

October 11, 2005 – Regular Meeting

The regular meeting of the Gardiner Town Board was held this date at the Gardiner Meeting Hall at 7:00 PM. Present were Supervisor Zatz, Councilwoman Lemmon and Councilmen Fischer, Bialecki and Richards. There were approximately 48± audience members.

ANNOUNCEMENTS

October 16 – Property Tax Reform Petition drive through at the Gardiner Meeting Hall. Drive in, sign the petition, receive a breakfast item and your on your way.

October 22 – Harvest Health Fair at the Gardiner Meeting Hall from 11 AM to 5 PM. There will be dozens of agencies from New York State and Ulster County.

November 7 – Breast Cancer Awareness Program. Free mammograms will be available but you must sign up at the Health Fair on October 22.

MINUTES

The minutes of September 12, September 19 and September 27 were tabled to the next meeting.

DUSINBERRE ROAD SPEED PROBLEM

The State Police will not ticket any speeders on Dusinberre Road since the speed limit posted was not certified by the DOT. A motion was made to remove the speed limit signs and erect new ones with the certified speed limit of 35 MPH by Councilman Fischer, seconded by Councilman Bialecki.

Councilwoman Lemmon asked for more time for research. Councilman Fischer withdrew his motion.

PUBLIC HEARING SPECIAL PERMIT – LAURIE WILLOW 7:18 PM

The Town Clerk read the legal notice as required. Ms Willow explained her plans to convert a residence into a professional office with an accessory apartment upstairs. The Planning Board has reviewed this and Ms Willow will receive final approval at the October 18 meeting. Councilman Bialecki asked how many parking spaces would be available. Ms Willow stated there would be eight. There being no further questions or comments, at 7:34 PM the public hearing was closed on motion of Councilman Richards, seconded by Councilwoman Lemmon and carried.

SUPERVISORS MONTHLY REPORT

On motion of Councilman Richards, seconded by Councilman Bialecki and carried the Supervisors report for the month of September was accepted as presented. Councilman Fischer abstained.

CLAIMS

The claims were approved for payment on motion of Supervisor Zatz, seconded by Councilman Bialecki and carried. The are listed on Abstract #10 as follows: General Fund voucher #650-721 \$38,227.60; Highway Fund voucher #245-267 \$28,625.96; Sewer District #1 voucher #50-58 \$5,289.62; Gardiner Light District voucher #10 \$309.20; Special Recreation voucher #19-20 \$49,820.00; Library Fund voucher #102-110 \$1,284.27; Hamlet Improvement voucher #2 \$2,794.30; Capital Town Hall voucher #70-71 \$2,381.14.

BUDGET TRANSFERS

Resolution No. 109 - Supplemental Appropriation in the General Fund – Offered by Councilman Richards

Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, General Fund, is hereby amended to provide for supplemental appropriations in the amount of \$5,250.00 in Acct No.

00.07.8790.464 Open Space, \$2,682.00 in Acct No. 00.01.1220.105 Confidential Secretary, \$1,400.00 in Acct No. 00.01.1620.412 Buildings & Grounds, \$4,803.00 in Acct No. 00.07.8020.404 Reimburse Professional Service and \$13,000.00 in Acct No. 00.07.8160.410 Count Haulage.

Further resolved, said moneys to be taken from unexpended balance in the General Fund.
Seconded by Councilwoman Lemmon and carried.

Resolution No. 110 – Supplemental Appropriation in the Gardiner Light District Fund – Offered by Councilman Richards

Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, Gardiner Light District Fund, is hereby amended to provide for a supplemental appropriation in the amount of \$900.00 in Acct No. 08.04.5182.401 Electric.

Further resolved, said moneys to be taken from unexpended balance in the Gardiner Light District Fund.
Seconded by Councilwoman Lemmon and carried.

Resolution No. 111 – Supplemental Appropriation in the 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 for a supplemental appropriation in the amount of \$45,979.00 in Acct No. 09.06.7110.439 Improvements.

Further resolved, said moneys to be taken from unexpended balance in the Special Recreation Fund.
Seconded by Councilwoman Lemmon and carried.

Resolution No. 112 – Supplemental Appropriation in the Hamlet Improvements Fund – Offered by Councilman Richards

Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, Hamlet Improvements Fund, is hereby amended to provide for a supplemental appropriation in the amount of \$2,794.00 in Acct No. 32.07.8030.461 Sidewalk Engineer.

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

Resolution No. 113 – Transfer within Highway Fund – Offered by Councilman Richards

Resolved, pursuant to Section 112, Town Law, the 2005 Annual Budget, Highway Fund, is hereby amended to provide for the transfer of \$3,000.00 from Acct No. 01.04.5110.109 PS P/T Bartsch/LaMark (TEMP) to Acct No. 01.04.5110.113 PS P/T Reg. Monteleone.

Seconded by Councilman Bialecki and carried.

Resolution No. 114 – 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 for the transfer of \$150.00 from Acct No. 00.01.1670.421 Central Print Office Supplies to Acct No. 00.01.1680.421 EDP Office Supplies, \$85.00 from Acct No. 00.01.1990.400 Contingent to Acct No. 00.01.1620.106 PS Building & Grounds, \$513.00 from Acct No. 00.01.1670.421 Central Print Office Supplies to Acct No. 00.01.1680.421 Central Data Processing, \$46.00 from Acct No. 00.01.1990.400 Contingent to Acct No. 00.01.1620.401 Miscellaneous, \$1,600.00 from Acct No. 00.01.1990.400 Contingent to Acct No. 00.07.8020.439 Planning Board Engineer Review, \$200.00 from Acct No. 00.01.1990.400 Contingent to Acct No. 00.01.1670.422 Postage Meter Rental and \$3,280.00 from Acct No. 00.07.8030.462 Master Plan Attorney to Acct No. 00.07.8030.460 Master Plan Research.
Seconded by Councilman Bialecki and carried.

Resolution No. 115 – Supplemental Appropriation in the 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 for a supplemental appropriation in the amount of \$2,312.00 in Acct No. 30.01.1620.402 Material.

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

SPECIAL USE PERMIT – LAURIE WILLOW

Resolution No. 116 – Offered by Councilman Bialecki

WHEREAS, Laurie Willow has applied for a Special Use Permit for a mixed use professional office and apartment on property located in the HC District in accordance with Section 220.20 (F) of the Municipal Code (Zoning), and

WHEREAS, said application proposes the conversion of a dwelling into a professional office downstairs with an accessory apartment upstairs on a 0.5 acre parcel located at 120 Main Street, and

WHEREAS, the Town Board of the Town of Gardiner held a public hearing on the application on October 11, 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 a mixed use professional office and apartment in the HC District.

Seconded by Councilman Richards and carried.

PRIVILEGE OF THE FLOOR

Marion Kells – Asked if an attendant will be present at the park at all times. Supervisor Zatz replied after school hours only.

Marty Kiernan – asked if there was an additional premium for the insurance on the skateboard park. Supervisor Zatz replied that there was not.

Councilman Bialecki – did a cluster research with respect to Wright Subdivision which he passed out to Board members.

Paul Colucci – stated Mr. Freiband has worked for this town for many years quite favorably, record speaks for itself and disapproves of Councilman Bialecki’s attack on his work. Councilman Bialecki responded that he is not attacking Mr. Freiband simply questioning his opinions.

RE-SCHEDULE THE NOVEMBER REGULAR MEETING

Due to the conflict with Election Day the November regular monthly meeting is re-scheduled for Wednesday November 11 at 7:00 PM at the Gardiner Meeting Hall.

ZONING REVISION – ARR-200

Attorney David Brennan was in attendance and presented the Board members with the summary of the Long Form EAF for the zoning revision local law. Board members reviewed the document fully. They concluded that a Negative Declaration was in order and instructed Mr. Brennan to prepare a draft document to be e-mailed to each Board member for their review with further discussion scheduled for November 1.

PUBLIC HEARING – LOCAL LAW FOR A 3 MONTH MORATORIUM EXTENSION

At 8:25 PM the Town Clerk read the legal notice as required. Supervisor Zatz opened the hearing for questions and comments from the audience.

Marty Kiernan – asked for a straw vote. Felt that the extension may not be necessary if the Board had some indication of the vote.

Steven Levinsky – while reviewing the Planning Board comments it does not make sense not to extend the moratorium.

Councilman Richards – questioned the attorney about whether an application could be accepted for a subdivision at this time. Mr. Brennan replied that the moratorium was on the processing of the applications not on the acceptance.

Pam O’Dell – is against further extension of the moratorium. Feels it causes undue burden on landowners.

Councilman Fischer – recommended doing a straw vote of the Board. Stated the Protest Petition filed requires a super majority vote for the law. A straw vote may help determine whether to adopt an extension or not.

Steven Levinsky – disapproves of the super majority requirement.

Goia Shebar – moratorium extension will give time for considering the voting requirements.

John Friedle – feels the Protest Petition filed is fair. His land is affected 100%.

Louise Trancynger – the Town has worked rather quickly on this law. Residents deserve completion of the law and endorses the moratorium extension. It makes sense.

CLOSE PUBLIC HEARING

On motion of Councilman Bialecki, seconded by Councilman Richards and carried the public hearing for the local law to extend the moratorium was closed at 8:47 PM.

ADOPT LOCAL LAW # 10 - 3 MONTH MORATORIUM EXTENSION

On motion of Councilman Bialecki, seconded by Councilman Richards and carried Local Law #10 was adopted as written. Councilman Fischer voted nay. Text of the law is as follows:

SECTION I – FINDINGS AND PURPOSE The Town Board of the Town of Gardiner declares the following findings with respect to this Local Law:

- A. By Local Law 7 of 2004, the Town Board of the Town of Gardiner enacted a six-month moratorium on the processing and issuance of approvals on certain residential projects within the ARR-200 zone. This Local Law was adopted on September 13, 2004 and thereafter filed with the New York Secretary of State. The Local Law expires 183 days after its filing date.
- B. Thereafter, in response to certain comments received during the review and approval process for Local Law, the Town Board considered and adopted Local Law 9 of 2004 which expanded the scope of the moratorium to include additional uses permitted or allowed in the ARR-200 zone. The rationale presented for such a change was that other uses, besides residential, have the potential to adversely affect the district during the time period within which the Town is considering zoning amendments. Such uses include camps, offices, towers and lodges. Local Law 9 of 2004 was adopted on November 3, 2004 and thereafter filed with the Secretary of State.
- C. In the time since the adoption of the moratorium, the Comprehensive Plan Committee has completed drafting the Draft Comprehensive Plan. In December 2004, the Town Board adopted the Comprehensive Plan.
- D. Thereafter, the Zoning Advisory Committee (“ZAC”) conducted a process to prepare a proposed zoning amendment for the ARR-200 district. The ZAC hired a professional planner/attorney who met regularly with the ZAC to prepare a draft zoning amendment.
- E. The Town Board introduced the zoning amendment as a Local Law by the Town Board and a public hearing has been commenced.
- F. In April 2005, the Town Board adopted Local Law 2 of 2005 which extended the moratorium for 183 days.
- F. Thereafter, the Town Board closed the public hearing and considered the comments.
- G. The Town Board then introduced a revised version of the Local Law and a public hearing was held on July 6, 2005.

H. The Public Hearing is presently still open and the Town Board is awaiting comments from the Town Planning Board. In addition, the Town has received multiple comments from residents and property owners that need to be considered.

I. The Town Board is desirous of adopting a zoning amendment after properly completing the local law process. The Town Board also desires to enact the best possible local law after spent sufficient time to hear and consider comments for and against an to propose changes as necessary.

J. However, the Town Board is aware that the moratorium in the ARR-200 district will expire and the expiration may come prior to the adoption of a zoning amendment.

K. The Town Board is desirous of proceeding with the review and processing of the zoning amendment in an appropriate and deliberate manner free from any race to diligence or timing concerns raised by the possible expiration of the moratorium.

L. The Town Board has determined that the moratorium and this amendment are actions Exempt from the State Environmental Quality Review Act (“SEQRA”) pursuant to 6 NYCRR § 617.5(30).

M. Accordingly, the Town Board desires to extend the current moratorium by 90 days.

Based on the foregoing, Local Law No. 7 of 2004, Local Law No. 9 of 2004 and Local Law No. 2 of 2005 are hereby amended as follows:

I. Section III, entitled “Scope of Moratorium” is deleted in its entirety and replaced with:

SECTION III- SCOPE OF MORATORIUM

Subject to the exceptions set forth below and pending adoption of related amendments to the Zoning Law and the Subdivision Regulations at Chapter 31 of the Town of Gardiner Municipal Code, there shall be, for the ARR-200 District, a moratorium on:

1. The acceptance, review, processing and approval, conditional approval, conditional approval with modifications or denial of: (1) residential subdivisions of three lots or more; (2) “Major Subdivisions” as that term is defined in the Town Subdivision Law; and (3) residential special use permits and use or area variances proposed in conjunction with these subdivisions, by any board, agency, department or official of the Town of Gardiner.
2. The acceptance, review, processing and approval, conditional approval, conditional approval with modifications of any application for any uses by special permit, as set forth in Attachment A to the Zoning Code, within the ARR-200 zone.
3. The moratorium also applies to all new construction above the elevation of 750 feet (NAVD 88) in the ARR-200 district.
4. The moratorium will expire 90 days from the filing of this Local Law with the Secretary of State.

III. Any section of Local Law No. 7 of 2004, Local Law No. 9 of 2004 and/or Local Law No. of 2005 not amended herein remains in full force and effect.

SEVERABILITY

If any section or subsection, paragraph, clause, phrase or provision of this Amendment to Local Law No. 7 of 2004, Local Law No. 9 of 2004 and/or Local Law No. 2 of 2005 be adjudged invalid for any reason or shall be deleted or subsequently repealed, the same shall not affect the validity of this Local Law as a whole or any part or provision hereof other than the part to be adjudged to be invalid and/or deleted and/or subsequently repealed.

EFFECTIVE DATE

This Local Law shall take effect immediately upon publication and filing with the Secretary of State in accordance with the Municipal Home Rule Law of the State of New York.

BUDGET 2006

Supervisor Zatz reminded Board members to review the tentative budget presented to them last week. The public hearing must be held no later that the first Thursday after Election Day. It can however be

adjourned for adoption until the 20th of November. A special meeting for budget review was scheduled for October 17 at 7 PM. Various department heads will be present to discuss their budgets.

TOWN HALL UPDATE

Supervisor Zatz is currently getting prints of the drawings and will distribute copies to Board members once he receives them.

ADJOURNMENT

On motion of Councilwoman Lemmon, seconded by Councilman Richards and carried, the meeting was adjourned at 8:53 PM.

Respectfully submitted,

Michelle L. Mosher
Town Clerk