

July 12, 2005 – Regular Meeting

The Gardiner Town Board met this evening at 7:00 PM in regular session at the Gardiner Meeting Hall. Supervisor Zatz presided with Councilwoman Lemmon and Councilmen Fischer, Richards and Bialecki all in attendance. There were approximately 50± audience members.

ANNOUNCEMENTS

Reading Radio Show – The Library is conducting a Reading Radio Show for the summer reading program. There are eight sessions with 35 children registered. For those who would like to listen in they may do so in the parking lot of the Gardiner Meeting Hall on 88.3 FM.

5K Classic – Will be held on July 21 at 6:30 PM beginning at Majestic Memorial Park. Registration forms are available at the Town Hall Offices.

Gardiner Day – August 20 from 11:00 AM to 5:00 PM. Volunteers are still needed. Please contact Jewell to volunteer.

Library Meeting – July 20. The purpose of this meeting is to meet with the architect and solicit public input.

BOARD VACANCIES

Yesterday was the last day to submit letters of interest for any of the upcoming vacancies on the ZBA, Parks and Recreation, Board of Assessment Review and Planning Board.

PRIVILEGE OF THE FLOOR

Pam O'Dell – is looking for the 2004 year end figures. Supervisor Zatz informed her they are available at the Town Hall Offices.

PUBLIC HEARING 7:15 PM – RALPH ERENZO COUNTRY INN/LODGE

The Town Clerk read the legal notice for the public hearing on an application of Ralph Erenzo to convert his home to a country inn/lodge (Bed & Breakfast). Questions and comments from the audience were as follows:

Annie O'Neill – supports the project

Scott Bittner – will music be a part of the activities.

Councilman Fischer – How many guests.

Councilman Bialecki – asked what building he was converting. Referred to a letter received from Judith Hassler & Denis Moran regarding the activities already taking place on the property and strongly questioned these other uses i.e. camping on the property, location of the camping and website advertising.

Ralph Erenzo – explained his project and stated that he intends the use to be a bed and breakfast only allowing for 10 guests in the main house. Any other activities have nothing to do with this property.

Evan Siroff – questioned what the uses are for a bed and breakfast.

Supervisor Zatz – responded overnight guests are allowed. No restaurants or pubs.

Vicki Morgan – explained they own 2 pieces of property. Spoke at length about their goal in making a living with their home, since they have been stopped from doing any other projects they have applied for.

Louise Trancynger – commented she has a friend that camps on Mr. Erenzo's property. He has never charged a fee. Mrs. Trancynger is angry about the way Mr. Erenzo has been treated in the past and suggested the board move ahead with the approval.

Councilman Bialecki stated that he is not opposed to the Bed and Breakfast but he is opposed to the other events going on. He believes that the zoning laws are being violated with other uses.

Councilman Fischer stated there are two allegations of multiple uses. He requested that these allegations be investigated.

CLOSE PUBLIC HEARING

On motion of Councilman Richards, seconded by Councilman Fischer and carried the public hearing was closed at 7:40 PM.

SPECIAL PERMIT RALPH ERENZO COUNTRY INN/LODGE

Resolution No. 84 – Offered by Councilman Richards

WHEREAS, Ralph Erenzo has applied for a Special Use Permit for the operation of a Country Inn/Lodge (bed and breakfast) on property located in the AR-80 District in accordance with Section 220.20 (F) of the Municipal Code (Zoning), and

WHEREAS, said application proposes the operation of a Country Inn/Lodge on a 12.1 Acre parcel fronting on Grist Mill Lane, and

WHEREAS, the Town Board of the Town of Gardiner held a public hearing on the application on July 12, 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 operation of a Country Inn/Lodge 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.

Seconded by Councilman Fischer and carried. Councilman Bialecki voted nay and Councilwoman Lemmon recused.

SEQR REVIEW

After a review of the short form SEQR, the Town Board determined there is no environmental impact from this project and declared a negative declaration on motion of Supervisor Zatz, seconded by Councilman Richards and carried. Councilman Bialecki voted nay.

LOCAL LAW PUBLIC HEARING 7:45 PM - SOLE ASSESSOR

The public hearing for the adoption of a local law to change the current three member elected board to an appointed sole assessor was opened at 7:45 PM by the reading of the legal notice by the Town Clerk. Supervisor Zatz reviewed the history of the law and noted that changes have been made to the law presented last year. Attorney Paul Kellar was present to answer any questions. Questions and comments were as follows:

Pam O'Dell – asked if the permissive referendum petitions presented last year were still valid.

Minke Kwak – commented that this is a newly drafted law.

Marion Kells – read a statement about the new law and how it threatens the voting rights of the citizens of Gardiner. Opposes the law and suggested a sole elected assessor.

Daryl Carr- agrees with Mrs. Kells. Is opposed to the law.

John Friedle – can the old petitions still be used. He had no problem with getting signatures last year.

Michael Calderone – Sole assessor is appropriate but believes it should be elected.

Minke Kwak – believes that a sole appointed assessor is better. A professional, experienced person can be appointed to the position vs. an inexperienced person being elected. The job is not what it use to be. Much more complicated.

Marty Kiernan – opposed to the law. Takes away the right to vote.

Michael Yukoweic – approves of the law. Feels it is necessary to have experienced and educated people in this position.

Daryl Carr – feels the elected officials take their jobs seriously.

Minke Kwak – commented that she was appointed to her position many years ago.

Yvonne Allenson – supports the law. Would like to see qualified individuals in this position.

Harold Agor – full time or part time? Informed full time.

Pam O'Dell – why can't the Town require a qualified elected assessor.

There being no further questions or comments, on motion of Councilman Richards, seconded by Councilwoman Lemmon and carried, the public hearing was closed at 8:15 PM. Attorney Paul Kellar will investigate whether the old petitions can be used again as well as whether the Board can require a mandatory referendum vs. a permissive referendum eliminating the need for a petition.

ADOPTION OF LOCAL LAW #8 – SOLE APPOINTED ASSESSOR

On motion of Councilwoman Lemmon, seconded by Councilman Bialecki and carried, Local Law # 8 entitled Sole Appointed Assessor was adopted. Councilmen Fischer and Richards voted nay.

A local law to establish the Appointive Office of Assessor in the Town of Gardiner pursuant to Section 328 of the Real Property Tax Law of the State of New York.

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

Section I – Purpose It is the purpose of this law to abolish the three (3) elected offices of Assessor in the Town of Gardiner and to establish the appointive position of Assessor under Section 328 and 310 of the Real Property Tax Law of the State of New York. The Real Property Tax Administration has become increasingly complex and requires a higher level of skill and experience than ever before. Therefore, the Town of Gardiner elects to appoint an individual who carries the Institute of Assessing Officers (IAO) designation, a designation which requires an individual to possess five years of experience and to successfully pass the required exams. Further requirements of the IAO designation include twenty-four hours of continued education credits each and every year.

Section II – Authority This Local Law is adopted pursuant to Section 328 of the Real Property Tax Law and Section 24 of the Town Law and Section 10 and Section 24 of the Municipal Home Rule Law

Section III – Date of Transition The three (3) elected offices of Assessor in the Town of Gardiner shall be abolished as of midnight December 31, 2005. The Town Board of the Town of Gardiner shall appoint a qualified person to the office of Assessor at its monthly meeting to be held on January 10, 2006. Notwithstanding the foregoing, the present Chair of the Board of Assessors shall hold over after December 31, 2005, until the appointment of Assessor of the Town of Gardiner has been made.

Section IV – First Term of Office The first term of the appointed Assessor shall be from January 10, 2006 to September 30, 2007, unless otherwise changed pursuant to Real Property Tax Law Section 310.

Section V – Subsequent Terms of Office The subsequent terms of office shall be for six (6) consecutive years commencing October 1, 2007, all pursuant to Section 310 of the Real property Tax Law of the State of New York.

Section VI - Qualifications Minimum Qualification shall be the IAO designation.

Section VII – Referendum Pursuant to Section 328 of The Real Property Tax Law, this local law shall be subject to a permissive referendum. In the event a petition with sufficient valid signatures and in the prescribed form is presented to and certified by the Town Clerk, a Special election shall be held , on a date to be determined by the Town Board, within sixty (60) days of the certification of said petition.

Section VIII This local law shall become effective upon filing with the Secretary of State.

SUNRISE EAST DEVELOPMENT

On the recommendation of attorney Paul Kellar, a few changes need to be made to the documents presented for approval of construction and the performance bond for Sunrise East Development. This will be addressed by the end of the month in a special meeting.

INCREASE OF HOURS FOR CONFIDENTIAL SECRETARY

Town Board members agreed to an increase of hours for confidential secretary Maureen Gallagher to 30 hours per week.

RESOLUTION FOR HUDSON RIVER ESTUARY PROGRAM GRANT

Resolution No. 85 -- Offered by Councilman Richards

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, the Environmental Conservation Commission of Gardiner is the lead agency in undertaking Open Space Planning for the town, and;

NOW THEREFORE BE IT RESOLVED, the Environmental Conservation Commission is authorized and directed to file an application for funding from the Hudson River Estuary Program in accordance with the provision of the Hudson River Estuary Management Act of the State of New York Department of Environmental Conservation in an amount not to exceed \$25,000, and upon approval of said request to enter and execute a project agreement with the Hudson River Estuary program for such financial assistance to the Town of Gardiner, a New York State Municipal Corporation, in developing and implementing an open space plan for Gardiner.

Seconded by Councilman Bialecki and carried. Councilman Fischer vote nay.

LIBRARY BOARD APPOINTMENTS

On motion of Councilman Richards, seconded by Councilwoman Lemmon and carried, Barbara Sides and Paul Trapani were approved for another term as recommended by the Library Board of Trustees. Terms to expire on August 1, 2010.

SUPERVISORS MONTHLY REPORT

The June Supervisors monthly report was approved on motion of Councilman Bialecki, seconded by Councilman Richards and carried.

CLAIMS

Claims were approved, subject to audit, on motion of Councilman Richards, seconded by Councilwoman Lemmon and carried. They are listed on Abstract # 7 as follows: voucher #442-504 \$38,589.54; Highway Fund voucher #160-183 \$7,108.06; Sewer District #1 voucher # 28-33 \$13,767.94; Gardiner Light District #1 voucher #7 \$193.20; Special Recreation voucher #9-12 \$6,011.44; Library Fund voucher #70-77 \$1,645.90; Capital Town Hall voucher #58-65 \$5,221.07.

BUDGET TRANSFERS

Resolution No. 86 – 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 supplemental appropriations in the amount of \$327.00 in Acct No. 30.01.1620.401 Equipment Maintenance, \$6,221.80 in Acct No. 30.01.1620.405 Other Contractual and \$231.00 from Acct No. 30.01.1620.402 Materials.

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. 87 – Supplemental Appropriation – Special Recreation Fund – Offered by Councilman Richards

Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, Special Recreation Fund, is hereby amended to provide supplemental appropriations in the amount of \$35. 00 in Acct No.

09.06.7110.438 Legal Notifications, \$7,000.00 in Acct No. 09.06.7110.410 Fireworks, \$2,250.00 in Acct No. 09.06.7110.439 Improvements and \$250.00 in Acct No. 09.06.7110.407 Staff Uniforms. Further resolved, said moneys to be taken from the unexpended balance in the Special Recreation Fund. Seconded by Councilman Bialecki and carried.

Resolution No. 88 – 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 supplemental appropriations in the amount of \$3,103.00 in Acct No. 00.07.8020.404 Planning Board Reimbursement, \$2,000.00 in Acct No. 00.07.8030.464 Open Space, \$253.00 in Acct No. 00.01.1220.422 Program Support, \$268.00 in Acct No. 00.01.1680.421 Office Supplies and \$8,523.00 in Acct No. 00.07.8030.460 Research Master Plan. Further resolved, said moneys to be taken from the unexpended balance in the General Fund. Seconded by Councilman Bialecki and carried.

Resolution No. 89 – 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 supplemental appropriations in the amount of \$1,085.00 in Acct No. 00.01.1440.460 Professional Service and \$23.00 in Acct No. 00.01.1110.421 Office Supplies/Justices. Further resolved, said moneys to be taken from the unexpended balance in the General Fund. Seconded by Councilman Bialecki and carried.

STEVE'S LAND BUSINESSES RESPONSE

Supervisor Zatz sent a letter to Wood Classics and to Kimlin Propane, two businesses on Steve's Lane that residents have complained about. The letter invited them to address the alleged violations and how to solve them. Tom Reynolds was present representing Wood Classics. There was no representative from Kimlin Propane. Supervisor Zatz read the letter that was sent. Tom Reynolds asked what the findings were from the Town Board. He has spoken to Town Board members and still is unaware of what the violations are. Let them know specifically what they are and they will make every effort to correct this situation. Councilman Bialecki restated the motion made to send this letter. Attorney Paul Kellar stated that in order to send a letter of violation the Town Board must do an assessment and create a record of the violations. You need a basis for the violations. There is no obligation of the Town to enforce any of the laws. If the towns so chooses they may commence a lawsuit, adopt a resolution and present a body of evidence to support the Towns claims. It is a very expensive action and it is very difficult to win noise pollution cases. The Town would need the best equipment and the best person with the best background to run the assessment. A lawsuit is an alternative to the zoning enforcement officer citing the violation. Through the justice court, the building inspector could bring the violations before the court where fines could be levied if found in violation or it can be addressed by the Supreme Court where the town would seek an injunction. Mr. Kellar suggested resolving the issue amongst themselves. Councilman Fischer suggested getting a meter reading to resolve whether there is a violation or not. Councilman Bialecki suggested a meeting with the Town Board, Mr. Goodman of Wood Classics and Mr. Kellar to develop reasonable mitigation of the situation. After a lengthy discussion a motion was made by Councilman Bialecki, seconded by Supervisor Zatz and carried, a meeting will be to schedule a meeting with Council members Lemmon and Fischer, inviting representatives from Wood Classics and Kimlin Propane to resolved the problems. Councilman Fischer voted nay.

ZONING ADVISORY COMMITTEE REPORT

Councilman Bialecki reported on the financial condition of the Zoning Advisory Committee. Board members discussed and reviewed the budget summary presented by Mr. Bialecki. Questions came up

about the amount expended and how close they are to the \$50,000 authorization and some of the expenses, specifically the diagnostics. Supervisor Zatz pointed out that Mr. Russell was instructed not to do the diagnostics, which was part of the resolution adopted last year. There was a discussion about these issues and the contract with Mr. Russell. A determination on how to proceed will be needed if the Town reaches the approved figure of \$50,000. Some Board members believe that the zoning law will not be adopted under this approved cost. Nothing was resolved and Supervisor Zatz closed the discussion for the evening.

During this discussion Councilman Bialecki left the meeting at 9:45 PM.

ARR -200 ZONING AMENDMENT PUBLIC HEARING CONTINUATION

Supervisor Zatz stated that he agreed with Councilman Bialecki to postpone the continuance of the public hearing for this evening, since the Board is still waiting to hear for the Ulster County Planning Board and the Town Planning Board with regard to the law. Several audience members attended specifically to speak at the public hearing. Because of this the Board allowed questions and comments.

Barney Hansen – asked how to bring a formal complaint to the Ethics Board.

Goia Shebar – need citizens to get together who are not involved in any of the boards or committees in Town government to review the law.

Kathy Hudson – on behalf of the ZAC – a good group of citizens put this law together.

John Friedle – opposed to the law. Is against to the SP1, SP2 & SP3 imaginary line.

Michael Yukoweic – the exclusion of farming is against the NYS law. NYS law gives the right to farm. He feels the zoning law could be challenged if farming is prohibited.

Ralph Erenzo – doesn't support the law. Leadership is an issue. Recommends the assignment of the chairman to someone else.

Marty Kiernan – read a statement opposing the law.

Louise Trancynger – suggested saving what we can of open space. Believes this will make all parties happy.

Councilman Fischer – asked where the money would come for Property Development Rights and Transfer of Development Rights.

Patti Parmalee – feels that the possibilities of the value of their property if not built on were never presented to property owners. It needs to be considered and options presented. The law is now in the hands of the Town Board not the ZAC.

John Bradley – spoke about the uses of his land over the years and the devaluation that this law now has made to his property. Nothing he has planned will ever destroy the visual beauty of the Town.

Kathy Hudson – the law is not the work of one person, but a community work product. Asked that the community not demonize the law. Spoke about a plan for the best way the County can address open space planning.

Beth Freer – feels the law is much too extreme.

Councilman Zatz – commented that the law was dragged into a campaign ad.

On motion of Councilwoman Lemmon, seconded by Councilman Fischer and carried, the public hearing is continued to the August 9 meeting.

ADJOURNMENT

On motion of Councilman Richards, seconded by Supervisor Zatz and carried, the meeting was adjourned at 10:35 PM.

Respectfully submitted,

Michelle L. Mosher, Town Clerk