

Wawayanda Town Board Meeting 7/6/2006

July 6, 2006

A Regular monthly business meeting of the Town Board of the Town of Wawayanda was called to order at 7:31 P.M., on Thursday, July 6, 2006, at the Town Hall, Ridgebury Hill Road, Slate Hill, New York.

Those present were:

John R. Razzano	Supervisor
David S. Cole	Councilman (Arrived at 7:55)
Edward Krajewski	Councilman
Gail M. Soro	Councilwoman
Richard Penaluna III	Councilman
Richard Guertin	Attorney for the Town
Teresa Pierce	Town Clerk

Also Present: Kathryn Sherlock - Deputy Town Clerk, Cathy Cole - Tax Collector; Mary Markiewicz & Donald Siegel - Planning Board Members; Betty Kirby & Gladys Hall - Historians; and approximately 27 other individuals.

PLEDGE TO THE FLAG

Supervisor Razzano informed the Board that **Councilman Cole** is running late and will be arriving as soon as he can.

REGULAR BUSINESS:

PRESENTATION OF BILLS AND DEPARTMENT REPORTS:

Reports from the Supervisor, Town Clerk, Planning Board, and the Building & Fire Inspector/Code Enforcement Officer, and the bills from the General Fund, Highway Fund, and Water & Sewer Districts were presented to the Board for review.

APPROVAL OF DEPARTMENT REPORTS:

MOTION by **Councilman Krajewski**, seconded by **Supervisor Razzano**, to accept the various departmental reports, as submitted.

ALL IN FAVOR - CARRIED

PAYMENT OF BILLS:

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to authorize the payment of bills in the amount of \$2,376.60 from the General Disbursement Account, representing bills that were payable upon receipt. Breakdown as follows:

PP1012	\$244.29
PPWS1013	2,132.31

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to authorize payment

of bills from the General Disbursement Account in the amount of \$395,720.62 Breakdown as follows:

General Fund	G831-851,853-875,908-972	\$70,368.10
Highway Fund	H973-1011	310,026.06
Water/Sewer Districts.	WS876-907	15,326.46

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WATER/SEWER BREAKDOWN:

Robinn Meadows Sewer District	\$6,620.55
Ridgebury Lake Acres Sewer District	2,302.51
Ridgebury Lake Water District	2,983.45
Denton Hills Water District	1,623.06
Arluck Water District	683.72
Water/Sewer Dist. #1	1,113.17

Water/Sewer Total = \$15,326.46

ALL IN FAVOR - CARRIED

APPROVAL OF MINUTES:

MOTION by **Councilman Krajewski**, seconded by **Supervisor Razzano**, to approve the minutes of the May 4th, and May 16th, 2006 Town Board meetings as prepared.

ALL IN FAVOR - CARRIED

NEW BUSINESS:

MBS HOLDINGS GROUP, LLC: **Marv Hirshberg** explained that he and his partner, **Barry Milowitz**, were presenting as applicants for property currently owned by Mr. & Mrs. Moore. They were seeking the Town Board’s recommendation to the Planning Board. The intent is to create an Inclusionary Housing Floating Zone presently in the IORB zone on property located at 1081 Dolsontown Road.

Councilman Krajewski asked if the project that was previously proposed across the Road was going forward, and was advised by Mr. Hirshberg that it was not of any interest to him and he does not own the property.

Barry Milowitz explained that MBS Holdings Group, LLC, is proposing to construct an active adult age restricted housing development consisting of approximately 120 townhouse units plus 12 affordable adult housing units at a density of 6.6 units per acre. The proposed development will be located on 20+ acres on the northern side of Dolsontown Road about one mile from the intersection of Route 17M and Dolsontown Road. The homes will be deed restricted and purchased by households where one member will be over fifty five (55) years of age. The housing will be under the management and control of a homeowners association which will be formed. The proposed community will serve to provide maintenance free housing to Wawayanda residents as well as providing the Town with a solid tax ratable.

In accordance with paragraph D of “A Local Law Amending Local Law #1 of 2002, the Zoning Local Law of the Town of Wawayanda, to Create the Inclusionary Housing (“IH”) Floating Zone District, the following points were made:

- The site shall be served by existing municipal water and sanitary sewer facilities located

on Dolsontown Road. Estimated water usage is 120 gallons per day, per bedroom. The existing sewage treatment plant operated by the City of Middletown has adequate capacity to serve this development.

☐Public Transportation will be provided, and will be located within reasonable proximity to public transportation service.

☐Drainage issues shall not place an undue burden on existing facilities or contribute to down stream flooding.

☐Reasonably free of objectionable conditions such as odors, noise, dust, air pollution, high traffic volumes, incompatible land uses and other environmental constraints.

☐Access to the site can be obtained from a public street that is improved to acceptable standards and sight distances, and can be developed at the site entry/exit and at intersections in the vicinity of the site.

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☐The development of the site will not produce any adverse effects on the surrounding neighborhood.

☐The plan should generally comply with the supplementary use and development standards set forth in this Chapter for the particular use proposed.

Mr. Milowitz then responded to questions posed by the Town Board and individuals in the audience regarding such matters as:

- No children living in this community so that there would not be any impact on the school district.
- The housing units would range from 1-3 Bedrooms with two car garages.
- The marketable rate of these homes would be between \$300,000- \$400,000.
- Concerns were voiced on whether or not the potential owners would be made aware that they would be living in an industrial zoned area.
- If the project is based on the current zoning and would open space be preserved?
- Approximately 7,000 (seven thousand) square feet will be set aside for a doctors office, retail shops, and business offices.
- The level of assessment that would be applied to the units.

Attorney Guertin noted that under sections 195.46 of the Town Code, the Town Board, upon submission of a complete application, the Town Board shall refer the application to the Planning Board for recommendation. It appears that at this time most, if not all, have appeared to be addressed.

MOTION by **Councilman Cole**, seconded by **Councilman Penaluna**, to refer the MBS Holdings Group application to the Planning Board for their recommendation.

ALL IN FAVOR - CARRIED

INTRODUCTION OF A PROPOSED LOCAL LAW ENTITLED "RESIDENTIAL SUBDIVISIONS LAW OF 2006":

Joe Catalano of Saratoga Associates, provided background history in regards to the work that has been completed by the Master Plan Committee. He explained that a couple of weeks ago the Committee took a step back to take a hard look at where this process was going and determined

that the amount of material they had to cover was going to take some time to get through. In that respect, and due to the fact that the Moratorium was slated to end on August 15th, there was an assessment made on the committee level that they would not have a complete zoning law for the Town Board to review before the moratorium ended. Added that in speaking with the Supervisor he feels that there is a reluctance to extend the Moratorium, which is understandable. The fact that the moratorium only applies to major subdivisions provides them with an opportunity to address particular aspects of the town law which has been discussed in the committee meetings. The idea is to create an amendment which will address the issues regarding subdivisions so that the Town Board, if they desire to finalize that particular amendment in time before the Moratorium is due to expire, there would be no need to extend the Moratorium. In conversations with the Supervisor there are three issues that have been dominating the landscape of the subdivision processes. One is the current cluster subdivision regulations. The second is the procedure of dealing with sewer and water, particularly if it is not a public system, and the third would be the minimum lot size or density issue. The idea is to replace the current section of the law, Section 195-33 of the Town's zoning law with a new section to address the three issues. Board Members were provided with draft copies of a proposed law and **Mr. Catalano** proceeded to explain it page by page, as well as taking time to address questions and recommendations from Board members. Noteworthy aspects of the proposed law, changes to the text, and some related comments are as follows:

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1) Section 3 - In referring to our existing law, Article V, Section 195-33 of Chapter 195 entitled "Cluster Development (conservation subdivisions)" has been amended in its entirety under the new **Sub-section A. Conservation Subdivisions** because more than Cluster Developments are being addressed, and that the intent to conserve open space remains.

2) Section 3, A-1. Authority. Pursuant to the powers granted under Section 278 of the Town Law and the Municipal Home Rule Law, the Town Board has the authority to delegate to the Planning Board the ability and jurisdiction to vary lot sizes so open space can be preserved.

3) Supervisor Razzano referenced **Section 3, Subsection A-3**, entitled **Applicability/Location**. He noted that under 3-b the proposed law states "The Planning Board may require a Conservation Subdivision only on subdivision applications that propose more than 8 lots. An applicant, on its own initiative, may propose a Conservation Subdivision on subdivisions that propose 5 or more lots. The Supervisor questioned these numbers.

Mr. Catalano informed him that compared to other municipalities the numbers are very low. He then talked about a scenario when an applicant states that he does not want to do a Conservation Subdivision, so what is the Planning Board to do at that point. The Planning Board will need to determine if a Conservation Subdivision is appropriate for that particular parcel of land in question and its location, based on specific criteria. The criteria on which they will base their finding are listed in Section 3, Subsection A - 3c. **Mr. Catalano** explained that there is a certain criteria when a Conservation Subdivision should be required. The open space that is to be preserved is going to be effective and cannot be effectively preserved by any other method. It is a balancing concept that can increase the cost of the development depending on who owns the open space so you want to have some flexibility.

4) Section 3, A-5 Development Standards: This section prompted a lengthy discussion about minimum lot size. The proposed Local Law reads "The minimum lot size allowed in a Conservation Subdivision shall be no less than 1/3-acre and at least 50% of the total number of

lots in the subdivision shall be 1/2-acre or more.

Councilwoman Soro stated that she does not want to see anything less than 1-acre minimum lot size, and voiced her concerns with the availability of water.

Councilman Krajewski referred to the survey in that the residents indicate that they want to keep that rural character.

Councilman Cole commented that 1/4-acre lot size is too small, and the 1/3-acre on 50% he would actually have to see it laid out with regards to open space. Along with the flexibility it provides to the Planning Board. Added that overall he is happy with the provision in this law.

Councilman Penaluna commented that people are very confused when it comes to density and clustering, and added that he would like to see a presentation where it can be viewed so people can get a better understanding on how this concept works.

After further discussion a majority agreed that no changes would be made to this section.

5) Section 3, A-6. Open Space Requirement: In **subsection d-6**, the text in the draft law read “The covenants and restrictions are enforceable by the Town”. After discussion on this, the Board agreed that the text should be changed to read “The easements, deed covenants, conditions and restrictions shall be recorded against the parcel with reference to such recording in each deed of conveyance of each lot and shall be enforceable by the town”.

Mary Markiewicz asked “What if you take out the wetlands and the steep slopes prior to doing the lot count?”.

Mr. Catalano responded with “Not necessarily, and the key for that is you have buildable lots”, and explained his reasoning behind the concept.

Ms. Markiewicz added that if you take the steep slopes and wetlands out first that is going to reduce your lot count and before you determine the lot size you would be preserving more open space.

6) Section 3 - B. Provisions of Water and Sewer or Septic Systems. Board members agreed that at the end of the first paragraph in #1-a, additional text should be added to read “Must provide Planning Board with a water study certified by a New York State licensed Engineer”.

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After a complete review of the proposed law, **Councilwoman Soro** asked Board members for their feelings to have Richard Guertin, Attorney for the Town, review the documents to ensure that the wording is applicable and to make sure that the Town will not have any legal ramifications because of this law. She made a motion that he be authorized to do so.

There was a brief discussion, but the motion was not seconded, and no action was taken.

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to introduce the proposed Local Law entitled ‘Residential Subdivision Law 2006 of the Town of Wawayanda’ with said changes, as discussed and agreed upon..

ALL IN FAVOR - CARRIED

MOTION by **Councilman Krajewski**, seconded by **Councilman Cole**, to accept the EAF (Environmental Assessment Form) Part I form.

VOTE

4 Ayes - Razzano, Cole, Krajewski, Penaluna

1 Nay - Soro

MOTION CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to forward a copy of the Draft Local Law along with the EAF to the Orange County Planning Department.

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to declare that this action is subject to SEQRA (State Environmental Quality Review Act); that it is a Type I Action; that there are no other involved agencies; and the Town Board declares themselves as lead agency.

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to schedule a Public Hearing on Thursday, August 3rd, 2006, in regards to the Proposed Local Law entitled 'Residential Subdivision Law of the Town of Wawayanda'.

ALL IN FAVOR - CARRIED

OLD BUSINES:

WORKERS' COMPENSATION RESOLUTION: In regards to action that was taken at the June 21st, 2006 meeting, Supervisor Razzano presented as resolution, as follows:

**RESOLUTION OF THE TOWN BOARD OF THE
TOWN OF WAWAYANDA
Resolution #8 - 2006**

WORKERS' COMPENSATION INSURANCE COVERAGE

Whereas, the Town of Wawayanda has carried Workers' compensation insurance through the Orange County Self-Insured Trust, and

Whereas, the Town Board of the Town of Wawayanda has evaluated alternative proposals for similar Workers' Compensation insurance coverage through the New York State Public Entities Safety Group #497, and

Whereas, if the Town were to terminate its Workers' Compensation insurance through the Orange County Self-Insured Trust, there would be no buyout required from the Town, and
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Whereas, after due consideration of the various alternatives the Town Board of the Town of Wawayanda has decided to place the Town's Workers' Compensation insurance with the New York State Public Entities Safety Group #497 and terminate the Town's Workers' Compensation insurance coverage with the Orange County Self-Insured Trust.

Now, therefore, be it resolved by the Town Board of the Town of Wawayanda that the Town of Wawayanda elects to no longer participate in the Orange County Self Insured Trust for Worker's Compensation insurance coverage and withdraws from the Orange County Self Insured Trust effective 12:01 a.m. on August 1, 2006, and the Town Supervisor is authorized to sign whatever documents are necessary to terminate such coverage.

Be it further resolved by the Town Board of the Town of Wawayanda that the Town Supervisor is authorized to sign a contract with the New York State Public Entities Safety Group #497 for Worker's Compensation insurance coverage and such other documents as may be necessary to institute such coverage effective 12:01 a.m. on August 1, 2006.

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to adopt the resolution entitled 'Worker's Compensation Insurance Coverage', as presented.

VOTE

Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Nay
Councilman Penaluna	-	Aye

MOTION CARRIED

PAYMENT TO MCGOEY, HAUSER AND EDSALL CONSULTING ENGINEERS, P.C.:

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to authorize payment in the amount of \$1,227.94 to **McGoey, Hauser and Edsall Consulting Engineers, P. C.** for engineering services rendered in reference to **Ryerson Court**, with payment being made from a Special Trust & Agency Account and charged to the Ryerson Court Account. (Balance in said account before payment is \$12,400.00).

ALL IN FAVOR - CARRIED

PAYMENT TO MCGOEY, HAUSER AND EDSALL CONSULTING ENGINEERS, P.C.:

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to authorize payment in the amount of \$720.00 to **McGoey, Hauser and Edsall Consulting Engineers, P. C.** for engineering services rendered in reference to **Ryerson Court**, with payment being made from a Special Trust & Agency Account and charged to the Ryerson Court Escrow Account. (Balance in said account before payment is \$11,172.06).

ALL IN FAVOR - CARRIED

COUNCILWOMAN SORO/MAY 16TH TOWN BOARD MINUTES: **Councilwoman Soro** spoke about issues that she had with the minutes of the May 16th Town Board Workshop. Said that on page 3 under the subtitle '**Comprehensive Plan Review**' there was not enough detail. Feels that the minutes should have included what was specifically discussed and listed the items that were changed. Added that this was the meeting when the 2-acre lot requirement was changed to 1-acre.

Teresa Pierce, Town Clerk, responded that the minutes are usually prepared way beyond what is legally required, and then read the requirements for producing minutes from the Association of Towns Town Clerk Manual.

Supervisor Razzano asked if Board members wished to entertain any changes to these minutes.

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Ms. Pierce stated that it is her understanding that the changes that were discussed and made regarding the Master Plan will be incorporated into a revised document. The Board members agreed no changes would be made to the minutes.

BROOKE KITHCART: Ms Soro spoke about **Brooke Kithcart**, a life long resident and a senior at Minisink Valley High School, being named girls softball 'Player of the Year' for her pitching. She is the granddaughter of the late Stella Knapp. Feels that this is an outstanding honor and she should be recognized for her accomplishment.

DANGEROUS DOG VIOLATION: Councilman **Krajewski** asked Supervisor **Razzano** about the memo from Judge Peter Gromacki regarding the dangerous dogs violation.

Supervisor Razzano explained that there was some confusion as to who filed the complaint. Advised that he had spoken with Attorney Guertin and that they both were under the impression that this was a civil matter and that he did not feel that the Town should be paying for the legal action. There was some confusion and ultimately Mr. Guertin did represent the plaintiff in this matter.

PUBLIC COMMENTS & QUESTIONS:

Connie Litchenberger read a letter from the residents of Bigert Drive, addressed to the Town Board advising that they have **obtained legal counsel**. The legal council will be representing them on any and all matters concerning the following: Town and Planning Board items and applications; health & safety; traffic; Brady lot line change; commuter parking and bus stop at the 84 Quick Stop; the Corwin subdivision; the potential of a truck stop/plaza in our near by community; and the harming of the environment in that area.

Belinda Meere, a resident of Burnt Corners, asked the Supervisor what actions have been taken in respect to the **noise complaint**.

Supervisor Razzano responded that what was submitted was believed to be comments for the Master Plan. The information has been forwarded to Saratoga Associates as part of that process, and it will be addressed with the comprehensive plan and zoning issues.

Ms. Meere stated that she had come to Town Hall earlier in the day to view the **minutes** and that she had asked for a copy to take with her. She was informed that there would be a **cost of \$.25 per page**, but as a taxpayer in the Town, she felt that she should not have to pay such a charge, and she should have access to these items.

The majority of the Board responded that access is available,

Councilman Cole added that there is a cost involved and that is a standard policy that has been in place for years.

Teresa Pierce advised that charging for photocopies is a state regulation. The public has access to most town records. They are made available for review, but when an individual wishes to have personal copies, then the standard charge is 25 cents per page.

Supervisor Razzano asked Ms Pierce what the cost would be to obtain a copy of your birth or a death certificate, and was advised that the cost would be \$10.00 per certified copy.

Comments were made about the minutes being made available over the website and the response was that we were working on accomplishing this.

Deborah Glover spoke about the **Comprehensive Plan Map**. Said that she has sent e-mails to Nicolette from Saratoga for no less than three months, and the map has not been corrected. Maintained that we still have a flawed map.

Supervisor Razzano stated that he has no idea what the light purple area indicates.

Councilman Cole advised that there is a new zoning map that is in the process of being circulated and that identifies the purple zone as the new proposed IORB Zone.

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Connie Litchenburger stated that the Board should consider an **Ethics Committee**.

Daniel Myers asked the Board if the **Water & Sewer Codes** have been adopted. Said that they should be adopted before adopting the new Zoning.

Randall Hurst stated that in light of the numerous items that need to be addressed, and taking into consideration that this plan will be the future of our town, he stated that it would be better to take whatever time necessary now to really finish the job and do it thoroughly rather than piecemeal, and maybe only touching on one critical issue. Asked the Board where all the pressure is coming from that warrants the Moratorium to end on August 15, 2006. Added that he is aware of only two developers that have been impacted by the Moratorium, and he feels that it would be in the best interest of the Town that they do their developments for the future interest of the town.

Supervisor Razzano responded that there are a lot of legal issues related to extending the moratorium , and as far as taking our time, that is exactly what we are doing. Further discussion took place regarding legal ramifications if the moratorium was to be extended a second time.

NO OTHER BUSINESS OR COMMENTS.

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to adjourn the meeting.

ALL IN FAVOR - CARRIED

MEETING ADJOURNED: 10:04 P.M.

PREPARED BY KATHRYN SHERLOCK

RESPECTFULLY SUBMITTED,

Teresa E. Pierce, RMC
Town Clerk