

TOWN OF GOSHEN
TOWN BOARD MEETING

October 13, 2011

MINUTES

A regular meeting of the Town Board of the Town of Goshen was held on the 13th day of October, 2011 at the Town Hall located at 41 Webster Avenue, Village of Goshen, County of Orange, State of New York.

Present:	Douglas Bloomfield	Supervisor
	Louis Cappella	Councilman
	George Lyons	Councilman
	Kenneth Newbold	Councilman

Absent	Philip Canterino	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 7:33 pm, followed by the Pledge of Allegiance.

B. AMENDMENT TO THE AGENDA

Remove E.1. from the agenda. The revision of the 2012 Budget is not ready.

Added to the agenda: SET PUBLIC HEARING FOR EXCEEDING THE 2% TAX CAP

Replace E.3. # 2 From Eastgate, LLC to 2002 Route 17M Goshen Corp. (Eastgate has been previously done)

Added to the agenda under New Business: G.1. Authorizing Supervisor to approve easement agreements pertaining to Heritage Custom Homes, Inc.

C. PRIVILEGE OF THE FLOOR (agenda items only)

None at this time.

D. SET PUBLIC HEARING FOR EXCEEDING THE 2% TAX CAP

Supervisor Bloomfield made the motion to set a Public Hearing on November 10, 2011 at 7:30PM or soon thereafter at 41 Webster Avenue, Town Hall, Goshen NY to discuss the Local Law #2 of 2011 to allow the Town Board with a 60% vote to override the 2% tax cap. Councilman Newbold seconded the motion.

Discussion: Councilman Lyons asked for procedure clarification of the voting process of the 2% tax cap.

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

E. PUBLIC HEARING

Councilman Newbold made the motion to open the public hearing for a request by James Dillin to rezone a tax map parcel Section 12, Block 1, Lot 2.3 from RU and CO zone to Industrial (I). Councilman Lyons seconded the motion.

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

James Dillin, representing Darlene Kerr who owns 31 acres along Hartley Road addressed the Board. He detailed the surrounding owners and current zoning on the map. The split zoning in 2004 created havoc to develop the CO Zoned portion of the parcel since the only access is through the RU Zoned areas. This property has been listed for sale since the rezoning with no interested buyers. The purpose of this public hearing is to change the entire site to Industrial Zone to conform to other properties along Hartley Road. This will make the property marketable.

Supervisor Bloomfield called for comments from the public.

Donna Allen, Cheechunk Road, Questioned the location of the acres to be rezoned to the vicinity of the Heritage Trail. Mr. Dillin showed her the location of the Heritage Trail on his map.

Attorney Caplicki inquired if a short EAF has been submitted. Response: Yes, it is on file in the Clerk's Office. This was copied for the Planning Board along with the Petition For Zoning Amendment. We are waiting for comments from the Planning Board and ERB.

Councilman Newbold made the motion to keep the Public Hearing open until comments from the Planning Bd. and the ERB are received. Councilman Cappella seconded the motion.

Discussion: Councilman Lyons questioned the physical layout of the property. Three entities on the map are actually trailers which have been removed.

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

F. OLD BUSINESS

1. Discuss Petition By NU III, LLC For A Zoning Change Of A Parcel, Section 12, Block 1, Lot 47 On The Tax Map, And Set Date For Public Hearing Set Public Hearing

The parcel is 9.74 acres located at the westerly intersection of NYS Route 17M and Gate Schoolhouse Rd.

Supervisor Bloomfield made the motion to set a Public Hearing on November 21, 2011 at 7:30PM or soon thereafter at 41 Webster Avenue, Town Hall, Goshen NY to discuss the petition by NU III, LLC for a zoning change of a parcel section 12, Block 1, Lot 47 on the tax map. Councilman Cappella seconded the motion.

Discussion: Attorney Caplicki reminded the Deputy Clerk that a referral Form 239 must be signed by the Clerk and sent to the County, because the parcel is 500 feet off a state highway.

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

**2. Review And Approve Resolutions To Settle The Following Tax Certioraris:
(1) Matrock Equities**

Attorney Caplicki stated that this parcel is an apartment complex located off of Craigville Road. The petitioners' suit covers the years from 2006 to the present. Part of the settlement agreement was for Matrock to waive the interest and cost of disbursement for the five years. The reduction in assessment refunds are listed in the Assessor's Office.

<u>Refund to Matrock Equities:</u>	\$3,613	Town of Goshen
	\$53,870	School District
	\$20,257	Village of Goshen
	\$3,958	Fire District
	\$9,315	County

**TOWN OF GOSHEN
RESOLUTION**

Settling of Tax Certiorari Claim; Matrock Equities v. The Board of Assessors and/or the Assessor of the Town of Goshen and the Board of Assessment Review

INTRODUCED BY: Councilman George Lyons
SECONDED BY: Councilman Kenneth Newbold
DATED: October 13, 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 13th day of October, 2011;

WHEREAS, Matrock Equities has commenced tax certiorari proceedings against the Town of Goshen in the Supreme Court, State of New York, County of Orange, for the 2006-2007, 2008-2009, 2010-2011 assessment years bearing Orange County Index Nos. 6324-07, 7884-08, 8038-09, 7167-10, 6595-11; 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 proceedings, subsequent to a thorough investigation of the claims that further proceedings and litigation would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the subject matters as more fully set forth in the Stipulation of Settlement, annexed, is reasonable and in the best interests of the Town; and

WHEREAS, petitioner, Matrock Equities, is willing to settle these proceedings without interest, cost or disbursement, in the manner as set forth in the annexed Stipulation of Settlement,

NOW, THEREFORE, BE IT RESOLVED, that the proposed Stipulation of Settlement, as attached, is hereby accepted/approved pursuant to Section 68 of the Town Law and be it further;

RESOLVED, that Dennis P. Caplicki, Esq., as Special Counsel for the Town of Goshen, is hereby authorized to sign or execute any and all documents necessary to effectuate the purpose(s) of this resolution.

Discussion: Councilman Lyons noted that it would cost the Town around \$10,000 minimum, just to do an appraisal plus the legal fees. It was a wiser decision to refund Matrock Equities the \$3,613.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>ABSENT</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 4 to 0.

(2) 2002 Route 17M Goshen Corp.

Attorney Caplicki stated that this parcel is located on Route 17M off of South Street, the second office building on the left. The petitioners' suit covers the years from 2005 to the present. The reduction in assessment refunds are listed in the Assessor's Office.

<u>Refund to 2002 Rt. 17M Goshen Corp.</u>	\$2,059	Town of Goshen
	\$30,176	School District
	\$11,453	Village of Goshen
	\$2,160	Fire District
	\$5,760	County

**TOWN OF GOSHEN
RESOLUTION**

Settling of Tax Certiorari Claim; 2002 Route 17M Goshen Corp. v. The Board of Assessors and the Board of Assessment Review of the Town of Goshen

INTRODUCED BY: Councilman George Lyons
SECONDED BY: Councilman Louis Cappella
DATED: October 13, 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 13th day of October, 2011;

WHEREAS, 2002 Route 17M Goshen Corp. has commenced tax certiorari proceedings against the Town of Goshen in the Supreme Court, State of New York, County of Orange, for the 2004-2005, 2006-2007, 2008-2009, 2010-2011, assessment years bearing Orange County Index Nos. 4829-05, 5374-06, 6264-07, 7618-08, 7627-09, 7634-10, 6812-11; and 6770-11.

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 proceedings, subsequent to a thorough investigation of the claims that further proceedings and litigation would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the subject matters as

more fully set forth in the Stipulation of Settlement, annexed, is reasonable and in the best interests of the Town; and

WHEREAS, petitioner, 2002 Route 17M Goshen Corp, is willing to settle these proceedings without interest, cost or disbursement, in the manner as set forth in the annexed Stipulation of Settlement,

NOW, THEREFORE, BE IT RESOLVED, that the proposed Stipulation of Settlement, as attached, is hereby accepted/approved pursuant to Section 68 of the Town Law and be it further;

RESOLVED, that Dennis P. Caplicki, Esq., as Special Counsel for the Town of Goshen, is hereby authorized to sign or execute any and all documents necessary to effectuate the purpose(s) of this resolution.

Discussion: Councilman Lyons noted that it would cost the Town around \$10,000 minimum, just to do an appraisal plus the legal fees. It was a wiser decision to refund 2002 Route 17M Goshen Corp. the \$2,059.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>ABSENT</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 4 to 0.

3. Review And Approve Resolution To Accept New York Farms, LLC Conservation Easement Proposal, Parcel A, And Property Transfer, With Conservation Easement Parcel B

Attorney Caplicki wanted to clarify that there are many documents that the applicant (Heritage) has turned over to the Planning Board. The planning professionals have not completed their review process of around 48 items.

G. NEW BUSINESS:

1. Resolution To Accept Easements For Heritage Custom Homes, Inc.

Heritage Custom Homes, Inc is located along Clark Road, Arcadia Road and a portion of NYS Route 94, Section 18, Block 1, Lot 127.21. This is a small-scale subdivision consisting of five lots, four of which are single-family residential units.

The resolution pertains to two easements. One is an easement agreement which provides general access over proposed Lot 5 to the Weslowski/Sayer Cemetery. The easement permits access over the entirety of Lot 5, until Lot 5 is proposed for development and suitable access can be agreed upon between the owner of Lot 5 and the Town. The second easement grants a conservation easement over a portion of the property involved in this subdivision.

Councilman Newbold made the motion to authorize the Supervisor to sign the aforementioned easements as approved by the Planning Board and all other necessary documents to effectuate their recording with the County of Orange. Councilman Lyons seconded the motion.

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

H. FINANCE:

Councilman Newbold made the motion to authorize the Supervisor to pay Manual A/P run of 10/12/11 amounting to \$4,281.13, Manual A/P runs of 10/04/11 amounting to \$8,246.16 and Accounts Payable Check Run for 10/13/2011 amounting to \$259,355.20. Councilman Cappella seconded the motion.

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

I. PRIVILEGE OF THE FLOOR:

Alexander Petrovics, Meadowbrook Lane, stated that he still gets flooded when heavy rains occur. He wanted to know when the creek will be cleaned out. Response: The Town hired an engineer to evaluate this situation. A report was delivered to the Highway Superintendent. The first thing to be done will be to pull out a tree and remove a large rock. Beyond this, the Town will have to review the costs of what else might be considered to be done. Councilman Newbold has walked the property. "With all of this rain, we can't get to it." As a result from the two storms, the water table is extremely high and we need a lengthy dry spell to be able to get machinery in for corrective measures. Secondly, Mr. Petrovics requested that the debris from his flooded basement be taken away. He doesn't have the resources to remove it and lately other people are dumping their debris on top of his. The Town has declined to remove it. The Village has garbage and refuse pickup weekly. This service is included in the Village taxes. The Village did provide dumpsters for flooded victims' debris. Supervisor Bloomfield will look into the matter of flooded garbage removal.

Joel Markowitz, questioned the differential in refunds between the Village and Town in settling the tax certioraris. Response: The parcels are located in the Village. Mr. Markowitz reported that the Village believes that they have no control over the certiorari settlements. Response: The Town informs the Village Attorney *every step* of the way before issues are resolved. It is the responsibility of the Village Attorney to relay the information to the Village Board and if necessary the Village Board has had many opportunities to respond.

Jerry Boss, inquired about information as to the possibility of ticketing trash haulers at 3:00am. for not having the proper license. Response: As of this date, no report has been received from the Police Dept. He feels that it would be a good idea to get a biannual report from the Police Dept. on crime in our Town. Supervisor Bloomfield reported that he heard of two recent burglaries in the Town. One was at a gas station on 17A and another on Lower Reservoir Rd. In the past, crime seems to be very limited other than traffic violations.

Mr. Boss commented that the Sheriff Dept. and the NYS State Police are short of personnel. With the economy the way it is, when officers retire their positions are not being back filled. Supervisor Bloomfield noted that the PBA contract is not negotiable going backwards, only going forward. He detailed some of the PBA contract benefits and the cost to the taxpayer. He stated, "I am very proud of our Police and what they do. I am looking out 5, 10, 15 years and what the State of New York is sharing with all of the municipalities, just not us. Can we become more efficient through sharing of services, merging or what ever it is." "These are things that we will have to look at in years to come."

Mr. Boss reminded everyone that the benefits occurred for the Police Dept. have been negotiated and voted in by the past Town Officials. He noted that the Town Board has done every thing possible to watch out for the tax payer's money. By contrast, the County wants to build a new County building and sell the nursing home. "There's something very wrong with all of this"

Supervisor Bloomfield is deeply concerned about the future financial situation New York State will be in and how this will affect the residents in the Town of Goshen.

J. EXECUTIVE SESSION:

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

1. Discuss Status Of CSEA Negotiations
2. Discuss Status of PBA Negotiations

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

ADJOURNMENT: 8:59 PM

Priscilla Gersbeck, Deputy Town Clerk