

April 12, 2005 – Regular Meeting

The regular meeting of the Gardiner Town Board was held at 7:00 PM at the Gardiner Meeting Hall. Supervisor Zatz presided with Councilwoman Lemmon and Councilmen Fischer, Richards and Bialecki all in attendance. Approximately 26± audience members were also present.

ANNOUNCEMENTS

Special Meeting - Supervisor Zatz reminded all of the special meeting to be held on April 14 at 7:00 PM for the purpose of discussing the ARR-200 Zoning Law.

Summer Recreation – registration and information on the program is on the website. Applications are still being accepted for Director, Assistant Director and Counselors. For more information contact Mary Beth Majestic at 255-0091.

Earth Day – for Earth Day this year a clean up day has been scheduled for April 23 beginning at 9 AM. Orange bags are available at the Town Hall. There will be no charge at the transfer station for anyone bringing trash from along the roadways in the orange bags. This is sponsored by the Friends of the Library.

Gardiner Croaks – a free Earth Day Event sponsored by the Gardiner Environmental Conservation Commission. Search for frogs and other amphibians along the rail trail. The event will be held on Sat. April 23 at 10 AM. Participants are to meet on the Rail Trail behind the Town Hall Offices.

NOTIFICATION LAW

The recommendations from the Planning Board and the Ulster County Planning Board have been reviewed by attorney David Brennan. He believes the recommendations are good and suggests re-drafting the law.

SUPERVISORS MONTHLY REPORT

On motion of Councilman Richards, seconded by Councilwoman Lemmon and carried the Supervisors report for the month of March was approved as presented.

CLAIMS

The claims were approved for payment on motion of Councilman Richards, seconded by Councilwoman Lemmon and carried. They are listed on Abstract # 4 as follows: General Fund voucher #180-294 \$104,782.02; Highway Fund voucher # 69-105 \$26,214.17; Sewer District #1 voucher #9-15 \$2,666.17; Gardiner Light District voucher #4 \$233.54; Library Fund voucher #30-37 \$1,836.53; Capital Town Hall voucher #20-37 \$15,332.93.

BUDGET TRANSFERS

Resolution No. 63 – Supplemental Appropriation – General Fund – Offered by Councilman Richards Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, General Fund, is hereby amended to provide a supplemental appropriation in the amount of \$1,832.96 in Acct No. 00.04.5132.414 Garage Fuel (Old Highway Garage).

Further resolved, said moneys to be taken from the unexpended balance in the General Fund.

Seconded by Councilman Bialecki and carried.

Resolution No. 64 – Supplemental Appropriation Capital Town Hall Fund – Offered by Councilman Richards

Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, Capital Town Hall Fund, is hereby amended to provide a supplemental appropriation in the amount of \$44,650.00 in Acct No. 30.01.1620.400 Town Hall Renovation.

Further resolved, said moneys to be taken from the unexpended balance in the Capital Town Hall Fund. Seconded by Councilman Bialecki and carried.

Resolution No. 65 – Transfer within General Fund – Offered by Councilman Richards

Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, General Fund, is hereby amended to provide a transfer of \$6,000.00 from Acct No. 00.01.1220.105 PS Confidential Secretary to Acct No. 00.01.1220.404 CE Supervisor Secretary, \$136.00 from Acct No. 00.01.1990.401 Contingent to Acct No. 00.01.1410.421 Town Clerk Office Supplies, \$1441.00 from Acct No. 00.01.1990.400 Contingent to Acct No. 00.01.1950.400 Taxes Real Property and \$2,000.00 from Acct No.

00.01.1990.400 Contingent to Acct No. 00.07.8020.460 Professional Services.

Seconded by Councilwoman Lemmon and carried.

TOWN HALL UPDATE

Sketch/drawings have been presented with a concept for the office which will be located behind the Town Meeting Hall. Supervisor Zatz would like to move ahead. Board members discussed at length allowing input from the Town Board, the need for an engineer for specific construction items, such as electric, plumbing and HVAC, how reporting would be done. Councilman Bialecki was strongly opposed to constructing this building without RFP's for each stage of construction. A motion was made by Councilman Richards, seconded by Councilman Fischer and carried to authorize the Supervisor to move ahead with the stipulation of a financial report every two months, a construction report every other two months and allow review of the construction plans by the Town Board before building begins. Councilman Bialecki and Councilwoman Lemmon both voted nay.

PUBLIC HEARING 8:00 PM - LOCAL LAW PARENT/GRANDPARENT TAX EXEMPTION

The legal notice was read by the Town Clerk for the scheduled public hearing for the parent/grandparent exemption law. Supervisor Zatz read the law and opened the hearing to questions and comments.

Scott Mosher – who will police whether a parent or grandparent still lives on the property? Supervisor Zatz responded that the Assessors would be responsible.

John Friedle – what if it is just a winter residence. Not eligible.

Louise Trancynger – would the exemption apply to all taxes or just to the newly constructed or renovated section of the residence.

CLOSE PUBLIC HEARING

On motion of Councilman Bialecki, seconded by Councilman Richards and carried, the public hearing was closed at 8:20 PM.

ADOPT LOCAL LAW # 4 - PARENT/GRANDPARENT EXEMPTION

On motion of Councilman Bialecki, seconded by Councilman Richards and carried, Local Law # 4 entitled Parent/Grandparent exemption was adopted.

SECTION 1 TITLE

This local law shall be a new section of the code of the Town of Gardiner entitled " **Real property tax exemption for living quarters for parents or grandparents.**"

SECTION 2 AUTHORITY

This Local Law is enacted pursuant to the provisions of New York State Real Property Tax Law Section 469 and Municipal Home Rule Law Sections 10 and 22.

SECTION 3 PURPOSE AND FINDINGS

A Pursuant to the provisions of New York State Real Property Tax Law Section 469, an exemption from taxation is granted to the extent of any increase in assessed value of residential property resulting from the construction or reconstruction of such property for the purpose of providing living quarters for a parent or grandparent, who is sixty-two years of age or older.

B. Rapidly increasing property taxes are placing a burden on those citizens who are on fixed incomes. Senior citizens especially are faced with the decision to move away from Gardiner and their family and homes.. The purpose of this local law is to exempt, from real property taxes to the extent provided by this local law, a portion of the property owned by persons who construct or reconstruct residential structures for the purpose of providing living quarters for a parent or grandparent of one of the owners.

SECTION 4

A. This exemption shall only apply to premises being constructed or reconstructed for a parent or grandparent who has attained the age of sixty-two years or older prior to the application for the exemption.

B. Pursuant to the provisions of New York State Real Property Tax Law Section 469, an exemption from taxation is granted to the extent of any increase in assessed value of residential property resulting from the construction or reconstruction of such property for the purpose of providing living quarters for a parent or grandparent, who is sixty-two years of age or older. Such exemption shall not exceed (a) the increase in assessed value resulting from construction or reconstruction of such property, or (b) twenty percent of the total assessed value of such property as improved, or (c) twenty percent of the median sale price of residential property as reported in the most recent sales statistical summary published by the State Board of Equalization and Assessment for the County in which the property is located, whichever is less.

C. No such exemption shall be granted unless:

(a) Construction or reconstruction is done pursuant to a validly issued building permit or as otherwise permitted by law; and

(b) The residential property so constructed or reconstructed is the principal place of residence of the owner.

D. Such exemption shall be applicable only to construction or reconstruction which occurred subsequent to the effective date of Real Property Tax Law Section 469, and this local law, and shall only apply during taxable years during which at least one such parent or grandparent maintains his/her primary place of residence in such living quarters.

E. Such exemption from taxation shall be granted upon an application made annually, upon a form to be promulgated by the New York State Board of Equalization and Assessment, by the owner of such property to the assessor of the city, town, village or county having the power to assess property for taxation on or before the appropriate taxable status date of such city, town, village or county. If the assessor is satisfied that the property is entitled to an exemption pursuant to this section, the Assessor shall approve the application and such residential improvements shall be exempt from taxation and special ad valorem levies as provided in this section.

F. For the purposes of this local law, the term “parent or grandparent” shall be deemed to include the natural and/or adoptive parents or grandparents of the owner or the spouse of the owner.

SECTION 5

A. Any conviction of having made any willful false statement in the application for such exemption shall result in:

(a) Revocation of the exemption; and

(b) A civil penalty of not more than \$250.00; and

- (c) Disqualification of the applicant(s) from further exemptions for a period of five years; and
- (d) The applicant(s) refunding to the Town an amount equal to five times the taxes saved in the last year in which the property benefited from the exemption, plus interest at nine percent.

SECTION 6 VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances.

SECTION 7 REPEAL

- A. All ordinances, local laws and parts thereof that are inconsistent with this Local Law are hereby repealed.
- B. To the extent that this local law is inconsistent with the provisions of Real Property Tax Law section 469, it is the intention of the Town of Gardiner to exercise its right to supersede said statute pursuant to sections 10 and 22 of the Municipal Home Rule Law.

SECTION 8 EFFECTIVE DATE

This Local Law shall take effect immediately upon the filing in the office of the New York State Secretary of State, and shall apply to real property having a taxable status date on or after the first day of January next succeeding the date on which this act shall have become law.

PUBLIC HEARING 8:10 PM - LOCAL LAW ALTERNATE PLANNING BOARD AND ZONING BOARD OF APPEALS MEMBER

The public hearing for a local law to appoint alternate members to the Planning Board and the Zoning Board of Appeals was opened with the reading of the legal notice. Supervisor Zatz immediately opened the hearing to the audience for questions or comments.

Michael Boylan – stated that he felt the intention of the law was for an appointment when a quorum was not met. He believes that an alternate should be present at all meetings, voting only when needed. An alternate member must be fully informed of each project in order to vote intelligently.

Scott Mosher – asked if the alternate would be required the same schooling as any other member. He feels that alternates should be held to the same standards and qualifications.

Councilman Bialecki – agrees and suggested that a paragraph to that effect should be drafted into the law.

John Friedle – if the alternate is not at all the meetings he/she would not be well informed. Asked what the Chairman of the ZBA thought about this law.

Supervisor Zatz stated that Mr. Beck was at first opposed, but now agrees with the law. He also stated that the Association of Towns encourages alternates because of conflicts of interest.

Bruce Chapman – have applicants asked for full Boards when they have appeared before the Planning Board or the Zoning Board of Appeals.

Joseph Trapani – will an alternate take the place of a recused member.

Yvonne Allenson – an alternate should be as knowledgeable as each Board member.

Daryl Carr – perhaps the Town Board could explore expanding the number of members on each Board.

Supervisor Zatz – responded that the State sets the number of member allowed.

Louise Trancynger – supports the law. Perhaps the Town Board would consider 2 alternates per Board. Mrs. Trancynger believes it is the Town Board’s responsibility to choose the alternates.

CLOSE PUBLIC HEARING

At 8:30 PM the public hearing was closed on motion of Councilman Bialecki, seconded by Councilman Richards and carried.

ADOPTION LOCAL LAW # 5 - ALTERNATE PLANNING BOARD & ZONING BOARD OF APPEALS

On motion of Councilman Bialecki, seconded by Councilman Richards and carried, Local Law # 5 entitled “ Alternate Members of the Zoning Board of Appeals and Planning Board” was adopted with the addition of “adherence to the minimum education standards and attendance requirements at the discretion of the board chairman.”

Councilwoman Lemmon voted nay.

ACCEPTANCE OF PRIVATE ROAD NAME

Resolution No. 66 – Acceptance of Private Road Name – Campagna Road – Offered by Councilman Richards

WHEREAS, the Town Board has received letters dated March 16 and March 23 requesting approval for the name of a private road to be known as Campagna Lane, which said private road intersects a public highway known as Route 32, and

WHEREAS, the proposed name must be reviewed and approved by the Ulster County Real Property Tax Service Agency, then

RESOLVED, in accordance with Resolution No. 32-1992, the Town Board hereby approves the name Campagna Lane for said private road.

Seconded by Councilwoman Lemmon and carried.

PACE UNIVERSITY SRBP GRANT APPLICATION

Resolution No. 67 – Offered by Councilman Bialecki

WHEREAS, the Town of Gardiner seeks to participate in the training program through Pace University Land Use Law Center; and

WHEREAS, this training has had a very positive effect on the approach to planning taken by those who have already completed it; and

WHEREAS, the training program’s director has agreed to customize the program to provide a focus on the Shawangunks and on using ridge-specific ecological information as part of the local planning process; and

WHEREAS, it is understood that the Shawangunk Ridge Biodiversity Partnership has committed to raising the \$15,000 balance of funds for the training program; and

NOW, THEREFORE BE IT RESOLVED that the Town Board of the Town of Gardiner a New York State Municipal Corporation and a Hudson River Valley Greenway Community, hereby resolves to submit as co-applicant a grant application to the Hudson River Valley Greenway Communities Grant Program requesting \$20,000 for this training.

Seconded by Councilman Richards and carried.

CELL TOWER COMMITTEE REPORT

Alex Garvin and Paul Colucci members of the cell tower committee were present to discuss their findings. Mr. Garvin explained the need for cell service in the Town and the proposal made by Jeff Staley of JNS Enterprises. The committee researched the relationship with JNS Enterprises with the Towns of Woodstock and Rhinebeck. Each town highly recommended working with this company. Revenues for each town average \$30,000 annually. The Town Hall property is not eligible for a cell tower since it is on the historic register. The best location in Town appears to be the transfer station property. Town Board members questioned whether the Town could construct the tower increasing the revenue to the Town. Maintenance would be a problem. Town Board members asked Mr. Garvin to contact cell providers to see if this is cost prohibitive.

ENVIRONMENTAL CONSERVATION COMMISSION

Lewis Eisenberg, Chairman of the ECC was present to discuss hiring a planning consultant for open space. The commission has interviewed 3 candidates and recommends Behan Planning Associates. This company has also been recommended by the NYS DEC. Mr. Eisenberg presented a timeline with work beginning in May 2005 and ending in June 2006. The cost is \$60,000, the first phase being \$27,000 and the second phase \$34,000. The ECC will apply for grants to help with the funding. There is a slight possibility of raising all the funds. No decision was made.

MISCELLANEOUS

County Bridges in our area will be receiving extensive repairs. Lake Road, Clove Road and Sand Hill Road bridges are on the list for work. Mike Calderone reminded Board members that \$52,000 was budgeted in 2000 for the repair of Lake Road at the same time as the bridge repair.

SPEED LIMIT PETITION MCKINSTRY ROAD

A petition has been received from the residents of McKinstry Road requesting that the speed limit be reduced to 35 MPH. On motion of Councilman Bialecki, seconded by Councilman Richards and carried the following resolution was passed:

Resolution No. 68 – Speed Limit McKinstry Road – Offered by Councilman Bialecki

Resolved, pursuant to Section 1622.1 of the Vehicle and Traffic Law of New York State, the Town Board of the Town of Gardiner, upon recommendation of the Highway Superintendent of the Town of Gardiner and in recognition of the needs for safety of the highway cited in light of the traffic currently using said highway, hereby request that a lower maximum speed of 35 miles per hour be established on McKinstry Road, a County highway, between Albany Post Road and Bruynswick Road.

Seconded by Councilman Richards and carried. Councilwoman Lemmon recused herself.

MINUTES

On motion of Councilwoman Lemmon, seconded by Councilman Richards and carried, the minutes of January 11 were approved as written.

LITIGATION UPDATE

The Dorf/Gatch litigation was won by the Town of Gardiner as well as the Lighthouse Point litigation. There was nothing new to report on the Article 78 from Awosting Reserve on the comprehensive plan. A Notice of Appeal has been filed with regard to the decision on the Central Services Treatment Plant on the Awosting Reserve property.

ADJOURNMENT

On motion of Councilman Bialecki, seconded by Councilman Richards and carried, the meeting was adjourned at 9:50 PM.

Respectfully submitted,

Michelle L. Mosher
Town Clerk