

**TOWN OF GOSHEN**  
**TOWN BOARD WORK SESSION**  
**July 19, 2010**

A work session of the Town Board of the Town of Goshen was held on the 19<sup>th</sup> day of July 2010 at Town Hall at 41 Webster Avenue, Village of Goshen, County of Orange, State of New York.

Present:	Douglas Bloomfield	Supervisor
	Philip Canterino	Councilman
	George Lyons	Councilman
	Kenneth Newbold	Councilman
Absent:	Louis Cappella	Councilman
Also Present:	Dennis Caplicki	Attorney for the Town
	Valma Eisma	Town Clerk

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

ITEMS DISCUSSED:

**1. Property Revaluation Schedule Update:** JoAnn Soules, Town Assessor approached the Board stating the Board had a copy of the schedule in their packets. She explained that on June 9<sup>th</sup>, our consultant, Mr. Hilbert and I spent some time with Orange County's Real Property Tax Service Agency. She said they wanted to see if there were some programs that might be used to do the corrections that we are doing on various parcels.

Ms. Soules reported they finally have a signed contract with John Terry to take photographs that are required. Ms. Soules said Mr. Terry started this weekend, and it would be a good idea to place a notice in the papers informing the residents that he will be out there taking pictures. Attorney Caplicki stated that Mr. Terry will have identification on his car so that the public will know what he is doing. Supervisor Bloomfield asked the newspaper reporters present if they could do a Public Service announcement in reference to the fact that Mr. Terry would be out taking photos.

Councilman Lyons stated he understood Mr. Terry was not to go on someone's property and if it were necessary, arrangements would be made. Ms. Soules said that is correct, and that some arrangements would have to be made so that Mr. Terry could go up the driveway.

The time schedule was discussed, and Ms Soules said some of the things that had been scheduled for 2010, will now have to be done in 2012. The Supervisor said he was confused as to the schedule, and Ms. Soules said she thought perhaps she would update the chart and bring it back to the Board. She said she has full confidence that the revaluation will be done by 2012.

**2. Pellets Island/Cheechunk Canal – Agriculture Land Flood Protection Project:**

Supervisor Bloomfield asked Neal Halloran, Town Building Inspector, to approach the Board and address this issue. Mr. Halloran said he was here tonight to speak on what is an extension to what is normally done in the Wallkill River Drainage District cleaning. He said this is when they go into the river to clear out some of the dead trees, limbs that hang over the river, etc. He said this is usually done from Warwick to the Pellet's Island Bridge. He explained now they are planning on going from the Pellet's Island Bridge down to Route 17M.

The Building Inspector said he received a letter from the DEC telling us that the Orange County Landfill is sliding into the Walkill River. He provided the Board with pictures showing the section of the landfill that is slipping into the river, and clogging over 50% of the passageway there. He said this is a significant problem.

Mr. Halloran said the DEC is expressing concern that the Town of Goshen has to give a permit for anyone working in a flood plain. The DEC is worried that if we issue a permit for anyone to remove trees, etc. it might increase the velocity of the flow of the water, and send some of this contaminated, hazardous waste from the landfill further down stream. Mr. Halloran said his concern was the fact that the Town of Walkill and the Village of Goshen have wells right along side the Walkill River. He said our law requires a technical review prior to issuing a permit to do work of any kind in a floodway, to determine there will be no problem. Mr. Halloran stated after conversations with the Town Attorney, Dennis Caplicki; Mr. William Janeway, Regional Director DEC; and Legislator Tomas Pahucki, at separate times, " I wrote to Kevin Sumner, Conservation District Manager, asking that they give us a technical evaluation to demonstrate that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge." This would also have to document that it would not lead to damage from flooding to other properties as a result of the work.

He said at this point the DEC is saying it will not do any major cutting, but perhaps some selective cutting. However, Mr. Halloran said at this point he feels the only thing the Town can do is not issue any permits until technical evaluation is complete.

Supervisor Bloomfield said he was reading through the letters, and he went back to the letter written to Kevin Sumner by William Janeway. He quoted parts of a paragraph within the letter. "To the extent that the erosive force of the river removes the slump block, the lateral support is removed and the slope is further destabilized." "Removing vegetation from the islands in the river channel could conceivably accelerate this erosion and lead to further slope instability. Clearing and widening this section of the channel for flood control purposes may be counterproductive from a slope stability standpoint.

Supervisor Bloomfield said he then went on to read what the Building Inspector wrote to everyone. He quoted the section of the letter stating: "§ 61A-15 requires that all work proposed in a floodway have a technical evaluation to demonstrate that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This would also have to document that it would not lead to damage from flooding to other properties as a result of the work." He asked Attorney Caplicki to comment on the Town's liability?

Attorney Caplicki said he has had a number of conversations with the Building Inspector in regards to this. He said we are going to need, if not from the DEC, some engineering work, and some information from their consultants or ours. If the Town is to issue permits there have to be some restrictions, etc. in place. Attorney Caplicki said this is more serious than he thought, since he felt that the County had the landfill under control.

Supervisor Bloomfield said the DEC and the Core of Engineers have talked study, study, study, and in the mean time there are the farmers, people who depend on this river draining. He said we have been working and cleaning for years in the Flood Protection Program to keep the river flowing properly, and now we find we have a problem like this.

Councilman Canterino said this is like a Pandora's Box. He said "we will need all the technical expertise to see what the projected problems will be for the future, and how they are going to be fixed." He said this is County property, and we should certainly start there, and probably have to go up, since this is a huge problem.

Supervisor Bloomfield said he felt it was time to consult with the County to find out what the County is going to do, since it is their landfill. He suggested that everyone should proceed and finish what ever they are doing, get the technical evaluation and report their findings back to the Board.

Legislator Thomas Pahucki approached the Board, and said he was speaking as the Chairman of the Orange County Soil and Conservation District. He said they've almost had an annual flooding problem in Pine Island and in Goshen. He said there is a long term plan (large plan) that will take into consideration landfills, neighbors down stream, up stream, monitoring water flows, etc. This is part of the Army Core Of Engineers grand plan, presently called the Project Management Plan.

Mr. Pahucki said we had a horrendous flood in 2007. Celery Avenue was under water flooding the basements. He said the Building Inspector, Neal Halloran "was at my house looking at the four foot of wet sheet rock in my finished basement." After that the Army Core of Engineers came out to look at the area they did a recon (reconnaissance study). This study looks at options, investigations and actions based on a cost benefit analysis.

Mr. Pahucki said the Project Management Plan began after the completion of the 2008 recon study. It sat for a year and a half until Mr. Pahucki and Michael Pillmeier wrote a letter to every elected official available. It was then the Army Core of Engineers and the DEC decided to get together and speed up things. He said they met with the DEC, the Army Core of Engineers, the County Executive, local officials who are now in the phase of the Project Management Plan.

Mr. Pahucki said the letter Mr. Halloran referred to was sent out by David Church, the Planning Commissioner, who is spearheading the County's portion of the Project Management Plan. The letter was sent to all the concerned parties asking them for their input on what needs to be addressed during the study phase of getting the river back to it's original state back in the 1970s. He said Mr. Church's letter really said that we are doing a Project Management Plan and what does everyone want us to look at? One issue to be addressed is that the Orange County Landfill is squeezing downward into the Wallkill River.

Mr. Pahucki said this was given to the Army Corps of Engineers, their engineers came through and looked at all of this. He said they have already determined that they will be modeling the waterways, the water sheds, the far reaches up to Quaker Creek, Gardnerville Creek, Rutgers Creek, etc. They will be measuring how much water is piling up there, how much water is coming from Middletown, and what do we need to do so that river can handle this water.

Mr. Pahucki reported that in the interim they have been working with the DEC going from the Pellet's Island Bridge to the Route 17M. There have been a lot of saplings bowlings (five or six saplings come out of a stump) and these have been holding back the water from flowing.

He continued telling the Board of the work they planned on doing in the future. He said there will be no work done on the West side, as that is where the landfill is slipping into the Walkkill River. He said they will not be clear cutting, so they will not need a wetland permit.

Mr. Pahucki said his concern is with the DEC's requirement that this project needs to obtain a Floodway Development Project Permit to remove the saplings. He said they do not believe that what they are about to do is a Flood Plain Development Project. He said "I believe the Flood Plain Development Project permitting process has been hijacked in order to address these various concerns you have". He is proposing "to take trees off the East bank, our bank, and again these only in the floodway, to minimize the affect that the trees are acting like a picket fence capturing and holding back water that is causing flooding".

Mr. Pahucki said that the concerns the Building Inspector and the Board have are valid concerns. However what his Board would like the Town Board to look at is that they are on a timeline to remove problem trees. If they are not removed, two and one half inches of rain and a little snow melt will cause the river to flood and create more problems where the landfill is slipping. He said he is asking the Board to look at the letter and intent of the Flood Plain Development Project permitting process and understand that we are not discharging more and we are not building in a flood plain. We are taking an action that is going to minimize this flooding by removing trees in the highwater floodway, the riverbed itself, nothing on the bank that all stays. Mr. Pahucki stated "we need to have this done gentlemen" we are in a precarious situation".

Mr. Pahucki stated that his committee wants to work with the Board. He invited all to come and see what they want to do. He will be happy to meet with them and give them a tour. He said his committee wants to work with the municipalities and the meetings are open to the public. He said we have to minimize the threat of flooding.

Supervisor Bloomfield referred to Building Inspector Halloran's letter §61A-15 pertaining to flood ways "requires that all work proposed in a floodway have a technical evaluation to demonstrate that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge." He also read the passage that said "This would also have to document that it would not lead to damage from flooding to other properties as a result of the work." He said this is in our Goshen Code. The Supervisor asked if, since this is the County Landfill, could the County give us the technical help we need? Mr. Pahucki did not answer the question.

The Board, Building Inspector, Attorney Caplicki and Mr. Pahucki had a lengthy discussion on the law and the Counties plans. The Board had no objection to the work being done, but is concerned with the impact on the community if the removal of the trees should cause flooding. Supervisor Bloomfield again asked Mr. Pahucki if the County could help with the technical answers the Board needs. Mr. Pahucki said he would check with the DPW tomorrow, but "again you are highjacking the permitting process to answer questions that will be addressed during the PMP as per Mr. Church's letter".

Councilman Lyons referred to a letter the Board received two to three weeks ago from the DEC referring to the Al Turi Landfill. This letter referred to the old section, stating that the landfill now has been upgraded to stable. He said this letter has to be addressed because he has a sense that the DEC is really "not on the mark" concerning this particular area. Mr. Lyons said that everyone knows that all kinds of crazy material was dumped in this area.

Mr. Halloran stated that in his letter to Mr. Sumner he did address a part of this landfill that is on the Western part of the river. He said this area is sitting there uncapped. He said he will follow up with the DEC on this.

### **3. Supervisor's Request Letter to Mayor John Higgins, Hand Delivered July 9, 2010**

### **4. Village of Goshen Filed Suit, July 12<sup>th</sup>, 2010 Against the Town of Goshen in Regard to the Hambletonian Park and Arcadia Sewer Dispute:**

Supervisor Bloomfield addressed both items saying he would like the public to know that on Friday, July 9<sup>th</sup> he wrote a letter to Mayor John Higgins, the Village Board of Trustees and the Attorney for the Village, David Donovan. He said in his letter he requested that we all work together in arbitration to resolve this sewer dispute. He wrote about going to Doctor Jean Hudson, the Commissioner of the Department of Health for Orange County to arbitrate. The Supervisor said unfortunately she declined. The Supervisor said when he looked at the contract, it said to go to the Commissioner of the Department of Health for arbitration. However, the Village signed it and the Town signed it, but the County did not.

Supervisor Bloomfield said it is easy to find an arbitrator, there are many agencies, and arbitration is expedient and inexpensive and we can put to rest this dispute that has been going on for two years. He said he wrote the letter on the 9<sup>th</sup> of July and on 12<sup>th</sup> the Village saw fit to sue us in lieu of arbitration. The Supervisor stated "I don't think this Town Board is angry with the Village Board, and I certainly hope they are not angry with us." He said "we have come up with facts and figures that we really believe the Village was over charging us, and we think we have a strong case." The Supervisor said we need to take these facts and figures to arbitration very quickly and inexpensively so we can reach a resolution to this problem. He said it is right in our contract, (the Intermunicipal Agreement). that arbitration be used versus law suits. He said this is what we should be doing.

Supervisor Bloomfield stated he will write another letter to Mayor Higgins and the Board of Trustees asking that they withdraw this law suit. He said it is unfair to the taxpayers to have to pay for this. The rest of the Board agreed with the Supervisor. Councilman Canterino said as a Village resident he had no desire to sue himself. He said the residents will have to pay for the cost of a law suit, and sometimes the cost is more than the settlement. He said "at this time when families are facing losing their homes and jobs, I am asking not only as an elected Town Official, but also as a Village resident, that the Village not subject the Village and Town residents to carry the burden of this unnecessary legal expense when it could be resolved through negotiations or arbitrations at little or no cost."

**5. Resignation of Isabel M. Klein, Court Clerk, Town of Goshen, Effective August 1, 2010:** Supervisor Bloomfield explained that Ms. Klein has accepted a position in Yorktown Heights as Chief Court Clerk of the Yorktown Justice Court. Councilman Canterino made a Motion to accept her resignation with regret, effective August 1, 2010. The Motion was seconded by Councilman Lyons. Motion carried 4 to 0.

**6. Service Agreement – Firth Cliffe Technologies, Inc.:** Supervisor Bloomfield said he was not going to address this tonight, as he understands the cost will be the same or a little bit less, due to an elimination of overhead. He said this company has been doing a good job for the Town, and while the former server caused all kinds of problems, this company has always done a good job. There a few items that still need to be addressed, then it will be placed on a future agenda.

**7. Standard Workday Review & Discussion:** Supervisor Bloomfield said the elected officials now have to establish a normal work day for the State of New York, and he reviewed the following Resolution:

**BE IT RESOLVED,** that the Town of Goshen hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to the clerk of this body.

Elected Title	Name	Standard Work Day	Term-dates	Time Keeping System	Day/Month
Supervisor	Douglas Bloomfield	8 hrs	1/1/10-12/31/11	N	20
Town Clerk	Valma Eisma	8 hrs	1/1/10-12/31/11	Y	20
Town Board	Kenneth Newbold	8 hrs	1/1/10-12/31/13	N	10
Highway Superintendent	Stephen Andryshak	8 hrs	1/1/10-12/31/11	N	13.25
Town Justice	Kimberly Van Haaster	8 hrs	1/1/07-12/32/10	N	12.06
Town Justice	Thomas Cione	8 hrs	1/1/08-11/1/11	N	7.67

Supervisor Bloomfield asked the Board to review these figures and it will be placed on Thursday's agenda.

**8. Request by DPW for an Ice Machine:** Supervisor Bloomfield said he had hoped Councilman Cappella would be here to discuss this. The board discussed the need, and all agreed they need lots of water. However, Supervisor Bloomfield said he thinks they can work around this without spending taxpayer money. The Board decided to take it up with Councilman Cappella when he returns.

**9. Road Improvement Plan:** Supervisor Bloomfield said this is done every year, but he would like to review this with Councilman Cappella's input. Subject tabled.

**10. Reminders :** Supervisor Bloomfield reviewed and the Board discussed the following:

1. Public Hearing Regarding Stop Sign Plan for Hambletonian Park, 7/22/2010: Councilman Canterino suggested the Board ask Chief Marsh to join them for the Stop Sign Plan so that he could share his input. Supervisor Bloomfield agreed, and said he would ask the Chief to attend the Public Hearing.

2. Public Hearing Regarding Timber Trail, LLC Special Use Permit, 7/22/2010

3. Heritage Estates Tentatively Scheduled for 8/9/2010: Supervisor Bloomfield said he talked with one of the principals of Heritage Estates, and he wanted to be on the August 9<sup>th</sup> agenda. The Supervisor said he had not heard from Mr. Esposito. He said this would be to establish the water/sewer districts for the project. Councilman Lyons said there were six issues that needed to be resolved when the Board last met with the principals. He felt that if we were going to address the project these six things should be addressed before meeting with the Board again. Attorney Caplicki will contact the principals and inform of this.

Supervisor Bloomfield asked if there was any further comments?

Jerry Boss asked if the Town and the Village have a binding contract? Attorney Caplicki replied there is one contract in existence and one has expired. Mr. Boss said in a contractual situation, if one of the contractor's violates that contract, there is usually a penalty. He said in some instances the litigation that takes place has to be paid for by the contractor who violated the contract. He asked if that was feasible in this case. Attorney Caplicki replied possibly. He said the wording in both contracts reads: "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. He said it is binding arbitration, even though the Commissioner of the Department of Health has declined to do it. The expense of the litigation was discussed, and all agreed it should go to arbitration.

With no further business Councilman Newbold moved to adjourn the meeting and go into Executive Session, with intent not to return, to discuss the following:

1. Two Personnel Cases
2. Tax Certiorari Preparation Needs
3. CSEA Negotiations
4. Town/Village Sewer Dispute

with intent not to return. The Motion was seconded by Councilman Canterino. Motion carried 4 to 0.

Time: 8:35 p.m.

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Valma Eisma, Town Clerk

