

**TOWN OF GOSHEN**  
**TOWN BOARD WORK SESSION**  
**March 8, 2010**  
**MINUTES**

A work session of the Town Board of the Town of Goshen was held on the 8th day of March, 2010 at 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

Absent: Kenneth Newbold Councilman

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

The meeting was called to order by Supervisor Bloomfield at 7:33pm.

**1. REVIEW CURRENT STATUS OF SEWER ISSUES WITH THE VILLAGE OF GOSHEN**

Supervisor Bloomfield gave a brief history of the current sewer issues with the Village. January 2009 was the first time the Town realized that there was a problem with the Village billing. Every year the Town has a meeting with the residents in the water & sewer districts to review repairs, grants and their rates (which are a year in advance) of that on which they will be rated. Using Arcadia Hills as an example; 2007 was the first year there was a principle & interest payment for the new sewer plant in the Village. The 2007 bill was \$99,855.00. Asking the Village how much are we supposed to collect in 2008 for Arcadia Hills, the reply was \$154,000.00. The 54% increase was the beginning of two principle and interest payments. The 2008 Arcadia Hills bill came in for \$217,373.00. Compared to the year before, that is an increase of 117%. The Town didn't collect the money to pay the \$217,373.00. This was a very similar situation in Hambletonian Park. The question arose, was the Village giving us the wrong amount to collect or was there more money being spent to operate the sewer plant?

At this point, the Town hired Stephen Brown, C.P.A., to foil the Village for sewer billing information. The Town also hired Dennis Lindsay, P.E., of Riddick Associates to compare the permits and operation of the new sewer plant to the old sewer plant. Based upon their findings, the Town Board decided to pay the Village \$158,000.00 for Arcadia Hills and \$112,000.00 for Hambletonian Park which were the amounts collected.

Supervisor Bloomfield continued that on May 12, 2009 the Town received a letter from the Village Treasurer projecting an increase for the sewer billing for 2010 estimated at 6% over the 2009 billing. Thus for Hambletonian Park it would be a 124% increase over 2007.

On May 18, 2009, a letter was sent to the Honorable Thomas P. Dinapioli, Comptroller for NYS from the Town. *[letter on file in the Clerk's office]* Stated in it: ["The assistance and expertise of your offices are respectfully requested. The Town of Goshen requests that the Comptroller's Office of the State of New York conduct an audit of the Village of Goshen's sewer operations and financial records. ¶ "In addition, I also requested an audit of the Town of Goshen sewer operations and financial records. The Town is responsible for collecting and pumping sewage from the Town (2) sewer districts to the village sewer plant"]

A meeting was called by the residents in the sewer districts at the Goshen Senior Center. They wanted to know what was going on and why and what was the Town going to do about it. On May 28, 2009 the Town held its' annual water & sewer public hearing. This was to inform the residents of Hambletonian Park and Arcadia Hills of the proposed new sewer rate changes. *[document on file in the Town Clerk's office]*

On June 8, 2009 Heritage Estates LLC made a proposal to the Town Board to build a new sewer plant in conjunction with their development along Old Chester Road. Heritage Estates LLC also had an application in the NYS DEC for a sewer plant. Before this, the Village turned down the offer from Heritage Estates to be serviced by the Village sewer plant. Consequently, Heritage Estates along with Lone Oaks and Reiger developers jointly agreed that a regional sewer plant is a "viable idea which will need cooperation between the developers and the Town". Currently ADC developers have voiced interest in joining a regional sewer plant. In doing this, Hambletonian Park and Arcadia Hills will have the opportunity to hook up to a newly constructed regional sewer plant. During the Town Board Meeting, Supervisor Bloomfield suggested to Mr. Walker PE (representing Heritage) to contact the Village. There are new people governing the Village and perhaps they have changed their minds.

A letter was sent on September, 2009 to the Village Mayor. *[letter on file in the Clerk's office]* This letter stated two basic issues. One issue stated that the amount of monies paid to the Village in the amount of \$270,527 for sewer services/gallons from Arcadia Hills and Hambletonian Park were basically correct and represents a fair and accurate payment.. The other issue is that the 51-year old IMA between the Town and Village needs to be updated and modified for the two subdivisions. Accordingly, Councilmen Cappella and Councilman Newbold along with Attorney Caplicki started negotiating with Trustee Roddey and Trustee Mattheus along with Attorney Donovan.

On January 26, 2010 the Town received a letter/invoices for 2009 sewer services rendered to Arcadia Hills and Hambletonian Park. *[letter on file in Clerk's office]* In the last paragraph of this letter states, "If payment in full is not received on or before February 26, 2010, the Village will have no other alternative but to pursue litigation."

Supervisor Bloomfield read (into the record) a letter sent to the Village Board on February 2, 2010. ["Dear Mayor Higgins; ¶ The current IMA between the Village and Town for Village sewer services is "fifty-one" years old and no longer provides a viable means for managing sewer financial transactions. ¶ Originally when the IMA was developed, water meters were not available in Town residences being serviced by the Village (they are today). Consequently, a single sewer meter was used by each subdivision to record

gallons of sewage pumped to the Village sewer plant; thus, "sewage" was used as the basis for calculating sewer charges. Meanwhile in the Village, water meters were available in each residence and "water" was used as the basis for calculating sewer charges. Herein lies the root cause for billing inequities. ¶ When comparing Village and Town customers billing for like service, our analysis of data shows a significant financial penalty for Town residents. This is particularly true for high volume water users. The more water used, the greater the differential. ¶ The significance of the problem was not apparent in the past when sewer charges were generally low. But today with the building of a multimillion dollar sewer plant and the continued use of two different billing methodologies, inequitable billing of customers has become more obvious. The problem is further exacerbated when considering inflow and infiltration. Inflow and infiltration are excluded from Village customer billing when "water" is used as the basis for charging while inflow and infiltration are included in Town customer billing when "sewage" is used as the basis for charging. ¶ To conclude, the billing methodology problem must be corrected; we can no longer use two different billing methods for calculating sewer bills. ¶ I have attached a delineation of several points that the Town Board would like you to consider in regard to a new IMA. I would ask that the Village Board give consideration to our proposal and that the negotiating team continue deliberations until an agreement on a new IMA is reached. Best Regards; Douglas Bloomfield"]

Supervisor Bloomfield explained the reasoning for each one of the 5 following proposals. (Attachment) ["Town Proposal for Developing a Newer IMA", "Proposal 1) Town customers will be billed based on water consumption the same as Village customers. Charges will be calculated retroactively to January 1<sup>st</sup> 2008 using this protocol. 2) Town customers will pay a capital fee based on percentage of village sewer plant capacity utilized (i.e. \$70.00 x .15) in lieu of a surcharge. 3) Town customers will share costs for transmission line maintenance for the line that connects the Town sewer line to the sewer plant. 4) The Town will share on a 50/50 basis with the Village potential funds paid by the applicant for access to the sewer plant. 5) The Town will join the Village in asking the applicant for "up-front" funds to protect current rates for Village residents."]

On February 12, 2010 the Town sent a letter to the Village Board. [*letter on file in Clerk's office*] [Dear Mayor Higgins, "The Goshen Town Board has authorized the Budget Officer, Bill Standish, to pay \$135,308 for Arcadia Hills and \$105,389 for Hambletonian Park for sewer services rendered by the Village during 2009. ¶ With this payment, it is obvious that the Town Board is in disagreement with the Village Board as to how sewer charges are calculated and the resultant invoices for years 2008 and 2009. It is our recommendation that we solicit the services of an independent arbitrator, as specified in the Intermunicipal Agreement, so that our differences can be resolved."]

Supervisor Bloomfield felt that litigation is inappropriate. According to the contract, in the event of a dispute, we are supposed to make a request to the Orange County Department of Health which will arbitrate the dispute. Then both parties are bound by the determination. This is "cheaper than hiring lawyers".

The Town received a letter from the Village on February 23, 2010. [*letter on file in Clerk's office*] ["...Your proposal effectively asks the Village to subsidize the Town Districts....."] [".....we cannot entertain your proposal. ¶ Your proposal is so far removed from anything that would form the basis for discussion we must respectfully decline your request to continue the meetings of the negotiating teams." ".....we.... suggest that you begin making plans for construction of this new plant at your earliest convenience." "In this interim period, and until your new plant is up and operational, we will continue to bill you in accordance with the existing agreements...."]

Supervisor Bloomfield was upset with an article (Goshen Village Board) printed in the Independent Republican Newspaper on February 24, 2010. A statement given by Trustee Roddey called the Town actions "unconscionable". Supervisor Bloomfield stated that "we're certainly not looking for anybody in the Village to support the people in the Town".

On March 3, 2010 a letter was sent to the Village from the Town. [*letter on file in Clerk's office*]  
["For over forty years, sewer users within the Hambletonian Park and Arcadia Hills sewer districts have been billed on a totally different basis than village sewer users resulting in substantially higher bills to town residents than comparable village residents. In addition, town users pay an additional 10% penalty or surcharge on their billings." ¶] The Town is greatly upset by your decision to refuse to even further discuss the issues. It is only through discourse and discussion that our two municipalities can ever hope to address and resolve common problems for our citizenry.¶] Finally, and most disappointing, is your decision that the Village would rather litigate the issues that separate our two municipalities than discuss, negotiate or arbitrate any disputes. The "contracts" you refer to all reference and require arbitration. Litigation, if initiated by the Village, will result in enormous wasteful cost and expenses to the citizenry of Goshen at a time when our residents can least afford it."]

Supervisor Bloomfield also submitted a letter to Jean M. Hudson, M.D. Commissioner of Health on March 3, 2010. [*letter on file in Clerk's office*] ["It is respectfully requested that your office assist the Town and Village in resolving said dispute(s)."] Supervisor Bloomfield attached a copy of the IMA contract which is expired for Hambletonian Park, but is active for Arcadia Hills. Section #9 of this 51 year old contract states; ["In the event any dispute or question of interpretation shall arise between the parties relating to the provisions of this agreement, either party may submit the dispute or question of interpretation to the Commissioner of the Department of Health of the County of Orange and agree that each will be bound by the decision of the Commissioner of Health."]

Supervisor Bloomfield quoted a few of the *average* sewer/water bills for Hambletonian Park and Arcadia Hills. For Hambletonian Park one was \$4,209 another \$3,784 for the year. In Arcadia Hills, one was \$3,081 and \$2,921 for the year. A resident remarked that his water/sewer bill is almost as high as his property tax.

For the record, Supervisor Bloomfield stated that "we are ready to move on and to build this regional sewer plant and decouple from the Village because we don't have a contract, they (the Village) don't want to talk to us, and we don't want to continue on forever and a day with the existing contract because it is not a viable way of doing business." "We are going to try to go to arbitration and we are going to start looking at building this new plant starting with Heritage and Mr. Walker".

Supervisor Bloomfield called for comments.

John Sullivan (inaudible)

Councilman Cappella clarified that through all of the negotiations, he asked for a level playing field - no more, no less. He noted that infiltration was the "killer", that is the sole reason. Both the Village and the Town have infiltration. The difference is that when we measure Arcadia and Hambletonian Park through the meter at the sewer plant, all of the I & I are billed as sewer. This doesn't happen with the Village. Both the Town and Village participate in the portion of the maintenance/operation billing. However, when it comes to the Town, we are measured as pure sewer. Again he stated "it's all we ever asked for is a level playing field to be measured the same way (as the Village)".

John Sullivan questioned the estimate of the I & I?

Councilman Cappella explained that we foiled to the County for a report of how much water is used by the Town and Village. He started with calculations for the 2008 billing. The sewer plant has the meter reading of sewer measurement. If you take away the water coming into the meter at the main plant (not at the substation) the difference is the I & I. A rough estimate of I & I used by the Town is 9.1% and the Village I & I used is estimated at 29%. It is known that the Village is a bigger user than these two subdivisions. Also a lot of Village I & I doesn't make it to the plant partially to the age of the infrastructure. We have been active in repairing some of the I & I at both Arcadia Hills and Hambletonian Park to lower the bills.

Several people spoke to the issue. (inaudible)

Attorney Caplicki pointed out that besides the IMA, the Town disputes the accuracy and legitimacy of the amounts being billed by the Village. This encompasses how the Village calculates our billings, what is included in those billings, the allocation for various expense items that the Village has made that we believe are inappropriate. The Village does not want to continue discussing this matter. Therefore, the Town has no choice, but to pursue the aspect of a regional sewer plant.

In responding to a resident's question pertaining to plant operations, Councilman Canterino explained that the Town will be involved in the planning process of the plant. They build the plant and then it is dedicated over to the Town. From then on the Town owns and maintains the plant. Councilman Canterino has long been an advocate of arbitration. "Litigation is definitely not the way to go". With litigation there are the expenses of court fees and legal bills and with arbitration there are none of those fees. Whoever loses, will lose twice over.

Supervisor Bloomfield explained that the reason for this review of the current sewer status is that when we were in negotiations we couldn't publicly talk about it. Now that the negotiations are over, we can answer the many questions residents have inquired about. Speaking for the Board, Councilman Canterino stated "We do not intend to initiate any litigation as a Town Board".

**2. DISCUSS REQUEST BY LONE OAKS ESTATES FOR PROPOSED WATER LINE/STORAGE TANK LOOP WITH ARCADIA HILLS**

Sean Hoffman, P.E., Riddick Associates, addressed the Board about Lone Oak Estates (south and east of Arcadia). Presently the applicant is before the Planning Board moving forward with their FEIS. Part of the process covers the availability of water and interconnecting with Arcadia. Since Arcadia and Lone Oaks water systems are so close together, it's a good idea to tie them together. It increases reliability and when permanently joined, reduces the maintenance/operating cost. Lone Oak is proposing the construction of a new water storage tank on the Town parcel which is adjacent to the existing Arcadia Hills water storage tank. A pipe connection between the two tanks along with an added water line would allow completion of a loop.

Dennis Lindsay, Riddick Associates, wrote "In my opinion, the applicant has the ability to improve reliability and overall system integrity for both his proposed development and the existing Arcadia system by a properly designed combination of their respective water infrastructure systems (existing and proposed)." The Board Members are in agreement that this is conceptually a good idea.

Thomas Depuy PE/LS, representing Lone Oak, (inaudible) This tank will be beneficial for the whole district.

**3. COMPLETE SEORA FOR JESSUP SWITCH ROAD PROJECT**

Sean Hoffman, PE from Riddick Associates addressed the Town Board requesting an agreement to complete the SEQR process for improvements to Jessup Switch Road. He explained that this project is to reconstruct and reclaim the existing asphalt to use as a sub-base. Therefore, this project falls under §617.5(c) (4) as a Type II action for "repaving of existing highways not involving the addition of new travel lanes". He is looking for the classification of a Type II action.

Councilman Canterino made the motion to classify improvements to Jessup Switch Road as a Type II action under SEQR with no significant environmental impact. Councilman Cappella seconded the motion.

On A Voice Vote, the motion passed: 4 AYES Bloomfield, Canterino, Cappella, Lyons  
0 NAYS

**4. DISCUSS REQUEST BY MULTIPLE SCLEROSIS SOCIETY TO PERMIT AN ANNUAL WALK-A-THON ON APRIL 17, 2010**

Supervisor Bloomfield read from a letter submitted by Scott Wohl, Event Chairman. In it Mr. Wohl states that ["Although last year's event was very successful and set both participant and fundraising records, we feel that we must find a way to increase walker safety along the walk route – including Old Chester Road. ¶ As such, I am asking if the Town could limit vehicular activity along the portion of Old Chester Road from the village line to its intersection with Knoell Road during the 2-3 hour event to local

traffic only. I am keenly aware of the Town's goal to limit expenditures for an increased police presence and/or overtime and have contacted the Orange County Sheriff regarding the provision of Deputies to assist with participant safety. He has agreed and is anxious to coordinate with Chief Marsh."]

As in the past, the Town of Goshen will be named as additional insured under their designated insurance carrier.

After some discussion among the Board Members, it was agreed to instruct our Police Department to work with the Sheriff's Department to make sure appropriate signs are posted and proper notification is made to the public to be very careful when using this roadway.

Councilman Cappella made the motion to approve the MS Walk as presented to the Town of Goshen on April 17, 2010 from 9Am to 12 Noon. Councilman Lyons seconded the motion.

On A Voice Vote, the motion passed: 4 AYES Bloomfield, Canterino, Cappella, Lyons  
0 NAYS

**5. DISCUSS PROPOSED "PREVAILING WAGE" BILL (S-632A and A-404A) BEING CONSIDERED IN ALBANY. ORANGE AND ROCKLAND UTILITIES, INC. IS ASKING FOR OUR OPPOSITION TO THE BILL**

The proposed legislation seeks to dictate to utilities the type of workers they use on excavations, provides that utilities or their contractors pay non-competitive wages, and requires utilities to post unreasonable payment bonds on projects where a permit to open or use a street is required. They want to hire trained and certified contractors rather than just anybody. It is about hiring those who know what they are doing as opposed to those who don't know all of the requirements for a specific job. After some discussion, the Board decided to take a 'no action' on this bill.

**6. REMINDER – WE NEED TO DEVELOP A SCHEDULE FOR PLANNED DRAINAGE/ROADWAY IMPROVEMENTS FOR RESERVOIR ROAD**

Supervisor Bloomfield would like to see a coordinated effort between Councilman Canterino, Councilman Cappella and Dennis Lindsay, P.E. for the necessary roadway improvements on Reservoir Road near Dr. Sedarevic's property.

**7. INFORMATION - THE TOWN IS RESPONDING TO A REQUEST BY THE O.C. DIV. OF EMERGENCY MANAGEMENT FOR A RECAP OF ABNORMAL EXPENSES ASSOCIATED WITH OUR LAST SNOW STORM**

Supervisor Bloomfield stated that Councilman Canterino is coordinating a list of expenses with the DPW and the Police Department. He reminded Councilman Canterino to include the two transmissions that were burnt out during the storm.

**8. DISCUSS SPECIFICATIONS FOR POLICE CAR PURCHASE**

Councilman Canterino explained that according to Ford Motor Company this is the last year for the Crown Vics. The request is for the Crown Vic, because they have proven better reliability than the six cylinder units made by Dodge or Chevrolet. Also this will allow parts to be exchanged from one unit to another. As in the past, this will be done through State bid.

Supervisor Bloomfield made the motion to authorize the Chief of Police to order a Crown Victoria, 8 cylinders, as a new police car. Councilman Lyons seconded the motion.

On A Voice Vote, the motion passed: 4 AYES Bloomfield, Canterino, Cappella, Lyons  
0 NAYS

**EXECUTIVE SESSION:**

Supervisor Bloomfield made the motion to enter into Executive Session to discuss the following:

1. Review Status of Time Warner Cable Franchise Contract
2. Sewer Issue Status
3. Humane Society Contract
4. MTB Litigation
5. Tax Certiorari's  
Owens Road  
ADC  
Turi

with the intent not to return. The motion was seconded by Councilman Cappella. Motion carried.

Time: 9:15PM

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Priscilla Gersbeck, Deputy Town Clerk