

TOWN OF GOSHEN
TOWN BOARD WORK SESSION
August 9, 2010
M I N U T E S

A work session of the Town Board of the Town of Goshen was held on the 9th day of August, 2010 at 7:30pm 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
	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.

ITEMS FOR DISCUSSION:

1. DISCUSS ORANGE & ROCKLAND UTILITIES REQUEST FOR A SPECIAL USE PERMIT TO BUILD A SUB STATION AND SET A DATE FOR A PUBLIC HEARING

Attorney Alan Lipman, representing Orange & Rockland Utilities (ORU), addressed the Board. He reviewed the details pertaining to the acquisition of a Special Use Permit from the Town Board in the RU Zone.

John Coffey, Chief Engineer, distributed additional site plans and landscape plans along with a Hartley Road Substation Narrative. Mr. Coffey summarized the Narrative. He stated that ORU owns the 48.73 acre parcel where the station will be set back approximately 215 feet off of Cheechunk Road. Pointing to the site plans, he noted that all of the wetlands have been delineated. The location of the station will not impact any of the wetlands and the transmission line will impact less than 0.10 acre of wetland. Mr. Coffey continued; the station is designed for unmanned operation, all inspections and maintenance will be done during the normal working hours, the landscaped buffer on the Cheechunk Road side will be 50 feet wide. In keeping with the rural nature, a conservation easement is proposed for the northeast portion encompassing 28.74 acres.

Michael Dominick, Senior Civil Engineer explained that the substation will be designed and insulated for 138kV, but will operate at 69kV. The lattice structure on the right-of-way will be replaced by three steel poles creating a connection to line #24. The transmission line will enter the station on two double circuit poles minimizing the impact on the wetlands. Issues covering the

storm water basin and a bio-retention system for the storm water treatment will be addressed at the Planning Board.

The Board Members questioned the height of the transmission line A-frame structure (67ft.) plus a 10ft. mast for lightning protection. The existing towers are around 85ft.

Noting the new DEC regulations to protect the Indiana Bat and Bog Turtle, certain months are to be monitored for habitat activity/inactivity. For all practical purposes, ORU is hopeful to begin construction in the fall of 2011.

[With all of the questions answered]

Councilman Canterino made the motion to conduct a Public Hearing in regard to the request for a Special Use Permit by Orange and Rockland to build a substation on Hartley Road on September 16, 2010 at 7:30pm or soon after. Councilman Cappella seconded the motion.

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

2. HERITAGE ESTATES – PETITION FOR FORMATION OF WATER & SEWER DISTRICTS AND ANSWER POSED QUESTIONS

Developers Roger Mumford and Mike Walker addressed the Board to resolve five conditions that fall under the jurisdiction of the Town Board and to discuss the formation of the water & sewer districts.

Supervisor Bloomfield reviewed the five conditions set by the Planning Board that need to be met by this Application.

Condition 1: The current disposition of the Board with regard to formation of drainage districts.

Discussion/Response: The town does not want to have ownership of the drainage district. It is preferred to leave that up to the Homeowners Association/Applicant.

Condition 2: The Town Board's willingness to accept a public pedestrian trail connection from the Craigville Park to Old Chester Road.

Discussion/Response: This proposed pedestrian Trail would eventually connect Craigville Park close to the Heritage Trail. It was determined that the Planning Board should review and approve the specifications of the Trail.

Condition 3: Approve width and specifications of emergency access from Heritage Estates to Brookside Drive.

Discussion/Response: There was an agreement to provide a 50 ft. right-of-way. As previously decided, in the Phase Two Design, installing a break-away-gate.

Condition 4: Approve sidewalk plan including sidewalk from Heritage Estates to Brookside Drive and a sidewalk from Heritage Estates to Old Chester Road.

Discussion/Response: There was some concern over the maintenance issue of added sidewalks. Therefore, the sidewalk from Heritage Estates to Old Chester Road is eliminated.

Condition 5: Final disposition of proposed open space adjacent to the Craigville Park and Bridle Path offer of dedication of a 50 foot right-of-way.

Discussion/Response: Ultimately the open space will be preserved with a Conservation Easement over the Bridle Path. The use would be at the Town's discretion except for usage as a thru road.

Water

Roger Mumford outlined the proposed formation of The Heritage Water & Sewer Districts. Seventy-five single family lots are to be served by three community wells and public sewer. The proposed two single family lots are to be serviced by individual wells and septic systems. There is also a 150,000 gallon storage tank set down below the development elevation near the Otterkill next to a small filtration plant for filtering water.

The Councilmen questioned whether there was sufficient water for this development and will it have an impact on the near by residents (Brookside). Even though this is a Planning Board issue, Councilman Canterino wanted to be assured of water availability. Mr. Mumford responded that he can provide three years of reports/testing/analysis proving that the water supply is sufficient. Mr. Mumford stated that "If there was any question along the way, any question, that this was even marginal over the 250 acres that we own and control and the sheer volume of water which makes it almost statically improbable that there could be any effect we wouldn't have moved forward." Councilman Canterino wondered if Heritage Estates *might* be able to offer Brookside water in an *emergency* situation. The Town Board will schedule a Public Hearing on the Heritage Water District.

Sewer

Seventy-five units of the subdivision are to be serviced by a central sewer collection and conveyance system, connecting into the existing Village of Goshen sewer system. In addition, the Village will take responsibility for all of the infra-structure, including the lift stations and will do the billing. Mr. Mumford stated that negotiations have been initiated with the Village, but as of now have not signed an agreement. They want to sign an agreement with the Village with some direction from the Town Board.

There was *much* discussion with respect to the sewer rates the Village will charge to the Town residents in Heritage Estates. Attorney Caplicki noted that whatever their agreement is; *should* form the basis for an IMA throughout all of the developments even the existing ones' going forward. There has to be some type of continuity. Up until now, the Village chose not to discuss sewer issues with the Town. In order for the Village to expand sewer services into the Town for future developments there needs to be a service agreement and a unified rate structure. The sewer rates need to be uniform among *all* of the developments.

Heritage Estates doesn't want to lose valuable time in setting up sewer services while the Town and the Village are trying to settle other sewer issues. Finally it was decided that Heritage Estates and the Village come to some sort of an agreement. Forming the sewer district isn't the problem. Supervisor Bloomfield stated "This is a very, very complex issue." The problem lies in the details covering the capital structure, lift stations and rates which will all have to be considered in forming an IMA. With a sewer agreement between Heritage Estates and the Village - a frame work is in place. Then the Town can review this agreement and go from there.

3. JESSUP SWITCH ROAD BID ACCEPTANCE

Supervisor Bloomfield referenced a Memorandum submitted from Dennis Lindsay P.E. and Sean Hoffman P.E. of Riddick Associates. There were several companies that looked at the job, but only one bid came in. The bid was in the amount of \$187,260 and was submitted by Peckham Materials Corp. (parent company for Reclamation Inc.). The bid price (\$187,260) is less than the grant amount (\$286,800). This is a unit price project which may require additional materials depending on the current subsurface conditions. If subsurface conditions are favorable, there will be a fund balance. The County was asked if any fund balance could be utilized to expand the project limits to restore more of Jessup Switch Road. The bid project will restore approximately 5,800 linear feet. The total length of Jessup Switch Road is approximately 9,000 linear feet. Sean Hoffman will contact the County requesting what procedure is allowed for the Town in order to utilize the remaining grant monies.

4. REQUEST TO REDUCE FEES FOR AGRICULTURAL BUILDING PERMITS

Neal Halloran, Building Inspector, addressed the Board about agricultural buildings in the Town.

According to Mr. Halloran's Memorandum: ["Agricultural buildings are exempt from the requirement for a building permit based on sections 49-10 A4 and 49C-1 of the Town Code and they are exempt from the requirements of the NYS Uniform Fire Prevention and Building Code by section 101.1 of the NYS Building Code. Section 97-64 of the Town Code requires a permit for any building structure. ¶ There is some conflict between the Town Codes, but there is no conflict with the NYS UFP&BC. Theoretically an agricultural building can be built to collapse or otherwise be unsafe. Some people want to get a building permit for an agricultural building....."] ["The current fee schedule is based on broad square foot pricing because it was suggested that it was easily verified by measurement rather than depending on the reporting of the owner or builder for the value of the project." "The alleged inequity of the current schedule is that it does not take into account the complexity of the building to be constructed. A twenty thousand square foot office building would cost the same as a twenty thousand square foot warehouse, or in the case being discussed a twenty thousand square foot agricultural building."]

Supervisor Bloomfield stated that a farmer is requesting a permit to insure that the building is of quality construction. For the permit, Mr. Halloran needs to do a building inspection. By contrast it's not as complex as a home or commercial building, therefore the farmer should not be charged full inspection price.

Mr. Halloran suggested in his Memorandum: ["Rather than make it too complex, my suggestion would be to make it 50% of the cost to do the shell and then charge the regular amount for the interior work if any. That would mean that once a building had 50% of the interior finished or otherwise built out, it would cost the same as the entire building, but it would give a break to the wide open uses of some agricultural buildings. The other thing to consider is a smaller zoning permit for agriculture without the inspections for a set amount to verify the proper setting of the building and compliance with the zoning code."]

Discussion: The Board Members are confident with Mr. Halloran's expertise in applying the Town Codes inspecting various buildings to rely on his decision. Mr. Halloran will draft a fee schedule adding another category to present to the Board for approval.

5. PELLETS ISLAND FLOOD REDUCTION PROJECT STATUS UPDATE

Neal Halloran with representatives from the DEC walked along the Wallkill River from Pellets Island Bridge towards the Orange County Landfill (OCL). The discussion centered on how many trees can be cut down without endangering the Indiana Bat. The Indiana Bat uses this area as a roosting canopy and for insects. For this to be effective, 60% of the canopy needs to be there. Neal Halloran and Kevin Sumner continued further down along the Wallkill River observing that the eastern bank (opposite landfill) is 4 to 6 feet higher than the western bank. Therefore, the rationale for cutting healthy trees will not affect the situation.

On another occasion, Supervisor Bloomfield, Neal Halloran and Geri Corey walked along the River taking photographs. Mr. Halloran explained the photos to the Board Members. Some showed the narrowing of the River where it looks like the OCL is bumping out into it, another photo of what looks like a fresh patch of dirt sliding from the OCL into the River, photos of the trees along the banks upstream and downstream of the OCL that have debris meshed in them from prior floods. There are trees with exposed roots holding back the bank on the OCL side. Mr. Halloran feels that the removal of the dead/fallen trees and debris can be helpful to prevent flooding up stream. This will expel the issue of removing healthy/valuable trees. The Town will monitor debris cleanup along the River banks.

6. REVIEW INFRASTRUCTURE BONDING FOR SUBDIVISIONS

Neal Halloran explained to the Board Members that a developer is requesting to Bond in phases. Normally the *entire* infrastructure is bonded at a percentage for the year when the *final approval* is given. This is a sufficient amount of money. This is renewed every year, reducing the Bond. By contrast, the request is to bond in phases, securing approvals in each phase. Depending on the economy, it is possible to have all three phases working at the same time. A problem with this is that the developer isn't protected against recreation fees (may increase) and isn't protected against the possibility of zoning changes, which could change the design.

Councilman Canterino is uncomfortable with the concept of phase bonding. He questioned what happens to the projects that are unfinished – if the Town doesn't have them bonded - then we don't have the money to finish them. Currently the Town can start receiving taxes on lots when the *entire* project has *final approval* and is bonded.

An observer referenced today's market. The home builder's industry has suffered with many of the top builders filing for bankruptcy. Home Builders liquidity is non existent or small which is critical for Performance Bonds. "You can't get Performance Bonds today for entire subdivisions with very few exceptions." Today Bonding Companies require total completion of the Performance Bond before they will issue a Maintenance Bond.

With much discussion, it was determined that this issue needs further consideration not only for the builders, but for the Town's best interest. More information is needed.

7. PBA MEMORANDUM OF AGREEMENT STATUS UPDATE

All of the financial data has been checked and is ready to be signed. Supervisor Bloomfield listed the dates available to sign the PBA MOA, August 12th, 23rd or 26th.

8. DPW REQUEST TO PURCHASE AN ASPHALT DISTRIBUTOR

Stephen Andryshak, Highway Superintendent, has put in a request to purchase an asphalt distributor. This is a trailer (about \$10,000) with a 5.5 HP Honda engine with a Tack (storage) tank. It keeps liquid asphalt (using 2 propane tanks) ready for spraying. This is sprayed onto the road before the asphalt is distributed to bond the asphalt better to the road surface. It gives the asphalt a longer life. Supervisor Bloomfield asked Councilman Cappella to check if this is to be on State bid and report at the next meeting. This is an item that is needed and allocated for within the budget.

9. REVIEW EFFORTS AND PLANS FOR REDUCING I & I IN HAMBLETONIAN PARK AND ARCADIA HILLS

It appears that the Town will not be getting any financial help from New York State. Supervisor Bloomfield reviewed six ways the Town is reducing the I & I in the two developments: (1) installed rain guards-manhole inserts to about 243 manholes. (2) Nineteen homes in Hambletonian Park were checked for possibly having inflow problems. Four of those homes appeared to be connected directly to the sanitary sewer and were disconnected at our request. The other 15 homes did not have illegal hook-ups. (3) Weather permitting, the Town will excavate a spot in the lower area marsh land next to the Otterkill in Arcadia Hills. This area is showing the possibility of significant I & I and has to be repaired. (4) The Water Department notified all of the residents in both sewer districts to contact the Town Hall to schedule appointments to inspect homes for sump pumps, footing and leader drains. Taking extraneous water out of the sanitary sewer system could result in a large savings to the residents. (5) The Water Department contacted two contractors to do side by side comparisons (free of charge) on manhole sealing and/or rehabilitation. Songer Contracting from Montgomery will apply a Sprayroq polyurethane lining into a manhole to make it water proof. The other company, TAM from Goshen, will spray a different material into a manhole for water proofing. This comparison will determine which one will work better for the Town. Finally, the sixth item is on a "wish list". We would like to ask the developers of Heritage to replace about 2000 ft of 8" sanitary sewer with house laterals where I & I are suspected.

Supervisor Bloomfield clarified billing for JRC (Craigville Park) that was hooked into the Hambletonian sewer service. This should not have happened. The summary of the sewer charges billed to the JRC for Craigville Park in 2008: \$3,150.25 and in 2009: \$2,328.73.

10. AUTHORIZE COURT JUSTICES TO HIRE FLORENCE NELSON AS "CLERK TO TOWN JUSTICES" AT A SALARY OF \$40,000 PER YEAR, EFFECTIVE 8/16/2010

The Board Members requested a copy of Florence Nelson's resume in order to make a decision at Thursday night's meeting. Both of the Judges were satisfied with her credentials.

11. REVIEW TOWN ROAD PROGRAM

Stephen Andryshak submitted his Road Program for paving in 2010. Listed are: Ridge Rd. (from Craigville Rd. to Hasbrouck Rd.) – Old Minisink Trail (from Scotchtown Ave. to Wood Rd.) – Wood Rd. (from Minisink Trail to Axworthy Lane) – Clark Rd. (from Rte 94 to Forthill Rd.) and Forthill Rd. (Conklintown Rd. to the last house on the right/Clark Rd. to Johnson's house). Depending on how much money is left over, the center of Forthill Rd. may not be done this year.

12. DRAINAGE IMPROVEMENTS ON RESERVOIR ROAD STATUS

As the asphalt season closes to an end, Attorney Caplicki was asked to look in to the timing along with the improvements to complete the drainage on Reservoir Rd.

Public Comments

Jerry Boss from WTBQ Radio wanted the Board Members to be aware of a situation he has researched. Referring to a document dated 8/3/2010, he noted that Judge Bartlett has been assigned to hear twelve (12) Goshen tax certioraris. This might be a conflict of interest. Other than her many professional associates, she is a tax paying Town resident who also owns an office building in the Village of Goshen. Judge Bartlett's decision in settling tax certioraris might be looked upon as a vested interest. They could influence the tax structure in the town in which she lives. Likewise he feels that Judge Bartlett would be wise to recuse herself.

Attorney Caplicki stated that it is up to the Judge to recuse or not, depending on how they feel. If there is a settlement it is between the petitioner and the Town. Basically the Judge, more or less, is a "referee". The problem would potentially arise when there is a Trial.

Jerry Boss noted that Judge Bartlett's current case load is 138 cases throughout the County. He doesn't want us to lose a certiorari settlement, because of a bias ruling. He would rather be pro-active than re-active.

EXECUTIVE SESSION

Councilman Cappella made a motion to enter into Executive Session to discuss the following:

1. Village Law Suit
2. Time Warner Cable Franchise Contract Renewal Status
3. Personnel Case

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

Time: 10:55PM

Priscilla Gersbeck, Deputy Town Clerk