

PUTNAM VALLEY TOWN BOARD
PUBLIC HEARING
WEDNESDAY, DECEMBER 11, 2019
5:00 PM

This meeting is being held at the Putnam Valley Fire House

1. Pledge of Allegiance
2. PUBLIC HEARING ON DE-ICER LAW

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WEDNESDAY DECEMBER 11, 2019
5:00 PM

PRESENT: Supervisor Oliverio
Councilman Luongo
Councilwoman Annabi
Councilwoman Whetsel

ALSO PRESENT: Town Clerk Sherry Howard
Town Counsel William Florence

ABSENT: Councilman Mackay

Pledge of Allegiance and moment of silence for our troops.

SUPERVISOR'S COMMENTS

Presented by Supervisor Oliverio

Supervisor Oliverio said everyone who speaks tonight must go to the podium, state their name and not take more than three (3) minutes because there are a lot of people here.

PUBLIC HEARING ON THE BANNING OF ALL ICE RETARDANT DEVICES AND/OR MECHANISMS

Presented by Supervisor Oliverio

Supervisor Oliverio opened the Public Hearing at 5:03 PM.

Town Clerk Howard read the new "Ice Retardant Device Law" as follows:

"Effective December 18, 2019, the use of any ice retardant device or mechanism (deicer, bubbler, or aerator) within the entire Lake Oscawana Water Body and/or along the shoreline of the entire Lake Oscawana Water Body, is completely and totally banned from use. Anyone failing to comply with this law will be levied a \$1,000.00 fine and face confiscation of the offending device. Subsequent offenses by the same individual of property owner will result in a doubling of the preceding fine."

Resident Brendan Foran who resides at 16 Cold Spring Road, and is the person who fell through the ice in January of last year, said he was out on the lake on a Sunday where he found the ice to be at least ten (10) inches thick. On that Wednesday he drove his ATV up the lake on the ice thinking it was safe. He fell through the ice and was there for 41 minutes. He would like to ban the ice melters all together. What if it had been a kid chasing a hockey puck, you should be safe 150 feet off shore. He is thankful that he made it out alive!

Resident Art Tatnell who resides at 89 Mountain View said his family bought the house in 1958 and he sold it last spring. For the last two (2) winters he noticed that he could not step onto the ice from his dock. He does not have a device so someone else's device has affected his ability to get onto the ice. He has had to drive down to the Marina to get onto the ice. He suggested that people with docks raise them using a cantilever, he built one (1) and in 40 years ice has never touched his dock. He said these devices slow down the natural growth of algae and inhibits the enjoyment of winter activities.

Resident Patty Villanova of 14 West Avenue said she applauds and thanks the Town Board for listening to both sides. The lake is Putnam Valley biggest asset all year round, and it looks like you are going to do the right thing by banning the bubblers.

Resident Steven David who lives on West Shore Drive said that if you check the temperature on the day before Mr. Foran fell into the lake it was 50 degrees. With the changing global weather patterns and the use of de-icers the ice freezes and refreezes which weakens the ice. Even when you think the lake looks frozen it gives you a false sense of safety. Mr. David feels that if de-icers are regulated they are reasonable. The Town does not have to deal with the issue of vehicles on the ice - the State has done that for us.

Resident Max Kneuer of 30 Sawmill Road said he has many wonderful memories of spending time on the lake with his father and he would like to make those same memories with his children. He would like the bubblers to be banned as they are a hazard. If a kid had fallen in instead of a large man this would have had a very different ending.

A young resident said she has lived on Lake Oscawana all of her life. She said what kid would ignore a warning sign and what kid would go out onto a frozen lake without a parent. Global warming is a real thing.

Resident Paul Bugbee who resides at 151 North Shore Road asked if there was an investigation into Mr. Foran's fall through the ice, and what were the findings. He would like to know the root cause of the accident – no one can determine if the accident was caused by a de-icer without a vigorous investigation.

We have laws already on the books that state bringing a motorized vehicle onto the lake is illegal and carries a \$250.00 fine. Banning the use of de-icers will not make the ice safer; and will give a false sense of security when your own due diligence is the thing that is required. Please enforce the laws we do have and don't make new ones.

Resident Zachary Flegar who resides at 40 Cayuga Road said he understands that the weather was warm the day before Mr. Foran fell in and he also understands that there are climate change issues etc., but with the use of de-icers the ice is not safe where it should be. People that use this lake all the time know when to go on it and when to stay off. You don't know how far out the ice will be affected so it makes our due diligence skewed. This places residents and our Volunteer Fire Department in danger. These devices are unpredictable and not laser precise. You cannot control air or flowing water. The State no longer wants dams built because they are unnatural – these devices are certainly not natural to a water body.

Resident Mark Tompkins of West Shore Drive stated that he has used a de-icer for 25 years to protect his dock from damage. He started using it to protect his dock. He has always been considerate of his neighbors and the lake. You can step off his dock onto the lake because he uses his device the correct way. He uses it for 8 minutes twice a day so it does not disturb the rest of the lake. The problem is that there are people who use them that don't know how to use them. If a law is passed with regulations it will help with the people who need to learn how to use them safely.

Resident John Powers who resides at 41 Nampaugh Road said he put in a bubbler for the first time last winter. He is a fairly newcomer to the lake but he has exactly the same amount of concern for the safety of his neighbors and the children. Last year the lake was unusually high. The Town explained that we had an inordinate amount of rain. After conferring with his neighbors he used the smallest possible model he could get and he brought in two (2) experienced guys and a neighbor to check on how to set up his bubbler. There was no guidance from the Town to follow; but if there was, he thinks his neighbors would follow the regulations too. He also pointed out that there has been an increase in the amount of motorized vehicles on the ice and this is dangerous.

Resident Eric Klein of 30 Saw Mill Road asked who is to regulate this if someone is doing it wrong. Keep in mind someone almost died and Lake Oscawana is home to a very close knit community. With the use of aerators there has been a decrease in winter activities. We should never sacrifice a life or activities to protect a dock.

Resident Danny Carroll said the greater good of the community and its residents should be considered not a dock. People are not replaceable but a dock is. Just by its name a de-icer is a problem.

Resident Jacob Flegar who resides at 40 Cayuga Road said there is a drug problem in this town and the lake provides entertainment all year round – which could keep kids out of trouble. The use of de-icers limits the ability of kids to play on the ice in winter.

The residents of Lake Communities pay high taxes to use the lake. In addition, the Fire Department Volunteers are put at risk when the ice is thin. You also have to keep in mind that when docks are placed in the elements there is normal wear and tear which needs periodic maintenance. This is the price of living on a lake just like cleaning out your septic. Another thing is that the Building Inspector would have to be in charge of making sure everything is done correctly and he would never have the time to do all of that.

Resident Sean McCann who resides at 13 Cross Road said he understands that there is global warming; but he was ice fishing the same day of the Foran accident and the ice was 8" thick which should have been safe. He also thought the State was responsible for the lake, nobody owns the water. If de-icers are allowed, what happens if the warning signs blow over in a storm or the timer breaks when someone who is a snow bird and does not reside in the house in the winter, these man-made machines are unsafe, our kids are not safe, there is no way to regulate this.

Resident Stacey Tompkins of 256 West Shore Drive said she has used an ice melter for about 25 years and if used correctly can be effective without causing damage to the ice. She does want to protect her dock and would like a compromise using education and guidelines. Nobody wants to see anybody hurt; and nobody puts property first. She has been imploring for education. We haven't tried to educate people, we haven't given this a chance or consideration. Property owners do have legal rights. Her husband Mark would be happy to educate everyone. Why are we asking for an all-out ban when we haven't even tried regulations?

Resident Joann Carroll who lives at 14 High Street in Wildwood Knolls said you could not access the lake near Mr. Mann's house last year as the water was wide open. Ms. Carroll is not against anyone protecting their property but she is against the water being open. We all use the lake in the winter but we all can't get on it anymore. The water is now wide open and it is unsafe. Mr. Tompkins kudos to you for doing the right thing but not everybody does. You can't access the water anymore and when you buy lake front property you have to know that your dock will have to face the elements. Aerators are dangerous and cause open water. She added that the Town Board has the power to make the lake safe for everybody and we are already into December.

Resident Mike Carroll said there is no sun shining on the dock near the Tompkins House but the sun hits near his home in Wildwood Knolls all day long. He is always warning people about heading to places on the ice where it is not safe. What happens when he is not there one day and there is no one to warn families or children about where it is safe to walk because of the de-icers?

Resident Evan Kneuer of 30 Sawmill Road said he was in charge of going to different beach areas and he got about 300 signatures for a petition in favor of a ban on the de-icers. If he was on the Town Board that petition would be all I needed to make a decision to ban them.

He added what if a child had fallen through the ice with a heavy coat on or a Fire Department Volunteer had fallen through wearing heavy equipment – each would have died. You have to consider that maybe a child might skate out to chase a hockey puck and never see the danger that may lay ahead. The next thing you know national news outlets will be all over here knocking on your door; and the Town Board would face serious consequences. We pay a lot of taxes and work hard to live here in this community and it is an injustice to not be able to use our lake. This place means a lot to the people who live here.

Resident Darryl Wassil whose son lives at 13 Hudson View said he went to Supervisor Oliverio the day after Mr. Foran fell into the Lake on behalf of the Fire Department because he saw that these bubblers were nothing but a hazard to the Fire Department volunteers. They put their lives in jeopardy to save others because of some people's negligence. He added that he is an avid ice fisherman and ice skater. He said aerators are dangerous. When he went to rescue Brendan's quad from the lake which was 125 feet out past the dock- the water was open, please stop the aerators as they cannot be controlled.

Resident Ellen Friedman from Noswell Park Road said she has seriously looked at de-iced areas on the lake – she said we are not the only lake that has this problem and they have been dealing with it. Lake George has this issue as well. Other lake communities have found a way to compromise so that everyone could be satisfied, we should use them to figure out a way for us to coexist as well. We should use other precedent lakes to see what they have done.

Resident Bob Newman who resides at 11 Twilight Lane said if you look at Lake Mahopac it is all open water and you can't get on it, people before possessions ! We all used to take care of each other.

Resident Bob Mann who lives at 40 Cold Spring Road said many attorneys citing actual laws have written letters to the Town Board about the de-icers which should be carefully reviewed amongst the Board. This is a polarizing topic but hopefully we can reach a happy middle ground. There are many successful regulations on many lakes that satisfy both sides. Mr. Mann gave an example for both sides of this controversy and said these bubblers should be allowed to be used but managed and not done recklessly. He believes the dock owners will self-regulate and the Town needs to try to be reasonable. Give us regulations we can all live with. There are two (2) sides to this matter.

Resident Bobby James from Wildwood Knolls said we need regulations that work for everyone. The Town Board should ban the devices for now until regulations can be worked out.

Resident Rae Etherington said she does not have a bubbler but has noticed that the ice has been thin and dangerous the last couple of years; and the safety of children is the most important thing. No law passed can prevent thin ice, there is a lot more to it than that.

She added that if laws are going to be passed they should be for the yearly use of the lakes. There a lot more boats and jet skis in the water which is not a good thing either. It will look silly if you pass a law for this one (1) thing and ignore what goes on in the lake all year long.

Resident Zachary Flegar from 40 Cayuga Road responded to a previous comment by saying that you can't use other lakes such as Lake George to compare Lake Oscawana to because of the sheer size. Lake Oscawana is a relatively small lake. He added that by having aerators you are adding risk to some already risky activities. He wondered why the Town Board was not voting tonight to ban the devices. He thought that was what was promised at the last meeting. Supervisor Oliverio explained that this was going to happen at the meeting on December 18, 2019.

Resident Ron Burnell stated that he has never used a bubbler but ice does indeed do damage to docks and seawalls as well. Ice is very powerful. People have spent a lot of money and taxes to protect their property. He asked why this has to be an all or nothing proposition. Why can't there be a compromise? Why can't there be regulations that satisfy both sides. There could be a permitting process with regulations. People can get educated and if that doesn't work we can meet again.

Resident Diane Miller Chapman who has been a Wildwood Knolls resident for 50 years said with bubblers the ice conditions become unpredictable so there is no way to properly regulate this. You can't trust people to do the right thing, not everyone self-regulates. Someone would have to come out on a regular basis to check each bubbler and the Town does not have the manpower to do that.

Resident Michelle Troyano 13 Hudson View said that the Town has been put on notice, just remember that the majority of lake residents want a ban !

Resident Max Kneuer of 30 Sawmill Road said if you pass this law next week when would it take effect? Supervisor Oliverio said if passed next week every lake front owner would be sent a notice by mail that the ban will take effect immediately. Mr. Kneuer asked how this will be monitored. Supervisor Oliverio said if anyone sees a bubbler they should call Town Hall, and if need be a code enforcement officer will be sent out and a fine will be given.

Resident Darryl Wassil who lives at 13 Hudson View said New York state code requires a permit through the State in order to have an aerator device, it is under NYS code, "Use and Protection of Waters". Everyone had to get a permit to put a dock on the lake. He went on to say that any device that goes into the lake and makes the water table rise needs a permit, and no one in Lake Oscawana has a permit.

Resident John DiSalvo said if you pass something that makes regulations and you can't send someone to check on these regulations what sense does that make?

Resident Jason Fowler from Gilbert Lane said a lot of people are talking about why we are going straight to a ban and not some kind of regulations. They should remember that someone almost died. If we regulate this there will always be people that break the rules. There is something called foreseeable liability and if it is foreseeable and something happens the Town Board is responsible

Resident John Narciso said he loves Lake Oscawana. Safety is a big term we all brought up. There are kids on the ice all the time unsupervised. A \$10.00 set of ice picks, safety gear, or other safety equipment would be smart to have on hand.

William Munsell whose parents live on Bryant Pond Road said he now lives in a place with a busy street in which cars go by fast. He has to cross this road to get his mail. That was his choice to live there and it is something that cannot be regulated. This is the same thing – people choose to live on a lake – and a de-icer cannot really be regulated so take your chances.

Resident Evan Kneuer of 30 Sawmill Road asked how you get to be on the LOMAC Committee. Supervisor Oliverio said right now there are no vacancies; but when there are you can get voted on.

Resident Kathleen McLaughlin who lives on West Shore Drive and is also the Chairperson of LOMAC spoke. She said we all need to come together as a community on this. We do not know how many de-icers there are in the lake. Small personal bubblers melt the ice straight up and should not make a difference in the quality of the ice.

Supervisor Oliverio said we listened to both sides and we will now discuss it. We will be fair and do the right thing.

Councilperson Luongo said the Public Hearing will remain open for the next week so anyone who could not be here can still voice their opinions. Please call, e-mail us all or send us a letter and we will get your letter to the Town Clerk to be included in the record.

Hearing no other comments Supervisor Oliverio moved to adjourn the Public Hearing at 6:30 PM. Supervisor Oliverio is not closing the Public Hearing because members of the Public are still encouraged to reach out with their comments by e-mail, mail, or phone.

Seconded by Councilperson Annabi, unanimously carried

Supervisor Oliverio moved to reopen the meeting at 6:35 PM

PUTNAM VALLEY TOWN BOARD
WORK SESSION
WEDNESDAY DECEMBER 11, 2019
5:00 PM

PRESENT: Supervisor Oliverio
Councilman Luongo
Councilwoman Annabi
Councilwoman Whetsel

ALSO PRESENT: Town Clerk Sherry Howard
Town Counsel William Florence

ABSENT: Councilman Mackay

AMENDMENTS TO THE AGENDA

Presented by Supervisor Oliverio

RESOLUTION #R19-332

RESOLVED that the Town Board amend the agenda to **ADD** the following:

ADD:

#1 – Hire Cemco to replace pumps etc at Glenmar Gardens as emergency situation.

Seconded by Councilperson Luongo, unanimously carried

HIRE CEMCO TO REPLACE PUMPS ETC. FOR GLENMAR GARDENS

Presented by Supervisor Oliverio

RESOLUTION #R19-333

RESOLVED that the Town Board authorize the Supervisor to hire Cemco for an emergency repair of the Glenmar Gardens water system. This is a necessary remediation and will cost \$45,000.00.

Seconded by Councilperson Luongo, unanimously carried.

Supervisor Oliverio motioned to go into Executive Session on a personnel matter. There will be no business done after. The meeting was closed at 7:33 PM

Seconded by Councilperson Annabi, unanimously carried.

Respectfully Submitted

Sherry Howard
Town Clerk
12-23-2019