

**TOWN OF GOSHEN**  
**TOWN BOARD MEETING**

August 12, 2010  
MINUTES

A regular meeting of the Town Board of the Town of Goshen was held on the 12th 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
	Kenneth Newbold	Councilman

Absent:	George Lyons	Councilman
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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 7:32 pm, followed by the Pledge of Allegiance.

**B. AMENDMENT TO THE AGENDA**

Added to the agenda; Speaker: Village Trustee-Kyle Roddey, Discussion: Court Clerk Replacement  
Added to the Executive Session; 124 Properties Tax Certiorari Preparation and ADC Litigation

**C. PRIVILEGE OF THE FLOOR (agenda items only)**

No Response

Supervisor Bloomfield introduced Village Trustee, **Kyle Roddey** who requested to address the Board. Mr. Roddey explained that with the Town of Goshen as one of the co-signers, the Village was recently awarded a grant of \$5,000+ from the County. This grant is part of the federal government's stimulus funds otherwise known as the American Resource and Recovery Act. The money will be used for an energy efficiency study to see if solar energy placed at the Village sewer plant would be cost effective. Mr. Roddey thanked the Town Board on behalf of himself and the Village Board, for participating in the Intermunicipal Agreement which helped the Village to secure the grant.

**D. OLD BUSINESS:**

**1. Jessup Switch Road Bid Acceptance**

Supervisor Bloomfield reviewed the bid process for Jessup Switch Road reclamation. Many companies came in for the bid package. However, we only received one bid of \$187,260.00 which was awarded to Peckham Materials Corporation. Our Engineer feels that based on completed projects, Peckham (Reclamation) possesses the knowledge and experience necessary for this project.

This bid is for 5,000 feet of road beginning at the Florida end of Jessup Switch ending at the last residential property. We were awarded \$287,000, leaving us with extra money (if needed) to upgrade the condition of the road sub-base or to finish the entire length of the road. Reading from a letter written by Sean Hoffman P.E. ["In addition, we spoke with Assistant Director Fazzino about the possibility of extending the project limits to utilize available grant funds to rehabilitate a greater portion of the roadway. We were advised the Town could do so by change order. The Orange County Office of community Development will reimburse the Town for expenses incurred in connection with the project. Prior to making an award, you should confirm with Attorney Caplicki and your financing department that adequate funds are available for financing this project."]

Supervisor Bloomfield stated that the Town has enough money to cover the bills and within 30 days the County will reimburse the Town.

**TOWN OF GOSHEN  
RESOLUTION**

**Authorizing the Acceptance and Award of a Contract to Peckham Materials Corp. in Connection with the Jessup Switch Road Improvement Project**

INTRODUCED BY: Councilman Louis Cappella

SECONDED BY: Councilman Kenneth Newbold

DATED: August 12, 2010

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 12<sup>th</sup> day of August, 2010;

WHEREAS, the Town of Goshen has received proposals for the Jessup Switch Road Project which is a Community Development Block Grant Recovery Program; and

WHEREAS, the Town of Goshen received one (1) bid for the proposed work in the amount of \$187,260 from Peckham Materials Corp. of White Plains, New York; and

WHEREAS, the Town of Goshen has reviewed the bid proposal and same has been approved by the Engineers for the Town of Goshen; and

WHEREAS, the Attorney for the Town of Goshen, Dennis P. Caplicki, Esq., has reviewed the bid documents and determined that same are legally sufficient that the Contract may be awarded;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Goshen does hereby accept the bid of Peckham Materials Corp. in the sum of \$187,260 with respect to the Jessup Switch Road Improvement Project and the Town does hereby acknowledge that all requirements of the bid process have been complied with and that Peckham Materials Corp. of White Plains, New York was the low bidder on the project; and the Town of Goshen does thereby award the Contract for the Jessup Switch Road Improvement Project to Peckham Materials Corp. and does authorize the Supervisor to sign any and all documents necessary to effectuate same.

Discussion: Attorney Caplicki noted that he has reviewed the bid along with our finance officer and engineers. The consensus was that the bid offer was at a very good price.  
Councilman Canterino inquired if the remaining monies would have to go out to bid for completion.  
Response: The change order will be legally acceptable.

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>ABSENT</u>		

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

## **2. Authorize The Highway Superintendent To Purchase An Asphalt Distributor**

Supervisor Bloomfield noted that an asphalt distributor has been on a "wish list" from the Highway Department for the past few years. The economy is such that it would be difficult to obtain funds for this item. Therefore, the Highway Dept. looked at quotes from four dealerships: Hoffman Equipment, Greenway Construction Equipment, Edward Ehrbar Inc. and Mauldin Paving Products. The least expensive quote was from Hoffman Equipment.

Councilman Cappella made the motion to authorize the Highway Superintendent to purchase an asphalt distributor for a purchase price not to exceed \$10,000. Councilman Newbold seconded the motion.

Discussion: Councilman Canterino was concerned that the asphalt distributor did not go out for bids. There are different quotes each with different specs. The differences are not comparable to pricing selection. In addition, Councilman Canterino stated that he will abstain for voting and formally recuse himself from this matter, because a relative is involved.

After much discussion: it was determined that this should go out for competitive bids in the range for what is *needed within reason* for the Highway Department. Accordingly, Councilman Cappella withdrew his motion and Councilman Newbold withdrew his second.

## **3. Authorize Supervisor To Sign The PBA Memorandum Of Agreement**

Supervisor Bloomfield would like authorization to sign the PBA memorandum agreement which is a precursor to signing the final agreement. This new agreement is looked at *closely* by Attorney Judith Mayle and compared to the old agreement. It was determined to sign the agreement when signed off by the Attorney.

Councilman Canterino made the motion to authorize the Supervisor to sign the MOA after getting the final-reviewed and agreed when signed copy by our Labor Attorney. Councilman Cappella seconded the motion.

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

**4. Approval Of Minutes**

Councilman Cappella made the motion to accept the minutes of the work sessions of June 21, July 6<sup>th</sup> and July 9, 2010 and regular meetings of June 24<sup>th</sup> and July 8, 2010. Councilman Newbold seconded the motion.

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

**5. Authorize Court Justices to Hire Florence Nelson as “Clerk to Town Justices”.**

Councilman Canterino made the motion to hire Florence Nelson as “Clerk to Town Justices” at a salary of \$40,000 per year, effective August 16, 2010. Councilman Newbold seconded the motion.

Discussion: This person will be replacing Isabel Klein who has accepted a position with the Yorktown Justice Court.

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

**6. Drainage Improvements on Reservoir Road Status**

Attorney Caplicki stated that he along with Councilman Canterino will meet with our Engineer, Sean Hoffman to outline what needs to be addressed before they meet with the land owner.

**E. NEW BUSINESS:**

**1. Accept Resignation of Justice Clerk Samira Reyes**

Samira Reyes has been offered full time employment with benefits at another company. Her position as Court Clerk was part-time without benefits.

Councilman Newbold made the motion to accept Samira Reyes resignation as of August 12, 2010. Councilman Canterino seconded the motion.

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

**2. Hiring of a Part-time Clerk to Replace Samira Reyes**

Councilman Canterino requested that this matter be moved into the Executive Session under personnel. The applicant in question was previously employed as a Court Clerk in the Town of Goshen. If any action is to be taken, then the Board Members will come out of Executive Session.

**3. Authorize Building Inspector Neal Halloran to Attend the Community Rating System Class on September 27-September 30, 2010.**

This course covers the Community Rating System (CRS), a nationwide initiative of FEMA's National Flood Insurance Program. It describes activities eligible for credit under CRS, how a community applies, and how a community modifies an application to improve its classification.

Councilman Newbold made the motion to authorize our Building Inspector, Neal Halloran to attend the Community Rating System Class on September 27- September 20, 2010, to be held at the New York State Fire Training Academy at Montour Falls, New York. The total cost will be \$185.00. Councilman Canterino seconded the motion.

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

**4. MTA Payroll Law Suit**

Supervisor Bloomfield responded to an email he received from the Town of Chester Supervisor, Steven Neuhaus, regarding the proposed MTA Payroll Tax. As in the past, the Board Members unanimously oppose the MTA Payroll Tax.

Discussion: Councilman Newbold inquired as to why Orange County as a *whole* hasn't voiced opposition to the MTA Payroll Tax. Nassau County has taken the stand to fight this. Accordingly, he feels that Orange County should take a more aggressive stand.

**TOWN OF GOSHEN  
RESOLUTION**

**Authorizing the Town of Goshen to Join Nassau County to Repeal the MTA Payroll Tax**

INTRODUCED BY: Councilman Philip Canterino

SECONDED BY: Councilman Louis Cappella

DATED: August 12, 2010

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 12th day of August, 2010;

WHEREAS, Orange County is one of the five (5) counties in the Hudson Valley that is within the MTA jurisdiction and will be subject to the MTA Payroll Tax; and

WHEREAS, the residents in the Town of Goshen already contribute to five other taxes and/or fees to the MTA (sales tax, petroleum business tax, mortgage recording tax, a phone bill surcharge and maintenance of Metro North parking stations through charges to the County); and

WHEREAS, the MTA Payroll Tax inequitably taxes and discriminates against all businesses within the Town of Goshen that must remit the payroll tax.

BE IT RESOLVED, that the Town of Goshen, authorizes and directs its Attorneys and/or the Attorneys for the Town of Chester to file a Motion to intervene in the matter of the County of Nassau against the MTA, as Petitioners or parties of interest.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Goshen further requests said attorneys to attempt to take such steps as are necessary to minimize legal costs and cooperate with the County of Nassau as a party united in interest.

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>ABSENT</u>		

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

#### **5. Hartley Road Culvert Replacement**

During the declared Federal disaster in March 2010, floodwaters damaged a 14-foot diameter culvert on Hartley Road. The Town of Goshen Highway Dept. has applied for Federal assistance to repair the damaged area. In 2008, the Town prepared a report in connection with the Town's proposal to enlarge the existing sixty (60) inch Durland Road culvert with a 10'-6" x 5'-7" arched aluminum culvert. Likewise, a representative of FEMA advised that an Engineer's Report analyzing the existing watershed hydrology and culvert hydraulics to support the increase of the size of the culvert and a structural plate without negatively impacting the existing stream is necessary. The Town is seeking to enlarge the replacement culvert on Hartley Road to 16'-10" x 8'-0" arched culvert. FEMA will cover the cost of the Engineer's Report (\$6,800) plus the entire replacement project totaling in the range of \$300,000.

Councilman Newbold made the motion to authorize the Superintendent of Highways to proceed with this project and the \$6,800 of technical support for submission to FEMA. Councilman Cappella seconded the motion.

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

#### **F. FINANCE**

Councilman Canterino made the motion to authorize the Supervisor to pay Accounts Payable check run for August 5, 2010 amounting to \$51,543.00 and Manual check run for August 12, 2010 amounting to \$117,527.56. Councilman Cappella seconded the motion.

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

**G. PRIVILEGE OF THE FLOOR:**

**Joel Markowitz** referenced a recent article in the Independent Republican Newspaper pertaining to the State of New York scuttling its' \$2.1 million plan to study the widening of Route 17. According to the newspaper, Orange County Executive Edward Diana blasted the state for its "incompetence". "So this decision to cancel such a study is very troubling" Diana said. Mr. Markowitz seems to agree and inquired as to how the Town Board Members felt about the cancellation.

Supervisor Bloomfield stated that he is one of the member's of the study committee representing the Town of Goshen. In fact, a scheduled meeting for today was cancelled due to lack of funds. He is in favor of doing the study and the road work when the money is available. Mr. Markowitz is hoping that the Town of Goshen will make its displeasure known to the DOT.

**Jerry Boss** has concerns about the twelve (12) tax certioraris being heard by Judge Bartlett. Judge Bartlett has had a lot of political interaction in this area. All twelve (12) certioraris are being handled by the Attorney for the Town, Dennis Caplicki. His main concern is that he doesn't want the Town to be "set up for an appeal that perhaps the Honorable Judge Bartlett in fact may, or should of had recused herself". "I would like to get a legal opinion on her position sitting here, because it involves not only the Town, it involves every taxpayer". Possibly six certioraris could be in big numbers. He wants be assured that we're not going down the wrong road. He feels that Judge Bartlett is quite competent in judging the cases....."I'd rather be pro-active than re-active".

**H. EXECUTIVE SESSION:**

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

1. Village Law Suit
2. Time Warner Cable Franchise Contact Renewal Status
3. Two Personnel Cases
4. CSEA Negotiations
5. 124 PropertiesTax Certiorari Preparation
6. ADC Litigation
7. Court Clerk Replacement

with the intent to return. The motion was seconded by Councilman Cappella. Motion carried.  
Time: 8:30PM

Supervisor Bloomfield reopened the meeting at 8:40pm. The following minutes were recorded by Attorney Caplicki.

## **Town Board Minutes Executive Session of August 16, 2010**

Subsequent to adjourning the Town Board meeting into Executive Session and completion of the Executive Session, the Town Board of the Town of Goshen reconvened its regular Town Board Meeting and passed two resolutions:

1. Resolution authorizing the Town to retain Molinas Realty Inc. as an Appraiser/Consultant with respect to 124 Goshen Partners, LLC tax certiorari at a fee not to exceed \$8,000.
2. Resolution to authorize the Supervisor of the Town of Goshen to sign the Amended Stipulation settling the ADC Orange litigation versus the Town of Goshen.

Both Resolutions were adopted unanimously with Councilman George Lyons being absent from the meeting.

A synopsis of the discussions had in Executive Session were with regards to the merits of 124 Goshen Partners tax cert litigation and the necessity to obtain an appraiser which appraiser was identified and Molinas Realty Inc. and said consultant/appraiser was agreed to be hired at a fee not to exceed \$8,000. The balance of the Executive Session involved a discussion with respect to the ADC Orange Inc. litigation against the Town of Goshen and its zoning changes and the affirmative decision to authorize the Supervisor of the Town of Goshen to sign an Amended Stipulation of Settlement of the litigation which Amended Stipulation clarified certain portions of the original Settlement Stipulation.

Councilman Cappella made the motion to adjourn the meeting. Motion seconded by Councilman Newbold. Motion Carried.

### **I. ADJOURNMENT**

The public meeting concluded at 9:45PM

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Priscilla Gersbeck, Deputy Town Clerk

**TOWN OF GOSHEN  
RESOLUTION**

**Retaining Molinas Realty Inc. as an Appraiser/Consultant with Respect to  
124 Goshen Partners, LLC Tax Certiorari**

INTRODUCED BY: Councilman Philip Canterino

SECONDED BY: Councilman Kenneth Newbold

DATED: August 12, 2010

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 12th day of August, 2010;

WHEREAS, a tax certiorari has been filed against the Town of Goshen by 124 Goshen Partners, LLC, for tax years 2007 and following; and

WHEREAS, the Town of Goshen will require the services of an expert appraiser/consultant with respect to the preparation and defense of the subject litigation; and

WHEREAS, Molinas Realty Inc. has agreed to provide such appraisal/consulting services.

NOW, THEREFORE BE IT RESOLVED, that said Molinas Realty Inc. of Sugar Loaf, New York be hired/retained as an appraiser/consultant to prepare an analysis and, if necessary, a trial appraisal of the real property which is the subject of the aforementioned tax certiorari proceeding; the appraisal/consultant's work not to exceed \$8,000. Cf. Proposal Annexed.

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>ABSENT</u>		

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