

Minutes of the Village Board Meeting held on January 23, 2020 at 7PM

Present: Timothy Egan, Village Mayor
Tara Burek, Andrew Giacomazza, Jesus Gomez, Christopher Graziano, Trustees

Absent: None

Also Present: Kelly Naughton, Attorney for the Village; Natalie Barber, Village Engineer; Michael Musso, Wireless Consultant; Robert Weyant, Village Streets Superintendent; Michael Phillips, Water/Wastewater Administrator; Sandy Capriglione, Planning Board; Karen Ungerer, Zoning Board; Thomas Lakis, Highland Mills Fire Captain

I. Public Hearing:

a. Introductory LL5 of 2018 – Senior Housing Zone Map Amendment:

A public hearing was held to entertain public comment on Introductory Local Law No. 5 of 2018. The purpose of this Introductory Local Law is to change (i) the zoning designation for properties located along New York State Route 32 (Section 218, Block 2, Lots 7, 9, 10, 11 and 13) in the Village of Woodbury from LC (Limited Commercial) and R-2A (Residential) to SH (Senior Housing), (ii) the zoning designation for a portion of the property located along New York State Route 32 (Section 218, Block 2, Lot 6) in the Village of Woodbury from CR (Corridor Residential) to SH (Senior Housing), and (iii) to have the Village's Zoning Map reflect such change, and to address concerns of having split zoned lots within the Village. The public notice was printed in the Times Herald Record on January 15, 2020 and the following comments were received:

George Lithco stated he was last before the Board representing his client on this issue in July 2018 for the first public hearing that was held on this proposed law. The project was smaller than and the law this evening reflects the large scale. He has submitted an amended petition to the board which contains revisions requested by Engineer Lindsay. At the public hearing (and raised by the Planning Board) there were two issues that needed to be addressed. The first being the capacity at the Hollet Pump Station and the infiltration problem that exists there (along with the existing consent order the DEC issued against the Village). He has been working with Village staff and the Timber Ridge Homeowners Association to rectify this issue. The second concern was about the planned traffic control device and the number of devices that already exist on Route 32. He has been working with the Village's traffic consultant and they have revised the ingress/egress for the project and eliminated the needs for the device. He confirmed that housing would be for individuals 55+ years of age (known as active adult). Joe Fowler, project engineer for the applicant, stated the zone change requests consists of seven parcels. He showed a map of the area being discussed and how it is now compared to what they are requesting.

Donald Siebold asked why the applicant is requesting this and instead just building what is permitted per the existing zoning. He considers this request as "spot zoning" which is not legal. He then noted Woodbury has an infrastructure problem. There is always talk about the effects to water, sewer and traffic but he feels there is not enough concern about air quality. He feels the applicant should comply with the existing zoning and suggested the Comprehensive Plan be reviewed.

Robin Crouse stated she is opposed to the zone change request and she feels the zoning that exists there was designated as such for a reason. There is a federal/state protected wetland that traverses the property and she does not believe this site is appropriate for senior housing due its environmental sensitivity. There is also a lack of sidewalks and access to the site. A survey regarding senior housing needs was conducted in 1986 and the overwhelming response was that seniors in Woodbury wanted to stay in their own homes. She does not believe there is a need for senior housing in Woodbury. She noted in Highland Mills there is the Woodbury Heights development that has condominiums where a lot of seniors live. In Central Valley there is Woodbury Gardens which consists

of rental apartments which also a lot of seniors live. Based on this she feels Woodbury already has a huge housing stock for seniors – adding the proposed Transit Orient Development that is planned with mix uses (housing, retail, restaurants). She also noted Section 310-36(B)(2) of the Village Code addresses providing residents with reasonable access to services and she does not believe this proposal provides safe access to those services. She has been following this application through all of its phases and it was originally proposed for 86-units and it has now increased to 96-units. She then asked about the rentals and how the rules and procedures listed in the Village Code would work and be regulated. She is concerned about how an increase to the senior population would affect our emergency services and if the Ambulance would be able to handle a 96-unit community. She asked that the Board keep the hearing open so the public can have more time to review the documents available.

Neil Crouse stated by consolidating the multiple smaller lots into one 26-acres lot would increase the uses that would not be permitted with the smaller lots. There is no guarantee that the proposal before the Board this evening for consideration will go through. If it does not the owner can sell it to a different developer that will be able to build something on the property that was never intended for that area due to the increased lot size. The NYSDEC commissioned a multi-municipal study on the Moodna watershed and it identified flood areas. Sixteen were identified and four are in Woodbury – this location is one of the four. During hurricane events there is flooding that is very visible in this area. It is also a major area that recharges the aquifer which feeds our water supply. He serves as the coordinator of the Woodbury Friendly Visitors program which teams volunteers with seniors in the community that need help with transportation or want a visitor to keep them company. There are 80 seniors enrolled in this program and he has spoken to them about their opinion on this issue. A vast majority have stated they would rather stay in their homes or move in with family members. Only about 15 stated they would be interested in this type of living. He also stated he was concerned about the additional strain a senior community would place on our volunteer EMS.

Maria Hunter asked if this was considered a zone change request or an overlay district and Attorney Naughton stated it is a zone change request. Mrs. Hunter asked if this change is approved and the project fails to be built will the zoning revert to what it currently is and Attorney Naughton stated the Board would need to adopt a new law if they want to change the zoning to something other than SH. Mrs. Hunter stated she feels it is crazy to do this and that she thinks it is considered “spot zoning”. She noted there is an existing business on the property and asked what zone that business would be in. She asked if the parking planned for the senior housing development will be shared with this business. The existing business has many cars that park at it and they are already using the adjacent property to do so. There are a number of near accidents that occur at this location and she does not see the need to change the zoning for this particular area. She agreed there is flooding in the area. She then noted when she sat on the Planning Board she had asked that the entrance to this project be across from Timber Trail and that a traffic light be fought for to help with traffic control.

Timothy Harrison stated he lives in Woodbury Heights and he is in favor of this law. He thinks the plan is attractive and would be a place he could eventually live in as he ages. He does respect the other comments made this evening and agrees a traffic light would be advantageous.

Debra Salvano stated she used to live in Woodbury but had to move because she could no longer afford to do so. She currently lives in a senior housing community in Washingtonville and would like to move back to Woodbury.

Martha Torres stated she lives in the mobile home community park that is behind this proposed area and would like to know how it would affect her community. She is also concerned about traffic in this area noting it is currently difficult to access Route 32 from Ford Avenue. She feels a traffic light would make it even more difficult and she against this law.

With no further comments received, a motion was offered by Trustee Giacomazza, seconded by Trustee Burek, to continue the public hearing to the February 13, 2020 meeting.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

Attorney Naughton stated she will be revising the law based on the amended petition that incorporated comments made by Engineer Lindsay. None of the revisions will be substantive and the revised law will be distributed to the Board prior to the next meeting.

II. Administrative Business:

a. Acceptance of Minutes – January 9, 2020:

Motion was offered by Trustee Giacomazza, seconded by Trustee Gomez, to accept receipt of the minutes of the meeting held January 9, 2020.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

b. Approval of Abstract:

Motion was offered by Trustee Gomez, seconded by Trustee Burek, to approve Abstract 16 containing vouchers 191354 - 191425 and totaling \$632,111.75.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

c. Fire Department Equipment Request(s):

Motion was offered by Trustee Graziano, seconded by Trustee Burek, to (1) void previously approved Equipment Request 2020-01; (2) approve Equipment Request 2020-02 totaling approximately \$1299.98 for the purchase of two radios for the new County Digital system; (3) 2020-03 totaling approximately \$2866.20 for the programming of sixty radio holders and the programming of one radio; (4) 2020-04 totaling approximately \$860.00 for the purchase of a stability plate for the hurst spreader.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

d. Budget Modification:

Motion was offered by Trustee Giacomazza, seconded by Trustee Burek, to approve a modification to the budget of the General Fund totaling \$43,655 as follows: increasing A1010.411 (VB – Office Supplies) by \$315, A1410.444 (VC – Schools/Dues) by \$10, A1910.400 (Unallocated Insurance) by \$1350, A1930.400 (Judgement/Claims) by \$3375, A3410.208 (FD – Radio Equipment) by \$9605, A5110.452 (HD - Sand/Gravel) by \$15,000, A5110.469 (HD – Drainage) by \$5000, A5142.200 (HD – Snow Equipment) by \$9000 and decreasing A1440.401 (Engineer Contractual) by \$5050, A3410.453 (FD – Vehicle Repairs) by \$9605, A5110.474 (HD – Metals/Steel) by \$2000, A5142.447 (HD – Snow Truck Repairs) by \$1500, A5410.472 (HD – Sidewalks) by \$25,500.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

e. Standard Workday Resolution Adoption:

Motion was offered by Trustee Graziano, seconded by Trustee Gomez, to adopt the following: BE IT RESOLVED that the Village of Woodbury Board of Trustees hereby establishes the following standard work days for these titles and will report the officials to the NYS and Local Retirement System based on time keeping system records or their record of activities:

	Desiree Potvin		Clerk/Treasurer		Time Sheet Submitted
	Robert Weyant		Streets Superintendent		Time Sheet Submitted
	Michael Phillips		Water/Wastewater Super.		Time Sheet Submitted
ADOPTED	AYES	5	Egan, Burek, Giacomazza, Gomez, Graziano		
	NOES	0			

f. Fire Department Membership Application:

Motion was offered by Trustee Giacomazza, seconded by Trustee Burek, to approve the application for membership to the Highland Mills Fire Company Brendan O’Connell as a junior member.

ADOPTED	AYES	5	Egan, Burek, Giacomazza, Gomez, Graziano
	NOES	0	

g. Surplus Equipment – Auction:

Motion was offered by Trustee Giacomazza, seconded by Trustee Graziano, to declare the following items as surplus and authorize the Village Clerk to advertise them for sale at auction: 2001 Ford F-350 – 3FTSX31F91MA86156, 2002 Ford F-550 – 1FDAF57F92EC49795, 2017 International Hood, 1993 Hiniker Sander, Everest Elephant car plow, 2015 Firestone T819, 2014 Michelin XDE M/S, 2008 Goodyear G287MSA, 2008 Chevrolet 3500 – 1GBJK34K88E215866, 2012 Ford F350 – 1FTRF3B64CEA22096, ALOS Microfilm Machine with printer.

ADOPTED	AYES	5	Egan, Burek, Giacomazza, Gomez, Graziano
	NOES	0	

III. Old Business:

a. AEONN Developers Agreement:

Attorney Naughton stated she provided the Board with a draft of the developer’s agreement for the AEONN property which is a for a hotel on Estrada Rd with conditional approval. She thought it was ready for approval but there is some language that needs to be modified. She asked that the issue be tabled until a future meeting when the final version is complete.

b. Change Order – Improvements to Pleasant Drive Water:

Motion was offered by Trustee Gomez, seconded by Trustee Giacomazza, to authorize the Mayor to sign Change Order No 1 for the Improvements to Water Distribution System – Pleasant Drive totaling \$20,023.00 because the contractor’s operations were monitored and verified by representatives of the Water Department who authorized additional work outside the presumed contract limits due to actual field conditions.

ADOPTED	AYES	5	Egan, Burek, Giacomazza, Gomez, Graziano
	NOES	0	

c. Redo - Acceptance of Dedication – Smith Clove/Trout Brook Transmission Main:

Motion was offered by Trustee Burek, seconded by Trustee Giacomazza, to accept the Smith Clove/Trout Brook Road transmission main as constructed pursuant to the recommendation of the Village Engineer and the Water Department, with the understanding and acknowledgement that the Village will own and maintain this line.

ADOPTED	AYES	5	Egan, Burek, Giacomazza, Gomez, Graziano
	NOES	0	

IV. New Business:

a. Authorize Mayor to Sign – Village Streets Superintendent Contract:

Motion was offered by Trustee Burek, seconded by Trustee Giacomazza, to authorize the Mayor to sign an employment contract with Village Streets Superintendent Robert Weyant for the term of June 1, 2020 thru May 31, 2025.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
NOES 0

b. Authorize Mayor to Sign – LOSAP Service Agreement:

Motion was offered by Trustee Gomez, seconded by Trustee Giacomazza, to authorize the Supervisor to sign the Length of Services Award Program (LOSAP) with Volunteer Firemen’s Insurance Services (VFIS) as plan sponsors effective March 1, 2020.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
NOES 0

c. Resolution – Urge Repeal of Bail Reform to State Legislature:

Mayor Egan noted he invited Assemblyman Schmitt and Senator Skoufis to attend our meeting this evening but neither was available. He did attend a press conference last week by the Republican Caucus regarding the Bail Reform Law and felt it was a moving event. Motion was offered by Trustee Burek, seconded by Trustee Graziano, to adopt the following resolution of the Board of Trustees of the Village of Woodbury urging the New York State Legislature to consider immediate changes to the newly enacted Criminal Justice Reform laws:

WHEREAS, in April 2019 the New York State Legislature passed sweeping criminal justice legislation changing, among other things, the use of bail and rules regarding the sharing of evidence in criminal proceedings; and

WHEREAS, the changes went into effect January 1, 2020; and

WHEREAS, prior to the changes taking effect, many district attorneys, other law enforcement officials, and residents of New York State expressed serious concern regarding the new laws, including the elimination of the ability for a judge to set bail in many instances, impacted discovery timelines in criminal proceedings, and law enforcement's compromised ability to safely engage witnesses; and

WHEREAS, although the laws were passed with the intention of reforming injustices within the criminal justice system, which we are fully in favor of, we firmly believe that the unintended consequences pose serious risk to the public safety of our communities.

NOW, THEREFORE BE IT

RESOLVED by the Board of Trustees of the Village of Woodbury to urge the New York State Legislature to immediately revise the newly enacted criminal justice reform laws to address the concerns of New York State Attorney General Letitia James, district attorneys, and law enforcement officials throughout the state, while maintaining the intent of the laws which were to alleviate disparities within our system; and be it

FURTHER RESOLVED that the Village Clerk is hereby directed to forward a copy of this resolution to New York State Senator James Skoufis and New York State Assemblyman Colin Schmitt.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
NOES 0

V. Public Comment:

John Smith distributed an article to the Board that was printed in the Times Herald Record on January 21, 2020 entitled “County pitches sewer incentive for builders”. He feels Woodbury needs to be

proactive in protecting its allotment to be sure no one uses it. He noted that he has mentioned this issue in the past and asked that the Board be on top of it. He then thanked Trustee Graziano for this advice at the last meeting about the increases on the Cablevision bill and calling the PSC to complain. He has not done so yet but plans to and will also be calling Assemblyman Schmitt and Senator Skoufis. He feels the more that call and complain the better action can be seen. Trustee Giacomazza noted he has asked Clerk Potvin to request a meeting with Woodbury's three County Legislators and the County Executive to discuss, among other things, sewer capacity and the sales tax distribution. A response has not yet been received but he will update the community when more is known.

Maria Hunter thanked the Boy Scouts for attending the meeting and learning what is happening in our community. She asked about the change of the meeting start time to 7:30PM and she was told it would begin in February due to the public hearing that was previously scheduled for this evening. She thanked the Board for the resolution adopted regarding the bail reform and noted last weekend a town employee's child was viciously beaten and it was heartbreaking to hear this happened. For the past 30+ years she has been asking Town and Village Boards for help with controlling the speed limit on Route 32 which changes several times from Woodbury Common to Ridge Road. In the last year the accidents have increased and the abuse of speed is horrible. She hopes the Village Board working with the Town Board can try to have something done with the speeding as well as the truck traffic, although she is not sure what can be done but feels something needs to be. There are a lot of walkers on Route 32 and from Ridge Road to Brigadoon Blvd there are no sidewalks. Mayor Egan stated he will bring her concerns to Assemblyman Schmitt and Senator Skoufis.

VI. Board Members/Department Head Comment:

Mayor Egan stated he shares the comments made by the other Board members at the last meeting about the quantity and sustainability of our water supply and sewer capacity. Over the past few weeks he has had several conversations with Department Heads to discuss these issues. We are working on a plan with our Water/Sewer Administrator to commit funds to be used for finding alternate well sites in the village. That is the first step before we can build out additional infrastructure. Regarding sewer issues, as Trustee Giacomazza stated Clerk Potvin was asked to reach out to our three County Legislators and the County Executive to discuss the County's plans to add capacity. He feels obligated to do everything that can be done to make sure the County plans appropriately for the future, both near and far. He noted that growth is an important part of any municipality, and intelligent growth is even more important. When villages and towns like ours do not plan accordingly for sustained but controlled growth, construction can outpace resources. Alternatively, if municipalities stifle growth to the point where development goes elsewhere, the total assessed value of the village stops growing while expenses continue to increase. These are the concepts that he is keeping in mind as the Board discusses ways in which to continue to provide resources to those residents already here, while at the same time planning for future generations.

Trustee Graziano thanked Mayor Egan for his comments. As he stated at the last meeting, he is asking for support of the Village Board to discuss enacting a temporary building moratorium. Other communities in our area such as New Windsor and Montgomery are considering the same, as everyone is struggling to ensure there are enough resources in place to support further development. He also referenced the same article previously mentioned by Mr. Smith regarding sewer capacity at the Harriman Treatment Plant. He feels it is essential that the Village ensures that any capacity allotted and paid for stays on reserve for the Village and not given to other developers outside of our municipal boundaries. He stressed that decisions made by other jurisdictions should not impact the taxpayers of

Woodbury. This strategy also dovetails perfectly with the formation of a broad-based community committee to take a fresh look at our Village Comprehensive Plan. He also asked that the Planning Board institute water and sewer capacity applications as part of any project that comes before them. He feels that water and sewer demand projections that are certified and stamped by a licensed professional engineer should be the basic starting point for reviewing any project. He then noted he recently meet with the dedicated men and women of the Water/Sewer Department and he feels the Village and our water is in great hands. Moving forward, he will look to work together to develop a full accounting of our current water capacity, what has already been allocated, and what we need to do moving forward to ensure we have the necessary resources for the next decade and beyond. He feels the Planning and Zoning Boards need to be provided with up-to-date and relevant data to allow them to make informed decisions. He also feels the Village needs to start the process of protecting and managing its watersheds. Looking at potential things such as water protection overlay districts would be a great start and from there we can work with large community property holders on putting in place conservation easements that will protect watersheds and prevent over-development within their boundaries. He reiterated that he does not believe every piece of land needs to be, or should be, developed and that open spaces are of critical importance to the health and welfare of the community and watershed. He has spoken to many residents and have heard their concerns about protecting resources and ensuring there is a plan to keep the community sustainable for our children. He feels the Board takes this seriously and he assured the residents of Woodbury that he will work for them, no one else, for as long as he holds the position of Trustee.

Trustee Gomez thanked all that attending the meeting this evening.

Trustee Burek thanked everyone that spoke at the public hearing and from the people that could potentially be living there. She recently toured the Highway Garage and she thanked all the Highway Departments employees for what they do and the excellent job they did during the recent snowstorm. She noted the Governor has released his executive budget proposal for State's the 2020/2021 fiscal year which includes proposals to close the budget gap. There is an overhaul of school aide tax formula which is a concern to her as it will affect the school district taxes we pay and the wonderful services our students/children get. She reminded the public that 60-70% of the taxes a resident pays in Woodbury is school tax. She feels if you review the proposed budget you will see the severe cuts to these services and she urged everyone to contact Assemblyman Schmitt and Senator Skoufis. The Governor is also looking to eliminate all aid to VLT (video lottery terminal) communities. She stressed this is important if the Nepera site gets approved by Albany to be allowed to build a VLT the aide that was promised will be abolished pursuant to this proposed budget. At the last meeting she spoke about a community preservation plan for Woodbury and it ties into what has been said about green space and preserving our area. Cornwall and Blooming Grove have just proposed their plans as well and she feels it is important and feels that is should be consider. Clerk Potvin noted she obtained a copy of the plan that was adopted by Warwick for the Board to review.

Trustee Giacomazza stated he has been in contact with Troop 440 and their concerns with the way the curb cutting was done on Route 32, specifically on the corner of Route 32/105 by Mario's. The Village Board has been diligently working on protecting/securing our resources. He is working to create a water commission with legal counsel and also met with former Trustee Crouse to be educated about the Moodna Water Counsel. He has also been reviewing the formerly discussed Waterway Protection District Local Law and he will continue to work on these issues.

Mayor Egan stated the concerns about water/sewer are not only local but regional as well. In the fall he testified at a forum held by Assemblyman Schmitt about watershed protection. Every community is facing this issue and he intends to maintain relationships and continue the conversations to collaborate with our neighboring communities to solve the issue. He thanked the Boy Scouts for attending the meeting tonight and for leading the pledge. He also thanked all the seniors and everyone that commented during the public hearing and attending the meeting.

VII. Adjournment:

With no further business to discuss or comments received, a motion was offered by Trustee Giacomazza, seconded by Trustee Gomez, to adjourn the meeting at 8:15PM.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

Desiree Potvin, Village Clerk

WORKSESSION TO BE HELD AFTER ADJOURNMENT:

Discussion with Consultants – Proposed Wireless Communications Local Law:

Michael Musso gave a brief presentation on the wireless code. A big part of the updates are related to the small-cell nodes. §310-38 of the Code is proposed to be updated. Nationally there was a lot of legislation and litigation regarding small-cells. He is suggesting re-working the definition section, and adding provisions relative small-cell nodes. This is to recognize the changes in technology, as well as FCC rulings. A lot of the small cells are proposed in the rights-of-way, which is another issue that should be addressed in the Code revisions. They identified sensitive receptors, such as schools, to have the Code address those. Trustee Graziano asked if this takes into account the new line-of-sight 5G? This is not just for phones, but for house internet and vehicles. Mr. Musso stated it is not here yet, but we are getting there. With 5G there could be a need every 500-1000 feet. The carriers say, “why don’t we just go on telephone poles?” He gave a brief summary of the Middle-Class Tax Relief Act and the shot clock. The Board had a brief discussion about the proposed height of the structures, and that the max height permitted for DAS is 50 feet. They are suggesting that be a building permit only. The way case law and FCC rulings are read, if it is in a County or State right-of-way, it would be a special permit from the Planning Board. Language should be in the new provisions about if Building Inspector makes a determination, that is appealable to the ZBA, if he isn’t sure, that goes to the Planning Board. Mr. Musso then discussed when a special permit would be required versus when it would just be a building permit. Only three nodes would be permitted per application. The recertification provisions would be revised to include only one for a site. Language to be included/checked about the recertification and what happens when there is a new carrier added to an existing pole. Does the 5-year clock reset? He briefly discussed the noise produced by generators and small cells. He discusses the priority of siting facilities. Trustee Graziano stated he wants to move the municipally owned sites up the priority list. Brief discussion held regarding the existing tower on municipal property. Mr. Musso reviews various photos of stealth tower and small cell options. Under exemptions, the Board wants to exclude private utility facilities. [Gas, water, electric – smart meters by RF transmissions.] Page 2 or Page 26-27 – exemption provisions where this should be applied.

Motion was offered by Trustee Graziano, seconded by Trustee Giacomazza, to adjourn the worksession.

ADOPTED AYES 5 Egan, Burek, Giacomazza, Gomez, Graziano
 NOES 0

(notes recorded by Attorney Naughton)