

TOWN OF GOSHEN
TOWN BOARD MEETING

March 10, 2011
MINUTES

A regular meeting of the Town Board of the Town of Goshen was held on the 10th day of March, 2011 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 7:30 pm, followed by the Pledge of Allegiance.

B. AMENDMENT TO THE AGENDA

None at this time

C. PRIVILEGE OF THE FLOOR (agenda items only)

None at this time.

D. OLD BUSINESS:

**1. Resolution Authorizing The Budget Officer To Close Out Eight Bank Accounts
As Part Of Our Cost Savings Reduction Program**

Six accounts were presented at Monday's meeting. Since then two more accounts have been added to the list.

TOWN OF GOSHEN
RESOLUTION

Authorization to Close Eight (8) Existing Town of Goshen Bank Accounts

INTRODUCED BY: Councilman Kenneth Newbold

SECONDED BY: Councilman George Lyons

DATED: March 10, 2011

At a meeting of the Town Board of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 10th day of March, 2011;

WHEREAS, the Town of Goshen maintains numerous bank accounts, escrow accounts and checking accounts with various financial institutions; and

WHEREAS, in an attempt to eliminate duplication, operate more efficiently and to eliminate and save ongoing bank maintenance fees the Budget Officer of the Town of Goshen has researched and examined the status of the aforementioned accounts and has recommended that same be closed and/or moved to other existing facilities so as to eliminate and/or close accounts which are no longer needed and to also save ongoing bank maintenance fees,

NOW, THEREFORE BE IT RESOLVED, that the Budget Officer of the Town of Goshen is authorized to close/terminate the following accounts and that the Supervisor of the Town of Goshen is authorized to sign any and all documents in order to effectuate the foregoing:

1. Bank of America: Payroll Escrow Acct # 0052-5900-0434
2. Bank of America: Building & Zoning Escrow Acct # 0094-2033-9052
3. Bank of America: Highway Road Escrow Acct # 0048-3445-1478
4. Bank of America: Craigville Grant Acct # 0048-3444-7356
5. Bank of America: Parklands Investment Acct # 0094-5891-4200
6. Bank of America: Parklands Checking Acct # 0052-5301-3013
7. Bank of America: Highway Improvement Acct # 000006800162783
8. Bank of America: Water Mitigation Acct # 0048-3444-7369

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>ABSENT</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 4 to 0.

2. Appointment Of Thomas J. Spreitzer To The Board Of Assessment Review To Fill The Vacancy Created By The Expiration Of His Term Which Expired September 30, 2010.

Mr. Spreitzer was the only respondent to an advertisement posted in the local newspaper.

Councilman Canterino made the motion to appoint Thomas J. Spreitzer to the Board Of Assessment Review. Councilman Lyons seconded the motion.

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

3. Resolution To Authorize Settlement Of The DePouli Tax Certiorari

Attorney Caplicki stated that the following tax certiorari Resolutions are based upon settlements derived from litigations, analysis by the Board Members, Appraiser, Assessor and his office.

**TOWN OF GOSHEN
RESOLUTION**

Settling of Tax Certiorari Claim; Edward DePouli v. JoAnn Soules, the Tax Assessor of the Town of Goshen and the Board of Assessment Review of the Town of Goshen; Section 20 Block 2 Lot 1; Index No. 2010-8456

INTRODUCED BY: Councilman Kenneth Newbold

SECONDED BY: Councilman George Lyons

DATED: March 10, 2011

At a meeting of the Town Board of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 10th day of March, 2011;

WHEREAS, Edward DePouli has commenced a tax certiorari proceeding against the Town of Goshen in the Supreme Court of the State of New York, County of Orange for the 2009-2010 tax assessment year bearing Orange County Index No. 8456-2010; and

WHEREAS, it appears from the recommendation of the Town Assessor, the Town’s Appraiser and Dennis P. Caplicki, Esq., Counsel for the Town of Goshen in the aforesaid proceeding, upon a thorough investigation of the claims that further proceedings and litigation by the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth below is reasonable and is in the best interest of the Town of Goshen; and

WHEREAS, Edward DePouli is willing to settle this proceeding without interest, costs or disbursement, in the following manner:

Assessment Year	Property Description	Original Assessment	Amount of Reduction	Final Total Assessment
2009-2010	Section 20 Block 2 Lot 1	\$800,000	\$120,625	\$679,375

That Petitioner’s real property taxes for the 2009-2010 school taxes and for the 2009 county and town taxes be adjusted accordingly and that the Petitioner be reimbursed for any overpayment without interest, if paid within ninety (90) days of notice of entry, and

NOW, THEREFORE BE IT RESOLVED that the proposed settlement as set forth and described above is hereby accepted pursuant to Section 68 of the Town Law and it is further

RESOLVED, that JoAnn Soules, Assessor for the Town of Goshen, and Dennis P. Caplicki, Esq., Attorney for the Town of Goshen, be and they hereby are designated as the Officers of the Town which shall apply for such approval pursuant to the aforesaid section of law and be they further authorized that they may sign and/or execute any necessary documents to effectuate the foregoing settlement.

Discussion: Councilman Canterino wanted to make it clear to the public that the other taxing entities who are involved/affected; School, Village and County were given the opportunity to participate and have been notified of the outcome.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>AYE</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 5 to 0.

4. Resolution To Authorize Settlement Of The Butcher Block Tax Certiorari

TOWN OF GOSHEN RESOLUTION

Settling of Tax Certiorari Claim; Butcher Block, LLC v. Assessor, Board of Assessors and the Board of Assessment Review of the Town of Goshen and the Town of Goshen; Section 111 Block 14 Lot 1; Index No. 2010-8244

INTRODUCED BY: Councilman George Lyons

SECONDED BY: Councilman Philip Canterino

DATED: March 10, 2011

At a meeting of the Town Board of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 10th day of March, 2011;

WHEREAS, Butcher Block, LLC has commenced a tax certiorari proceeding against the Town of Goshen in the Supreme Court of the State of New York, County of Orange for the 2010-2011 tax assessment year bearing Orange County Index No. 2010-8244; and

WHEREAS, it appears from the recommendation of the Town Assessor, the Town's Appraiser and Dennis P. Caplicki, Esq., Counsel for the Town of Goshen in the aforesaid proceeding, upon a thorough investigation of the claims that further proceedings and litigation by the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth below is reasonable and is in the best interest of the Town of Goshen; and

WHEREAS, Butcher Block, LLC is willing to settle these proceedings without interest, costs or disbursement, in the following manner:

Assessment Year	Property Description	Original Assessment	Amount of Reduction	Final Total Assessment
2010-2011	Section 111 Block 14 Lot 1	\$500,000	\$53,750	\$446,250

That Petitioner's real property taxes for the 2010-2011 school taxes and for the 2010 county and town taxes be adjusted accordingly and that the Petitioner be reimbursed for any overpayment without interest, if paid within ninety (90) days of notice of entry, and

NOW, THEREFORE BE IT RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to Section 68 of the Town Law and it is further

RESOLVED, that JoAnn Soules, Assessor for the Town of Goshen, and Dennis P. Caplicki, Esq., Attorney for the Town of Goshen, be and they hereby are designated as the Officers of the Town which shall apply for such approval pursuant to the aforesaid section of law and be they further authorized that they may sign and/or execute any necessary documents to effectuate the foregoing settlement.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>AYE</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 5 to 0.

5. Resolution To Authorize Settlement Of The Friendly Ice Cream Corp. Tax Certiorari

TOWN OF GOSHEN RESOLUTION

Settling of Tax Certiorari Claim; Friendly Ice Cream Corporation v. The Board of Assessors and/or the Assessor of the Town of Goshen and the Board of Assessment

INTRODUCED BY: Councilman Kenneth Newbold
SECONDED BY: Councilman Louis Cappella
DATED: March 10, 2011

At a meeting of the Town Board of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 10th day of March, 2011;

WHEREAS, Friendly Ice Cream Corporation has previously initiated against the Board of Assessors and/or the Assessor of the Town of Goshen and/or the Town of Goshen tax certiorari proceedings for assessment years 2006 under Index No. 5604-06; 2007 under Index No. 6302-07; 2008 under Index No. 7888-08, and

WHEREAS, it appears from the recommendation of the Town Assessor, the Town's Appraiser, and Dennis P. Caplicki, Esq., Counsel for the Town of Goshen in the aforesaid proceeding, upon a thorough investigation of the claims that further proceedings and litigation with the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth in the annexed proposed Consent Judgment/Stipulation of Settlement is reasonable and in the best interest of the Town, and

WHEREAS, petitioner, Friendly Ice Cream Corporation, is willing to settle these proceedings without interest, cost or disbursement, in the manner as set forth in the annexed Consent Judgment/Stipulation of Settlement,

NOW, THEREFORE, BE IT RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to Section 68 of the Town Law and it is further;

RESOLVED, that JoAnn Soules, Assessor of the Town of Goshen, and Dennis P. Caplicki, Esq., be and they hereby are designated as the Officers of the Town who shall apply before such approval pursuant to the aforesaid section and law and be it further

Discussion: Councilman Lyons inquired as to why there are no numbers on this Resolution. Attorney Caplicki explained that there should have been an attachment. Attorney Caplicki suggested withdrawing the motion until the Board Members can review the calculations.

Councilman Newbold withdrew his motion. Councilman Cappella withdrew his second. This Resolution will be addressed at a future meeting.

6. Resolution With Respect To Benchmark Tax Certiorari Appraiser

Supervisor Bloomfield stated the cost will be \$4,500 for the stated years and \$175.00 per hour for additional work. Attorney Caplicki noted that the cost for *preparation* initially will be \$3,150 for the settlement conference leading up to \$4,500 if it should go to trial.

**TOWN OF GOSHEN
RESOLUTION**

Authorization to Retain Molinas Realty Inc. as Appraiser for the Town of Goshen with Respect to Tax Certiorari Proceedings; Benchmark v. Town of Goshen; Section 116 Block 2 Lot 1.2

INTRODUCED BY: Councilman Kenneth Newbold

SECONDED BY: Councilman George Lyons

DATED: March 10, 2011

At a meeting of the Town Board of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 10th day of March, 2011;

WHEREAS, the Town of Goshen presently has pending against it two (2) tax certiorari proceedings filed by Benchmark with respect to real property known as Section 116 Block 2 Lot 1.2 for tax years 2008-2009 and 2009-2010 under Supreme Court State of New York Index Nos. 8163-09 and 7251-10; and

WHEREAS, it is necessary to retain an appraiser to analyze and prepare appraisal(s) with respect to said proceedings,

NOW, THEREFORE BE IT RESOLVED, that said Molinas Realty Inc. of Sugar Loaf, New York be retained as an appraiser with respect to the aforementioned tax certiorari matters; said appraiser to provide the services as set forth in fee proposal dated January 13, 2011 as annexed hereto.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>AYE</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 5 to 0.

7. Resolution To Authorize Settlement Of The Gurda Tax Certiorari

**TOWN OF GOSHEN
RESOLUTION**

Settling of Tax Certiorari Claim; Michael A. Gurda v. Joanne Soules, Assessor, Town of Goshen, County of Orange, State of New York; Supreme Court Index No. 2009-8400

INTRODUCED BY: Councilman George Lyons

SECONDED BY: Councilman Louis Cappella

DATED: March 10, 2011

At a meeting of the Town Board of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 10th day of March, 2011;

WHEREAS, Michael A. Gurda has commenced a tax certiorari proceeding against the Town of Goshen in the Supreme Court of the State of New York, County of Orange for the 2009-2010 tax assessment year bearing Orange County Index No. 2009-8400; and

WHEREAS, it appears from the recommendation of the Town Assessor, the Town's Appraiser and Dennis P. Caplicki, Esq., Counsel for the Town of Goshen in the aforesaid proceeding, upon a thorough investigation of the claims that further proceedings and litigation by the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth below is reasonable and is in the best interest of the Town of Goshen; and

WHEREAS, Michael A. Gurda is willing to settle these proceedings without interest, costs or disbursement, in the following manner:

Assessment Year	Property Description	Original Assessment	Amount of Reduction	Final Total Assessment
2009-2010	Section 13 Block 1 Lot 32.3	\$587,300	\$166,402	\$420,898
	Section 13 Block 1 Lot 32.2	\$63,600	\$18,020	\$45,580
2010-2011	Section 13 Block 1 Lot 32.3	\$587,300	\$115,074	\$472,226
	Section 13 Block 1 Lot 32.2	\$63,600	\$12,462	\$51,138

That Petitioner's real property taxes for the 2009-2010 and 2010-2011 school taxes and for the 2009 and 2010 county and town taxes be adjusted accordingly and that the Petitioner be reimbursed for any overpayment without interest, if paid within ninety (90) days of notice of entry, and

NOW, THEREFORE BE IT RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to Section 68 of the Town Law and it is further

RESOLVED, that JoAnn Soules, Assessor for the Town of Goshen, and Dennis P. Caplicki, Esq., Attorney for the Town of Goshen, be and they hereby are designated as the Officers of the Town which shall apply for such approval pursuant to the aforesaid section of law and be they further authorized that they may sign and/or execute any necessary documents to effectuate the foregoing settlement.

Discussion: Attorney Caplicki clarified for the Board Members that as rule most residential homes are subject to a SCAR (Small Claims Assessment Review). However, if a petitioner asks for more than a 25% reduction in the assessment, it is no longer classified as a SCAR and is put into an Article Seven.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>AYE</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 5 to 0.

8. Approve Jessup Switch Road Voucher Peckham Materials Corp.

Riddick Associates, P.C. sent a letter (dated March 9, 2011) to the Town Board stating that the work for Jessup Switch Road has been completed and is ready for payment No. 1. Upon receipt of the requested paper work from the Town, the County will issue a check to the Town for payment to Peckham Materials. Surplus monies in the grant, that were not utilized, will be used for sealing Jessup Switch Road when the weather is warmer.

9. Approval of Minutes

Councilman Newbold made the motion to approve the work session minutes of January 22, 2011
Councilman Cappella seconded the motion.

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

Councilman Newbold made the motion to approve the work session minutes of February 7, 2011 and the regular meeting minutes of January 27, 2011 and February 10, 2011. Councilman Cappella seconded the motion.

On a Voice Vote, the motion passed: 4 AYES Bloomfield, Canterino, Cappella, Newbold
0 NAYS
1 ABSTAIN Lyons

10. Status Review Of Village/Town Sewer Arbitration

Previously, Judge Elaine Slobod ordered the Village to enter into arbitration with the Town to resolve the dispute over back sewer fees the Village claims that the Town owes. Today the arbitration process was to begin. However, a conference on Monday, resulted in the court appointed arbitrator, John Cameron, requesting each attorney to prepare a brief with regards the "separation of powers" issue(s). The Village has taken the position that there is no legal right to arbitrate, claiming a separation of powers. What this means is that the Counsel for the Village believes that the act of approving the new Village sewer plant is a Legislative act, which is not reviewable by any other branch of government, either Executive or Judiciary. If the act of deciding whether to build or construct a new sewer plant is in fact a Legislative act, then any number of issues that flow from that also could not be reviewed; being either Legislative decisions-governmental judgmental decisions by that Board.

G. PRIVILEGE OF THE FLOOR:

Jerry Boss inquired about the water/sewer arbitration. Judge Slobod ruled to go ahead with the arbitration process. Why would the Village initiate a separation of powers? Why would the Village pull this if the legal costs *will far exceed* the fees claiming the Town owes? Mr. Boss is searching for the *real* reason.

(response) The cost that the Village will occur is to be determined. The Village believes that the dispute has to be with the arithmetic calculation and accuracy of the billing. They believe that it does not allow an examination of philosophies, theories, methodologies, etc. as to *how* that bill was compiled. For example; the Village believes that the dirt stock pile is included as part of the sewer plant construction. Mr. Boss questioned if the Village is attempting to receive monies from the Town to assist in payment for the removal of the contaminated dirt pile.

Councilman Bloomfield feels that this is a legal maneuver to get out of the arbitration for fear of losing. He is looking to do good for *all* of the people of Goshen without adding more monies to the taxpayer.

"Let's go on to arbitration, get this behind us, do it- win, loose or draw on both teams and be done with it." stated Supervisor Bloomfield.

H. EXECUTIVE SESSION:

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

1. Status Review Of Village/Town Sewer Arbitration
2. Update Status Of Time Warner Franchise Contract Renewal
3. Review Status Of Turi Landfill Litigation
4. Status Review Of Upcoming Tax Certiorari

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

ADJOURNMENT: 8:33 PM

Priscilla Gersbeck, Deputy Town Clerk

