

Town Board Meeting, October 27, 2011

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

At 7:30 p.m. Supervisor Hokanson opened the meeting with the Pledge of Allegiance.

Agenda: additions by Supervisor Hokanson: removal of street lights. NYSERDA grant letter of support, police request for Personal Floatation Device and Throw Bags out of Seized Assets. A motion was made by Supervisor Hokanson to adopt as amended. Seconded by Councilman Logan, all aye votes cast, motion carried.

Public comment- Pete Savago, Town Resident, asked why the Court House roof has not been fixed since it blew off 9 months ago and there are now sand bags on the roof. Supervisor Hokanson responded that it was a good question and that she has to ask the Director of Buildings and Grounds why it has not been fixed. To his questioning if she had filed an insurance claim, she responded that she has not filed an insurance claim because she did not receive any reports or quotes from Buildings and Grounds that she needed to do so. Asked how could she not know, she responded she doesn't have enough information from her Buildings and Grounds Department. He asked why Buildings and Grounds when it's a Board function. Response: the Town owns the building. He asked why has nothing been done about it for nine months? Councilman Logan said he knows they had a discussion about it and he knows they signed a voucher at some point for a Contractor to go up there. In this budget you do propose \$15,000 for the Court roof. So what's that \$15,000 for? She responded that she knew there had to be something on it but she hadn't gotten any reports from my Building Department nor did she get any quotes from them for getting it repaired, but I knew that something had to be done. Councilman Logan said I remember seeing quotes on it, because I remember signing a voucher. She responded that she hadn't seen any quotes on it. He said that we did have a conversation that you were going to make an insurance claim on it. She said she doesn't recall having a conversation about an insurance claim. Councilman Logan said so you do know there is something wrong with it. She responded that there have been ongoing issues with the Court roof for many years. Pete asked why do we have to put it in the budget when we have insurance on it? She said you can't use insurance to replace a roof. He said when it blows off you can. So why is it in the budget if it should be paid for by insurance and why hasn't it been taken care of for nine months? So, you did not submit it to the insurance company? She said no, she did not submit it.

Ray Lunati, town resident, indicated the Agenda shows Wetlands; he feels a "yes" vote for the law will negatively affect all properties and will incur another article 78. He asked the Board to vote "no" on the Wetlands Law.

Community Announcements- Calendar events.

Councilwoman Brown said she saw in the newspaper that Supervisor Hokanson had withdrawn from the race for Supervisor and she wanted to recognize Supervisor Hokanson's six years of service – she said that they've had many public disagreements but she has always admired her wisdom and work ethic and great wealth of knowledge.

Agenda Items- Dave Gordon, attorney, asked to go into Executive Session to discuss threatened litigation against the Board. Supervisor Hokanson made a motion to go into Executive Session to have a discussion with our attorney. A few members of the audience objected to their decision to go into Executive Session. Councilman Logan seconded with the understanding there would be a time limit of 15 minutes. All aye votes cast, motion carried.

7:50 p.m. Supervisor Hokanson made a motion for the Board to come out of Executive Session. Seconded by Councilwoman Williams, all aye votes cast, motion carried. Supervisor Hokanson told the Town Clerk for the record that there were no decisions made in Executive Session.

Wetlands Law EAF: Dave Gordon told the audience that the Board is in the process of considering a Wetlands Law. Part of this process under the State Environment and Quality Review Act is to consider a Declaration of Significance on the Wetlands Law. A Declaration of Significance is a determination by the Board whether the law might have at least one significant adverse environmental impact on the Town. In order to make that determination he and some of the other consultants to the Board are in the process of drawing up documents that are provided in the SEQR regulations called the Environmental Assessment Form (EAF) which breaks down the determination of whether or not there might be a significant adverse

environmental impact. Tonight he would like to have a Preliminary discussion based on the information that has already been provided to the Board as to whether the Board has any questions or concerns about the potential for significant adverse environmental impact. He says he doesn't anticipate that the Board will take a vote on it tonight. He said in particular Part 2 of long form EAF breaks down into he thinks it is 20 (?) sub-categories of potential environmental impacts, such as air, water, land etc. The Reports prepared by Town Engineer Dave Clouser who has prepared an Engineering report, and Spider Barbour, the Town's Wetland's Inspector, who has prepared an estimate of the potential impact on the Town from extending jurisdiction over particular types of Wetlands which are known as Quality Vernal Pools. The Wetlands Law is a proposed local statute which would institute a permitting program for a variety of activities in wetlands, water courses, water bodies, or their buffer zones. As such it is a little bit different than the types of actions that often are subject to SEQR review which are in many cases permits for physical activities which can directly impact environmental resources. An example would be a site plan approval for a type of a land development project. One of the primary goals here is to essentially determine the amount of land that is coming under jurisdiction and the potential for this permitting program to somehow negatively impact the character of the Town. We've prepared draft documents which reflect some of these issues. There are drafts of Spider's report and Dave's report that have been circulated to the Board and I would just ask for preliminary discussion tonight before finalization of these documents as to whether the Board has any questions on any of the categories of impact which have been identified under the SEQR document. Supervisor Hokanson told Dave Gordon that she thought he did a really substantial and thorough job on Part III, answering all the questions and concerns that the Public brought up as well as what the Board was concerned about, so I want to commend you and thank you for that.

Councilwoman Brown- in reviewing EAF – She said that she noticed that any place where there is any impact it is in the small to moderate category. She said what is confusing about SEQR language is a positive declaration in the universal world of SEQR means it is a bad thing. Dave Gordon commented that this law adds another layer of protection to the SEQR process and other laws and regulations that are already in place- Councilwoman Brown added one of the things that was a concern to some of the Board members in the past was there's a question as to whether or not people would be able to make repairs to existing septic systems that is one of the open-ended questions that has been remedied in this new law in terms of community character. She also wanted to note that during the 16 month period from November 2005 to March 2007 when the law was in effect there were five subdivisions that were reviewed and later approved. And so it wasn't an obstacle to development which many members of the Public thought that it might be.

Councilman Logan indicated Part II- wouldn't even be here if it weren't for the Supreme Court overturning in (2001) The Clean Water Act when they got rid of a big piece of it and regulation of it was then turned over to the States. He asked about the extensive Part III-Is Part III normally triggered by having potentially large impact or can it be triggered by a small to moderate impact? Dave Gordon answered we took a fairly extensive approach to Part III. The EAF is not a rigid document, it is really a tool. He said in general if it's going to have a moderate to large impact you are supposed to explain it in Part III, but we went beyond that and made Part III a general explanation tool for all these issues.

Councilwoman Brown offered thanks to Dave Clouser and Mike Merriman for vast work done.

Dave Clouser- He commented that during that 16 month period when we had a Wetlands Law, the Wetlands Inspector was out there and of all the calls that he had there was no permit that was actually required. Dave Gordon said that within the next couple of days we will be finalizing based on conversations we've been having and some of the feedback that we got from the Board members we are going to be finalizing Part III and the attachments that go into some of this technical detail; and we'll be transmitting this to you probably the beginning of next week. The Board will have a couple of weeks to review this in detail and then at the next meeting we will go through the forms, particularly the Parts II and III question by question see if the Board has any responses and then we are going to ask the Board to evaluate whether in your view there would be significant adverse environmental impacts for each of the categories that we're going to look at and then at the end we will consider a Declaration of Significance.

Street Lighting: The Committee received a list to conserve energy. The Street Light Committee shared their concerns with L.T. Oserchuck- turn off 26 lights recommended for a six-month trial basis. Supervisor Hokanson told residents we would not turn off lights that they felt strongly about not wanting turned off.

They requested- exclude 1 on Plutarch and two on Brouck-Ferris- They requested all lights stay on at Cherry Hill --which is six out of 25 in Cherry Hill.

Motion: Councilman Logan made a motion to take recommendations from the Committee and remove the 26 lights listed in the report for a six-month trial basis. We can turn them on again if Emergency Services has an issue. Seconded by Councilwoman Brown. Supervisor Hokanson won't support that because it doesn't exclude the few that people requested be excluded. Councilwoman Williams would like to amend that motion to exclude the Plutarch church area (#3672). Councilman Logan accepts that amendment for 25 lights and the light at Rt. 32 North and Clearwater Park, which will be replaced with a Town owned lamp that we could control when not needed. Seconded by Councilwoman Brown, vote: four ayes and one nay cast by Supervisor Hokanson. Councilwoman Brown clarified that this is just to turn them off and not to remove them. Motion passed.

Budget meetings: November 1st at 7 p.m. -- we will need revenue sheets, particularly Recreation. Need to meet with Recreation, Highway, Police Department and Buildings and Grounds, and 11/7. Councilwoman Brown suggesting having all meetings with Departments be over by 8 pm on November 7th so we can start going through it the way we do. Supervisor Hokanson suggested to do Recreation, Highway, and Buildings and Grounds on November 1st and the Police Department on the 7th at 7 p.m. Agreed by the Board, and hold the Public Hearing on November 15, 2011.

Motion: Supervisor Hokanson made a motion to set a Public Hearing for the 2012 Preliminary Budget on November 15, 2011 at 7 p.m. Seconded by Councilman Logan, all aye votes cast, motion carried.

2012 Budget: Councilwoman Brown made a request for the departments to submit their budgets in the same format, either what Jeff formatted for us or you formatted and that they include Revenues. Supervisor Hokanson replied that they don't do revenues and Councilwoman Brown felt they need to get them from the bookkeeper to assist the Board working on the budget. Councilman Logan added that the format needs to be 8 ½ by 11 and in a readable format. The figure of the tax rate per \$ thousand could not be answered tonight, the Supervisor will re-send it to Councilman Logan.

Police: Councilwoman Brown is hoping to eliminate the weekend night shift- assign one officer less a week. Councilwoman Williams doesn't want to micromanage the Police Department. She suggests that they give the Police Department a ballpark amount and let them and the Police Commission decide where to make the cuts. Randall Leverette from the Police Commission asked the Board to give them a ballpark number because the issue is every time the Police Chief makes cuts to his budget he is told it is not enough. If the Board provides a dollar figure they should cut from their budget they can figure out where to make the cuts. Councilman Logan feels we can save money by not back filling, or to get rid of the Police dog. Supervisor Hokanson asked how can you pick an arbitrary number, and suggested it would be better if we picked a percentage.

Woodland Pond: tree planting and bench installation. Jack Richey, Executive Director of Woodland Pond appeared before the board. Councilman Logan is completely dissatisfied with his proposal. 60 inches for bench is standard, this one is only 48 inches. In addition he is disappointed that these benches are not cement or very heavy like all the other benches around town. These benches are very flimsy and he is not happy with the way the proposal to anchor them with spikes. He said that the benches need to be heavy commercial benches and anchored down with cement or they will be vandalized or stolen in a very short period of time. The benches Woodland Pond had proposed are residential not commercial benches. Supervisor Hokanson added he wants the bench ends to be concrete with the slats either wood or a composite material. He suggested Woodland Pond look at the benches at the Peace Park, or the one outside of Town Hall. The Town requested up to six trees. He is disappointed that after waiting 3 years Woodland Pond didn't offer six trees. They are only offering five trees but we'll accept five. Councilman Logan added he is concerned by the weeping willow-they are fragile when they're young, and very invasive when they are older. Their roots grow shallow and they rip things up. They require a lot of maintenance. They are very messy. Supervisor Hokanson added that she had suggested the Weeping Willow because of the amount of water in that area. They love water. Councilman Logan asked Dave Clouser if he thought that spot was a good spot for a Weeping Willow. He said yes. Councilwoman Brown suggested that in addition to the Weeping Willow they plant additional trees, so she'd actually like them to have 7 trees because Weeping Willows only last 10 to 20 years, so when the Weeping Willows start to go they'd have the other trees to fill in. Supervisor Hokanson pointed out but they have 3 maples going in with the 2

Weeping Willows. Councilwoman Brown said but in 20 to 30 years when the Weeping Willows go we'll only have 3 trees. Supervisor Hokanson said what she would like to do is okay the trees, okay the bench as amended tonight and allow Dave and myself to sign off on the location and not make this come back to the Board. Councilman Logan said he would like to see the bench that they put in. He added he's waited 3 years. He can wait one more meeting. He said Dave didn't have to come back for it. Supervisor Hokanson replied that she just doesn't want to miss this planting season. Supervisor Hokanson asked Councilman Logan so if he agrees to the bench that is outside Town Hall or its equivalent can we go forward with this and not make him come back? Councilman Logan replied. Yes, I don't want to make him come back. The Supervisor told Jack Richey that she and Dave will come out there and talk about where the trees should be planted because she said she doesn't want them to just be hovered around the bench. He said that was fine.

Motion: Councilwoman Williams made a motion to accept this as amended. Seconded by Councilman Logan, all aye votes cast, motion carried.

Subdivision Improvement Agreement for Hickory Ridge- Dave Clouser said he found a typo. He said it is on page 2 second whereas from the bottom, he said if you read that it sounds like they are going to complete the work before the subdivision plan is signed and before the bond is posted. It's backwards. Supervisor Hokanson asked on clarification on what it needs to say. He said it needs to take out the part that says completes the work to the reasonable satisfaction of the Town Highway Superintendent and Town Engineer that part comes out so it would be wherever at such time the Developer requests signature of the subdivision plan. Supervisor Hokanson said so we are at the last phase of Hickory Ridge, and we are accepting a bond and will allow them to move forward with building houses without fully completing the road. Dave Clouser said the road is completed except the Town Highway Superintendent wants to have it sealed because it was completed back in 2005. Then they didn't go ahead with the plans until just last year. It was the last section of Hickory Ridge. It's about 500 feet long or so. It comes to a hammerhead. That was put in. They did a good job on it but they didn't pursue the subdivision. They came back and the road is ready to be dedicated except it needs to be sealed. And there is an easement that we noticed. The drainage was on a piece of private property and there was no easement for it. So they need to redirect to drainage and that's where this cost comes up. It's roughly \$50,000 to redirect that drainage and seal the road. And that \$50,000 includes the cost if it were a Public Works Contract with prevailing wages. Councilman Logan added so if there is a failure to perform the \$50,000 will cover. Dave Clouser continued and after the road is accepted by the Town they are going to post a Maintenance Bond for \$25,000 that's good for 2 years after it's accepted that's in case a flaw shows up that needs to be corrected. There's money available for that also. He said normally the Maintenance Bond is one year but we wanted to make sure it went through a frost cycle at least and they're not sure how long it's going to take for the build out. They know that they have one house right now. One lot that's up for sale, guess there's a contract on it. There are 6 lots total for this last section.

Motions: Supervisor Hokanson made a motion that the Town Board authorize her to sign the Subdivision Improvement Agreement with Hickory Ridge and The Performance and Maintenance Bond Agreement with Hickory Ridge. Seconded by Councilwoman Williams, all aye votes cast, motion carried.

Councilwoman Brown asked so this project was alive for 5 years? Councilman Logan added so that was my next question. Can you put in these any point because we are having an issue now with a non completed one. Is there a way to put actual dates in this? Dave Clouser said there's an August of next year when this is supposed to be completed. It can be extended but it has to come back to the Town Board for that extension. Councilman Logan said and if we deny the extension do we end up in Court then in litigation to get the Performance Bond? Dave Clouser responded we deny the extension we can use the letter of credit to go ahead and do the work. That's what that Bond is for. Councilman Logan asked do you end up in court over it? Dave Clouser responded no that's the nice thing about a letter of credit you can go to the bank and give them a bag and say fill it up. You don't have to go through the process of disagreement. It's part of the agreement in the letter of credit. Councilman Logan asked that's why it's better than a bond? He answered yes.

Local Law to Extend Time of Site Plans and Subdivisions- Supervisor Hokanson believes this is coming to us from the Planning Board. Town Engineer Dave Clouser concurred, explaining the Board needs to do an Amendment to the Zoning Law to extend Site Plans partially because of the economy right now. There's an approval that they have to build within one year and there's an allowance for one 90 day extension. Right

now we have two projects that have the one year that's gone by that they got their first 90 day extension. One of them is the Hampton Inn-the reason that hasn't been built is there is litigation. The other is K& E Beverage that's doing some work there. Unable to get their contractors together in their slow season they asked for an extension. The other is a Subdivision Law which changed by New York State Town Law to allow as many extensions as makes sense. Our Town Code though doesn't have that provision. State Law is higher than the Town Code in that case so this cleans up the Town code for Subdivisions. Councilwoman Brown asked about State Town Law superseding Local Law. Supervisor Hokanson replied our law can be more restrictive not less restrictive than the Town. Councilwoman Brown asked if that's the circumstance we're in right now; Supervisor Hokanson said yes. Councilman Logan asked about doing this through a code change; Supervisor Hokanson replied every code change is a local law. Councilwoman Brown said for the Hickory Ridge thing we were supplied the Minutes of the Planning Board discussion but I don't have anything from the Planning Board here. We did get an email from George Lithgo, Attorney for the PB. Dave Clouser responded there was an email from Mike Calimano, PB Chair that I saw late in the afternoon. She asked has this been on an Agenda of the Planning Board? Dave Clouser replied Monday night. Councilman Logan said they just discussed it Monday night as a formal request. Councilwoman Brown said okay. She asked what is the hardship that is caused if this isn't changed? What happens to a Site Plan that has expired? Dave Clouser responded they have to come back to the Board, they have to start not from scratch, but the Board has to go through the entire process again. She said of Public Hearings? He replied everything. He continued if there are regulations that change between the time that that extension happens they have to meet the most current regulations. But if there's nothing that's changed it's just a matter of giving the extension. And they have to show the reason why they need that too. It's still a Board decision whether or not they grant it or not. Councilman Logan asked can we make it so the Planning Board may or is that too Could the Planning Board potentially have the right to ask some of the changes to code be followed during that period? Dave Clouser responded if the Code changes between the time that they got their approval and the extension they have to meet whatever the current code is. Councilman Logan said okay. Supervisor Hokanson added and it does say the Planning Board may extend the time. It doesn't say they will. Councilwoman Brown said she was just concerned that a bad plan could be grandfathered in indefinitely. Dave Clouser said it's not really grandfathered. And he added it's always up to the Planning Board. There needs to be a reason why they need this extension. She said that she'll vote to set the Public Hearing but she has a sinking feeling about this that there is some unintended consequences that I'm not seeing. And she said she'll get herself more educated about this in time for the Public Hearing.

Motion: Supervisor Hokanson made a motion to declare the Town Board Lead Agency for this action and to set the Public Hearing date for this at 7 p.m. on December 1st. Seconded by Councilman Logan, all aye votes cast, motion carried. On December 1st at 7 p.m. this Public Hearing for the Local Law to Amend Time of Site Plans and Subdivisions will be followed at 7:15 p.m. with a Public Hearing for Water and Sewer Rates.

Letter of support for NYSERDA grant: The Town is being asked to participate in a regional Sustainability Plan, there is no financial contribution required.

Motion: Supervisor Hokanson made a motion for the Town Board to authorize her to sign the letter of support. Seconded by Councilwoman Williams, all aye votes cast, motion carried.

Seized Assets Request: This is a request from the Chief to use Seized Assets approximately for less than \$1,000, somewhere between \$700 and \$900, for Personal Floatation Devices and Rescue Ropes.

Motion: Supervisor Hokanson made a motion to authorize the money from Seized Assets and to amend the budget so it can be spent for the floatation devices and rescue ropes as requested, not to exceed \$1000.00. Seconded by Councilman Logan, all aye votes cast, motion carried.

At 9:45 p.m. Councilwoman Williams made a motion to adjourn. Seconded by Councilman Lewis, all aye votes cast, motion carried.

Respectfully submitted,

Marian Cappillino
Town Clerk