

Newfield Town Board Regular Meeting  
December 13, 2012

The December 13, 2012 Regular Town Board Meeting was called to order at 7:00 PM by Town Supervisor Dirscoll. Present were: Council Person Trask, Council Person James, Council Person Laughlin, Council Person Powers, and Supervisor Driscoll. Also present were Town Attorney Ed Hooks County Legislator David McKenna, and 27 town residents. Supervisor Driscoll opened the meeting with the Pledge of Allegiance.

**Opening Privilege of the Floor:**

*Bob Mente:* spoke of the positive notes of having a local transfer station. He also as the Town Board not to consider a moratorium or a ban and to allow AWS to continue its plans to proceed with a safe and well maintained garbage transfer station that would benefit our community and local economy.

*Jeff Golden:* reviewed a letter from Tompkins County Environmental Management Council concerning the proposed garbage transfer station. Key concerns were: water shed protection, neighborhood character, road traffic, and the need for another transfer station.

*Eugene VanZile:* spoke with concerns of the proposed garbage transfer station. He asked for a 3 year moratorium or a complete ban. He said on November 20, 2012 the USGS tested his well and found minerals and pollutants at 200 feet. A similar water test was done a quarter of a mile from his home in a 55 foot well that was in an aquifer. The well water contained minerals and pollutants. It was the opinion of a hydrologist any shallow well in the water shed area is prime target for pollutants, whether it be a well or spring, pond or wet lands. It was also his opinion regardless of how many precautions were taken truck traffic will also bring in pollutants. Wild life and leachate also are pollution contributors.

*Nicole Bowen:* spoke of concerns of financial concerns of the Town. She wondered why the Town was harnessing the land owners from making money provided from the land that they own. She supports Mr. Mente with his proposed garbage transfer station.

*Serena Morse:* agreed with Nicole Bowen. She feels the Town needs to make money responsibly, working hard to make the challenges work for the Town.

*Becca Haber:* wanted to comment about the law that governs Town Boards. Town Boards are required to consider the wellbeing of the entire community above the rights of land owners. Therefore, landowners by law do not have the right to do anything they want with their land, but only what the Town Board considers healthy and beneficial for the community. Not harming people's health, water, air and peace.

*Brain McIlroy:* commented on 3 FOIL requests he submitted to the Town. He recommended that the Town Board pass a resolution that the Board hires future all bookkeepers. He also has concerns of the proposed resolution to reinstate the Supervisors health insurance, feeling that it will be an added burden to an already tight budget.

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*Gurdon Brewster:* spoke of a petition that had been signed by over a thousand Newfield residents and landowners age 18 years and over who like to ban high-volume hydraulic fracturing in Newfield. He asked the Board to consider a ban in 2013.

*Brenda Lapp:* asked the Board to consider a moratorium on Industrial activities that will use water and require leachate collections. She reviewed a journal from the University of Thailand concerning the future of fresh water availability which looks bleak. She feels that there is a good system for waste water here with sewer collection. But wonders why a chance should be taken with a waste transfer station on Bishop Road that could impact the drinking water. She asked the Town that if they will not create a moratorium that will last the length of the USGS survey, to set aside funds to have an independent agency do base line water testing for all of the homes within a one mile radius of the proposed waste transfer station. She asked for an equivalent amount similar to when Water District 2 was created. She also asked the Town to hire an engineer to plan and look at the feasibility of creating a water district in that area should the need arise if the wells were to become contaminated. In that report she felt that an estimate should be included of the cost to create the water district. She would like to see 25% of the cost of a new water district set aside so there would not be a delay because of funding issues should the water district become necessary. She would like water testing to continue annually for the life of the facility if it is permitted, and for 10 years after the facility closes. According to the engineering report submitted to the DEC, the life of the facility is 20 years. She is asking for funds to be set aside for 30 years annually to test all the wells of a 1 mile radius of the facility if it were to be approved. If the water district were to become necessary, she would like to have that water subsidized like the other districts are in Newfield.

Councilperson Trask corrected Ms. Lapp that the Town does not subsidize the districts, the districts are paid for by the people in the district.

*Linda Callahan:* wanted to let the Board know there are petitions going around concerning the solid waste transfer stations addressing 2 different audiences.

*John Fry:* appreciated the Boards efforts with the 2013 budget. He also commented about the hydraulic fracturing concerns made previously. He thinks there is a lot to consider and does not want to stop anyone from making money but he doesn't think anyone owns the rights to his clean air and water. He spoke of reading an article concerning other ways to get gas from the shale rather than fracking. He asked that the Board be diligent concerning high-volume hydraulic fracturing issue.

**AGENDA CHANGES:**

Supervisor Driscoll asked to add a public hearing resolution concerning the Adoption of the Fire Contract.

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Councilperson James asked to add a resolution to review the Town wide health insurance practices.

Councilperson Powers made a motion to adopt the November 8, 2012 Regular Town Board Meeting minutes and was seconded by Councilperson Trask

Vote: Councilperson Trask: AYE, Councilperson James: AYE, Councilperson Laughlin: AYE, Councilperson Powers: AYE, and Supervisor Driscoll: AYE. Motion Passed.

***CORRESPONDENCE:*** Supervisor Driscoll told the Board Members there was a letter in their packets from Frank Proto: Chair of the Water Management Council.

***REPORTS:***

Highway Department: Absent

Water/Sewer Department: Absent

Recreation: Recreation Director Dustin James reported that the past 2 weekends the Newfield Varsity Basketball teams had been practicing with the 2<sup>nd</sup>. through 6<sup>th</sup>. grade recreation basketball youth. The Basketball games will begin in January and the Cheerleaders have been getting ready for a February competition. The adult programs are going well. He is already looking at Summer Camp and the Baseball programs and exploring the possibility of bringing on new fall programs. Supervisor Driscoll asked what the plan was for the Movie in the Park. Dustin said it would be in May, and would check on the date.

Code Enforcement: Absent

County Legislature:

Supervisors Report: Supervisor Driscoll reported that the AUD report had begun, and the 2011 draft audit report had been received.

He asked that at the December 27<sup>th</sup>. work session that the audit be entertained.

***NEW BUSINESS:***

Supervisor Driscoll read proposed

**Resolution 43-2012  
To Establish Town Contribution Policy to Health Savings Accounts**

Whereas the Town of Newfield provides its employees and non-Medicare retirees health insurance coverage that includes individual Health Savings Accounts, and

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Whereas monthly regular contributions are made to the Accounts equivalent to 1/12<sup>th</sup> of the annual amount, and

Whereas these contributions are made by formula specifying the amount of the Town's and the employee's and or retiree's contribution to the Savings Account, and

Whereas the employee's contribution is made by payroll deduction, and

Whereas the Town may advance amounts greater than the minimum 1/12<sup>th</sup> monthly contribution

NOW THEREFORE BE IT RESOLVED

That the Town shall advance its contributions to an employee's Health Savings Account provided that the employee presents a request to the Bookkeeper by the 20<sup>th</sup> of each month in advance of the coming month contribution, and

That the Town shall not provide an employee's portion of his/her monthly contribution that has not already been provided by payroll deduction.

Motion was made by Councilperson Laughlin to adopt resolution 43-2012 and Councilperson Powers seconded the motion.

Discussion: Councilperson Trask asked for clarification for the public in attendance.

Vote: Councilperson Trask: AYE, Councilperson James: AYE, Councilperson Laughlin: AYE, Councilperson Powers: AYE, Supervisor Driscoll: AYE. Motion passed.

Supervisor Driscoll read

**Resolution 44-2012 to Move Funds**

RESOLVED to move \$2500 from DA5130.46 (Parts) to DA5130.2 (Equipment) to cover the purchase of a Chipper.

Motion was made by Councilperson Trask and seconded by Councilperson Laughlin.

Vote: Councilperson Trask: AYE, Councilperson James: AYE, Councilperson Laughlin: AYE, Councilperson Powers: AYE, Supervisor Driscoll: AYE. Motion passed.

Supervisor Driscoll read proposed Resolution 45-2012:

**Resolution 45-2012**

**RESOLUTION TO INCREASE DOG LICENSE FEES**

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Whereas the Town of Newfield last adopted an increase in Dog License Fees effective January 2011 as permitted by section 6.7a of Local Law #1-2010, and

Whereas the Town seeks to increase Dog License Fees to keep pace with the increase in costs of the Town's Dog Control Contract with the Tompkins County SPCA

Now Therefore Be It Resolved that the following schedule is established effective January 1, 2013

Spayed/Neutered dogs - \$12.00 (\$11.00 local fee/\$1.00 statutory fee for the NYS spay/neuter program.

Unspayed/Unneutered dogs - \$24.00 (\$21.00 local fee/\$3.00 statutory fee for the NYS spay/neuter program.

Motion was made by Councilperson Powers and seconded by Councilperson James to adopt Resolution 45-2012.

Vote: Councilperson Trask: AYE, Councilperson James: AYE, Councilperson Laughlin: AYE, Councilperson Powers: AYE, Supervisor Driscoll: AYE. Motion passed.

Supervisor Driscoll read proposed

Resolution 46-2012

**Resolution Requesting an Extension of Time for Review of the  
Revised Regulations for High Volume Hydraulic Fracturing**

**Whereas**, the New York State Department of Environmental Conservation (NYSDEC) has established a 30-day public comment period from December 12, 2012 through January 11, 2013 on the revised draft regulations for high volume hydraulic fracturing; **and**

**Whereas**, the documents released for public review by NYSDEC number 338 pages including the revised regulations 6 NYCRR Parts 52, 190, 550 – 556, 560, 750.1, and 750.3; a summary and assessment of public comments; and additional analyses and impact statements; **and**

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**Whereas**, the 30-day review period is completely inadequate for a thoughtful and thorough public review of the released documents and encompasses a period of time with major religious and national holidays; **and**

**Whereas**, due to Open Meetings Law requirements for advance public notice of agendas and supporting materials, the 30-day comment period essentially eliminates or severely hinders the ability for any municipal regulatory or advisory organizations, such as the Tompkins County Board of Health and the Tompkins County Environmental Management Council, to review the released documents and draft, approve, and issue comments; **and**

**Whereas**, these regulations are intended, in part, to mitigate impacts on local municipalities, and as described above, because of requirements of Open Meetings Law, and the monthly meeting schedule of local governments, a 30 day comment period virtually eliminates the ability of municipalities to draft, hear public comment, revise and vote on a response as to the adequacy of regulations designed to protect them, **and**

**Whereas**, the NYSDEC has not completed and made public its health impact assessment, and it is therefore impossible to comment on the adequacy of these regulations in mitigating these yet undefined impacts, **and**

**Whereas**, the NYSDEC has not made public its revised economic impact assessment, and it is therefore impossible to comment on the adequacy of these regulations in mitigating these yet unseen impacts,

Now therefore be it Resolved, that the Newfield Town Board requests that at a minimum the NYSDEC extend the public comment period on the revised regulations to a minimum of 90 days so as to allow adequate public process at the local level and preferably that the NYSDEC not finalize the regulations on high volume hydraulic fracturing until after the SGEIS is finalized.

Be It Further Resolved that a copy of this resolution shall be sent to: Governor Andrew Cuomo; New York State Department of Environmental Conservation Commissioner Joe Martens, New York State Association of Towns, NYS Assemblywoman Barbara Lifton, and NYS Senator James Seward.

Motion was made by Councilperson James to adopt Resolution 46-2012 and was seconded by Councilperson Powers.

Discussion: Councilperson Laughlin asked where this regulation came from. Supervisor Driscoll stated it was a generic resolution that had been put together by volunteers and had been circulated around the Towns, municipalities across Tompkins County and throughout the region.

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Councilperson Trask read a letter Frank Proto: Chairperson of Tompkins County Water Resources Council asking for the support of the proposed resolution.

Vote: Councilperson Trask: AYE, Councilperson James: AYE, Councilperson Laughlin: AYE, Councilperson Powers: AYE, Supervisor Driscoll: AYE. Motion passed.

Supervisor Driscoll read proposed Resolution 47-2012:

Since a contract for fire protection services can be approved only after a public hearing, it is necessary to schedule a hearing with respect to the proposed 2013 contract for fire services.

Upon motion duly made by Councilperson Trask and seconded by Councilperson Laughlin it was resolved that a public hearing be scheduled for 6:45 p.m. on January 10, 2013 for the purpose of considering the contract proposed to be entered into between the Town of Newfield and Newfield Fire Company for 2013-2015.

The Clerk is directed to cause notice thereof to be posted and published as required by and in accordance with Section 184.2 of the Town Law.

In the meantime, the Supervisor hereby is authorized to extend the current contract for one month – January 1, 2013 to January 31, 2013 so as to continue fire protection services for the Town. The Town will pay for such services using the rate paid for fire services for the year 2013 per the expiring contract - pro rated by month - plus 1%.

Discussion: Councilperson Trask clarified that every time a Fire Contract is signed a resolution and public hearing must take place. Due to an oversight it did not occur it did not, therefore the public hearing and the signing of the contract will take place next month. In the interim in order to continue the Town's fire protection for the month of January until the contract is signed the final paragraph addresses allows the Town the ability to continue fire protection.

It was asked if the Fire Department agreed to this. Supervisor Driscoll said that he had not been able to speak to them concerning this.

Vote: Councilperson Trask: AYE, Councilperson James: AYE, Councilperson Laughlin: AYE, Councilperson Powers: AYE, Supervisor Driscoll: AYE. Motion passed.

Councilperson James explained her proposed Resolution 48-2012

She realizes this is a contentious issue among the Board members and the community but she believes the Board has an opportunity to right the playing field for 2013. In that the Board has discussed health insurance and how it is awarded to elected officials here is very confusing. There have been 9 resolutions since 1993. Since 1993 all Supervisor have been given the benefit.

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Until last year in December at the last public meeting the Board had there was a resolution proposed not to give insurance to the Supervisor, and to reduce the percentage given to the Town Clerk. It has not been defined what the standard is for a working Supervisor or any of the other public elected positions. That is work that needs to be done as a Board, as well as look at how the Town pays health insurance for a myriad of different categories including those that are retired, spouses and ect. This resolution is asking the Board to take a look at this, to go back and establish a local playing field in January and to reinstate the opportunity to give health insurance to the Supervisor while the Board looks at this issue. Councilperson James then read the proposed Resolution 48-2012

Whereas the Town of Newfield practice of awarding health insurance coverage to its employees, retirees and elected officials is distributed over 9 separate and different resolutions adopted by the Board since 1993 and,

Whereas knowledge of these many adopted resolutions has not been institutionally available to each subsequent Town Board and Town Health Administrator since 1993 because they are each embedded and obscured as resolutions in Board Meeting Minutes over 19 years of records, and

Whereas this approach has created confusion with respect to ascertaining accurate health insurance coverage across many categories of participation among active employees, active retirees and those retirees who graduate to Medicare requiring each of which have different and complicated financial calculations and,

Whereas the insurance industry and Medicare have evolved since 1993 with such Medicare Coverage as Parts C & D and,

Whereas, the availability of Medicare Parts C & D, which are offered now by the Town to eligible Medicare retirees intersects with and parallels the availability of and offers the same continuing private health insurance coverage provided by the Town to eligible Medicare retirees, and

Whereas a recent development has shown that the Town has no policy on the eligibility of a spouse on a Family Plan to continue with health insurance coverage provided by the Town when the primary enrollee graduates to Medicare but the spouse is not eligible for Medicare, and

Whereas in the midst of this confusing and until recent times unknown collection of health insurance related resolutions and subsequent evolving industry developments, the Town Board adopted at its December 2011 Regular Monthly meeting its 9th health insurance related resolution eliminating health insurance coverage for the Supervisor, an elected position, and reducing the Clerk, also an elected position from 100% coverage to 75% coverage while the Superintendent of Highways, another elected position, remains at 100%, and

Whereas the adopted December 2011 Resolution did not address a previous Resolution by which the Supervisor, the Clerk and the Highway Superintendent are entitled to health insurance coverage as

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Retirees from the Town upon serving the Town for a specific number of minimum years which appears to extend to them Medicare coverage by virtue of another resolution,

Now Therefore Be It Resolved

That the Town Board shall undertake a complete review of its many health insurance award practices – exclusive of the CSEA bargaining unit contract – in order better to understand its current award method with the intention of establishing a consistent, clear and reliable Town wide policy for the award of health insurance to its employees and elected officials in the following categories – hired and elected active, hired and elected retired to 65 and hired and elected Medicare;

Moreover that in order for the Town Board fairly to undertake such a review that it shall reinstate as it was established by Resolution in 1993 and effective January 1, 2013 the award of health insurance coverage to the position of Supervisor as eligible for health insurance coverage at 75% provided by the Town as proposed in the Resolution presented on December 9, 2011 which was not adopted;

Further, that such a review of health insurance coverage shall be combined with and conducted as part of a full examination of the Personnel Policy and Practice for Non-CSEA employees of the Town of Newfield.

Motion was made by Councilperson Powers to adopt Resolution 48-2012 and seconded by Councilperson James.

Discussion: Councilperson Laughlin does feel that it is worth discussing how insurance is spread out over current employees and retirees. She does not feel at this point it is reasonable to award health insurance to part time employees whether they are elected officials or not.

Councilperson Trask feels the same way and will stand by his vote made in December 2011 where a resolution was passed not giving the Supervisor's position insurance because of it being a part time position. Also in that resolution the full time Town Clerk and a full time Supervisor working more than 30 hours a week would be eligible for health insurance. Currently the Supervisor does not work 30 hours a week nor is there an accounting of it. Councilperson Trask stated he would support the resolution if that issue were not attached to it. He does believe the Board does need to revisit the health insurance practices of the Town.

Councilperson Powers commented that she does support the proposed resolution. She feels that when one is elected to a position they run under the criteria of what their job is going to be, what the benefit will be, and what the salary will be. It is part of what you do when making the decision to run or not. If it is decided that the Supervisor should not be receiving those benefits then, when there is another election for the Supervisor position, that would be an understanding when the election comes up. She feels that if you were a union member you would not change a contracted amount or a benefit until a contract changes. She feels that if it is decided as a Board or as a Town the Supervisor does not work 30 hours should not have hospitalization then that is fine and is policy. But she does not feel you change the policy midterm.

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Councilperson Trask added that Supervisor Driscoll did not have insurance the first part of his term; he elected to take health insurance on his own, without any Board action. Councilperson Powers asked if it was listed as an option. Councilperson Trask responded that the resolution reads it is for full time employees/positions. He mentioned in the resolution passed last year it was stipulated that if the Supervisor was working more than 30 a week which constitutes close to full time employment that, yes, the position is entitled. Councilperson Powers asked if that was in previous resolutions as well. Councilperson Trask replied that no, it was not, and that was the reason for it being clarified as hours worked in the 2011 resolution.

Councilperson James feels that the resolution passed in 2011 had not been discussed and was put on the table without adequate discussion amongst the Board and that the definition of 30 hours was not a consensus and that it really had not been examined what standard work hours constitute the necessary amount needed to be a Supervisor in the Town.

Councilperson Trask added that the time given to the Board in December is just as adequate as what has been done so far. There had been no more discussion on this as was given for the resolution last year.

Vote: Councilperson Trask: NAYE, Councilperson James: AYE, Councilperson Laughlin: NAYE, Councilperson Powers: AYE, Supervisor Driscoll: AYE. Motion passed.

Councilperson Laughlin asked if it were appropriate that Supervisor Driscoll voted. Atty. Hooks said it was not a conflict of interest for the vote; it is not a conflict that he had disclosed, it readily apparent that there is self-interest.

**Old Business:**

Councilperson Trask asked if the Supervisor had ever filed the return of the penalties and interest paid. Supervisor Driscoll said he was in the process of doing that. He is nearly done with the composition of the appeal and will be filing it before the end the year as it is a complicated process. He did not take it up during the budget season, but is taking it up again now.

Supervisor Driscoll asked for a motion to pay the November 2012 expenses. Councilperson Laughlin made a motion to pay the expenses, and was seconded by Councilperson Powers.

General Fund	\$12,343.60
Recreation Fund	\$2,013.62
Highway Fund	\$22,813.38
Streetlight Fund	\$1,317.36
Sewer Fund	\$696.91
Water District 1	\$4,294.00
Water District 2	\$839.61

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Trust and Agency \$546.25

Vote: Councilperson Trask: AYE, Councilperson James: AYE, Councilperson Laughlin: AYE, Councilperson Powers: AYE, Supervisor Driscoll: AYE. Motion Passed.

Vote: Councilperson Trask: AYE, Councilperson James: AYE, Councilperson Laughlin: AYE, Councilperson Powers: AYE, Supervisor Driscoll: AYE. Motion passed.

**Closing Privilege of the Floor:**

*Evelyn Marques:* offered an observation as a previous insurance representative that health care is usually provided to employees on a graduated basis. She thought that may be an option when building a structure for the insurance policy.

*Brian McIlroy:* offered that when he was the bookkeeper for the Town of Dryden, he helped institute a very fair way to institute health insurance benefits to part time employees. He suggested that Supervisor Driscoll speak to the Dryden Supervisor concerning that. He also added to expect a FOIL request Friday for the Excellus Health Insurance contract to see if someone working under 20 hours is eligible.

*Eleanor Perry:* thought it seemed like there were two main points that were voted as one. Would it be possible that there be a secondary motion made at another time where the Board go back to the 1993 resolution where they agree upon then look at all the bits and pieces and then put it together. It seems like the concept of health insurance and what it means for the Town is a big ball of confusion. Is it possible to address that issue solely rather than both issues together?

*Nicole Bowen:* as a CSEA member it was her understanding if you don't put in the time, you don't get the benefits. She didn't think the hours were being put in.

*Jeff Goldman:* felt an interesting observation all full time and part time jobs require time keeping. He suggested that a log be kept of time put in. It seemed to be a sticking point; no one knows how much time is being put in. He suggested that as things move forward it become mandatory.

*Sandy VanZile:* thanked the Town for putting up the festive decorations.

County Legislator David McKenna arrived and reported that the County Budget passed under the tax cap. The Broadband grant results will not be heard from until the middle of January because of hurricane Sandy. Supervisor Driscoll asked if it were because of the hurricane cost or just a delay in the release. Legislator McKenna said it was just a delay in making the decision of who would be funded for what and for how much.

*Becca Haber:* commented that she felt a concern with the last resolution passed. Because it seemed that while going over the whole insurance health situation is important, and all agreed on

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that, but not with the matter of the Supervisor insurance. She did feel there was a conflict of interest. She felt it should have been two completely separate votes.

*Bob Mente:* he believes that there should be some sort of system to be able to log the amount of hours put in. He has tried to for the last 3 weeks to reach Mr. Driscoll in regards to some questions he has. He was disappointed that it took so long for him to get back to him. He stopped in several times and there was no one in the Supervisors office, and when he would call there was no one there. He does believe that issue needs to be addressed and see about becoming more stringent upon hours being placed before giving benefits.

Serena Bowen: agreed that she felt it was mistake that Supervisor voted on a benefit for himself. She thinks that whatever agreement is decided upon for compensation for the time that the Supervisor works is great. She complimented the Highway Superintendent of always being on the job, whenever anything is happening she knows she can depend on him, she does not feel that way with the Town Supervisor. She felt the Supervisor should not have voted, and should have let the Board make the decision.

Councilperson Trask stated to the Board, now that a resolution has been passed to reinstitute insurance for the Supervisor, first and foremost funds were not budgeted for that purpose. He asked where the money would come from. Before it is transferred from any line, he asked that it is approved by the Board. He asked if the offer Councilperson James had put on the floor during the work session to donate her salary to offset the cost of Supervisor health insurance, as he did not hear that mentioned tonight. He asked if that offer was still good, Councilperson James replied that her offer still stands. He further requested that Supervisor Driscoll provide the Board with his time worked monthly.

*Gundy Lee:* asked what had been the accounting of hours in the past. Councilperson Trask replied he was not sure if there ever had been.

*Serena Morse:* asked how many of the Town Board members actually took the stipend, or do they just not take it. Councilperson Trask stated that the Board did not get paid this current year. The Board gave it up in order to stay within the tax cap. She then asked if Supervisor Driscoll got paid.

Councilperson James stated that the stipends had been reinstated for the 2013.

*John Fry:* asked Atty. Hooks what would happen if a person recused themselves from the vote and it were a tie, how a decision would be made. Mr. Hooks responded that the motion would have failed.

Supervisor Driscoll then asked for a motion to adjourn. Motion was made by Councilperson Trask to adjourn the December 13<sup>th</sup>. Regular Town Board Meeting at 8:21PM, Councilperson Laughlin seconded his motion.

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Respectfully Submitted,

December 19, 2012

Karen Miller Kenerson  
Newfield Town Clerk

DRAFT