

MINUTES OF THE MARCH 10, 2011 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, N.Y., COMMENCING AT 8:00 P.M.

PRESENT: SUPERVISOR WARSHAUER; COUNCIL MEMBERS: DANIEL PASCHKES, RICHARD LYMAN AND PETER FALCO

ALSO PRESENT: TOWN CLERK, JOANNE PACE
DEPUTY SUPERVISOR, JONATHAN POWERS

ABSENT: JAMES J. SULLIVAN, ESQ.

CALL TO ORDER: Supervisor Warshauer called the meeting to order at 8:00 p.m.

CALL FOR EXECUTIVE SESSION: None

ANNOUNCEMENTS:

The Supervisor's Forum will be held on Saturday, March 12, 2010 from 10:00 a.m. – 11:30 a.m. and the focus will be on Deer Management.

PUBLIC HEARING:

- Continuation of the Public Hearing to consider amendments to Chapter 39 of the Town Code: Animals-Control of Dogs and related fees.

Board Action: Motion by Councilman Falco, seconded by Councilman Lyman, all voting aye to open the Public Hearing to consider amendments to Chapter 39 of the Town Code: Animals-Control of Dogs and related fees.

The proposed revisions are as follows:

POUND RIDGE DOG CONTROL LAW

Section 39 of the Town Code

Proposed revisions – March 10,2011

ARTICLE I. Control of Dogs

[Adopted 8-10-1967 by L.L. No. 2-1967; amended in its entirety 6-6-1996 by L.L. No. 3-1996 Editor's Note: The Town also requested the renumbering of the sections in Art. II from §§ 39-11 through 39-14 to §§ 39-13 through 39-16.]

§ 39-1. Purpose.

The purpose of this Article shall be to promote the health, safety and general welfare of the Town of Pound Ridge and shall be the protection and preservation of the property of the Town and its inhabitants and of peace and good order by imposing and enforcing regulations and restrictions on the ownership and keeping of dogs.

§ 39-2. Title.

This Article shall be known and may be cited as the "Dog Control Law of the Town of Pound Ridge."

§ 39-3. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

DOG

A carnivorous, domesticated mammal, known as "canis familiaris," and shall include male as well as female.

DOG CONTROL OFFICER

Page No. 2
MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
March 10, 2011

An officer of the Town of Pound Ridge authorized to maintain records and to collect fines and fees owed to the Town of Pound Ridge as a result of violations of this Article; issues receipts when all fines and fees are paid and a valid New York state license has been verified; contacts veterinary clinic and/or SPCA to verify the issuance of a receipt.

DOG RANGER THIS WILL BE ELIMINATED

An officer of the Town of Pound Ridge authorized to remove and confine dogs found to be in violation of the prohibitions outlined by §§ 39-4 and 39-5 of this Article.

DOG WARDEN THIS WILL BE ELIMINATED

An employee of Pound Ridge Veterinary Clinic and the Town of Pound Ridge, providing impoundment facilities for dogs found to be in violation of the provisions of this Article.

OWNER

A person or corporation owning, harboring or having custody and control of a dog or domestic animal.

§ 39-4. Responsibility for conduct of dogs.

A. The owner of record, custodian or person who keeps, harbors or otherwise has charge of any dog which has violated the provisions of this Article shall be subject to the penalties prescribed in this Article.

B. It shall be unlawful for any owner of or any person harboring any dog in the Town of Pound Ridge to allow such dog to:

(1) Be off the premises owned or leased by the owner or harborer of said dog unless said dog is demonstrably under control of its owner or a responsible person able to control the dog so that such does not menace, threaten or endanger any other person or animal. The dog must be leashed in areas where people congregate, specifically the Town Park, the business district in Scotts Corners and the bike path between the Town Park and Scotts Corners.

(2) Engage in habitual howling or barking or to conduct itself in such a manner so as to disturb the peace of the neighborhood. A specific prohibition is barking in excess of thirty minutes between the hours of 9PM to 7AM.

(3) Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring such a dog.

(4) Chase or otherwise harass any person in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.

(5) Chase or bark at motor vehicles, bicycles or moving vehicles or run at large in such a manner as to cause unreasonable disturbance.

(6) Attack, molest, bite, maul or harass any person who is peaceably conducting himself or herself any place where he/she may lawfully be. This does not preclude any action which may be taken by the Justice Court of the Town of Pound Ridge pursuant to the New York State Agriculture and Markets Law Article 7, § 121, Dangerous dogs.

§ 39-5. Confinement of dogs in heat.

Owners or persons harboring any female dog in heat shall confine such dog to the premises of such person or of a veterinarian or in a boarding kennel during such period. If confined to the owner's premises as herein provided, such female dog must be securely confined in the owner's residence or when outside in the immediate vicinity of the owner's residence on a leash controlled by the owner or a responsible, capable adult. Female dogs in heat may be kept in a secure pen in the immediate vicinity of the owner's residence, provided that the owner or other responsible adult is at home at all times during such outdoor confinement.

§ 39-6. Posting of property required.

In addition to all the responsibilities outlined in §§ 39-4 and 39-5 above, owners or persons harboring dogs which are trained for the purpose of protecting persons and/or property, must provide easily visible signs at each and every vehicular and/or pedestrian access to their property, warning visitors to beware of guard dogs on the site.

§ 39-7. Enforcement.

A. The Pound Ridge Dog Control Officer and the Pound Ridge Police Department shall be the enforcement officers of the provisions of this Article. The Dog Control Officer or a police officer shall apprehend any dog found by him/her to be in violation of any of the provisions of this Article. Such dog shall be delivered to the Pound Ridge Veterinary Clinic or such place as may be designated by the Town Board as a place detention and shall be properly fed

Page No. 3
 MINUTES OF THE MEETING OF THE TOWN BOARD
 TOWN OF POUND RIDGE
 POUND RIDGE, NY
 March 10, 2011

and cared for until disposition thereof shall have been made in accordance with the provisions of this chapter, article 7 of the Agriculture and Markets Law and the General Municipal Law for an impoundment period not to exceed three days. Any officer of the Town who apprehends a dog must immediately, or as soon as possible, notify the Dog Control Officer at the Pound Ridge Town House, 764-5511, so that identification can be made in a timely fashion. If, at the end of the three-day period, the owner or harbinger of the offending dog has not been found and/or has not paid the fees and penalties required by the Town of Pound Ridge, as well as the boarding and, if needed, the medical fees owed to the Pound Ridge Veterinary Clinic, the Dog **Control Officer** shall deliver the dog to the SPCA in Ossining, New York.

B. Owners of offending dogs will be unable to retrieve dogs from the Pound Ridge Veterinary Clinic **or place as may be designated by the Town Board as a place of detention** or from the SPCA facility unless and until all fines and charges owed to the Town of Pound Ridge and the Pound Ridge Veterinary Clinic and/or the SPCA have been paid.

C. Receipts issued by the Dog Control Officer showing payment of required fees and penalties must be presented to the Pound Ridge Veterinary Clinic **or place as may designated by the Town Board as a place of detention** and/or the SPCA in advance of release of the offending animal. Receipts will not be issued unless the owner or harbinger of the offending dog is in possession of a valid, state dog license.

D. Upon payment of fines and charges as provided by this Article, the offending dog shall be surrendered to the owner or custodian thereof.

§ 39-8. Filing of complaint.

A. Any person who observes a dog in violation of the provisions of § 39-4 or § 39-5 hereof may file a signed verified information and supporting deposition with a **Police Officer** of the Town of Pound Ridge specifying the objectionable conduct of the dog, the provision hereof being violated, the date hereof, the damage caused, a description of the dog and the name and residence, if known, of the owner or other person harboring said dog.

THIS SECTION WILL BE ELIMINATED

B. Following a second offense by an offending dog or following a first offense of § 39-4B(6), the Dog **Control Officer** or police officer must serve or have served upon the owner of record or harbinger of an impounded dog a summons returnable in the Justice Court of the Town of Pound Ridge and file with the Court a verified information and supporting deposition as outlined in § 39-8A above.

§ 39-9. Issuance of summons. THIS SECTION WILL BE ELIMINATED

Upon receipt by the Justice Court of any complaint or information against the conduct of any particular dog, any Justice of the Court shall issue an investigation summons, summoning the person harboring said dog to appear in person before him or her. If said person shall fail to appear before the Justice, the Justice shall accept the filing of an affidavit of information from the Dog **Control Officer** and issue a warrant for the arrest of such person.

§ 39-10. Fines; penalties for offenses.

A. Any person violating any provision of this Article shall be subject to a schedule of fines established and authorized by this Article. This schedule of fines may be amended from time to time by a simple resolution of the Town Board at a public meeting. A current copy of the schedule of fines is on file with the Dog Control Officer. In cases where there are multiple violations committed by a single offender, each and every fine must be paid. These fines are in addition to the fees for services outlined in § 39-11 and the fees which may be charged by the Pound Ridge Veterinary Hospital and/or the SPCA for boarding and/or medical treatment. These fines are also in addition to any fines which may be levied by the Justice Court of the Town of Pound Ridge.

B. The fines are shown below. After a conviction of a third offense, it is required that the dog will always have to be leashed when off the owner's property

<u>Code Section</u>	<u>Fine for First Offense</u>	<u>Fine for Second or more Offense</u>
<u>Violation of § 39-4B(1)</u>	<u>\$75.00</u>	<u>\$150.00</u>
<u>Violation of § 39-4B(2)</u>	<u>\$75.00</u>	<u>\$150.00</u>

Page No. 4
 MINUTES OF THE MEETING OF THE TOWN BOARD
 TOWN OF POUND RIDGE
 POUND RIDGE, NY
 March 10, 2011

<u>Code Section</u>	<u>Fine for First Offense</u>	<u>Fine for Second or more Offense</u>
<u>Violation of § 39-4B(3)</u>	<u>75.00</u>	<u>\$150.00</u>
<u>Violation of § 39-4B(4)</u>	<u>\$200.00</u>	<u>\$400.00</u>
<u>Violation of § 39-4B(5)</u>	<u>\$200.00</u>	<u>\$400.00</u>
<u>Violation of § 39-4B(6)</u>	<u>\$200.00</u>	<u>\$400.00</u>
<u>Violation of § 39-5</u>	<u>\$200.00</u>	<u>\$400.00</u>
<u>Violation of § 39-6</u>	<u>\$200.00</u>	<u>\$400.00</u>

C. These fines are payable to the Town of Pound Ridge. A receipt will be provided by the Dog Control Officer. Presentation of this receipt will be required by the Pound Ridge Veterinary Clinic or place as may designated by the Town Board and/or the SPCA before impounded dogs are released to their owner or custodian.

§ 39-11. Fees for services.

A. Any person violating any provisions of this Article shall be subject to a schedule of fees established and authorized by this Article. These fees may be amended from time to time by a simple resolution of the Town Board at a public meeting. A current copy of the schedule of fees is on file with the Dog Control Officer.

- (1) For dogs impounded at Pound Ridge Veterinary Hospital: \$40.
- (2) For dogs delivered to the SPCA: \$50.
- (3) Fees are doubled for second and/or all future offenses.

B. These fees are payable to the Town of Pound Ridge. A receipt will be provided by the Dog Control Officer. Presentation of this receipt will be required by the Pound Ridge Veterinary Clinic or place as may designated by the Town Board and/or the SPCA before impounded dogs are released to their owner or custodian. These fees are in addition to the fees which may be charged by the Pound Ridge Veterinary Hospital and/or the SPCA for boarding and/or medical treatment. These fees are in addition to the fines outlined in § 39-10 above and in addition to any fines which may be levied by the Justice Court of the Town of Pound Ridge.

§ 39-12. Limitation on keeping of dogs.

There shall not be kept or harbored by any family or household, whether owners or tenants, more than four dogs over the age of five months. Where the occupancy of a structure shall consist of members of more than one family, the restriction on the number of dogs permitted as hereinabove set forth shall be deemed to apply to said structure; and if a portion of any such structure shall be occupied by a tenant or tenants, the aforesaid restriction shall apply to said structure, it being the intent of this provision to impose the aforesaid restriction upon all residential structures. No dogs shall be kept or harbored in a business or commercial structure, with the exception of kennels lawfully in operation under §§ 113-2B, 113-22 and 113-41B(1) of the Zoning Ordinance of the Town of Pound Ridge. *Editor's Note: See Ch. 113, Zoning.*

A section concerning licensing will be added.

At the last discussion, a committee was formed with Jon Powers as chair to discuss the proposed amendments. It is not Supervisor Warshauer's intention to take action on this tonight. Jon Powers will go through what was discussed and we will continue the Public

Hearing at our April 14, 2011 Town Board meeting. Mr. Powers said that for several years, the Police Department has looked at the Dog Law for changes that could make it more effective. There have been over 100 complaints per year for barking and loose dogs. New York State just turned over the responsibility of licensing dogs to the local municipalities, so the Town had to change the existing law slightly. At this time, the Town Board asked the Police Department if there were any issues to address or amend in the existing law. There was a draft proposal for amendments after the December 2010 meeting and discussed at the January 6, 2011 for possible changes. The main amendment was that dogs should be on leash at all times when off owner's property. After much discussion, the committee was put together and they e-mailed each other with input. Jon took the input and put together a draft with a reasonable balance between the two sides. A few changes would be: 1) dogs should be under **control of its owner or a responsible person able to control the dog so that such does not menace, threaten or endanger any other person or animal. The dog must be leashed in areas where people congregate, and at all times in the Town Park or the business district in Scotts Corners and the bike path between the Town Park and Scotts Corners,** 2) **increased the fine structure but capped the amount at the 2nd offense level and after a conviction of a third offense, it is required that the dog will always have to be leashed when off the owner's property,** 3) the existing law has "engage in habitual howling or barking or to conduct itself in such a manner so as to disturb the peace of the neighborhood" remains but another line was added. **A specific prohibition is barking in excess of thirty minutes between the hours of 9p.m. and 7 a.m.**

Councilman Paschkes also pointed out that two other changes were discussed prior to tonight's meeting as follows: In Section 39-4 (5) "Chase or bark at motor vehicles, bicycles or moving vehicles **while running** at large in such a manner as to cause unreasonable disturbance. The other change that was discussed would be to make the second offense fine discretionary so that it would be a minimum of what the first fine would be with a maximum of what the second fine would be. This will give the Judges the discretion to fine what is reasonable in each incident. The question arose if the incident is per dog or per owner. Jon said it is based on per dog.

Josina vander Maas, So. Bedford Road, asked what the rationale is with the time span between 9:00 p.m. and 7:00 a.m. Jon said that the current law is fine, but clearly it is more annoying during the night time hours. It would be more of a nuisance during those hours.

Russell Hampton, Upper Shad Road, feels that there should be a more comprehensive solution because sometimes the electric fences don't work because of the heavy snow or infallibility because of the weather, thus causing the dogs to escape. He feels that part of the problem is the fencing restrictions in Town and would like the ability to fence in more of his property than the maximum of two acres that the ordinance allows. If the dogs escape because of the failure of the electric fence, does that owner get fined? Jon said that there are extenuating circumstances and many times the Police Officers and the Judge would be lenient. That latitude is still at the discretion of the Police and Judges.

MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
March 10, 2011

Donald Perun, Barnegat Road, said that he opposed the amendments and would like the Town Board to draft a law for the irresponsible owners. Once we do this proposed law, there is no going back. The fines are pretty extensive and he doesn't want the responsible owners to be subject to these fines for the few irresponsible owners. Discussion took place between residents and Chief Ryan and it was explained that we do need the law because there are people who are so noncompliant and go beyond the limit. Mr. Hampton said that the existing law is there to protect people who have been harmed or threatened by a dog. Chief Ryan said that it does in so far as saying you can do this and can't do that, but there is no real harsh punishment unless the dog physically bites a person which would be covered under the Dangerous Dog Law. The Town is looking to cover what is in between.

Councilman Paschkes said that there is no question that a dog should not be allowed to harass someone who does not want to be harassed or physically assaulted. His concern is that we not take what may be hatred or an irrational approach to what is on a neutral basis, not an unreasonable act on the part of the dog or dog owner. When someone has a hatred for something or somebody, it tends to turn into an irrational response to what it is that they hate. That gives him pause for concern. He also wants clarity on whether the fine is per dog or offense. The way it reads now, it is per offense and if you have three dogs and you have the invisible fence and the proper collars and the power goes out, the dogs would run in packs. Potentially, if it is per dog, it could get expensive. Chief Ryan said that wouldn't be three offenses. He explained the Police have to identify each dog but it would only be one offense. Jon mentioned that if there was an incident involving three dogs, it would be one offense, but if one dog was involved in three different incidents, it would be three offenses.

Mr. Hampton can't understand what these new restrictions are going to do. We are not going to prevent dogs from getting loose or prevent them from barking. Why all this when it is not going to create any more protection.

Jane Clough, Westchester Avenue, asked how we cut down on the number of dogs that are wandering around and being picked up by the Police. She feels that the Town needs to have a public relations campaign on how to be a more responsible dog owner. There are habitual irresponsible people.

Jon Powers said that by increasing the fines and making the third offense punishable, it should help.

Supervisor Warshauer said that the basic intent of the current law is still carried through and other than the fines, what has come out of this is a clearer definition of what the current law says and how it is being enforced.

Councilman Falco said that we are talking about two different things. One is the dog is off the property, not with an owner and doesn't harass anyone. Does that cost the owner a fine? The second is the dog is off the property, with or without the owner and

MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
March 10, 2011

threatening someone. That would cost the owner a fine. The third scenario would be if the dog bites someone and that would be covered under the Dangerous Dog Law.

Jim Downes, Fox Run Road, said the statute that has been amended says that if a dog runs freely and doesn't menace or threaten does not get picked up by Police. He is all for that. He handed in a petition signed by 50 neighbors objecting to the amendments to the existing Dog Code. Peter Clough said that the way the amended law reads is a dog can be off leash off their property under the control of its owner not running freely without voice control. Mr. Perun reads it to say the Police can pick up any dog running freely if it is not under the voice control of its owner. Councilman Falco said that one example is he would not be able to open his door and let his dog out to run freely even though he feels he would not menace or hurt anyone. He would be able to, however, go for a walk with his dog off leash as long as he controls it or takes the consequences if he is not able to.

Supervisor Warshauer said that most of the language in the amended law is more clearly defining what is already in the law. We are defining certain locations in Town where a dog must be on a leash and feels that most agree with that amendment. Another issue is defining what is under "voice" control, which the proposed amendments would clarify. More difficult is the issue of managing noise. The proposal is to identify the time period when people should be most diligent about their dogs barking and that was overnight. The proposal is to specifically define those hours. Then we need to establish fines that are appropriate to the offense but significant enough to be taken seriously.

Discussion took place regarding the actual 30 minute barking limit. Chief Ryan said that there would be discretion and what is disturbing to the Police may not make sense to a Judge. Many times there are reasons for a dog barking and that would be taken into consideration.

Another resident stated that the barking issue is really a quality of life issue and needs to be addressed. Night time barking is very disturbing and he unfortunately has a neighbor with a dog that habitually barks. It has to be addressed with stronger fines.

Supervisor Warshauer said that the fines proposed are \$75.00 for the first offense and then up to \$150 for the second offense. Mr. Perun suggested that the Town really has to clearly define habitual non-compliance to something other than a second offense. This could possibly eliminate the second offense for other people who are compliant. Mr. Clough said that he would like to see the second offense doubled with no discretion.

Discussion continued back and forth with the amount of the fines. Chief Ryan said that habitual offenders should be punished. They are irresponsible owners and there should be progressive discipline. We have the obligation to protect people in Town. Joan Dooley, Dog Control Officer, said that in Pound Ridge, we usually mediate the matter before bringing it to court. If the incident does go to court, then it is a severe case and they should be fined strongly.

MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
March 10, 2011

Peter Clough said that the statute should read the way we want the statute to be executed no matter who is enforcing it. He said we are changing the law because there are too many dogs running loose and there is too much barking. The habitual offenders should be punished.

Mr. Hampton said that he would like to hear from Chief Ryan and Joan Dooley regarding the complaints. He would like to see if they are habitual offenders or one time incidents. Maybe we should make a change to the law but we shouldn't do it ignorantly and too quickly. We should look at all the information.

Supervisor Warshauer said that he is hearing that we need to define a habitual offense more clearly and that the low end of the fine should be reduced and the high end of the fine should be increased to give the Judge the latitude to interpret the severity of the infraction, how often it has occurred, how it is being dealt with and impose an appropriate fine.

Councilman Paschkes said that there should be a time period for the offenses. He suggests a 12 month time frame. If you have someone who receives multiple offenses in a 12 month period, there is a problem and it is definitely a habitual offender.

We may have to divide the two issues: barking being an owner problem and menacing a dog problem. Councilman Lyman said that we tend to focus on the exceptions and missing the overall problems of bad dog owners.

Councilman Paschkes said that we are trying to address through legislation a problem that is really limited to a half a dozen individuals in Town and the legislation is going to affect everybody. The challenge is to make sure that the legislation doesn't capture everyone when you are trying to resolve an issue with a half a dozen individuals. Chief Ryan said that we do have the latitude to address each incident separately.

Jon Powers said that we need to do some tuning with the amendments and put in habitual in the language. He said whether we like it or not, we have to put more trust into our Police and Court.

We will try to address all the issues mentioned tonight and put those proposed amendments on the Town's website. The purpose of this law is not to impose fines but to solve the problems.

RESOLUTION #: 62 -11

Board Action: Motion by Councilman Lyman, seconded by Councilman Paschkes, all voting aye on the following:

RESOLVED, that the Town Board hereby agrees to continue the Public Hearing to consider amendments to Chapter 39 of the Town Code: Animals-Control of Dogs and related fees to Thursday, April 14, 2011.

NEW BUSINESS:

MINUTES: Acknowledge/Correct/Accept Minutes of Town Board Meetings of February 10, 2011 and the Executive Session of February 11, 2011 and March 3, 2011.

RESOLUTION #: 63 -11

Board Action: Motion by Councilman Lyman, seconded by Councilman Falco, all voting aye on the following:

RESOLVED, that the Town Board hereby accepts the minutes of the Town Board Meetings of February 10, 2011 as amended and the Executive Session of February 11, 2011 and March 3, 2011.

The Town Board minutes of March 3, 2011 and the Work Session minutes of February 23, 2011 will be acknowledged at the April 7, 2011 Town Board meeting.

- **Discuss the Proposed New York State Property Tax Cap**

DRAFT RESOLUTION on the PROPOSED PROPERTY TAX CAP

WHEREAS the level of property taxation throughout New York has reached dangerously high levels; and,

WHEREAS New York's property taxes are among the highest in the nation because our state government chronically imposes unfunded mandates and provides little state aid; and

WHEREAS two of the largest components of every municipalities budget over which local officials have little control are pension and health insurance costs, which are increasing at exorbitant rates; and

WHEREAS in the case of pension costs, bills from the State Retirement System to the Town of Pound Ridge have increased by \$135,000 or 83% for regular employees and \$27,000 or 41% for police retirement from 2010 to 2011 and are expected to increase by 40% in 2012; and

WHEREAS in the case of health care costs, such costs to the Town of Pound Ridge have increased by \$38,000 or 4.5% from 2010 to 2011 and are expected to increase again substantially in 2012; and

WHEREAS state government imposes on the Town of Pound Ridge and other municipalities a wide range of unfunded or underfunded mandates and costs, which drastically increase the costs to property taxpayers, including the Department of Environmental Conservation requirements for septic inspection, storm water management regulations and building inspections, to name a few; and

WHEREAS the state government has recently imposed upon the Town of Pound Ridge and other municipalities the MTA payroll tax at a rate of \$0.34 for every \$100 of payroll, which results in an additional \$10,500 each year borne by Pound Ridge taxpayers; and

WHEREAS the state government has apparently embarked on a program of transferring the responsibilities of state government to county and municipal governments, including as a recent example, dog licensing; and

WHEREAS as a putative solution to New York's property tax crisis, the Governor of New York and the New York State Legislature is considering enactment of legislation imposing a cap on the annual growth in local property taxes; and

WHEREAS notwithstanding the continuous and unrelenting imposition of the State unfunded or underfunded mandates and costs, the Town of Pound Ridge has managed modest property tax increases; and

WHEREAS the State of New York has a strong tradition of Home Rule and any proposed imposition of property tax caps violate the tradition of Home Rule; and

WHEREAS the State budget is woefully out of balance and the State first should look into putting its own fiscal house in order before considering any dictates and further controls of the Town of Pound Ridge and other municipalities; and

WHEREAS a property tax cap without repeal of costly state mandates will, by definition, lead to drastic cuts in essential local services and dramatic layoffs of local employees;

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Pound Ridge that the Governor of the State of New York and the Members of the New York State Senate and New York State Assembly must reform the cost drivers that lead to high property taxes, including pension benefits and health insurance costs, as the central element of any effort to provide overdue property tax relief to the residents and business

MINUTES OF THE MEETING OF THE TOWN BOARD
TOWN OF POUND RIDGE
POUND RIDGE, NY
March 10, 2011

of New York and that the rights and responsibilities of the municipalities to determine the appropriate balancing of revenue and expense lines in their own budgets should not be abrogated by an arbitrary State imposed property tax cap inconsistent with Home Rule; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Governor, State Majority and Minority Leaders, Senator Ball, Assemblyman Castelli, the New York State Conference of Mayors, the Association of Towns, Westchester Municipal Officials Association and the Spending and Government Efficiency Committee.

Supervisor Warshauer said to impose such a tax cap would work against the efficiency of our operations particularly as the health care and retirement costs continue to increase. In order to absorb the unfunded mandates from the State, we would have to reduce our local staff and our local costs. He feels that this unfunded mandate is extremely unfair. A draft resolution has been drawn up opposing the proposed property tax cap legislation which the Town Board will vote on tonight.

Councilman Paschkes commented that the cap is on the tax levy not the tax rate. If you were to have new growth in Town and as those houses would come onto the tax roll, this legislation would forcibly reduce the rate and not provide for an increase to the levy and we would have to provide more services for more people with less revenue per capita to do it with. In the future, we may not even be left with sufficient resources to provide natural growth and services to our community.

Councilman Lyman said that the 2% cap does nothing about controlling the cost of State government. In the Constitution, States cannot raise money for property tax. It really does nothing but hurt the local municipalities.

RESOLUTION #: 64 -11

Board Action: Motion by Councilman Paschkes, seconded by Councilman Lyman, all voting aye on the following:

RESOLVED, that the Town Board hereby adopts the Resolution opposing the Proposed Property Tax Cap. It will be forwarded to the Governor and State Majority and Minority Leaders, Senator Ball, Assemblyman Castelli, the New York State Conference of Mayors, the Association of Towns, Westchester Municipal Officials Association and the Spending and Government Efficiency Committee.

- **Discuss Model Legislation, proposed by the Westchester County Septic Committee**

This ordinance is intended to implement, through the enactment of the necessary legal authority, enforcement of a program to ensure that separate sewage disposal systems are inspected, maintained or rehabilitated as required.

Councilman Lyman said that the technical sense of the proposed legislation would not necessarily have to cover the entire Town. The mandated area for this ordinance is in the DEP watershed. It makes sense to cover the entire Town to be consistent with the action we took in adopting the storm water regulations for the entire Town. The Model Legislation was developed in conjunction with the DEC and decreed that this will constitute an inspection under the new guidelines for the MS4. It is important to note on the inspection form, that the only line the State is really interested in is the one line that says "Is there any evidence of exposed or discharged septage onto ground surface? If yes, then when this form goes to the County and it will generate an inspection by the County. They will take over to determine if there actually is a problem and mandate that it gets rectified. At first we were pushing to have Westchester County take over, but if there is a failing system and the County doesn't do their job, the Town is still subject to fine under the MS4 regulation. We are in a catch 22. The Town will have to complete the legislation by filling in blanks. We will have to come up with a fine structure for failing to comply with the law. It will be incumbent upon the Town to make sure that every septic system is pumped. During that process the inspection will take place to see if there is any evidence of a failing system. It is going to be incumbent upon the Town to get a computer in place, to do all the proper notifications to the property owners and track each one to assure it is done. It applies to residential as well as commercial. The County is currently working on the database that may be accessible by each municipality or they may send us a spreadsheet every month or two to track who has pumped and who has not.

Chief Ryan questioned if a larger house with only two people living in it is required to pump every five years as would a smaller house with five people living in it. The answer was yes and Councilman Lyman explained that the DEC does not want to discuss any type of exception to the law to make sure the inspection is done by all. After the initial database is formed by the year 2016, it is possible that they will be more open to discussion.

Discussion took place with questions regarding who will be enforcing this and who gets the fines. The enforcement is by the Town, and according to the Town Attorney, our local Justice Court lacks the authority to assess fines, so ultimately the failure to comply would be handled in County Court. The septic haulers are responsible to inspect the tanks and the leach fields. If they see leakage or a problem, they would check yes on the data

form and the County would follow up on it. The time frame for this legislation is May 1, 2011 through May 31, 2016. It has to be adopted by May 1, 2011.

RESOLUTION #: 65 -11

Board Action: Motion by Councilman Paschkes, seconded by Councilman Lyman, all voting aye on the following:

RESOLVED, that the Town Board hereby agrees to hold a Public Hearing on Thursday, April 14, 2011 at 8:00 p.m. to consider the adoption of the Model Legislation, proposed by the Westchester County Septic Committee.

Supervisor Warshauer announced that the Town Board interviewed and appointed Konstantin Braun to the Board of Assessment Review.

Supervisor Warshauer announced that the Town Board has hired Lavina Paschkes as a part time Court Assistant effective March 21, 2011. For the record, Councilman Paschkes mentioned that he had recused himself from the Town Board discussion and decision.

FINANCIAL MATTERS:

- **Sale of Cemetery Plot**

RESOLUTION #: 66 -11

Board Action: Motion by Councilman Paschkes, seconded by Councilman Lyman, all voting aye on the following:

RESOLVED, that the Supervisor be and is hereby authorized to sell Town Cemetery Plot #97-1 & 2 Section 3 (2 gravesites) to Ronald and Eileen Lucchini, 22 Farm Hill Road, Ridgefield, Ct. 06877, at a cost of \$2,000.

- **Annual Report filed with the State Comptroller**

Supervisor Warshauer reported that the Town's Financial Report for 2010 has been filed with the State Comptroller and that the Town Clerk shall publish a notice in the Record Review, our official newspaper, and that the report is on file in the Town Clerk's office and available for public inspection, pursuant to Town Law.

- **Receipt of monthly reports**

The monthly reports have been received from the various departments and are on file with the Town Clerk's office.

- **Pay Bills**

RESOLUTION #: 67-11

Board Action: Motion by Councilman Lyman, seconded by Councilman Paschkes, motion passing 3-0 with Councilman Falco abstaining on the following:

WHEREAS, Councilman Falco has audited the claims for payment and has reported that same could be paid, Now, Therefore, Be It

RESOLVED, that the Supervisor be and is hereby authorized to pay the following claims for payment provided there are sufficient funds in the account to which a claim may be charged:

GENERAL FUND	G		\$105,103.85
HIGHWAY FUND	D		\$101,103.85
PARKING DISTRICT	ST		\$140.00
TRUST AND AGENCY	T		\$178,795.89
CAPITAL	H		\$1,150.00

Deputy Supervisor mentioned that several months ago the Town Board approved the joining of the East of Hudson Coalition paying legal funds supporting the DEC activities in the watershed. At the time, the Town Board gave approval for the Supervisor to sign a contract recognizing the cost at that time to be around \$2,000. The cost in actuality was \$775.00.

ADJOURNMENT: There being no further business to come before the Board, Supervisor Warshauer adjourned the regular meeting at 10:45 p.m.

Joanne Pace
Dated at Pound Ridge, New York
March 14, 2011