

TOWN BOARD WORK SESSION
June 21, 2010
MINUTES

A Work Session of the Town Board of the Town of Goshen was held on the 21st day of June 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	Kenneth Newbold	Councilman
George Lyons	Councilman		

Also Present: Dennis Caplicki Town Attorney
Valma Eisma Town Clerk

The meeting was called order by Supervisor Bloomfield at 7:30 p.m.

ITEMS DISCUSSED:

1. AUTHORIZE POLICE CHIEF DENNIS MARSH TO SCRAP TWO CROWN VICTORIA VEHICLES: Supervisor Bloomfield said the Board had discussed this at the last meeting, but there were some questions. He asked Councilman Canterino to report on this. Councilman Canterino said the Chief is looking to receive some value from the people he will be scrapping the cars with. He said the cars are stripped of most usable parts, but should have some value in the scrap metal. Councilman Canterino made a Motion to authorize Police Chief Marsh to scrap two Crown Victoria Vehicles. The Motion was seconded by Councilman Lyons. Motion carried unanimously.

2. REQUEST BY GOSHEN ROTARY CLUB FOR TWO POLICE 7:30 – 10:30 A.M, 7/3/2010 TO COVER GREAT AMERICAN WEEKEND 5 K RUN: Councilman Newbold made a Motion to authorize Police Chief Marsh to supply two police officers to cover the time span of 7:30 – 10:30 a.m on 7/3/2010 to cover the Great American Weekend 5 k Run. The Motion was seconded by Councilman Lyons. Councilman Canterino said Chief Marsh will do so at a minimum expense to the taxpayers.

3. DEVELOP PLAN FOR RESERVOIR ROAD DRAINAGE IMPROVEMENT: Supervisor Bloomfield reported he had the plans from Riddick Associates for the improvement, and gave them to Councilman Cappella, Councilman Canterino and Dennis Caplicki and asked them to co-ordinate the plans for the project. Councilman Cappella said the plan has to proceed so the money will be in place to coincide with the season the project will have to be done, such as paving.

4. ANALYSIS OF GOSHEN TOWN COURT REVENUES – NYS ISKEEPING LARGER SHARE (55.7% YTD VS 51.8% LAST YEAR). CURRENT PROJECTION FOR TOWN REVENUE FOR 2010 IS \$290,958 VS \$381,231.46 RECEIVED LAST YEAR: Supervisor Bloomfield said in reviewing the figures his attention was drawn to the amount of money the State of New York was

keeping this year in comparison to last year. He said last year New York State kept 51.8% of the revenues, and this year they kept 55.7%. He said based on this the Town will come out with \$290,958.00 compared to last year at \$381,231.46, a shortage of \$90,273.46.

Supervisor Bloomfield said upon investigating, the reasons for the loss of revenue seems to involve the tickets and the fact the State Police do not seem to be writing as many tickets as they used to write. The total tickets given by the Sheriff's Office, State Police and the Town Police was 3,833 this year compared to 3,026 last year, approximately 800 tickets less. Our police force seems to be writing the usual amount. The shortage seems to be that the troopers are writing fewer tickets, the reason is unknown, but could be there are not as many troopers due to the economy. Also the fact that they cannot plea bargain the tickets anymore, may be a factor. He said the Town had budgeted \$350,000, which means we will be \$60,000 short on revenue for this year.

5. AUTHORIZE THE SUPERVISOR TO APPLY FOR A 211 WAIVER TO THE NYS BOARD OF PENSIONS, FOR CHIEF OF POLICE DENNIS MARSH, PURSUANT TO NYS RETIREMENT AND SOCIAL SECURITY LAW:

Councilman Canterino made a Motion to authorize the Supervisor to re-apply for a 211 Waiver to the New York State Board of Pensions, for Chief of Police Dennis Marsh, pursuant to New York State Retirement and Social Security Law. The Motion was seconded by Councilman Lyons. Motion carried 5 to 0.

Supervisor Bloomfield said he would like to clarify the article that was published in the newspaper which was incorrect. He said the paper said "the state temporarily renewed Marsh's 211 Waiver in December on the condition that he would take the chiefs test, and interview for his own job by June 30th". The Supervisor stated this is unequivocally wrong, Chief Marsh passed the test back in 2001, the level A Chief Test, he passed it, he qualified, and does not need to be tested. He said the job is the Chief's, he can keep the job, and if he does not get the 211 Waiver, then his pension will be suspended until he retires, or if the State elects to give him his waiver he will continue in the job with his pension. It now depends on the State's decision.

6. AL TURI CERTIORARI LITIGATION STARTED THIS WEEK: Supervisor Bloomfield reported the Board has been talking in Executive Session for weeks and months about the potential of litigating a tax certiorari situation with Al Turi Landfill. He said the Board has been unable to resolve it up to now through negotiations. He said consequently today condensed litigation in court. The Supervisor asked Attorney Caplicki to give the Board an overview of what transpired.

Attorney Caplicki said the case started this morning in front of Judge David Ritter. He said Anthony Russo, an Environmental Compliance Officer testified for Turi, laying out the foundation for their petition. He said they also put on, for direct examination and cross, Donald Main, out of Atlanta, Georgia, who is their real estate appraiser. Attorney Caplicki said there were approximately 50 plus exhibits submitted into evidence by both sides and testimony will continue tomorrow from our appraiser Coyle, out of Philadelphia.

Attorney Caplicki said the petitioner's attorney, Edward F. Beane, Esq. plans to call at least two County Employees, one of which is John McCarey, the head of the Real Property Division, to establish that at one point in time the County had begun what is called an IN REM Foreclosure Proceeding to take the property for non payment of taxes. The County decided against it because of the potential liabilities such as the maintenance, upkeep and remediation work of a landfill. Attorney Caplicki said Mr. McCarey was instrumental in the County's decision not to foreclose and

take the property. Attorney Caplicki said they will use this to prove the property has no value because it is a closed facility and the permit has been revoked. He thought tomorrow our appraiser would be called upon and the trial would probably last for two to three days.

Attorney Caplicki said the Petitioner's appraiser submitted his appraisal using the income approach and he testified to day that when the permit for Turi expired, was terminated and/or the capacity was reached the affected value of the landfill actually ceased. However, Attorney Caplicki stated that the Town is taking the stance that it is a special use facility, and you have to use the cost approach. Attorney Caplicki said there is a case in the Court of Appeals that set exactly what procedures you need to follow in order to value a landfill in the State of New York. The appraiser for the Turi Petition said this is not the case, and he is not bound to follow New York precedent.

Attorney Caplicki explained that Jack Coyle, of Coyle, Lynch & Company, appraiser for the Town will be testifying tomorrow for the Town.

Councilman Canterino expressed a concern for the fact that the facility is in default if they win and get money they may just walk away and not pay any of the taxes which are owed to the County since the County will not foreclose on them. Also there is the possibility they may have to go into bankruptcy. In that case the taxes will not be paid by anyone.

Supervisor Bloomfield said for the public's information this tax certiorari goes back to the year 2000. He explained that he, the Attorney, Appraiser, and Councilman Canterino have been in negotiations for some time and thought two or three years ago they were making progress and negotiated an answer, but nothing happened, which led to the trial. The Board asked Attorney Caplicki what time line he would predict before the Board would have a decision.

Attorney Caplicki said the Board should expect a substantial delay between the ending of the trial and the decision. He explained that in the past all tax certioraris were judged in White Plains by a single judge. He said just recently the nine departments in New York decided to send them back to the individual local counties. He said at the present time we have two judges who are assigned to handle the tax certioraris. He said the judge will have to review thousands of pages, he said our case alone has eight volumes. He asked the Board if they remembered that it took up to four years for the Motions to be decided. He said after the attorneys sum up, there will be certain issues of law which the judge will ask both sides to brief. He said this alone could take up to thirty days to two months to submit the briefs. He said he really couldn't say, but it will not end when the trial closes.

7. RE-SCHEDULE PUBLIC HEARINGS FOR TIMBER TRAIL AND STOP SIGNS FOR HAMBLETONIAN PARK:

Supervisor Bloomfield stated the new dates will have to be set, as there was a misunderstanding about the publishing. Councilman Newbold made the Motion to re-schedule the Public Hearings for Timber Trail and Stop Signs for Hambletonian Park for the 6th of July, 2010 at 7:30 or as soon thereafter as the matter can be heard. The Motion was seconded by Councilman Lyons. Motion carried unanimously.

With no further public business, Councilman Newbold made the Motion to adjourn the meeting to go into Executive Session to discuss

- 1. JRC Litigation Status**
- 2. JRC Personnel Case Status**
- 3. PBA Negotiations Status**
- 4. AI Turi Litigation Status**
- 5. Village Sewer Negotiation Status**

with the intent not to return. The Motion was seconded by Councilman Lyons. Motion carried unanimously.

Time: 8:06 p.m.

Valma Eisma, Town Clerk