

TOWN OF GOSHEN
TOWN BOARD MEETING

January 12, 2012
MINUTES

A regular meeting of the Town Board of the Town of Goshen was held on the 12th day of January, 2012 at the Town Hall located at 41 Webster Avenue, Village of Goshen, County of Orange, State of New York.

Present:	Douglas Bloomfield	Supervisor
	Philip Canterino	Councilman
	Louis Cappella	Councilman
	George Lyons	Councilman
	Kenneth Newbold	Councilman

Also Present:	Dennis Caplicki	Attorney for the Town
	Priscilla Gersbeck	Deputy Town Clerk

A. CALL TO ORDER

The meeting was called to order by Supervisor Bloomfield at 7:31 pm, followed by the Pledge of Allegiance.

B. AMENDMENT TO THE AGENDA

One addition: Report on the Town's cost associated with the sewer dispute with the Village.

C. PRIVILEGE OF THE FLOOR (agenda items only)

None at this time.

D. OLD BUSINESS:

1. Resolution To Accept A Conservation Easement On The Persoon Property – Section 17, Block 1, Lot 36

The Town of Goshen is getting a Conservation Easement from the Persoon subdivision. There hasn't been enough time to thoroughly read line by line. Therefore, this will be put on the agenda for next work session.

2. Approval Of Minutes

Councilman Canterino made the motion to approve the work session of December 5th and the regular meeting of December 8, 2011. Councilman Lyons seconded the motion.

On A Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

E. NEW BUSINESS:

1. Resolution To Authorize The Supervisor To Sign A Contract With Thomas, Drohan, Waxman, Petigrow & Mayle, LLP For Legal Services

In a letter written to the Supervisor, Judith Mayle of the above mentioned firm wrote: "We are writing to you regarding the continuation of legal services for 2012. Due to the continuing difficulty municipalities are experiencing in financing budgets, our firm has again elected to freeze our rates at the levels in effect since 2009. Therefore, we will continue to charge the Town of Goshen at the rate of \$195.00 per hour for attorneys and \$90.00 per hour for paralegal services for the period of January 1 through December 31, 2012."

Councilman Canterino made the motion to authorize the Supervisor to sign the aforementioned annual contract for 2012. Councilman Newbold seconded the motion.

On A Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

2. JRC Sign – David Crawford

President of Little League, **Drew Whitney**, addressed the Board. He pointed out that the Little League is not-for-profit, relying on donations. Basically, the Little League wants to put up a scoreboard, at Craigville Park, which has already been donated by Middletown Honda. This eight thousand dollar, solar powered, state-of-the-art scoreboard is ready to install. He feels that the appropriate paper work was filed and at the last JRC meeting they were told not to install this scoreboard. The request is to allow the installation of this scoreboard. Upon hearing of this, the Town offered to purchase a scoreboard.

Supervisor Bloomfield noted that the Town Board Members have not seen any paper work pertaining to this scoreboard. When the Board Members first heard about the scoreboard early this week, they had a problem with someone outside the Town of Goshen donating a sign with advertisement. It was discussed to purchase a sign with no advertisement using the parkland fees/capitol funds. Furthermore, the donated scoreboard does not comply with the Town of Goshen sign code. In addition, inspections such as: electrical, mechanical, anchoring to the ground etc. will need to be done. Being that the scoreboard is ready for installation, Supervisor Bloomfield stated that "looks like we got a real communication problem."

Councilman Canterino gave a brief history of the park and scoreboards. (In summary)About two years ago, a realtor approached the Board for permission to donate a scoreboard with his advertisement on it. At that time, the Board took the position to accept the scoreboard and a plaque of recognition would be placed on it instead of an advertisement. This was not the intention of the realtor. Therefore, the Board rejected the offer. Councilman Canterino read that according to the Town Code; "No signs shall be placed on municipally owned property without permission of the Town Board." He noted that a number of the Little League and JRC members have been through this before. In order to be neutral, the Town Board is more than willing to pay for a scoreboard out of the capitol funds. Whoever wants to erect a sign/scoreboard has to go through the planning process and qualify with the Code. Mr. Whitney said that the Little League went to the JRC, which is their channel to the Town Board. Apparently the JRC did not follow through with reporting the details of this scoreboard to the Town Board. Additionally, putting up a sign on municipal property would be *like* putting up advertisement on the highway garage, Salesian property etc.

Supervisor Bloomfield questioned if there was an option for the Town to purchase this sign from Middletown Honda and remove the advertisement and if it meets the code, to install it. Without the scoreboard diagram it is difficult to understand if it meets the code. Consideration has to be given to electrical requirements, height and wind for safety to the public.

Tom Quinn, Little League Sponsorship Coordinator, responded to the dimensions of the sign. The scoreboard is 4 X 8; the two sponsor panels are 2 X 8 each. One says Goshen Little League and the other panel displays the Middletown Honda advertisement. The bottom of the scoreboard is 10 feet from the ground. With the sponsor panels the entire scoreboard is 8 X 8, totaling 18 feet.

When asked if the sponsorships for Little League would be limited to Goshen, **Councilman Canterino** responded; "This is municipal owned property, paid for with taxpayer money." "This is property owned by our taxpayers, not the Little League".

Between the Town and the Village, \$140,000 is contributed to the JRC. Items needed should be put into the budget. The Parkland fees are for that reason. "We are not opposed. We understand, we love to have the Little League and you need a scoreboard and we want to give you everything to encourage you to play on our fields.....we just have to do it right."

In summary, **Supervisor Bloomfield** explained that on Monday night the position was to remain neutral. The Town is willing to purchase the sign from Honda, remove the advertisement and install it according to the code. This is a result of lack of communication. "The code is law. It was put together with a lot of public input. We can't pick and choose what codes we enforce or don't enforce."

Currently, there are businesses that have been notified to correct their signs which are not in compliance with the code. If the scoreboard issue was addressed earlier, it could have been worked out.

Tricia Sherlock and Ray Rooney of the JRC agreed with **Councilman Lyons** (JRC Liaison) that at a previous meeting (November 10, 2011) the Town waived the fees for the permit application to install a scoreboard. The first time Councilman Lyons saw the plans for this scoreboard was on Tuesday and brought it to the attention of the Supervisor and Building Inspector on Wednesday.

Mary Heiferman, Recreation Coordinator, completed the permit application a couple of months ago. The application was more focused on the actual location of the scoreboard rather than the dimensions. However, no one contacted her for more information.

Tricia Sherlock Pointed out that the JRC welcomed the idea of a much needed scoreboard. Acting on behalf of the Little League the JRC requested that the application fees be waived. After that communication fell apart, the scoreboard was *already* ordered. The Little League has approached many Goshen businesses with no success.

Supervisor Bloomfield interjected that the procedure is for the Little League to send requests through the JRC to the Town Board. Then the Town Bd. would have considered purchasing a neutral scoreboard using the Parkland fees.

Tricia Sherlock responded that the JRC is responsible for maintaining and bettering the parks. "I can think of, off the top of my head, 30 different things we could do with \$10,000 to improve the parks".

Supervisor Bloomfield noted that a few years ago, Board members walked the grounds at Craigville Park with members of the JRC and other interested people. At that time, it was discussed that a list of things that they would like to see done be submitted to the Town Board. Then the requests can go out for competitive bids, in order to get the work done. As of this date a list has never been submitted.

Ray Rooney, was under the impression that the first priority of the Parkland fees was to pay off the Salesian Bond. And that there was no money outside the Parkland fees to go into the parks. This was what was told to the JRC.

Agreeing with Mr. Rooney, **Councilman Lyons** stated that the only reason a list was not submitted in the past, was because the Parkland fees were to be used to pay off the debt. However, this past Spring he was informed that there is around \$150,000 in the fund. Therefore, this year the Town Board will get a list.

Councilman Canterino stated that "Parkland Fees are a continuous replishment of a fund". With every subdivision we collect Parkland fees. "We do have money".

Ray Rooney wanted to clarify over the last three years; the JRC budget has been modified. Two years ago they were given a severe cut which was partially returned. "The implied actions of this Board is that you will work within your budget." Hence, capitol improvements were *never* brought to the JRC. Their budget has to work within the operating spectrum as well as capitol improvements. He brought up that the remainder of the payment to the rest room facilities was paid for out their operational budget which should have been capitolly funded. This was part of the project's original mutual agreement.

Supervisor Bloomfield rebutted that the Board has been waiting for a list. The Board has looked at the drainage and roadway issues. They wanted to get the designs and go out for competitive bids. "Let's do it right."

Ray Rooney inquired that if the sponsor was a Goshen Business would the scoreboard be accepted? A quick response was that the objection is to all advertisement on municipal property. The Town is willing to pay for a neutral scoreboard.

Councilman Lyons acknowledged that it was discussed last Spring, to repair some of the roadways. However, the JRC is a very conservative Board. He was able to work with the DPW to do the needed repairs, quickly and cost effective. If the project was go out for bids, an engineering study would have had to been done. That would have taken too long. The repairs needed immediate attention. He was lead to believe that there wasn't money available for capital improvements. Councilman Lyons stated that "we deferred some of the things, we deferred the extension, the "L" on the pavilion out there, we deferred the expansion of the kitchen and that was all due to cut backs, because there wasn't money in the funds to do it." This year the Board will get a list of all of the capitol improvements that the JRC would like to have done.

The JRC is in charge of monitoring and maintaining *all* of the five parks. **Mr. Rooney** asked if the capitol improvements derived from the parkland funds is allowed to be spent on all of the parks or just on the Town parks. He requested a response from the legal counsel, to avoid miss-communication. Supervisor Bloomfield stated that the "walk through" was at Craigville Park and that's where the list was asked for. The Town feels that it has a primary responsibility for that park.

Councilman Newbold was Chairman for the JRC for ten years. He believes that the responsibility of the JRC is for all of the Parks. The JRC had to go to both the Town and Village to get improvements done to the

parks. However, when Scott Wohl was the Village Mayor, there was an understanding that the Village took care of their Parks and the Town took care of Craigville Park.

Anthony Millich asked if the scoreboard was kept neutral like the Pepsi sign, just saying Middletown Honda with no advertisement, would this sign be acceptable? This would save the Town monies to better be used for the drainage on the fields and other park improvements.

Councilman Canterino Addressing the liaison from Middletown Honda, asked if the sign was approved by his company built and paid for. Response was yes. Councilman Canterino asked for the cost of the sign and if it meets the Town Code specifications, and then we would be willing to reimburse the cost within reason. "I hope you understand it has to be a neutral situation". "We thank you very much".

The Town Board members and the representatives from the JRC and the Little League debated the issue as to whether or not a "free" scoreboard with advertisement should be accepted.

In summary: The Little League and JRC pointed out that this opportunity is to acquire a state-of-the-art scoreboard. They are in need of four scoreboards; this donation from Middletown Honda is one less burden to the taxpayers. Craigville Park is in desperate need of repairs to the roadways and drainage on the playing fields etc. If they are allowed to accept sponsorships/advertisements, this would free-up more money to be used for field repairs. Taxes are high. Even though the Parkland funds are replenished yearly, there is no guarantee of the amount available. This fund is dependent on approved residential subdivision plans. Why buy if someone is willing to donate for free?

In summary: The Town Board acknowledged the conditions of the playing fields on a "walk through". Some of the trenching was done, but there are wetlands which can't be disturbed. The Board requested a "list" to initiate the process of seeking bids to properly and professionally address the conditions on the fields. The Little League/JRC can accept donations. However, signs and advertisement are guided by the Town Laws. This assures that everyone is treated equally according to the Code. The Code states: §97-49 > Section D. General Sign Regulations >(2) (b) >

***(b)** No signs shall be placed, painted, or drawn on utility poles, bridges, culverts, or other road or utility structures or signposts, or on trees, rocks, or other natural features, except that signs not exceeding one square foot posting property boundaries may be placed on trees. No signs shall be placed on municipally owned property without permission of the Town Board.*

The Town is willing to purchase a neutral scoreboard. If the scoreboard meets the requirements of the Code and the advertising is removed, the Town will reimburse Middletown Honda for the expenses occurred in manufacturing the scoreboard.

Councilman Lyons, added that he *is not* "enthralled" with the idea of the scoreboard advertising Middletown Honda. However, for the record, "I support putting that sign up there and I want everyone in the room to know that." He spoke with an Attorney for the Association of Towns who mentioned that there is no State law banning advertisements on municipal fields. Section 64 - # 8 of the Municipal Law acts as a way to accomplish this. "The Town Board can pass a local law with home rule as its guide, set it up, accepting gifts/donations." "There's another way that you can do it, by Board Resolution you can accept it as a conditional gift." "As the gift, whatever it is breaks down or it's substantially no longer in effect, that's pulled." "The gift is no longer in effect." "I definitely am not into breaking any laws." "The sign has to meet all the specifications." "All and all, I want to go on the record as saying, this sign, not truly as it is now, but I think there is enough mechanisms in which this can be put up and I think we'll all learn by this experience that we'll have to do a lot more due diligence in the future." He is in favor of putting up the sign, providing it meets all of the codes and that the Town Attorney can guide us through this as accepting it as a donation/gift or through a local law.

Supervisor Bloomfield concluded by saying that the Board will have to work with the Attorney for the Town and discuss the issue taking into account the input from the public and input from the Board Members.

F, FINANCE:

Councilman Canterino made the motion to authorize the Supervisor to pay Accounts Payable Check run of 12/01/11 amounting to \$77,980.68, Manual A/P runs of 12/14/11 amounting to \$10,185.18 and Manual A/P runs of 01/03/12 amounting to \$4,506.94, and also Accounts Payable Check run for 12/29/11 amounting to \$408,261.14. Councilman Lyons seconded the motion.

On a Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

G. TOWN'S COST ASSOCIATED IN THE SEWER DISPUTE WITH THE VILLAGE

Supervisor Bloomfield referenced an article which appeared in the Goshen Independent paper on January 4, 2012. The article was written by Gary Greenwald titled "Political Musings". A section of the article dealt with the amount paid by the Town to the Village in this settlement. Mr. Greenwald stated "It was my understanding that the town was always willing to go to mediation or arbitration in order to resolve this matter and to avoid litigation". The Village proceeded to sue the Town.

Supervisor Bloomfield stated that the preliminary cost of the lawsuit, *to get it to arbitration*, which included legal expenses, engineering expenses and CPA expenses totaled \$20,144.43. The arbitration totaled \$35,936.25. Combined the Town spent around \$56,000. We don't know how much the Village spent on this settlement. In the final decision the Village received only \$25,000 of the \$250,000 they were seeking. Councilmen commented on the efficiency and time of those who labored to settle this dispute. It was a great deal of work. The two water districts will greatly benefit from the settlement.

H. PRIVILEGE OF THE FLOOR:

Several people commented on ways to resolve the debate over the Craigville Park scoreboard. People don't understand or know the rules and regulations of the Code. One of the ways to resolve this is for better communication between the Little League/JRC and the Board. With procedures in place, the Board is willing to work within the law to satisfy requests.

Kevin Loughran asked for clarification of sewer bill charges pertaining to the 10% surcharge and the 76% of the debt service. Supervisor Bloomfield responded that the 10% was always on the bill for access to the Village sewer plant. The 76% is the debt service over the life of the borrowings which are from the Environmental Facilities Corp. which can not be prepaid and is in excess of 2.5 million dollars collectively for Arcadia Hills and Hambletonian Park. This was part of the reduction in the negotiations. In explaining the I & I collection, this year around \$30,000 of the I & I charges was spent to replace both of the lift station pumps for Hambletonian Park. Fixing the I & I will save the residents a lot of money.

Joel Markowitz stated that the sewer agreement between the Village and the Town is on the video web site that can be viewed by going to <http://www.goshennewyork.info> . He feels that in the interest of the community, more exposure of the settlement and IMA should be on the web site.

Bill Johnson is concerned that most of the people have no idea about farming. The public needs to be educated on farming practices and production. He noted that the CAFO (Confined Animal Feeding Operations) Law has “hit hard” three of the largest dairy farms in the area. The DEC and EPA have imposed restrictions that could be the end of the dairy business. He reviewed how some of the new regulations will affect his farming operation. Presently the government is spending millions of dollars to take production pastures out of production and return it to nature. If the parcels are taken out of production and abandoned, they will create a problem for the neighboring production acreage. Also, the flooding to the crops caused by the summer storms has effected crop production along the Wallkill River. He feels that by dredging the Wallkill River will elevate future flooding to crop producing areas. “We definitely need to educate the public and our politicians about farming and the importance of feeding themselves”. “We have to eat to survive.” He finds it unbelievable as to what the State politicians are doing t o the farmers with the new laws.

Doris & Frank Bialas stated that the trees that were cut earlier this year did absolutely nothing to prevent flooding, as was witnessed by the aftermath of Hurricane Irene and Tropical Storm Lee. The trees have to be removed with the roots in the floodway, because they are catching the debris. The floodway is actually shrinking. There is a great deal of sediment in the river. It needs to be dredged. The sediment needs to be taken out.

Supervisor Bloomfield is aware of the flooding from the unusual weather this past year. The Town of Goshen is the only town in NYS with two landfills bordering a river. Currently, the Al Turi Landfill appears to be stable. However, the Board wants to know what is protruding from the Orange County Landfill side. The concern is with protecting the people in the Town of Goshen and the liability issues to those downstream of the river. We are waiting for a response from the County. There are legalities about going out into the river and doing work there. The County also appears to be leery of potential liability issues.

I. EXECUTIVE SESSION:

Councilman Newbold made the motion to enter into Executive Session to discuss the following;

1. CSEA Contract Negotiation Status Update
2. CSEA Personnel Case Arbitration Status Update
3. Al Turi Landfill Tax Certiorari Status Update

with the intent not to return. The motion was seconded by Councilman Lyons. Motion Carried

ADJOURNMENT: 10:08 PM

Priscilla Gersbeck, Deputy Town Clerk