

Town of New Paltz
Clean Water and Open Space Protection Commission (CWOSP)
Approved Minutes, Meeting of May 11, 2016, at the Community Center

Members Present: Brad Barclay, Kevin Borden, Lynn Bowdery, Marion DuBois, Richard Fiesel, John Gotto, Seth McKee, Dennis Moore

Town Officials: Neil Bettez, Supervisor, Town of New Paltz
Marty Irwin, Town of New Paltz Board liaison to CWOSP Comm.

Public present: No member of the public was present.

Minutes taken by: Lynn Bowdery, CWOSP Commission member and Secretary.

1. Meeting called to order at: 7:04 PM by Chairman Dennis Moore

2. Public comments: No public comments were made.

3. Review, amend & approve minutes: After a brief discussion, John Gotto moved to approve the minutes of the April 13, 2016 meeting as amended. Brad Barclay seconded the motion. All present voted in favor.

4. Introduce Supervisor Bettez: Chairman Dennis Moore introduced Supervisor Neil Bettez to the members. Neil spoke about his background in urban ecology and expressed support for the mission of the CWOSP Commission. The question of what the Town's mandate for the CWOSP Commission came up. Dennis Moore explained that the Commission has felt that the Town's will to use the Open Space Bond to acquire the development rights to more open space had ebbed, leaving the Commission wondering what there was for it to do. Neil said he thought there was now the will in the present town board and said that the town needed to have a vision for the next 5 to 10 years. There followed a discussion of what the Commission had been doing for the past few years- the purchase of development rights in with Open Space Institute contributing half the cost, the purchase of the Sunset Ridge property for the Mill Brook Preserve (MBP), and the work to purchase the Bienstock property for MBP that was not approved by the Town Board due to concerns of the budget and state imposed tax cap. Neil said he would like to see if CWOSP could leverage funding on projects, adding that full build out of open space is not best for the community. Seth McKee said that it was time to look at areas where CWOSP and others have not yet been protecting open space, such as the north and east sides of the Town. Neil agreed, saying that increased pressure to build there is inevitable and problems with stormwater will increase. Dennis said that CWOSP can move forward on a plan for continuing. Neil urged the Commission to try to tie together parcels to make more impact. Stacy Delarede, the New Paltz Building Inspector, is trying to gather information about all the conservation easements in New Paltz, so that the lands which are already protected will be known. Seth suggested that New Paltz look into partnering with Scenic Hudson to buy development rights as a way to keep land in agriculture. He will look into this for more information. Since he works for Scenic Hudson, he will have to recuse himself if we go forward. Lynn will look in the CWOSP Comm. files for our past ratings on agricultural properties. Supervisor Bettez said that he would look into getting the Commission a locking filing cabinet to keep files in.

5. Mill Brook Preserve update: Village of New Paltz Mayor Tim Rogers is considering various options for the parcel that the Village owns, such as possibly subdividing off the eastern end of it, and also retaining the right to place municipal water wells on the property. A wide-ranging discussion ensued about these ideas. The Commission has an advisory capacity to the Town, not the Village. We will try to stay informed on the progress of the conservation easements on MBP properties.

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6. MillBrook Preserve Start-up Fund: Town Board member Marty Irwin explained that the Inter-Municipal Agreement (IMA) on Mill Brook Preserve calls for a 50/50 share in capital costs and the Village will undertake the management responsibility, which is the reverse of the Moriello Pool situation, in which the Town is responsible for the management. The text of the IMA is attached, below. Neil said that the Village is concerned with the long-term costs of part maintenance, particularly in light of the state tax cap, hence looking into possible sale of eastern part of its parcel. Brad Barclay noted that MBP, Inc. should put together a proposal stipulating the uses. John Gotto asked what was the purpose of the CWOSP budget funds. Answer: to further the purposes of CWOSP, such as paying for land appraisals, training, etc. Dennis explained that a start-up fund for MBP, Inc. would be used to open up a bank account, get a P. O. Box, pay incorporation fee and legal expenses. The IMA document is attached below.

7. Adjacent properties: Dennis Moore has had a meeting with David Shepler regarding access to MBP. Brad will talk more with David, and asked for a summary of previous conversations between Dennis and Kevin before contacting David.

8. CFA grant application: Marty Irwin related that the Village was planning to reapply for a Consolidated Fund grant. Feedback on the failed grant indicated that a trail application needs to show linkages to a regional trail system. The Village Planner is thinking about linking the MBP trails to the planned linkage route between the Hudson Valley Rail Trail and the Wallkill Valley Rail Trail. A lively discussion followed. The consensus was that MBP was a Preserve with trails, not intended to be a part of a trail system that runs through a preserve. Brad said that the specifications for a trail with any DOT funding attached require much wider trails, paved, which must be snowplowed in winter. That does not fit the vision for the MBP that people have been working on for years here. Such trails would harm the conservation values of the Preserve. The Village will be conferring with MBP, Inc. about its application. Kevin Borden expressed concern about the wide range of ideas and viewpoints about MBP, and thinks the Village and Town Boards should work out together what their ideas for the preserve actually are, so MBP Inc. does not have to negotiate everything with everyone. Seth added that MBP Inc. should ask the Town and Village whether their goals for the Preserve are in synch. Dennis added that MBP Inc. is the only entity that can reach out to the municipalities. Marty wondered if CWOSP Commission had a role in the Preserve? Neil said he would like CWOSP to go after the next land preservation project.

9. Colangelo property: It appears from their non-answer to an inquiry, that the new owners, the Church Community, have no interest in putting a conservation easement on that property.

10. Prospective Commission Members: The CWOSP Commission is two members short and the Town's advertisements still have gotten no response. Kevin and Seth will try to talk to some people they have in mind. Richard Fiesel has an idea of someone involved in agriculture east of the Thruway that he will approach.

11: Other Business: None

12. New Business: None

13: Adjournment: Kevin Borden moved that the meeting be adjourned. Brad Barclay seconded the motion. All present voted in favor. The meeting was adjourned at 8:50 PM.

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Party

ORIGINAL

INTERMUNICIPAL AGREEMENT-MILL BROOK PRESERVE

THIS AGREEMENT made and entered into as of the ____ day of July, 2015 by and between:

THE VILLAGE OF NEW PALTZ, a municipal corporation of the State of New York, maintaining its offices at the Village Hall, 25 Plattekill Avenue, New Paltz, New York 12561 (the "Village"), and

THE TOWN OF NEW PALTZ, Ulster County, New York, a municipal corporation of the State of New York, maintaining its offices at 52 Clearwater Road, P.O. Box 550, New Paltz, New York 12561 (the "Town"),

WITNESSETH:

WHEREAS, the Village is in the process of acquiring real property from Shawangunk Reserve, Inc., Tax Map # 86.2-1-12.110, ("the Village Property"), to potentially be added to the Mill Brook Preserve ("Preserved Property") with portions lying within the Village and portions lying within the Town of New Paltz; and

WHEREAS, the Town has previously acquired real property formerly referred to as "Stoneleigh Woods" in the Town of New Paltz bearing Tax Map Number 86.2-1-6 (the "Town Property"); and

WHEREAS, the Village is submitting a request for grant funding through the NYS CFA application process by not later than July 30, 2015; and

WHEREAS, if the CFA Grant Request is awarded and funded, the Village and Town wish to improve these properties as Open Space, with public access, (collectively referred to as the "Preserved Property"), and to be known as the Mill Brook Preserve; and

WHEREAS, the Parties hereto view the addition of the Preserved Property as a critical ecological open space that must be preserved and protected in perpetuity; and

WHEREAS, because the Preserved Property lies within both the Town and the Village, it is necessary for both municipalities to have a clear understanding with respect to the rights and responsibilities, financial and otherwise, of each party regarding design, operation, maintenance, improvement and repair of the entire Preserved Property; and

WHEREAS, the Village is willing to assume the lead role in the design, operation, maintenance, improvement and repair of the entire Preserved Property, upon the terms and conditions contained herein; and

WHEREAS, good government, efficiency, prudent spending, and effective public policy and service delivery are all best served by strong collaboration among public

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entities; and

WHEREAS, Article 5-G, Section 119-o of the General Municipal Law specifically authorizes municipal corporations to enter into inter-municipal cooperative agreements,

NOW, THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties agree as follows:

1. **Protection of Open Space.** The Village and Town agree that the Preserved Property referred to herein shall be protected in perpetuity. To assure this, the parties agree that by not later than June 30, 2016 the Village and Town shall execute Conservation Easements for their respective property. In the event that the CFA Grant is awarded prior to June 30, 2016, the parties agree that the Preserved Property will become Designated Parkland and no Conservation Easements will be required.
2. **Improvements.** The improvements to be made to the Preserved Property are to be described in the CFA Grant application which, when submitted, shall be attached hereto and made a part hereof. Such improvements shall consist of the trailheads, trails, bog bridges, stream crossing bridges, signs, kiosks, etc. Because these documents are preliminary in nature, the construction related parts are referred to as the "Preliminary Plans and Specifications." If the CFA Grant is awarded and funded, then the Village shall prepare, or cause to be prepared, "Final Plans and Specifications" for the installation of the Improvements at the Preserved Property. The Village shall not initiate any substantial changes, additions, alterations or deletions to the improvements to the Preserved Property without the prior, written approval of the Town Board.
3. **Materials, labor and costs.** Upon approval of the CFA Grant application and availability of grant funds, the Village shall provide all materials and labor for the design and improvement of the entire Preserved Property with the costs of such work to be paid for from the CFA Grant funds and/or to be provided by Village employees and/or volunteers. All costs shall be agreed to in advance between the municipalities prior to the Village entering into any agreements relating to these services. Neither party shall have any obligation to perform labor or to expend funds for materials, labor or improvements in the absence of the grant or of its funding
4. **Additional capital costs.** ^{TR 13} Any capital costs for improvements in addition to those referred to in paragraph ² above, shall be shared proportionately by the Town and Village with prior written approval by both municipalities.

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5. **License.** The Town hereby conveys to the Village a license for ingress, egress, maintenance, repair and improvement purposes over the Preserved Property owned by the Town at such locations and upon such conditions as the parties shall, from time to time agree, which License(s) shall terminate in the event this Agreement is terminated pursuant to the terms of this Agreement or by order of a court of competent jurisdiction.
6. **Installation.** The Village may hire a private contractor, utilize Village personnel or use volunteers to install the improvements to the Preserved Property in accordance with Plans and Specifications approved by the Town. The Village shall cause any private contractors to comply with appropriate insurance requirements. Volunteers of the Village shall submit an appropriate Acknowledgement and General Release if engaged in planting of flowers, litter and branch pickup, edging, supplemental mowing, building bridges or trails, installing benches, signs, or sheds, or similar activities. If volunteers are engaged in irrigation work, construction, or similar activities, the Village must comply with all appropriate insurance requirements. All work shall conform to applicable local, state and federal laws. Any existing overhead and underground utilities shall be located prior to commencement of work.
7. **Maintenance.** The Village agrees that upon completion of all agreed upon initial Improvements to the Preserved Property, it will assume all costs related to the general maintenance of the Preserved Property, including, but not limited to, all operations, activities and processes required on a continuing basis for the preservation of the Preserved Property. The Village, its contractors or volunteers shall maintain the Preserved Property during the term of the Agreement, provided, however, that the Village shall enforce all warranties and guarantees attributable to any infrastructure, or related improvements. The Village, its contractor or volunteers shall conduct any necessary watering; fertilizing; herbicide, pesticide, or insecticide applications; brush and debris removal, tree trimming and similar maintenance tasks for the Preserved Property. ~~(But trees die from various diseases. I wouldn't commit to replacing trees.)~~ TR 
8. **Signs.** Proposed signage within the Preserved Property must meet applicable municipal codes.
9. **Environmental.** The Village or its agents, employees, or contractors shall notify the Town when it intends to utilize any chemical substances or hazardous materials, including, but not limited to, fertilizer, pesticides, herbicides, or insecticides, in or about the Preserved Property.

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10. **Tree Trimming.** The Village may only use its own Public Works personnel, professional tree trimmers, or arborists licensed by the State of New York for pruning and trimming of trees at the Preserved Property.
11. **Term.** This Agreement shall be effective for five (5) years from the date of final approval by the parties' respective municipal boards, which date shall be set forth above. This Agreement shall renew automatically for successive five (5) year terms unless either party provides written notice of its intention not to renew no later than one-hundred twenty (120) days from the applicable expiration date.
12. **Event of Non-Renewal** If this Agreement is not renewed or is terminated, both parties shall be responsible for the care and maintenance of those portions of the Preserved Property that lie within said parties territorial borders
13. **Hazards.** If the Improvements at the Preserved Property become a hazard or safety risk either party may remove them immediately.
14. **Existing Driveways and Parking Lot.** The Parties agree that driveways and the parking area existing at the time of completion of any contemplated improvements may continue to be maintained. The Parties further agree, however, that construction by either Party of any additional driveways or roadways shall require the prior written approval of both Parties. The Village shall be responsible for all maintenance, and replacement of traffic/parking barriers (i.e. gates, berms, rocks, etc.) to contain motor vehicles within the parking area.
15. **Liability.** Each Party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, officers, officials, agents, boards, committees, commissions, agencies, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions including providing its own defense. In situations including joint liability, each Party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, officers, officials, agents, boards, commissions, committees, agencies, and representatives. It is not the intent of the Parties to waive any statutory protections or impose liability beyond that imposed by state statutes. Both the Town and Village shall maintain their respective and customary general liability insurance policies with respect to those portions of the Preserved Property which said municipality owns in fee. Evidence of such insurance shall be provided by each municipality to the other upon written request.

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- 16. Termination.** Except as provided in Paragraph 15, this Agreement may be terminated only upon written mutual consent of the Town and the Village. In the event that this Agreement is terminated pursuant to this Paragraph 14, the Town and the Village agree that all jurisdiction and maintenance obligations of the Town portion of the Millbrook Preserve Property shall revert to the Town.
- 17. Default.** If either Party materially defaults under any of its duties or obligations under this Agreement, and (1) if the default can reasonably be cured within thirty (30) calendar days and the defaulting Party fails to cure that default within thirty (30) calendar days after receiving notice thereof from the other Party, or (2) the default cannot be reasonably cured within thirty (30) calendar days and the defaulting Party fails to begin curing that default within thirty (30) calendar days of receiving notice thereof from the other Party, or thereafter fails to act with reasonable diligence to cure that default, the other Party may terminate this Agreement and/or pursue any and all legal and/or equitable relief available (including attorneys' fees and costs).
- 18. Notices.** Any notices required or permitted hereunder shall be given in writing and shall be delivered (a) in person, with proof of service (b) by certified mail, postage prepaid, return receipt requested, (c) by a commercial overnight courier that guarantees next day delivery and provides a receipt, or (d) by facsimile and email. Such notices shall be addressed as follows:

To The Town:

Office of the Supervisor
The Town of New Paltz
52 Clearwater Road, P.O. Box 550
New Paltz, New York 12561
Fax No. (845) _____
supervisor@townofnewpaltz.org

To The Village:

Office of the Mayor
The Village of New Paltz
25 Plattekill Avenue
New Paltz, New York 12561
Fax No. (845) 255-4305
Mayor@villageofnewpaltz.org

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Either Party may, from time to time, specify in writing to the other Party a different person or address for notice. Any notice shall be effective only upon delivery.

19. Miscellaneous.

A. The Parties each agree to exercise good faith, make reasonable efforts, and take whatever cooperative action is necessary to fulfill the intent and purposes of this Agreement and nothing in this agreement shall limit, restrict or impair the ability of the parties to reach such other, further and different agreements as shall be necessary and beneficial to the parties and to the purposes and intents of this agreement.

B. The privileges and/or obligations under this Agreement may not be assigned without the prior written authorization of both Parties.

C. If a dispute between the Parties arises out of or relates to this Agreement and cannot be settled through direct discussions, the parties irrevocably submit themselves to the original jurisdiction of the Supreme Court, County of Ulster, State of New York, with regard to any controversy arising out of, relating to, or in any way concerning this Agreement.

D. This Agreement shall be subject and subordinate to applicable federal or state laws, codes, regulations, ordinances, rules and orders.

E. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect, unless a provision which is of the essence to this Agreement be determined void.

F. Failure of a Party to insist on strict performance of any of the provisions of this Agreement, or failure to exercise any of a Party's rights hereunder, shall not waive such rights.

G. This Agreement constitutes the entire Agreement and understanding of the Parties and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendment to this Agreement must be in writing and executed by both Parties.

H. That the Supervisor of the Town has executed this Agreement pursuant to Resolution adopted by the Town Board, at a meeting thereof held on the 23 day of July, 2015 and the Village Mayor has executed this Agreement pursuant to Resolution adopted by the Village Board of Trustees, at a meeting thereof held on the ~~24~~²² day of July, 2015.

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I. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective legal representatives, and permitted successors and/or assigns.

J. Each of the Parties acknowledges having read and understands the provisions of this Agreement.

IT IS UNDERSTOOD AND AGREED THAT THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL SUCH TIME AS THE VILLAGE ACQUIRES A FEE SIMPLE OWNERSHIP INTEREST IN ALL OR A PORTION OF THE PROPERTY CURRENTLY OWNED BY SHAWANGUNK RESERVE, INC., TAX MAP # 86.2-1-12.110 AND SHALL BECOME EFFECTIVE IMMEDIATELY UPON COMPLETION OF SAID CLOSING.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

TOWN OF NEW PALTZ
BY:



SUSAN ZIMET, Supervisor

VILLAGE OF NEW PALTZ
BY:



TIMOTHY E. ROGERS, Mayor

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STATE OF NEW YORK)

ss.

COUNTY OF ULSTER)

On the 29 day of July, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared **SUSAN ZIMET**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public of the State of New York

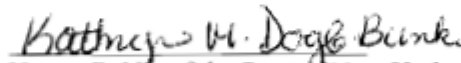
PATRICIA A. MASTERSON
NOTARY PUBLIC, State of New York
No. 01MA6200160
Qualified in Ulster County
Term Expires February 2, 20 17

STATE OF NEW YORK)

ss.

COUNTY OF ULSTER)

On the 29th day of July, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared **TIMOTHY E. ROGERS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public of the State of New York

