

Public Hearing and Town Board Meeting – December 15, 2011

Present: Jeff Logan, Dave Lewis, Kitty Brown, Jane Ann Williams, Toni Hokanson

7:17 pm: Supervisor Hokanson made a motion to open the Public Hearing on the Local Law on Tree Conservation. Councilman Logan seconded. All aye votes cast. Motion carried.

Public Input:

Bob Gabrielli: This is a very bad law. It makes a simple act a misdemeanor crime; it gives people a criminal record. It gives the ENCC regulatory powers which it is not allowed to have under State Law. It's an advisory commission. This law requires the issuance of a permit. This law has not been studied. What trees are we talking about? What's the purpose? It's very sad that we pass laws willy-nilly. Town government is closest to the people. And it should be very mindful of private property. No one knows this law exists. You gave ENCC power to wave fees and fines. Hope you don't pass it.

Josh Honig: He looked online. Other towns have larger fines. Is it a Misdemeanor or a violation second and subsequent? 6 months is an excessive amount of time.

Dwight Baine: Talking about prison terms for maintenance issues. Finds law repugnant. He is extremely unhappy. It's a crazy infringement of property rights. Fails to distinguish between desirable trees and weed trees, hedgerows, invasive species, like sumac, law doesn't take into account wrong trees in right location. No room in this law for discerning viable action and what must be punished.

Supervisor Hokanson: responded the exemptions are automatic and they don't need to apply for them. She explained brush.

Councilwoman Brown: explained volunteer board, no extra case to the Town.

Fred Van Nostraad: is there already a law that you've already put in place that you can't cut no more than so many trees off a piece of land in one year? Supervisor Hokanson said that is clearing and grading, yes. She said this law is specifically to within the front yard along the road frontage, which there is already one in place but this is clearer about the process. He said he has a problem with beavers cutting down trees and killing them causing flooding. This year caused flooding in 300 feet of road front. Last year he lost blueberry bushes and plum trees because of the beavers and the flooding caused by the beavers. He would like a law passed re: the beavers. The Supervisor said that the Town can't regulate beavers, only the State can.

Kevin Barry: The prior law was adopted in 1987. Law restricts people on their property. He would like to know what the purpose of this law is. He can see that they are amending the old law because the old law had no teeth. There was no enforcement mechanism in the old law. He believes the new law tries to accomplish that by putting in a mechanism that he believes assigns that authority to the Building Inspector in the Building Department to implement a notice to a person that may be in violation of the law. No reason to change law. The new law is way out of control – big difference between the old law which provides for a violation and a series of fines and the new law and now subjecting somebody to a term of imprisonment. He would not recommend that the Board adopt this.

Ray Lunati: The old law doesn't have the bite. The new one does. Code Enforcement Officer.

Everett Payne: Why would anybody want this law? Why are you trying to do something like this? Councilwoman Brown said this came about as a result of a Notice of Violation in which the homeowner did agree to restore the trees he had cut down and 5 years later has not done so. And the Building Inspector could not enforce the restoration which is the first and most desirable cure for a violation.

Eric Irwin: Criminalizing...without your permission due to someone cutting down trees 5 years ago and didn't replace them. Supervisor Hokanson – penalties and fees. Zoning code has to have penalties.

Josh compared this law to Yorktown's – doesn't want to see misdemeanor – Councilwoman Brown explained.

Kevin Barry: Just to be clear – get notice – meet with Conservation Board – he recommends they increase fines, not use jail time. Councilman Logan explained area affected. Kevin Barry said aesthetic purpose is good, but penalties are too high.

Bob Gabrielli: really important distinction because it's a crime resulting in fingerprints and photographs – once calling something a crime – referred to selective enforcement – strict liability crime.

Eric Irwin: misdemeanor comment – going before a judge – you are already charged – the judge doesn't decide

8:13pm: Supervisor Hokanson made a motion to close the Public Hearing on Tree Conservation. Councilwoman Williams seconded. All aye votes cast. Motion carried

8:14pm: Supervisor Hokanson opened the Town Board Meeting with the Pledge.

Agenda- Motion: Supervisor Hokanson made a motion to amend the Agenda as follows: to move the Kingston Regional Senior Living item underneath the Resolution to Honor Ben Campbell and before Public Comment and we'll take a break in between there because of Councilman Logan's suggestion they take care of these items first so these people don't have to wait. And to adopt the Agenda as amended. Councilman Logan seconded. All aye votes cast. Motion carried.

Agenda items-

Resolution to Honor Ben Campbell: Supervisor Hokanson read aloud a Proclamation – Town Board honors and recognizes Ben Campbell as a good neighbor for the help that he extended to his neighbors during and after the storms of August 28, 2011 and September 2, 2011. She gave him a plaque.

Kingston Regional (Woodland Pond): Motions: Supervisor Hokanson made a motion declaring the Town Board Lead Agency for the action of amending the rider to roadway improvement agreement with Kingston Regional Senior Living Corp. and declaring it a Type II Action. Councilwoman Williams seconded. All aye votes cast. Motion carried. Supervisor Hokanson explained it is extending the time frame for allowing the completion of the road on the very end from the cul de sac to the Town property line. So, she made a motion for the Town Board to authorize her to sign that agreement. Councilwoman Williams seconded. All aye votes cast. Motion carried.

Supervisor Hokanson made a motion to have the Town Board authorize her to release the bond (letter of credit) for Pike construction which was related to the temporary easement for the water and sewer lines that was part of the agreement where the installation of trees and a bench would happen because those have happened and the water and sewer line is in place and there is no need to hold onto that bond. Councilman Lewis seconded. All aye votes cast. Motion carried. Councilwoman Brown added so do we have a handshake understanding that if the trees don't survive they will be replaced? He said yes.

Break

Public Comment: Ron Turner: Development of Property Contiguous to Moriello Park - Village resident – Village Planning Board Meeting next Tuesday - develop property contiguous to Moriello Park – which is owned by the Village and the Town and he is here

as a good neighbor to let his neighbors know that the Park is not being sited on their SEQR review. They didn't answer the question whether or not piece of property was contiguous with the park. They left that blank. As well as leaving out that the developing property is not contiguous with commercial property. They've omitted these things. Supervisor Hokanson said the proximity to the park makes it a Type I Action under SEQR. Did you know if they picked up on that? He said they did not pick up on that. They have it as an Unlisted Action and it should be Type I according to Section 914.17 so I'll be looking forward to seeing you neighbors next week.

Ira Margolis: Abolition of the Police Commission: He is not speaking for the Commission but he is speaking as a Police Commissioner wanted to make that distinction because the Police Commission did not know anything about this and did not come up with any kind of response. He believes the Commission is broken. In the past the Commission acted as a rubber stamp of the needs and wants of the Town Board. And now, for the first time the Commission is acting as an Independent Group that seeks to protect the residents and taxpayers without fear of political consequences. It should be fixed, not thrown away.

Matt Aube – Police Commission – He is not representing the Police Commission. He is just a Police Commissioner and a resident of New Paltz. He was appointed this year. He finds the proposal to dissolve the Police Commission suspect and did not see the need for any immediate action. To put this proposal to get rid of the Police Commission on the Agenda with no communication with the Police Commissioners is unfair and disrespectful. The current Police Commission was organized as an independent body that was granted the authority to carry out their duties without interference from the Town Board. I see no benefit of the Town Board assuming the responsibilities of the Police Commission and I would urge you to keep the Police Commission in place. If it needs work, work on the law itself. What form of Police Commission would you institute if the Police Commission was dissolved? Councilman Logan replied under New York State Law there are no other Towns in Ulster County that have Police Commissions. We are unique to that and under New York State Law the Town Board is the Police Commission. Supervisor Hokanson added under New York State Law you can have one... Matt said the Supervisor can be the Police Commissioner... the Supervisor continued or the Town Board can be the Police Commission or you can have one appointed Police Commissioner, or you can have 3 or, we made a local law that allows for 5. He asked Councilman Logan if it was being proposed by him. Councilman Logan responded yes. He said the Board needs to be much closer to the Police and this is the way to do it. Matt responded he urges them to keep it in place and to make changes if necessary. This approach is not fair.

Community Announcements: There were no Community Announcements.

Local Law Concerning Wetlands – Dave Gordon said the Ulster County Planning Board wrote up their recommendations on the Wetlands Law that we received today. They met on December 7th. They were very positive. There are no required modifications. There was one Advisory Comment. Supervisor Hokanson read it aloud. The Advisory Comment is that the definition and or additional standards in the proposed statute should be altered to exempt storm water drainage detention and infiltration facilities etc. from being considered quality vernal pools. She said in this version of the law we spent a lot of time and effort defining what a quality vernal pool was and was not. And she feels the definition as it stands in the law will never create confusion. So she does not agree with the Advisory Comment that we should amend the Statute to exempt drainage detention and infiltration facilities because she does not think it is necessary. Mr. Gordon agreed. Supervisor Hokanson reported went on at the December 7th Ulster County Planning Board meeting. She said she reclused herself. Did not comment, just listened. Rob Libowitz Principal Planner congratulated the Town on the Wetlands Law. Only one Board member had a comment. He had read the actual law which is atypical, they normally don't read the actual laws. He said he thought no one would confuse a storm water drainage or detention or infiltration system with a Vernal Pool and he

didn't think it needed to be a comment. At that point Rob wasn't sure whether to include the comment or not. The Board voted to approve Rob's recommendations which were advisory only. Councilwoman Brown asked so should we amend the law? Supervisor Hokanson and Councilwoman Williams said no. Councilman Logan asked Mr. Gordon if there could be any confusion and he explained it would be highly unlikely.

Motion: Supervisor Hokanson moved for the adoption of the Wetland and Water Course Protection Law for the Town of New Paltz. She read the Resolution. Councilwoman Williams seconded. All aye votes cast. Motion carried.

Time Warner – Andrea Russo and Don Kerr – Time Warner Contract – Time Warner Construction Fund - \$325,000 in the Construction Fund - need \$125,000 to cable what is not cabled yet. Supervisor Hokanson corrected her \$141,000. \$125,000 was an estimate. Supervisor Hokanson told Time Warner that the Board will not sign the contract without having the Memorandum of Understanding. Don Kerr – Public Access Committee- Public Access channels – They'll be 2 additional Public Access Channels where we now have Channel 23 – Supervisor Hokanson corrected him we are really getting one additional channel but we are getting control over another channel. She explained the SUNY channel will no longer exist. It will become an educational channel – a jointly owned education channel – jointly owned by SUNY and the New Paltz School District – Don Kerr – there is a written agreement between SUNY and the school district year's old in terms of operating the channel. Supervisor Hokanson asked him to provide her a copy of that agreement because she said the Town and the Village need to approve them doing that. He said he couldn't but Andrea Russo said that she had it. She said that needs to be worked on, the logistics part. Supervisor Hokanson said we currently have two places covered The Town Hall and Village Hall and there is one at SUNY then the high school and the Community Center. Ms. Russo said in some communities they have actual studios set up where people can go and make shows. She said that's a dream for us. We use the Community Center for at least one talk show having a modulator where you can broadcast at the Community Center. Supervisor Hokanson added it also allows us when we have Public Hearings at the Community Center for them to be broadcast live. They discussed the space at the Village Hall. They weren't sure if there were 2 rooms or 3. Don Kerr said they took \$325,000 then they took \$141,000 and Time Warner said rather than cut a check they would rather provide us with equipment as part of that deal. So what you see is \$50,000 worth of equipment. Ms. Russo said there is actually \$50,000 worth of equipment which is separate from that. Councilman Logan- including the modulators? Ms. Russo - separate from the modulators. Supervisor Hokanson said there is \$50,000 worth of equipment in total that is being requested and they are dividing it up in subscriber proportions so 60 percent of subscribers are in the Town and 40 percent are in the Village so that equates to a \$30,000 and \$20,000 split. And any money that gets used for equipment gets charged back to the users. The Town's portion, the \$30,000 comes out of the Construction Fund rather than being charged back to the users. The Village \$20,000 they will get a check and that will be charged back to the users. The equipment is going to be provided in two phases : one phase will be right away and the other will be 5 years from now. And \$50,000 is the cost of the total. Ms. Russo- there are two lists of equipment – what do you need to spend money on now and the money you are going to get in 5 years we still need an estimate of what it's going to be. So figure you have to replace things so there is 2 pages, one is \$22,800 the other is \$27,000. So together it's \$50,000. Don Kerr added that the franchise agreement covers whatever new technology follows cable because cable may not be around. As are the Senior citizens who sign up, up until the point the new franchise agreement goes into effect they will still qualify for the Senior Citizen Discount. Supervisor Hokanson said so as a Public Service Announcement – If you are a Senior in the Town of New Paltz and you've paid your Time Warner Cable Bill on time for the last 12 months you need to call them and ask them for your Senior Citizen Discount now – you get one free month of Service but you need to request it and if you get told there is no Senior Citizen Discount please call the Town Supervisor's Office and we'll be happy to assist you. You need to provide documentation with your age and a copy of your bill. If they say there is a

discount and you have to bring your documentation to them, bring it to the Supervisor's Secretary and he will fax the documentation to Time Warner for you. Don Kerr said he was at the Village Board Meeting last night and said they plan to have a Public Hearing on this on the 28th and they fully expect to take action on the 28th to pass and ratify this. We're hoping this Town Board will take action on this in 2011. Councilwoman Brown said so we want a Public Hearing and a vote on the 29th? The Supervisor said yes.

Motions: Supervisor Hokanson made a motion that we declare ourselves Lead Agency for this action. Councilwoman Brown seconded. All aye votes cast. Motion carried.

Supervisor Hokanson made a motion to set a Public Hearing for December 29, 2011 at 7:15 pm. Councilman Logan seconded. All aye votes cast. Motion carried.

New Paltz Fire Department Request For the Use of Rooms at 23 Plattekill: If there are 3 rooms available the Fire Department will get the use of 2 of them, so Public Access would get the use of one. If there are 2 rooms, the Fire Department will get the use of one and Public Access will get the use of the other one. Councilwoman Brown asked if we charge rent? Supervisor Hokanson said it doesn't make sense to charge them rent because they'll charge it back to us.

Resolution Authorizing Payment of the 2011 Deputy Highway Superintendent Stipend: Supervisor Hokanson made a motion to authorize the payment to the Deputy Highway Superintendent. Councilman Lewis seconded. Councilwoman Brown – she doesn't think that the employee who would be designated to receive the stipend was eligible to receive it until they passed the law and since the law has only been in effect for 2 months and was appointed in November when the law came into effect then he'd only be eligible to receive 2 months of the stipend. Supervisor Hokanson- that law we put into effect does not affect the Deputy Highway Superintendent. He is not eligible to be appointed Deputy Highway Superintendent but that doesn't mean the Town can't authorize the payment to him for the extra work that he's been doing. Councilwoman Brown- he's not eligible to receive it. Supervisor Hokanson- you can pay a stipend to anybody for any reason. Councilman Logan- we're talking about a Union employee who is under contract. Supervisor- he does not have the title. He did do the duties.

Councilman Logan- he should not be doing duties outside of what he's contracted to do. Councilwoman Brown- this employee's title is Foreman. Councilman Logan –we're giving a stipend for duties that he shouldn't have been performing. Councilwoman Williams- we asked Bill Walens and he said it was a perfectly legal thing to do to ask someone to perform a duty and to pay them additional for it. And to act in the position of without appointment. And you can pay them for performance. Councilwoman Brown- the title of his job is Highway Foreman. And he's being given a \$7,500 stipend for a completely different job title. She said she would be willing to send this letter to Bill Walens for an opinion. Supervisor Hokanson- Bill Walens wrote that letter. Councilwoman Brown- we're going against Union rules and our own Statutes. Bill Walens commented on it verbally. Councilwoman Williams- Bill Walens said that if he did the duties he can receive the stipend without having been appointed. Councilwoman Brown- it's against State Law. Supervisor Hokanson- no, it is not against State Law. You can pay a stipend. Councilwoman Brown – we're paying a stipend to a Foreman so we shouldn't pay him the same amount that we would pay a Deputy Superintendent. So she would be open to having a discussion about what would be an appropriate stipend for a Foreman for one year.

Motions: Supervisor Hokanson- my motion is that we pay William McGovern the stipend of \$7,500. And to stop the discussion. The vote to stop discussion - Supervisor Hokanson, Councilwoman Williams and Councilman Lewis voted aye, and Councilman Logan, and Councilwoman Brown voted no. And the vote to pay the stipend – Supervisor Hokanson, Councilwoman Williams, and Councilman Lewis voted aye, and Councilwoman Brown, and Councilman Logan voted no. Motions carried.

Local Law to Extend the Time of Site Plans and Subdivisions: Last month we held the Public Hearing but we did not complete the adoption of this. **Motions:** Supervisor Hokanson made a motion to accept the short form SEQR. Councilwoman Brown seconded. All aye votes cast. Motion carried. She read aloud the SEQR.

Supervisor Hokanson moved to adopt the NegDec for this action. Councilman Logan seconded. All aye votes cast. Motion carried.

Supervisor Hokanson made a motion to adopt the Resolution Adopting the Local Law to Extend the Time of Site Plans and Subdivisions. Councilwoman Williams seconded. All aye votes cast. Motion carried.

Tree Cutting: Supervisor Hokanson - get an opinion about the Criminality /fines issue and she'll put that back on the Agenda for the 29th. Councilman Logan- could you also ask him if we wanted to change the setback the number of feet- would that be considered a substantive change or not? Supervisor Hokanson- the current law is 50 feet – Councilman Logan so 55 feet and 75 feet – if we change those back to 50? Yes. Councilwoman Brown- if we change raising the fine and reducing the criminality? Supervisor Hokanson- we need to get his opinion on that.

Local Law to Repeal Board of Police Commissioners: Councilwoman Brown – I think we should table this until next year. Councilwoman Williams and Councilman Lewis agreed. Councilwoman Brown commented that the original intent was to have a Citizen Review Board and that's not what we got. Councilman Logan- we as a Board need to get closer to our Police force- we went 4 years without a Contract. We can't let that happen again. Supervisor Hokanson – it was 3 and it was through no fault of Town government. So, they all agreed to table this to the next Board.

Motions: Supervisor Hokanson made a motion to declare the Town Board Lead Agency for the purpose of adopting a local law on Deputy Highway Superintendent's Residency Requirements and to set the Public Hearing for December 29, 2011 at 7 pm. The Board members did not have any information on this so they could not take any action on it at this time. Councilman Logan suggested they table it to the new Board.

Supervisor Hokanson made a motion to appoint Randall Leverette and thank him for his additional service as a member of the Public Access Committee. Councilman Logan seconded. All aye votes cast. Motion carried.

Motions and Warrant: Supervisor Hokanson made a motion that the Town Board authorize the transfer of the following monies: from Police Buyout #A3120140 \$169,000 from Police Contingency #A1990473 \$142,500, from Police Retirement #A901580 \$40,120 these will all be transferred into to Town Personal Services in the amount of \$351,620 in order to cover the outstanding what's been in the negative from covering the Retro checks, the buyout and retirement, and the remaining 2011 payroll. Councilman Logan seconded. All aye votes cast. Motion carried.

Supervisor Hokanson made a motion that the Town Board authorize the transfer from Buildings and Grounds Personal Services #162010 of \$12,000 to Buildings and Grounds Contractual Expense #162040 \$12,000. They have gone over budget on Contractual Expense but they're going to have money left over so we are trying to move it now. Councilwoman Brown seconded. All aye votes cast. Motion carried.

Supervisor Hokanson made a motion that the Town Board authorize the transfer from the Worker's Comp line # A904080 \$5,548 to Unemployment Insurance #A905080 \$5,000, Disability Insurance #A905580 \$500, and Employee Assistance #A908980 \$48. Councilwoman Brown seconded. Supervisor Hokanson, Councilman Lewis, Councilwoman Brown, and Councilwoman Williams voted aye, Councilman Logan did not vote because he didn't feel he had enough information.

Supervisor Hokanson made a motion that the Town Board authorize the budget line modifications from Budget Personal Services #A34010 \$5,100 to Independent Audit Line

#A132040. Councilwoman Williams seconded. This will pay for the Audit. The check has already been written. All aye votes cast. Motion carried.

Supervisor Hokanson made a motion that the Town Board authorize the transfer from Medical Insurance #A906080 \$35,950 to Refuse Equipment Line #A816020 \$1,750 , Contractual Expense #A8160.40 \$6,850, Personal Services #A818910 \$21,000 , Equipment #818920 \$350, and #A818940 \$6,000. Councilwoman Williams seconded. All aye votes cast. Motion carried.

Supervisor Hokanson made a motion that the Town Board approve the prepayment of the following vouchers – must hold off on these because need to transfer funds and Councilman Logan and Councilwoman Brown say there is not enough money in the Community Center’s budget lines. They would like to see the Revenues that would cover these expenses. So, they are not going to pay the \$814.62 from budget line #5227150.458 and the \$130.31 from budget line #5227150.441, a total of \$944.93 which they will subtract from the Warrant which would then make the corrected A fund line \$159,087.77 and the corrected Total Expenditures \$382,416.09.

Special Meeting Scheduled: Supervisor Hokanson scheduled a meeting for Wednesday, December 21, 2011 at 9 am in order to deal with this issue. Councilman Logan and Councilwoman Brown would like to see the Revenues before they approved these payments.

Councilman Logan made a motion to authorize the Supervisor to sign the modified Warrant in the amount of \$382,416.09. Councilwoman Brown seconded. All aye votes cast. Motion carried.

At 10:43pm Supervisor Hokanson made a motion to Adjourn. Councilwoman Williams seconded. All aye votes cast. Motion carried.

Respectfully submitted,

Kathryn Varuzza

Deputy Town Clerk