

May 10, 2005 – Regular Meeting

### **EXECUTIVE SESSION**

Supervisor Zatz and Council members Bialecki, Lemmon and Richards met in executive session to discuss appointees to the ECC and the temporary Building Inspector. Motion to enter into executive session was made by Supervisor Zatz, seconded by Councilman Bialecki and carried at 6:05 PM.

A motion was made by Councilman Bialecki, seconded by Councilwoman Lemmon to appoint Joseph Hayes to the ECC. Motion was made by Councilman Bialecki, seconded by Supervisor Zatz and carried to appoint Vinny Brognano as temporary Building Inspector and Code Enforcement Officer under the supervision of Don Otis for a period not to exceed December 31, 2005.

### **LEAVE EXECUTIVE SESSION AND ENTER REGULAR SESSION**

The regular meeting of the Gardiner Town Board was held this date at the Gardiner Meeting Hall at 7:00 PM. Supervisor Zatz presided with Council members Fischer, Richards, Lemmon and Bialecki all present. There were approximately 40± audience members.

### **ANNOUNCEMENTS**

The Kid Work Library Craft Fair was a big success. Sadie Moran lead the program and raised \$200, half of which was donated to the Library.

**May 21** – Library Annual Plant Sale to be held at the Gardiner Meeting Hall. There will be a variety of herbs, flowering plants and vegetable plants available for purchase.

**Summer Recreation** – To date 85 children have registered for this year's summer recreation program. If anyone is still interested they may contact Mary Beth Majestic for more information.

**June 11** - Square Dance & BBQ at Majestic Memorial Park. Bring a favorite dish. Hamburgs, hot dogs, beans and drinks will be provided. Cost is \$5 per person or \$10 per family. The fun begins at 5:00 PM The event is sponsored by the Gardiner Day Committee.

### **AWARDS PRESENTATION**

Supervisor Zatz presented 42 awards to various employees, board members and committee members in recognition for each persons service to the Town of Gardiner. Those receiving awards were: Mathew Aube, Louis Benson, Michael Boylan, Chris Company, Kathleen Conner, E&K Computer Solutions, Susan Eckhardt, Virginia Esser, Melissa Fairweather, James Freiband, Diane Gleichenhause, Elsia Hill, Patricia Jacobsen, Daniel Keegan, Kellar & Kellar, William Kells, Barbara Kobelt, David Lamark, Peter Licis, Carol Ann Lohrman, Margaret Lotvin, Frank Maier, Marshall & Sterling, Merry McCall, Paul Mele, Morris Associates, Scott Mosher, David Olyphant, Mary Ann Osgood, Donald Otis, Wayne Otis, Thomas Power, John Sansalone, Jean Savago, Brian Stiscia, Beverly Tantillo, Jewell Turner, John Turner, Karen Vassell, Margarete Wagner, Ronald Welz and Rose Marie Williams.

### **PARKS & RECREATION COMMISSION REPORT**

Mike Gagliardi, Chairman of the Parks & Recreation Commission was present to explain to the Town Board the plans the commission has for park improvement for this year. A plan to build a skateboard park is the priority. A listing of short term and long term goals were addressed as well.

### **HIGHWAY DEPARTMENT**

Superintendent Haynes reported the start of preliminary work on Dusenberre Rd. Piping will be done after school ends. The crew has been busy with ditching, patching and cutting brush. Superintendent Haynes requested permission to expend \$14,000 for the purchase of a used paver from the Town of Neversink.

On motion of Councilman Richards, seconded by Councilman Bialecki and carried, Mr. Haynes was authorized to transfer from the unexpended balance for the purchase of a paver not to exceed \$14,000.

**PROPERTY TAX COMMITTEE**

Goia Shebar, Biran O'Connor, Michael Calderone, Brenda Bufalino and Tom & Carol Francese have met as a committee to address school tax reform. They did research to see how school taxes are levied in other states and have addressed the school tax problem with Assemblymen Cahill and Kirwan and Senator Bonacic. Ms Shebar noted that there is currently a Bill before the State Senate sponsored by Senator Bonacic to eliminate property tax as a way to levy school taxes.

**CELL TOWER UPDATE**

The cell tower committee has concluded that the best plan would be to contract with Jeff Staley of JNS Enterprises. No money would be expended by the Town and we would receive 50% revenue from the communication companies that use the tower. There may be five to six providers on the tower. On motion of Councilman Fischer, seconded by Councilman Richards and carried authorization was given to proceed with the project with JNS Enterprises, sign the contract while working with the Town attorney to be sure to comply with the zoning law and to begin the building process. Councilman Bialecki and Councilwoman Lemmon both voted nay.

**CHAIRMAN OF CELL TOWER PROJECT**

On motion of Supervisor Zatz, seconded by Councilwoman Lemmon and carried, Councilman Bialecki was appointed as chairman of the cell service committee along with Alex Garvin. Councilman Bialecki accepted the appointment.

**ENVIRONMENTAL CONSERVATION COMMISSION GREENWAY GRANT**

**Resolution No. 70** – Greenway Grant for ECC - Open Space Planner - Offered by Councilwoman Lemmon

WHEREAS, the Town of Gardiner, in its recently updated Master Plan, has identified open space planning as a key goal of the community and,

WHEREAS, John Behan of Behan Planning Associates, LLC has been identified as one of the leading open space planners in the Hudson Valley with a particular emphasis on building community consensus around environmentally sensitive planning for future growth and development. Mr. Behan is well-suited to be hired by the Town to help us develop a natural resources index, facilitate community meetings to identify areas where open space is desired and to help create mechanisms for offering attractive financial options and other incentives to those landowners interested in maintaining open space in Gardiner.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Gardiner, a New York State Municipal Corporation, authorizes Carl Zatz to file an application with the Hudson Valley Greenway for monies that will be used to hire John Behan Planning Associates as a consultant for developing and implementing an open space plan for Gardiner.

Seconded by Councilman Richards and carried.

**APPOINTMENT TO THE ENVIRONMENTAL CONSERVATION COMMISSION**

On motion of Councilman Bialecki, seconded by Councilwoman Lemmon and carried, Joseph Hayes was appointed to the ECC for a term to expire on May 4, 2006.

**TEMPORARY CODE ENFORCEMENT OFFICER & ASSISTANT BUILDING INSPECTOR**

On motion of Councilman Bialecki, seconded by Supervisor Zatz and carried, Vinny Brognano was appointed as temporary code enforcement officer and assistant building inspector for a period ending December 31, 2005.

**ALTERNATE PLANNING BOARD MEMBER**

Kathy Hudson has agreed to serve as alternate Planning board member and Board members agreed to her appointment.

**8:20 PM PUBLIC HEARING – NOTIFICATION LAW**

The Town Clerk read the legal notice for the public hearing for the notification law. Board members accepted the comments from the Town of Gardiner Planning Board and the Ulster County Planning Board and re-drafted the law. There were no questions or comment from the audience. At 8:45 PM the public hearing was closed on motion of Supervisor Zatz, seconded by Councilman Richards and carried.

**ADOPT NOTIFICATION LOCAL LAW**

On motion of Councilman Bialecki, seconded by Councilman Richards and carried, Local Law #7 was adopted a written.

A Local Law to Create a New Chapter 160 of the Code of the Town of Gardiner to Provide for Notice of Certain Applications, Notice of Certain Public Hearings and Posting of Certain Property Subject to an Application for a Land Use Approval.

Be it enacted by the Town Board of the Town of Gardiner as Follows:

**SECTION 1 TITLE** This local law shall be known as “A Law Amending the Code of the Town of Gardiner Creating a New Chapter 160 entitled ‘Notification Requirements for Applications Relating to Certain Land Use Approvals.’”

**SECTION 2 AUTHORITY** This Local Law is enacted pursuant to the authority of Municipal Home Rule Law Section 10 and in accordance with the Zoning Law of the Town of Gardiner, New York - Article XI entitled “Amendments.”

**SECTION 3 PURPOSE AND FINDINGS**

A. The Town Board desires to implement a procedure for certain applications for land use approvals and zoning changes to the Town Board, Planning Board and Zoning Board of Appeals to ensure that neighboring property owners are appropriately apprised of the fact that an application has been made for a land use approval or zoning change and that thereafter the neighboring property owners and the public are made aware of the date of any public hearing scheduled for such an application.

B. This law is an effort to increase opportunities for dialogue in the land use process. The Town Board believes that the land use approval process will benefit from the receipt of public comment on certain land use applications and zoning changes and that public comment will provide additional information to the various boards to consider in making a decision on an application.

C. Accordingly, the Town Board finds that the implementation of additional notice and posting requirements are in the best interest of the health, safety and welfare of the residents of the Town of Gardiner.

**SECTION 4 – CHAPTER 160**

**160-1. Title.**

This Chapter shall be known as “Notification Requirements for Applications Relating to Certain Land Use Approvals.”

**160-2. Purposes.**

This Chapter implements a procedure for applications for certain land use approvals and zoning changes to the Town Board, Planning Board and Zoning Board of Appeals to ensure that certain neighboring properties are appropriately apprised of the fact that an application has been made and the date of any

public hearing on such application.

The Town of Gardiner Town Board has determined that increased opportunities for dialogue and public comment on certain land use applications and requests for zoning changes will benefit the decision-making process by providing additional information to the various boards to consider in making a decision on an application.

**160-3. Notice Requirements.**

A. For any application or petition (collectively “application”) received for a zone change, zoning variance, appeal of a decision of the Building Inspector, special permit, subdivision approval, site plan approval, or junkyard license, whether before the Town Board, Planning Board or Zoning Board of Appeals, the clerk of the board in receipt of such application shall implement such procedures to accomplish the notice requirements contained herein. Where this section refers to a distance, such distance is measured from the property boundary of the parcel which is the subject of the application.

(1) Notice of Application - Upon receipt of an application, the clerk of the board shall make provision to notify certain property owners, as set forth herein, by providing written notice of the application to be delivered via first class mail with such notice to be mailed within seven days of the board's receipt of the application. Such notices shall be sent to the last known address of the property owner as shown by the most recent Town tax records. If the subject property lies within five hundred (500) feet of the boundary of any other municipality, the clerk shall notify the Municipal Clerk of such other municipality of the application in the manner set forth in this paragraph. The property owners to be notified are:

- (a) Special Permit - properties within 250 feet;
- (b) Use Variance - properties within 500 feet;
- (c) Area Variance - properties within 250 feet
- (d) Subdivision Approval (Major) - properties within 500 feet;
- (e) Subdivision Approval (Minor) - properties within 250 feet;
- (f) Zoning Changes – properties within 500 feet;
- (g) Appeals to the ZBA of any decision of the Building Inspector – properties within 250 feet;
- (h) Site Plans – properties within 250 feet; and
- (i) Junkyard Licenses - properties within 500 feet.

(2) Notice of Public Hearing - Upon the scheduling of a public hearing by a board, the clerk of the board shall make provision to notify certain property owners, as set forth herein, by providing written notice of the public hearing to be delivered via first class mail with mailing of the notice to be completed at least five days prior to the public hearing, except for zoning changes which shall be mailed at least 10 days prior to the public hearing. Such notices shall be sent to the last known address of the property owner as shown by the most recent Town tax records. If the subject property lies within five hundred (500) feet of the boundary of any other municipality, the clerk shall notify the Municipal Clerk of such other municipality of the application in the manner set forth in this paragraph. The property owners to be notified are:

- (a) Special Permit - properties within 250 feet;
- (b) Use Variance - properties within 500 feet;
- (c) Area Variance - properties within 250 feet;
- (d) Subdivision Approval (Major) - properties within 500 feet;
- (e) Subdivision Approval (Minor) - properties within 250 feet;
- (f) Zoning Changes – properties within 500 feet;
- (g) Appeals to the ZBA of any decision of the Building Inspector – properties within 250 feet;
- (h) Site Plans – properties within 250 feet; and
- (i) Junkyard Licenses - properties within 500 feet.

In addition, notice of such public hearing shall be published in a newspaper of general circulation in the Town at least five days prior to such hearing, except for zoning changes which shall be published at least 10 days prior to the public hearing. Such notice shall also be displayed on the town signboard maintained by the Town Clerk at least five days before the hearing, except for zoning changes which shall be displayed at least 10 days prior to the public hearing.

(3) Posting of Property - Notice that the property is subject to any of the above applications shall also be given by conspicuously posting signs on the subject premises. There shall be posted a minimum of two such signs on each subject parcel along the public roadway thereof. Such signs shall be of a form as determined by the Code Enforcement Officer. It is the responsibility of the Applicant to post such signs within five days of the submission of the application and to take all steps necessary to ensure that the signs remain legible during the pendency of the application. Such signs shall be removed within one week after the board makes a determination on the application. The applicant shall be required to submit an affidavit of posting to the clerk of the board.

B. The clerk of the board may elect to combine the notice of the application and the notice of a public hearing into one mailing where the minimum timeframes can be met.

C. The clerk of the board may elect to combine the notices provided for in this Chapter with any notices required under the State Environmental Quality Review Act.

D. The costs of all mailings, publications and signs shall be borne by the applicant. The applicant shall provide as part of its application two sets of envelopes, with a return address for the Town of Gardiner displayed, along with a master list of the addressees to be notified and payment for the required postage.

E. Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by a board in the granting or denying any application. Nothing contained in this law shall be construed to confer standing or any other rights in any proceeding commenced to challenge any action of the Town.

F. Nothing herein shall supersede any other notice or referral requirement contained in any state or other law. In the event of conflicting requirements, the earlier notification requirement shall control.

G. Any proposed zoning amendment introduced by the Town Board and of Town-wide or district-wide effect shall not be subject to this section except for the publication of notice. However, nothing in this law shall prohibit the Town Board from determining on a case-by-case basis to provide additional notice of any such zoning amendment.

**SECTION 5 OTHER AMENDMENTS**

A. Section 220-22(A)(8) is deleted and replaced with:  
Names and mailing addresses of all property owners within 250 feet of the property boundary along with two sets of envelopes, addressed to the owners in accordance with Chapter 160 of this Code.

B. Section 220-22(D) is deleted and replaced with:  
Referrals; notice of hearing. Applications shall be referred when required by law to the Ulster County Planning Board for review pursuant to the General Municipal Law at least 10 days prior to the required public hearing. Notice of the application and any public hearing shall be provided in accordance with Chapter 160. In the case of any special permit application pertaining to real property within a distance of 500 feet of the boundaries of any town or village, or state or county road, park or other state-owned facility, notice of such hearing shall be mailed to the Clerk of such town or village, and to the Clerk of the County Legislature not less than 10 days prior to such hearing

C. Section 220-60(D) is deleted and replaced with:  
Hearing on appeal. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof in accordance with Chapter 160.

D. Section 220-61(B)(2) is deleted and replaced with:  
Notice of the application and/or any public hearing shall be given in accordance with Chapter 160.

E. Section 220-74(B)(1) is deleted and replaced with:  
Notice of the application and/or any public hearing shall be given in accordance with Chapter 160.

F. Section 188-13A(5)(b) is deleted and replaced with:  
Public hearing; notice, length. The hearing on the preliminary plat shall be noticed in accordance with Chapter 160 if held independently of the hearing on the draft environmental impact statement, or on 14 days notice before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

G. Section 188-14C(4)(a)[2] is deleted and replaced with:  
Public hearing; notice, length. The hearing on the final plat shall be noticed in accordance with Chapter 160 if no hearing is held on the draft environmental impact statement, or on 14 days notice before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

H. Section 188-14C(4)(b)[2] is deleted and replaced with:  
Public hearing; notice, length. The hearing on the final plat shall noticed in accordance with Chapter 160 if held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

I. Section 136-6 is deleted and replaced with:  
A hearing on the application shall be held within the Town not less than two nor more than four weeks from the date of the receipt of the application by the Town Board. Notice of the hearing shall be given in accordance with Chapter 160.

**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, and the Town Board of the Town of Gardiner hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**SECTION 7 REPEAL**

All ordinances, local laws and parts thereof that are inconsistent with this Local Law are hereby repealed.

**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 in accordance with section 27 of the Municipal Home Rule Law.

**SUPERVISOR MONTHLY REPORT**

On motion of Councilman Richards, seconded by Councilwoman Lemmon and carried the April Supervisor report was accepted a presented.

**CLAIMS**

The claims were approved as written on motion of Councilman Richards, seconded by Councilwoman Lemmon and carried. They are list on Abstract #5 as follows: General Fund voucher #295-366

\$30,615.96; Highway Fund voucher #106-127 \$18,804.02; Sewer District #1 voucher #13-16 \$1,842.49; Gardiner Light District voucher #5 #2.97; Special Recreation voucher #2 \$1,400.00; Library Fund voucher #38-48 \$3,896.41; Capital Town voucher #37-49 \$16,449.33.

**BUDGET TRANSFERS**

**Resolution No. 71** – Transfer within General Fund – Offered by Councilwoman Lemmon  
Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, General Fund, is hereby amended to provide a transfer of \$400.00 from Acct No. 00.01.1990.400 Contingent to Acct No. 00.01.1670.438 Central Advertising, \$160.00 from Acct No. 00.01.1990.400 Contingent to Acct No. 00.06.7110.406 Welcome Signs and \$4,400.00 from Acct No. 00.01.1990.400 Contingent to Acct No. 00.01.1680.201 EDP Equipment.  
Seconded by Councilman Richards and carried.

**Resolution No. 72** – Supplemental Appropriation Capital Town Hall Fund – Offered by Councilwoman Lemmon  
Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, Capital Town Hall Fund, is hereby amended to provide supplemental appropriations in the amount of \$16,450.00 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 Richards and carried.

**Resolution No. 73** - Supplemental Appropriation General Fund – Offered by Councilman Bialecki  
Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, General Fund, is hereby amended to provide supplemental appropriations in the amount of \$1,280.00 in Acct No. 00.3045 Justice Grant carried forward from 2003 and, \$15,000.00 in Acct No. 00.07.8030.460 Master Plan.  
Further resolved, said moneys to be taken from the unexpended balance in the General Fund.  
Seconded by Councilman Richards and carried.

**PUBLIC HEARING CONTINUATION – TAMBURELLO SPECIAL PERMIT**

Supervisor Zatz permitted audience members to make any comments or ask any questions with regard to the special permit application before the Town Board for Mr. Frank Tamburello for the replacement of a mobile home on his property located on Old Ford Road.  
John Sansalone – asked if the property was in the flood plain. He was informed that it was not.  
There being no further questions or comments the public hearing was closed at 8:45 PM on motion of Supervisor Zatz, seconded by Councilman Richards and carried.

**SPECIAL PERMIT –TAMBURELLO MOBILE HOME REPLACEMENT**

**Resolution No. 74** – Offered by Supervisor Zatz

**WHEREAS, Frank Tamburello** has applied for a Special Use Permit for the replacement of a mobile home on property located in the AR-80 District in accordance with Section 220.14 of the Municipal Code (Zoning), and

**WHEREAS,** said application proposes the replacement of a a mobile home on a 2 Acre parcel fronting on Old Ford Road, and

**WHEREAS,** the Town Board of the Town of Gardiner held a public hearing on the application on March 8, 2005, and has otherwise conformed to the provisions of the Code; and

**RESOLVED,** pursuant to Chapter 220 of the Town of Gardiner Municipal Code, the Town Board hereby grants the applicant a Special Permit for the replacement of a mobile home in the AR-80 District subject to the following conditions:

1. Receive approval from the Ulster County Health Department for the septic system and its ability to adequately handle the increase in usage prior to the issuance of the building permit.  
Seconded by Councilwoman Lemmon

**SCHEDULE PUBLIC HEARINGS**

Board members scheduled a public hearing for Youko Yamamoto on an application for a Japanese noodle and specialty shop for June 7 at 7:15 PM.

The public hearing for Mario Milano scheduled for June 7 is re-scheduled for June 14 at 7:30 PM.

**WETLANDS CONTRACT**

Councilwoman Lemmon has spoken to attorney Paul Kellar and confirmed that an RFP is not necessary for this type of project since there is a sole source for this type of job. On motion of Supervisor Zatz, seconded by Councilman Bialecki and carried the Supervisor is authorized to sign the contract with NEWS USA providing that the sole source requirement satisfaction and the prevailing wages are included in the contract if necessary.

**ARR-200 ZONING LAW**

Attorney Joel Russell was present to review the changes and suggestions from the April 14 meeting. Mr. Russell is suggesting that the law be broken down into 3 separate laws ; driveways, fire ponds which would be covered under the subdivision regulations and ARR-200 zoning changes. Board members reviewed each section of the law and the changes from the suggestions at length. A public hearing was scheduled for June 14, 2005 at 7:45 PM. A public meeting was scheduled for May 31 at 7:00 PM to review the law in final form.

**ADJOURNMENT**

On motion of Councilman Richards, seconded by Councilman Bialecki and carried, the meeting was adjourned at 10:55 PM.

Respectfully submitted,

Michelle L. Mosher  
Town Clerk