you're not doing it every weekend.

Supervisor Sweeton – He needs to tell us that because we're not in the business to harass people.

Richard Murtie – You can't say that because all I've been getting is harassed.

Supervisor Sweeton – That's your opinion but I'll look into the four visits. I don't know what the four visits were.

Richard Murtie – I can show you those four visits and the last time they were there within two weeks I ended up with three visits from the Orange County Board of Health. I sat with the Board of Health, we've talked about the issues with the septic tank and I said to them you require me to have water samples done every quarter and I've asked of them and they are entertaining it now that if I provide them receipt of the septic being pumped out they will allow me to continue doing what I am doing.

Supervisor Sweeton – That's fine. They need to let us know that information that's all. Again, because they're agents of the Town because we don't have a health officer so we relay on them to do that stuff. Their letter that they sent me that's in the record does not say what you just said to me. So we need to clarify that with them that's all.

Richard Murtie – I sat with the man.

Supervisor Sweeton – I don't disagree with you and I don't think you're not telling me the truth. They just need to tell us that.

Richard Murtie – If I was issued a permit by the Orange County Board of Health I require no permit from the Town of Warwick.

Supervisor Sweeton – It didn't say that.

Richard Murtie - No but this is what I'm saying. You're telling me they work for you.

Supervisor Sweeton – I'm saying they're agents for us in terms of health and safety and there's an obligation. We work with them all the time and it's a two way street they should pass information to us.

Richard Murtie – I'm entering into the first year at the restaurant. The catering permits I've had for 15 years and I can bring the records and show you I have not one discrepancy in 15 years of catering.

Supervisor Sweeton – That's not the issue I don't think, is it?

Richard Murtie – The issue is Wayne acting out of his authorization to call my client.

Supervisor Sweeton – ok.

Richard Murtie – He ended up costing me money and the money is not even the issue for me, it's the ethics. He totally was unethical doing what he did and ultimately costing me the job which actually could have been more work down the road. I would like to hear something from you about a reprimand. When I talked to you prior to the meeting of the 23rd it was the morning of the meeting when I asked you if my correspondence was going to be discussed and you said the Town Board had just gotten that letter that night.

Supervisor Sweeton – Correct.

Richard Murtie – But yet you were able to tell me that morning that the Town Board was not going to look for his resignation.

Supervisor Sweeton – Yes I might have said that without discussing with the Town Board if they want to have his resignation, but I'll tell you we don't but if and clearly the attorneys that we have consulted said he has not exceeded his authority in the instance of calling to find out about the complaint. That's what they've said, now you can argue and disagree, but his actions if turned out that you're correct and I'm not saying that you are, does not necessary warrant in my opinion a dismissal of an employee. If the Board has a different opinion they can discuss it and have that opinion but whether there's a reprimand, whether there's this or that or the other thing. The policy has been clarified with the Building Department that we always try to work things out. We are not here to necessarily hammer people so we try to work out the situation. I think that's been made clear to the Building Department, all three part-time building inspectors, so that has been clarified. Now

if the Town Board feels that there's some other action they need to take against the employee then they'll decide that but that will be in consultation with their attorneys. Personnel matters are not normally discussed in a public forum.

Richard Murtie - Ok I appreciate that but I also want to state that Mrs. Pellerin down in Houston, Texas told me that Wayne called her directly.

Supervisor Sweeton – Right, he had the number.

Richard Murtie – How'd he get the number?

Supervisor Sweeton – We talked about that, whoever the complainant was called with the number.

Richard Murtie – That floors me, that floors me who?

Supervisor Sweeton – If I'd have to guess I would have to guess it was someone that maybe bid on the job.

Richard Murtie – Nobody else bid on the job.

Supervisor Sweeton – Well then I don't know. Wayne Stevens did not pick the number out of the air.

Richard Murtie – Procedure is, protocol is that you take written statements I would be able to know who accused me. Who had informed Wayne and given Wayne the phone number. That's excessive and that's not just who did we go about getting this. Somebody gave her the phone number.

Supervisor Sweeton – Right, the caller, whoever the caller was, that's correct.

Richard Murtie – That's not just something you have knowledge of.

Supervisor Sweeton – Whoever the caller was gave him the number.

Richard Murtie – I still won't be able to find out who though.

Supervisor Sweeton – We've asked for the records, we gave you the records on the phone calls.

Richard Murtie – Right.

Town Clerk – And on the cell phone bill there's no listings of the individual calls it's just a monthly total.

Supervisor Sweeton – It's a calling plan whatever it is basically.

Richard Murtie – I just hope in the future that if something happens townwide not just with me that this is followed.

Supervisor Sweeton – I have clarified for the record and for your information with the Building Department that it is our policy to try if we get a call or a person yelling and screaming that you try and contact the person who's the object of it. That's all.

Richard Murtie – That's right. He could have driven six miles down the road verses getting on a phone and calling Houston, Texas.

Supervisor Sweeton – He could have done that, correct.

Richard Murtie - That was just way over zealous. You agree.

Supervisor Sweeton – I said that it was not consistent with the policy.

Richard Murtie – And nothing is going to be done.

Supervisor Sweeton – I am not speaking for everybody. They can decide what they want to do.

Richard Murtie – I would like to get a follow up on this, I really would.

Supervisor Sweeton – Ok sure.

Richard Murtie – Thank you.

Supervisor Sweeton – You're welcome thanks.

**ADJOURN: Motion Councilman Shuback, seconded Councilman Gerstner that the regular meeting be adjourned. Motion Carried (5 ayes, 0 nays) 8:08 p.m.
06-13-13 CP.**

Marjorie Quackenbush, Town Clerk