

Regular Town Board meeting held by the Milan Town Board on 02/09/09 at 7:30 PM at the Milan Town Hall.

Present: Supervisor Richard Barrett
Councilpersons David Byrne, Roberta Egan, Diane May & Ross Williams

The Supervisor opened the meeting with the pledge of allegiance.

PUBLIC COMMENT:

There was a large number of Veterans present to comment on a letter that was published on a web site and a comment that was made at the last board meeting regarding Councilperson Byrne. Attached are the letters that were submitted to the board by Waltraud Byrne, Reginald Coon, Tim Williams, Ann Mancini and Ryan Wolf.

Dear Fellow Milan Resident,

February 5, 2009

My son, Councilman David Byrne, has been the target of harsh slander in a letter posted on the MilanInsider.com website and sent to a number of people in Milan and surrounding towns. In this letter, the anonymous author states, "David Byrne, you did a five and out after West Point even though your country is at war. Do the right thing at last. Defend democracy and resign now!" This coincides with Councilwoman Diane May telling my son that he is a "disgrace to West Point," among other degrading remarks. I would like the people who wrote this letter and the townspeople of Milan to understand the qualities of courage, dedication and integrity that he has displayed in his young life, which contradict the content of the above statements.

I would like to share about my son's five years in the Army and his two years of deployment in combat. While at West Point David suffered a very painful back injury, requiring spinal surgery. Although he could have graduated West Point without fulfilling his time commitment in the Army, David fought through the pain to fulfill his duty.

My son's first deployment was a year after his youngest brother was killed in a tragic car accident. David loved his brother dearly. Also, during this time my husband had been fighting a long and difficult battle with colon cancer. At the time of David's departure to the Middle East, he did not know if he would ever see his father again. Three months later, his father passed away very suddenly. During this first deployment David left behind his pregnant wife and on his second deployment his wife and fifteen month old son.

I know that David gave everything he had during his combat deployments. He worked an average seventeen hours a day, seven days a week, 365 days a year. In their evaluations of David, his colonel and other superiors stated that he was "the best S-2 (Intelligence Officer) I've seen operate in a combat environment" and his "performance...has been superb and marked by a success and excellence uncommon in his peer group." He also earned a number of awards including the Bronze Star and Combat Action Badge. He worked tirelessly in order to protect not only American Soldiers, but Iraqi Army and Police forces and civilians, many of which he became friends with.

After fulfilling his active duty commitment, David joined the New York Army National Guard and volunteered to be activated again in support of Operation Iraqi Freedom.

When David was in high school, he decided he *would* go to West Point, without a doubt in his mind as to whether or not he would be accepted. I distinctly remember asking him during this time period if he would be willing to give his life for his country and he always answered 'yes' very clearly. Again while he was attending West Point I asked him this same question and he responded again with the same strength and clarity.

Clearly my son's actions speak to a very different character than the one described in the aforementioned letter. It is deeply disturbing to me that someone that knows so little about my son is attempting to slander him after he, at such a young age, suffered great personal losses and at the same time was willing to give his own life for our country. I would like the author of this letter to look me in the eye, apologize, and take responsibility for the untruthful words about my son.

I firmly believe that along with freedom of speech comes responsibility--a responsibility to not hurt or convey untruths about others with our words. I understand that here in Milan, as well as all across this great nation, we have vastly different political beliefs and ideas. However, there are so many more things we have in common and we should focus on our shared humanity. We are all fathers and mothers, husbands and wives, sons and daughters, brothers and sisters. We all have families whom we love and who love us in return. We have all experienced personal tragedy, sickness, and loss. We need to respect the humanity, and even the divinity, existing in each of us. Like all people, my son deserves to be treated with respect and dignity.

Sincerely,

Waltraud Byrne

Note: I am fully responsible for this letter in content, initiative and expense.

Subject; In Response to an incident at the Milan Town Bd. Meeting on Jan. 12, 2009.

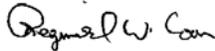
Having been a soldier, I can relate to other soldiers. I don't consider a soldier as a Democrat, Republican, Conservative or Liberal. I think of them as individuals that deserve respect and admiration. When you attack one soldier you attack us all.

It amazes me, even at my age, how anyone can question a soldier patriotism or military record, a soldier that has served two years in the Middle East. Mr. Byrne and his family have made many sacrifices in order to defend our constitution. It's what soldiers and their families do. I don't need to know a soldiers rank or service record. Whenever I recognize one I go out of my way to thank them for their service. Soldiers that I served with still refer to me as Sgt. Coon. It's called respect and I wish all of us could put aside our political views and show that same respect. Throughout our history it has been the dedication to duty and the blood of our soldiers that we owe our freedom of speech as well as our other freedoms. We are the greatest country in the world thanks to our soldiers.

The Town Meetings should not be a place where people go to disrupt our political process, but a place where various ideas and concerns are brought to the attention of the elected town officials. Treat these elected officials as you would like to be treated. It's a thankless job as no matter what decisions are made there are those of us that won't be satisfied. Verbally assaulting elected officials and elected officials insulting one another discourages other citizens from seeking public office and only helps divide our community.

In closing I would like to thank David Byrne for his service to our country and apologize to him and his family for the way he was treated by some of the citizens of our town. I wished I could have served with Officer Byrne. "It would have been an honor, SIR." I also thank Mr. Byrne for his service to our community as a town board member. I thank the other town board members for their service to our community. I may not agree with their decisions or their actions and to those I don't agree with, I will vote against in the next election, but in no way will they ever see me at a town board meeting verbally assaulting them. It shows a lack of respect, a lack of common sense and is by no means productive. That's how I defend Democracy.

REGINALD W. COON



Tim
Williams

The author of the article contained in the Milan Insider website pertaining to the lengthy town board meeting held on 01/12/09 should be ashamed of him or herself, I notice that it is unsigned so I can only direct my comments to your site as opposed to a person. Although I can fully understand the consternation surrounding the actions of the Republican majority members of the town board, the personal attack against the distinguished military service of Milan Town Board member David Byrne is an affront to any veteran. The very political process that allows us to operate as a democratic society has been bought with the *blood* of veterans and the *sacrifices* of their families. To disparage Mr. Byrne's military service with comments such as: "David Byrne, you did a five and out after West Point even though your country is at war. Do the right thing at last. Defend democracy and resign now!" is partisan politics at it's worst! The **clear implication** of such an uneducated comment regarding military service is that Mr. Byrne somehow shirked his duty and abandoned his comrades and country while at war. Of the 303 million Americans in our country today He was one of 5 million who presently serve (about 9%), and 23 million who have served to "Defend Democracy." Mr. Byrne's **combat** record speaks for itself. The article's author needs to focus on the issue in question and refrain from personal attacks; an apology should be issued to Mr. Byrne and the veteran's of the town of Milan at the next town meeting.

To the Editor:

In a recent posting on [MilanInsider.com](#) ("West Point Grad and Town Board Member David Byrne Votes to Shut Down Democracy in Milan"), **three local Republicans—David Byrne, Bobbi Egan, and Dick Barrett—were chastised for moving to change procedures for discussion on the Town of Milan Board.** Whatever legitimate concerns there may be concerning the issue itself, I was offended by the cheap shot taken at David Byrne's military record. It was obviously done by someone who has no idea what it's like to put his life on the line in a war situation. Mr. Byrne not only "put in his time" in active duty in the Middle East but was decorated several times over for his exemplary service. And I dare say that any soldier who has faced enemy fire in foreign lands has thought seriously about what he is fighting for, knowing that he may not come back alive. My advice to anyone with a complaint is to stick to the issues and don't stoop to smearing someone's sacred offering for a higher purpose. If I were the author of that article, I would offer Mr. Byrne an apology for my lapse in judgment.

Anne Mancini
Milan

RYAN WOLFE
RHINEBECK

Dear Editor,

Having ~~lived~~ ^{IN THE} ~~the~~ Milan area, I am familiar with the disturbing tone of the local politics, but I was nevertheless shocked to read the recent letter that was posted to milaninsider.com about Town Board Member David Byrne. As a Democrat, I understand the disagreement on issues and that at times this disagreement becomes quite passionate. I do not by any means, however, believe that it is appropriate or acceptable to attack an individual in the ugly and personal way that the cowardly anonymous writer did.

To criticize the military record of David Byrne is a shameful act of partisan warfare far lower than any I've seen before. David served honorably in the Middle East over two tours of duty that kept him away from his young family during times when he was most needed. He served without complaint right after his brother was killed in a tragic car accident and during his father's fight with cancer that he ultimately lost while David was away. He served through his wife's pregnancy with their first child and through his child's first years of life.

David has also served honorably in the New York Army National Guard since getting out of the Army in 2006. With his extensive combat experience and dedication to ensuring the well-being of military families, he was an enormous asset to our unit. This man, who has served with great honor, deserves our deepest respect. This personal attack on his service is also an attack on all of our veterans and their families.

REAR DET COMMANDER

- PEOPLE/FAMILIES KNEW THEY COULD CALL ^{CPT} DAVE BYRNE AND HE WOULD GET IT DONE
- REAR DET CDR IS ONE OF THE MOST DIFFICULT, YET REWARDING POSITIONS, ITS AN HONOR TO BE SELECTED TO THIS POSITION

Ben Trivelli stated that the person who wrote the letter should stand up and identify himself. He felt it was a bad sign that this was allowed to get into discussion. He felt that the person who does not stand up and identify himself is not important.

Kevin O'Laughlin stated that the publication upset him a lot. He said in the 60's there were some elements that would spit upon our service men but now they are more sophisticated, now they use the media because they don't have the courage to identify themselves. He wanted to take this opportunity to salute Captain Byrnes for his courage and integrity.

Bill Mansfield stated that he wanted to give the person who wrote this anonymous letter the opportunity to come forward, which came out after Council. May was over heard addressing Council. Byrne at the end of the last meeting, the words he believe were that Council. Byrne was a disgrace to West Point, I will never respect you, and you

are a waste of taxpayers' money. Mr. Mansfield said that if this was false that he would love to know that he made a mistake. He stated that Council. Byrne is not a waste of his taxpayer dollars.

Sheila Buff interjected saying that she would like to address that statement. She stated that she is the one who operates the website on behalf Milan Democrats. She stated that she knew who wrote the article and that he was a Vietnam combat veteran and he requested anonymity and in the spirit of free speech it was posted. She said that if anyone had any comments that she would post them.

Steve Siegel stated that this was all news to him. He felt that no one should write anything anonymous. He said that he came here tonight to talk about the finances and other issues. Mr. Siegel said that other people were slandered before and it has to stop and that we should all get down to the issues.

Rose Miller, who is 92 years old and was a flight nurse during WWII. She told of her story as to what it was like during the war and what the nurses endured. Ms. Miller said that we are simple Americans who have chosen to serve our country and she humbly asked that you give Council. Byrne the same dignity and respect that you would have afforded her, she thought that he deserved it; he did serve his country.

Bill May brought up the salary issue of the town and how there might be a problem with it. He talked about having bounced checks and there were late fees that were not taken care of. Mr. May also talked about spending money on a computer program that no one knows how to work, and that there is still is no year-end report from 2008. He was not sure if the tax hike was correct if the budget was correct. He had some concerns regarding the Wilcox Funds.

The Supervisor responded saying that the difficulties that we had with payroll – we are reconstructing the whole payroll and it appears individuals were adequately paid and he is going to work with the payroll people to try and determine why we have errors in our financial statements. The Supervisor also stated that there are inadequacy in Mr. Mays comments and the Supervisor said that he will be addressing them later on in the meeting.

Dennis Lesica stated that he was here to support Council. Byrne. He said that he could not understand how an individual with any integrity can be so underhanded as to attack anyone for any reason unless they want to come here and stand up and be heard.

E. Bartin brought up the letter that was mailed out from the Office of Supervisor. She said it was signed by only three board members.

The Supervisor said that the members got together to write a statement regarding the finances in the town.

E. Bartin wanted to know why the two board members were not included.

The Supervisor said the same reason when they sent out their letter and they did not include the other board members.

E. Bartin wanted to know who paid for the mailing.

The Supervisor responded the Republican Party.

Carl Immich stated that there should not have been an attack on Council. Byrne and that his son was in Iraq. He felt that we should come together as a community and leave politics out of this.

Council. Williams stated that who ever wrote the letter was one person and not to characterize everyone as having written the letter. He said that even if he knew who it was he would not identify that person.

Bill Mansfield spoke the words of a US Senator: "Never in the history of the world has a soldier sacrificed more for the freedom and liberty of total strangers than the American soldier. And, our soldiers don't just give freedom abroad; they preserve it for us here at home.

For it has been said so truthfully that it is the soldier, not the reporter, who has given us the freedom of the press.

It is the soldier, not the poet, who has given us freedom of speech. It is the soldier, not the agitator, who has given us the freedom to protest.

It is the soldier who salutes the flag, serves beneath the flag, whose coffin is draped by the flag who gives that protester the freedom he abuses to burn that flag.

J. Brundrett said that he was moved by the quality of people who have spoken tonight. He felt what has to happen is to take a positive energy and move it and come up with solutions. Mr. Brundrett said that it is people coming together and the need to work together with progressive ideas and move forward.

Fred Grieve stated that the person who wrote the letter does not know much about character because they lumped General Eisenhower, who was our President, and Wesley Clark who should not be on the same piece of paper.

Council. May brought up the fact that there is another web site which is an opposing web site. She said is all anonymous and they have said things about Lauren Kingman who is a Veteran. Council. May stated that worse things have been said about Lauren than about Council. Byrne on that web site; she also mentioned her husband who was also on the web site.

The Supervisor spoke briefly about Veterans Day and the Memorial Day ceremony. The Supervisor hoped that we could all work together and move forward.

Tax Collector, Pamela Johnson submitted her January Report to the Supervisor. The total amount taken in was \$143,898.40.

Council. Byrne wanted to thank the Veterans for coming tonight and he made a brief statement. He talked about being public servants and that the public did not elect us to bicker, stonewall and filibuster or whatever technique we may use in order to further our political agenda. He brought up the motion that made at the last meeting and he stated that the intent of that motion was not to stop free speech. He continued to speak on this issue and then concluded saying that he had hope that we could all work together as a team.

Council. Williams wanted to respond to his comment and said that as far as he was concern, he must wholeheartedly disagree with Council. Byrne when he said that he was trying to filibuster. He said that he is trying to pursue good government. Council. Williams brought up the problems with the finances of the town and said that he is not trying to filibuster. He said that all he is trying to do is get this board to do the right thing.

Council. May said that there is a lack of communication with the Supervisor.

There was a 5- minute break!

MINUTES – Minutes of 12/30/08 –Year End – MOTION by Council. May seconded by Council. Byrne to accept the minutes as corrected. Roll was taken and carried.

YES - Byrne, May, Williams, Barrett

NO – 0

ABSTAIN – 1 Egan

MINUTES – Minutes of 12/30/08 Re-Org for FY'09 – MOTION by Council. Byrne seconded by Council. Williams to accept the minutes. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO -0

MINUTES – Minutes of 01/12/09 Annual Accounting of Books – MOTION by Council. Byrne seconded by Council. May to accept the minutes. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

MINUTES – Minutes of 01/12/08 Regular Tn. Board Mtg. – MOTION by Council.

Williams seconded by Council. May to table these minutes until next regular meeting. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

CORRESPONDENCE:

Supervisor brought up a letter that he had written to Congresswoman Gillibrand, now Senator, regarding the current needs regarding infrastructure in the Town of Milan. Council. May thought it might be a good idea to resend the letter now that she is a Senator. Discussion continued.

Letter from Paggi, Martin and Del Bene regarding the Rock City Road project and his time schedule.

Council. Williams brought up the letter from Assemblyman Marc Molinaro thanking the Town for their support for the Greenway.

The Town Clerk had correspondence from the Town of Red Hook – Adoption of Amendments to Chapter 143 of the Cod of the Town of Red Hook entitled Zoning, Chapter 120 of the code of the Town of Red Hook entitled subdivision of Land and the Comprehensive Plan.

The Town Clerk had correspondence from the Town of Rhinebeck – Determination to prepare a supplemental draft generic environmental impact statement regarding the adoption of the town's Comprehensive Plan; amendments to the town zoning law; and adoption of town Freshwater Wetlands Law.

MOTION by Council. Williams seconded by Council. May to renew the agreement with Gen-Plus, Inc. for the town's generator in the amount of \$325. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

Council. May wanted to know about a letter regarding Mitchell Lane. The Supervisor stated that it had not gone out yet. She also wanted to know about a letter to Mr. Grady. The Supervisor responded saying that he was waiting for the board's response. Council. Byrne wanted to delete the second to last sentence in the letter. The Supervisor read the letter and the board decided to omit the last sentence. MOTION by Council. May seconded by Council. Williams to send out the letter without the sentence " Absent that, it is requested that standards be set for all prosecutors of traffic cases, ensuring all defendants are treated equally under the law". Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett
NO - 0

Council. May wanted to read a letter to the Office of the State Comptroller:

February 3, 2008

Office of the State Comptroller

Division of Local Government & School of Accounting

12th Floor

110 State Street

Albany, New York 12236

Attention: Mr. David Hancox

Office of the State Comptroller

Chief Examiner, Mr. Chris Ellis

Albany Regional Office

22 Computer Drive West

Albany, New York 12205

Re: Request for Audit and Review of Financial Records

Of the Town of Milan for year 2008

Dear Mr. Hancox and Mr. Ellis:

We are Town Board Members in the Town of Milan. We are requesting that the Office of the State Comptroller review and audit the books and financial records of the Town for fiscal year 2008. This request is made for the following reasons:

1. The December 2008 financial report has not been finalized. Numerous revisions have been offered but they are inaccurate, incomplete and lack financial detail sufficient for review and analysis. Monthly reports were inconsistently provided over the course of 2008, and were frequently revised. October and November reports were revised in December and no final December report has been accepted by the Board to date.
2. The Supervisor has failed to produce for the Boards' review a year End Financial Statement for 2008 as required by law. When asked why it was not completed the Supervisor indicated he did not know one had to be done.
3. In spite of repeated requests, and a resolution approved by the Town Board, the Supervisor has failed to produce source and detail documentation for the town's funds.
4. Transfers made by Board resolution between budget lines have not been recorded on the books.
5. Transfers to the General Fund have been made incorrectly and from the wrong funds.
6. The Supervisor has made purchases without board consent and without following Town bidding procedures.
7. The Supervisor has paid bills without board approval.

8. The Supervisor has made purchases with Grant funds, though the Grant funds were never received.
9. Escrow accounts have been neglected, information sought has not been provided.
10. A June check received by the town in the sum of \$3,006.25 (donation) has not been accounted for and not included in subsequent reports though information regarding the check has been requested.
11. The Supervisor has approved attorney fees for political advice.
12. There are numerous payroll irregularities.

The Supervisor has acknowledged on numerous occasions his lack of knowledge and understanding of the Town's QuickBooks accounting program. The Town during 2008 employed two CPA firms with Municipal accounting expertise both resigned. The Supervisor hired a Bookkeeper with no municipal accounting experience and limited understanding of QuickBooks. In addition the Supervisor has purchased another accounting system, Fund EZ (designed for not-for-profit organizations). The Supervisor has admitted publicly neither he nor his bookkeeper have any knowledge of this program or how to use it, and yet he is attempting to implement the program.

For the foregoing reasons (not an inclusive list) we are asking for your assistance. We do not have any confidence in the Supervisor as the CFO of the Town. To continue in this fashion for another year, we believe, would put the town at further risk of financial instability. We ask you to assist the town in unraveling the finances of 2008 and help us move forward by setting the ground work for good financial accounting for the Town of Milan.

If we can be of assistance please use contact phone numbers below.

Very truly yours,

Diane May

Ross Williams

845-758-3558

845-758-6344

pc: Richard Barrett, Supervisor
David Byrne, Town Board Member
Roberta Egan, Town Board Member
Catherine Gill, Town Clerk

The Supervisor stated that he would welcome an audit. We have had three bookkeepers and as I have said repeatedly that while they do the same thing, they do them differently. He said that in some cases the errors go back as far as 2004 and 2005. Discussion continued and various comments were made regarding this issue.

Council. May brought up the appeal of the denial for the FOIL request of Williams May as per Town of Milan Local Law 9 of 2006. She reviewed the denial with board. Council. Byrne stated that Mr. May references Section 6 E, (4), (5), (6) of that law, if you read that law it addresses the 20 business day time line. He stated that it was nineteen days. Council. May stated that he did get it in time. The discussion went back and forth among the board members regarding the issue of the CD. Council. Egan asked Council. May if she was going to recuse herself and she said that she was talking as a board

member that we as a town have a responsibility to supply any information that they request through FOIL. Discussion continued and various comments were made regarding this appeal.

MOTION by Council. Williams seconded by Council. Egan to table the scheduling of this meeting and any further discussion. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO -0

Financial Report

The Supervisor informed the board that the town has received sales tax revenue from the last quarter of 2008 in the amount of \$30,900.00. It was \$7,000 over what the town needed to meet the budgeted amount. He also distributed the mortgage revenue and stated the summary page has changed reflecting the revenue received from the county regarding the sales tax and other transfers that the Supervisor was directed to make. He stated that was why he reissued the January financial statement. Some of the board members did not receive the new copies yet. Discussion followed regarding the transfers. MOTION by Supervisor Barrett seconded by Council. Williams to table the financial report. Roll was taken and carried.

YES - 4 Egan, Byrne, Williams, Barrett

NO -0

ABSTAIN – 1 May

WILCOX EXPENDABLE TRUST

The supervisor informed the board that the earnings for Wilcox Expendable Trust for 08 is \$35,643.28 (with interest), a transfer through the general Account \$8,912.12 leaving a balance of \$26,731.16 – then there was a transfer of \$9,685.84 of the more recent earnings and that made the total transfer for the year \$18,597.96. He continued saying if you subtract that from the \$35,643.28 that will leave you with a total of \$17,045.32 to be transferred. Discussion followed.

RESOLUTION # 15 -09 Wilcox Expendable Trust

Resolution offered by Council. Byrne seconded by Council. Williams to transfer \$17,045.32 from the Wilcox Expendable Trust to the 5131.A. Roll was taken and adopted.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

The Supervisor brought up Resolution 11-09 – Highway Fund Transfer from the minutes of 01/26/09 – (Transfer 5031.25 from 5140.4 to 5142.4). The Supervisor stated that he discussed this transfer with the Highway Superintendent and he stated that this transfer was made in 12 of 2008. MOTION by Council. Egan seconded by Council. Byrne to rescind this transfer of 11-09 because it was previously authorized. Discussion followed. Council. Williams wanted to know why. Glenn Butler responded stating that it was done twice. Roll was taken and adopted.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO -0

APPOINTMENTS

MOTION by Supervisor Barrett seconded by Council. Byrne to appoint Robert Bard to the Wappingers Creek Watershed. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

ATTORNEY APPOINTMENT

RESOLUTION # 16 -09 Van De Water & Van De Water Appointment

Resolution offered by Council. Williams seconded by Council. May

Whereas,

1. Van De Water and Van De Water did represent the Town of Milan for the years 2006 and 2007, and
2. This firm has represented the town in the development of the town's Comprehensive Plan and zoning changes and in defense of matters relating to the same, and
3. Janis Gomez-Anderson and James Nelson have always been prompt and responsive to any and all requests for support, and
4. Van de Water attorneys have remained committed to the town in defense of our appeal of the Red Wing ruling and have provided gratis support working with the Attorney General's representative, and
5. This firm applied for and was interviewed for the position of Attorney to the Town Board, and
6. Gellert & Kline in 2008 charged the town over \$28,500 for general legal services; Van De Water & Van De Water charged in 2007 just over \$14,000,. In addition, to save legal cost, the town board in 2008 curtailed attendance by counsel at meetings; Van De Water routinely attended board meetings in 2007, Thus, despite more issues requiring legal assistance, and regularly attending Town Board meetings, Van de Water's billing was less than half of G & K's billings, and
7. Van De Water offers to perform legal services for 2009 at the lower rate of \$135 per hour, and their offer includes attendance at all Town Board meetings without charge and without charging travel time, and

Now therefore, given the town's desire to have strong legal representation in this time of extreme financial challenge,

1. I move to (amend the resolution and) appoint Van De Water & Van De Water as Attorney to the Town at a rate of \$135.00 per hour, with no charges to attend board meetings, including travel time, with fees for litigation and tax certiorari work at the rate of \$145.00/hour, and
2. Further, I move to appoint Van De Water & Van de Water as attorneys for the PB & ZBA at the rate of \$135.00 per hour.

The board discussed this resolution and various comments were made regarding this appointment. Roll was taken and defeated

YES - 2 May, Williams

NO – 3 Egan, Byrne, Barrett

Council. Byrne wanted to keep looking for another attorney.

NEW BUSINESS:

Backhoe Purchase

Glenn Butler was requesting the purchase a new backhoe for the Highway Department at the state bid price of \$64,539, which would come with a hammer circuit and without a trade in. He stated that he has \$22,000 in the Equipment Reserve fund and he would bond the rest of the money. He explained to the board why he was not trading in the

old backhoe. He said that his recommendation was to hang on to the old machine because it would reduce wear on the new machine. Discussion continued and comments were made about the bonding aspects of this purchase.

RESOLUTION # 17-09 Backhoe Purchase

Resolution offered by Council. Byrne seconded by Council. Williams to accept the quote from Westchester Tractor, Inc. for \$64,539 for a new Backhoe. Roll was taken and adopted.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

Term of Office – Highway Superintendent

The Board discussed the term of office for the term of office for the Highway Superintendent from 2 years to 4 years. Council. Byrne stated that he is in favor of it and felt that it is more effective as far as long range planning for highway and the execution of those plans. Council. May thought that it was a political question and talked about a voucher that the board received from the attorney billing the town for work they did on this issue. She discussed what the cost would be if the board decided to go ahead with this. Glenn Butler interjected stating that this discussion has been going on for many years. The discussion continued and various comments were made regarding the term of office. The Supervisor stated that he would prepare a draft local law for the board to review. He also stated that he would speak with Gellert & Klein about reducing their bill by \$400.00.

RESOLUTION # 18 – 09 Pay Principal & Interest - Building

Resolution offered by Council. Egan seconded by Council. Byrne to pay the principal of \$45,000 and the interest of \$12,282.50 on the building improvement bond due 02/15/09. Roll was taken and adopted.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO -0

RESOLUTION # 19-09 Transfer – BIRF to General Fund

Resolution offered by Council. Byrne seconded by Council. Egan to transfer \$12,282.50 from BIRF to the General Fund for the interest due on the building fund that is due on 02/15/09. Discussion. Council. Williams amended this RESOLUTION seconded by Council. Byrne to say – following the expiration of the CD. Discussion. Council. Egan wanted to know when the CD was due. The Supervisor stated that the CD is ready to go now. Roll was taken and adopted.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

BRUSH PILE:

Council. Byrne had two written quotes and one verbal quote. He stated that the quote that he had from Christopher Bensen of Bensen Land Clearing - was one (1) day Tub Grinding of waste wood \$2500 and probably would be able to have it done by the first day and if not the cost for the second day would be \$1200. Council. Byrne stated that

they had the previous quote from Almstead Nursery & Mulch and verbal quote, which the vendor did not put in writing. Council. May wanted to know when Benson Land Clearing would be able to do the job. Council. Byrne said that he would accomplish this by March 15th.

RESOLUTION # 20-09 Brush Pile

Resolution offered by Council. Byrne seconded by Council. May to accept the quote from Benson Land Clearing for the Tub Grinding. Roll was taken and adopted.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

There was a brief discussion regarding the use of a backhoe for the brush pile and how much money would be needed. The Board decided to wait until they received the bill until they make any transfers.

PASTURE ROCK SUBDIVISION

RESOLUTION # 21-09 Pasture Rock Subdivision Public Hearing and Special Meeting

Resolution offered by Supervisor Barrett seconded by Council. Egan

WHEREAS, pursuant to Article 12 of the New York State Town Law, a petition has been submitted to the Town Board of the Town of Milan for establishment of the Pasture Rock Drainage District; and

WHEREAS, the Petition was amended by the applicant on January, 2009 (hereafter, the "Amended Petition");and

WHEREAS, the Town Board has determined that the petition is signed acknowledged or proved/authenticated as required by law and otherwise is sufficient; and

WHEREAS, the Town Board hereby accepts the Petition and;

WHEREAS, the Town Board now further intends to set a date for a public hearing on said Petition for establishment of the Pasture Rock Drainage District; and

NOW THEREFORE, BE IT RESOLVED that,

The Town Board of the Town of Milan does hereby accept the Amended Petition for the Establishment of the Pasture Rock Drainage District; and

BE IT FURTHER RESOLVED that, pursuant to Town Law §194, a public hearing is hereby scheduled for February 23, 2009 at 7:15 p.m. at Milan Town Hall, 20 Wilcox Circle, Milan, New York; and

BE IT FURTHER RESOLVED that, the Town Clerk is hereby authorized and directed to publish notice of the public hearing in the Town's official newspaper not more than twenty (20) nor less than ten (10) days prior to the public hearing and to further post notice at Town Hall, and

BE IT FURTHER RESOLVED that, the Town Clerk is hereby authorized and directed to send the State Comptroller a copy of the Petition and Order, simultaneously with publication. Roll was taken and adopted

Councilmember May: Aye

Councilmember Williams: Aye

Councilmember Byrne: Aye

Councilmember Egan: Aye

Supervisor Barrett: Aye

SPECIAL DISTRICT: Order calling Public Hearing on Establishment of District Where Developer Paying All Construction Expenses

At a regular meeting of the Town Board of the Town of Milan, in the County of Dutchess, State of New York, held at Milan Town Hall, 20 Wilcox Circle, on February 23, 2009

Present:

Supervisor Richard Barrett

Councilperson David Byrne

Councilperson Roberta Egan

Councilperson Diane May

Councilperson Ross Williams

In the Matter of:

Establishment of a Storm Water Facilities

Maintenance District in the Town of Milan,

Dutchess County, New York.

WHEREAS, a written petition dated June 4, 2008 and amended January, 2009 has been submitted in due form by David Borenstein, containing the

required signatures, which has been presented and filed with the Town Board of the Town of Milan, County of Dutchess, New York, for the establishment of a Town Drainage District, to be known as "Drainage District, Pasture Rock Subdivision," which is bounded and described on Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, the proposed improvements consist of the construction and maintenance of a storm water drainage system to serve said District in accordance with that certain map and plan prepared by David Clouser and Associates, made a part of such petition and heretofore adopted by this Town Board, now on file in the office of the Town Clerk of said Town; and

WHEREAS, it is the intention of the Petitioner, David Borenstein, to construct said storm water drainage system at its own expense, to transfer said system to the Town when completed, without any consideration and free and clear of encumbrances except right of access to said improvements by adjoining landowners; and

WHEREAS, permission of the State Comptroller is not required pursuant to Town Law §194; and

NOW THEREFORE BE IT DETERMINED and stated that the estimated cost of the District to the "Typical Property" as defined in the Town Law, is three hundred and seventy nine dollars (\$379.00) annually; pursuant to the Map, Plan and Report prepared by David Clouser and Associates, made a part of such petition and heretofore adopted by this Town Board, now on file in the office of the Town Clerk of said Town; and

NOW THEREFORE, be it ORDERED, that a meeting of the Town Board of the Town of Milan will be held at Milan Town Hall, 20 Wilcox Circle, Milan, New York, on February 23, 2009, at 7:15 p.m. to consider said petition and to hear all persons interested in the subject thereof, concerning the same, and for such other and further action on the part of said Town Board with relation to the Premises; and be it

FURTHER ORDERED, that the Town Clerk publish at least once in the Poughkeepsie Journal, a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of section 30 of the Town Law, a copy of this order, certified by said Town Clerk, the first publication thereof and said posting to be not less than twenty (20) nor more than ten (10) days before the date of such public hearing; and be it

FURTHER ORDERED, that the Town Clerk file a certified copy of this order with the Comptroller of the State of New York on or about the date of publication of a copy of this Order.

HIGHWAY RIGHT OF WAY UTILITY WORK PERMIT:

The Board discussed this and decided that they would be more feedback and come back in March with further corrections. The board also discussed the performance bond and how they would handle that.

HUDSON VALLEY CORPORATION TAX CERTIORARI UPDATE:

Scott Hobson gave a brief update on tax certiorari regarding Hudson Valley Corporation. He said that the cost would be \$5,000 retainer that the board had discussed and that there would be a three -phrase approach. There was a list of nine appraisers and the board would have to choose one. Scott Volkman, the Attorney from Gellert & Klein would make his recommendation to the board. There was a discussion about Pine Pains paying 2/3 of the cost of the appraisal.

MOTION by Council. Byrne seconded by Supervisor Barrett to set a Special Meeting for 02/17/09 at 7:30 to decide on an appraiser for the Hudson Valley Corporation.

Discussion. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO -0

MOTION by Council. Williams seconded by Council. Byrne to set the date of 02/17/09 to consider the appeal of Mr. William May – Denial of FOIL at 7:30 PM. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

ESCROW ACCOUNT UPDATE

The Board reviewed the updated accounting of escrow that was handed out to them. The board thought it would be a good idea to archive the old escrow accounts. Discussion continued.

WEBSITE

The Supervisor discussed with the Board the hiring of Richard Wambach to do the town's website. He said that the cost would be \$2460.00 for a total redo of the web site. Council. May wanted to know where the Supervisor was going to get the money. The Supervisor stated that he would take out \$1000 from Public Information and \$1450 from his contractual line. Council. May stated that that line is already short by \$1720. She also stated that she had offered to do the web site. Discussion continued and various comments were made.

There was a MOTION made by Council. May seconded by Council. Williams to incorporate the guidelines of the Town Board Resolution of 03/08/04 regarding the web-site. MOTION was then amended and withdrawn after further discussion the Supervisor said that he would send Mr. Wambach the existing guidelines.

Proposed Local Law to amend Article X of Chapter 200 of the Code of the Town of Milan

MOTION by Council. Williams seconded by Council. Byrne to table this discussion for 02/23/09 at 7:30. Discussion. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO - 0

MOTION by Council. Williams seconded by Council. May to go forward with a grant proposal in the amount of \$500 for the Youth Program. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO - 0

MOTION by Council. May seconded by Council. Byrne to go into Executive Session for personnel matters. Roll was taken and carried. (11:30 PM)

YES - 5 Egan, Byrne, May, Williams, Barrett

NO - 0

MOTION by Council. May seconded by Council. Williams to reconvene the meeting (11:50 PM)

Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO - 0

Council. May wanted to make a statement for the record "in Executive Session the Board discussed pay concerns regarding employees and how their salaries in hourly rates would calculate for the year 2009; at this point the Board has not been able to make a decision about the issue of how those calculation were made. The Board will look at the Town Code and Town Hand Book and prior Re-Org. document and try and come up with a solution to make all pay calculations for 2009 done in the same matter".

The Supervisor stated that he did not think that you could make all the calculations in the same matter given the longevity issue. He said that he would like to rectify inequities in salaries among the employees.

BILLS – Bills were presented to the Board for their audit and review. MOTION by Council. Byrne seconded by Council. Egan to pay General Abstract # 14 Claims # 612 thru 615, totaling \$4,060.45 – General Abstract # 2 Claims # 8 thru 34, totaling \$31,031.72 – Escrow Abstract #2 Claims # 1 thru 7, totaling \$6,504.86 – Highway Abstract #2 Claims 1 thru 19, totaling \$63,316.27 and Capital Bridge #2 Claims 1 &2, totaling \$10,622.50. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett
NO – 0

MOTION by Council. Egan seconded by Council. Williams to adjourn this meeting (12:12 AM)

Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett
NO -0

Respectfully submitted,

Catherine Gill, Town Clerk