

Supervisor Merrihew: You are right, and the point is the kids did a wonderful job, they did what they thought was the right thing and they were being guided all along. I think the guidance got lost.

Resolution #163-09-Council-member Frisbee motioned, seconded by Council-member Carlson to adopt the Section 8 Housing program annual plan for 2009.

WHEREAS, the Town of Duanesburg operates a Section 8 Housing Choice Voucher Program funded by the U.S. Department of Housing and Urban Development, and

WHEREAS, the Town of Duanesburg is required by the U.S. Department of Housing and Urban Development to prepare and adopt a written Annual Plan that establishes local policies for administration of the Section 8 Housing Choice Voucher Program in accordance with regulations of the U.S. Department of Housing and Urban Development, and

WHEREAS, the Town Board of the Town of Duanesburg has caused a written Annual Plan for 2009 to be prepared establishing local policies for administration of the Section 8 Housing Choice Voucher Program in accordance with regulations of the U.S. Department of Housing and Urban Development, and has reviewed such written plan,

NOW THEREFORE, BE IT RESOLVED that the Town Board of the Town of Duanesburg hereby adopts the Annual Plan for 2009 for operation of the Town of Duanesburg Section 8 Housing Choice Voucher Program.

Motion carried 5 ayes, Council-members Frisbee, Carlson, White, Potter and Supervisor Merrihew.

Council-member Frisbee asked if that should be 2009?

Supervisor Merrihew: 2009. I have asked that question every year for 10 years and they tell us that is just the way the federal government does it.

Resolution #164-09-Council-member White motioned, seconded by Council-member Frisbee to adopt Local Law No. 3 providing for indemnification of town employees. Motion carried 5 ayes, Council-members White, Potter, White and Supervisor Merrihew.

TOWN OF DUANESBURG

Local Law No. 3 of the year 2009

**A LOCAL LAW AMENDING AND SUPERSEDING TOWN
OF DUANESBURG LOCAL LAW NO. 1 OF 1981 PROVIDING
FOR DEFENSE AND INDEMNIFICATION OF TOWN OF
DUANESBURG EMPLOYEES.**

Be it enacted by the Town Board of the Town of Duanesburg as follows:

SECTION 1.

AUTHORITY

This local law is enacted pursuant to the authority of: Chapter 843 of the laws of 1963, as amended, constituting Chapter 36-A of the Consolidated Laws of the State of New York, Section 10 of the Municipal Home Rule Law, granting a town the power to adopt and amend local laws in the exercise of its functions, powers and duties.

SECTION 2. PURPOSE

The purpose of this local law is to provide legal and financial protection for those individuals serving the Town of Duanesburg from losses which may be brought against them in their individual capacity for actions taken while in performance of their official duties and responsibilities. By providing for the legal and financial security of its employees, the Town will continue to attract qualified individuals to local government service.

SECTION 3. DEFINITIONS

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

EMPLOYEE:

Any person holding a position of election, appointment, or employment in the service of the Town of Duanesburg, but shall not include a volunteer or an independent contractor. The term "Employee" shall include a former employee, his estate, or judicially appointed personal representative.

TOWN:

The Town of Duanesburg.

TOWN BOARD:

The Town Board of the Town of Duanesburg.

TOWN SUPERVISOR:

The Supervisor of the Town of Duanesburg.

SECTION 4. PROVISION AND PAYMENT OF DEFENSE

- A. Upon compliance by the Employee with the provisions of Section 6. of this Local Law, the Town shall provide for the defense of the Employee in any civil action or proceeding in any state court, federal court or administrative agency arising out of any alleged act or omission which occurred or is alleged to have occurred while the Employee was acting or in good faith purporting to act within the scope of his public employment

or duties. Such defense shall not be provided where such civil action or proceeding is brought by or on behalf of the Town.

- B. Subject to the conditions set forth in this Local Law, the Employee shall be represented by the Town attorney or an attorney employed or retained by the Town for the defense of the Employee. The Town Board shall employ or retain an attorney for the defense of the Employee whenever: (1) the Town does not have a Town attorney; (2) the Town Board determines based upon its investigation and review of the facts and circumstances of the case that representation by the Town attorney would be inappropriate; or (3) a conflict of interest exists such that the Employee cannot be represented by the Town attorney. Reasonable attorney's fees and litigation expenses shall be paid by the Town to such attorney employed or retained, from time to time, during the pendency of the civil action or proceeding subject to certification by the Town Supervisor that the Employee is entitled to representation under the terms and conditions of this Local Law. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the Town.
- C. Where the Employee delivers notification, including appropriate documentation such as the process documents, and a request for a defense to the Town attorney or the Town Supervisor as required by Section 6. of this Local Law, the Town attorney or Town Supervisor, as the case may be, shall take the necessary steps, including the retention of an attorney under the terms and conditions provided in Paragraph B. of this Section, on behalf of the Employee to avoid default judgment. Such action shall be taken pending resolution of any question relating to the obligation of the Town to provide a defense.

SECTION 5. INDEMNIFICATION

- A. The Town shall indemnify and save harmless its Employees in the amount of any judgment obtained against such Employees in any civil action or proceeding in any state or federal court or administrative agency, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or settlement arose occurred while the Employee was acting within the scope of his public employment or duties; provided further that in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the Town Board.
- B. The duty to indemnify and save harmless prescribed by this section shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the Employee.

- C. Nothing in this Section shall authorize the Town to indemnify or save harmless an Employee with respect to punitive or exemplary damages, fines, or penalties, or money recovered from an Employee pursuant to Section 51 of the New York General Municipal Law relating to prosecution of officers for illegal acts; provided, however, that the Town shall indemnify and save harmless its Employees in the amount of any costs, attorneys' fees, damages, fines, or penalties which may be imposed by reason of an adjudication that an Employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States.
- D. Upon entry of a final judgment against the Employee, or upon the settlement of the claim, the Employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within thirty (30) days of the date of entry or settlement, upon the Town Supervisor, and if not inconsistent with the provisions of this section, the amount of such judgment or settlement shall be paid by the Town.

SECTION 6. DUTY OF EMPLOYEE

The duty to defend provided in this Local Law shall be contingent upon (a) delivery by the Employee to the Town attorney or, if none, to the Town Supervisor, of the original or a copy of any summons, complaint, process, notice, demand or pleading within eight (8) calendar days after he is served with such document and (b) the full cooperation of the Employee in the defense of such action or proceeding and defense of any action or proceeding against the Town based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the Employee that the Town provide for his defense pursuant to this Local Law, unless the Employee shall state in writing that a defense is not required.

SECTION 7. LIMITATION

The benefits of this Local Law will inure only to Employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this Local Law be construed to affect, alter, or repeal any provisions of the Workers' Compensation Law.

SECTION 8. CONSTRUCTION

- A. This Local Law shall not in any way affect the obligation of the Employee to give notice to the Town under Section 50-c of the New York General Municipal Law relating to liability for negligent operation of certain vehicles in the performance of duty by policemen and paid firemen, or any other provision of law.

