

Minutes of the Virtual Village Board Meeting held on July 23, 2020 at 7:30PM

Present: Timothy Egan, Mayor
Tara Burek, Andrew Giacomazza, Jesus Gomez and Christopher Graziano, Trustees
Absent: None
Also Present: Kelly Naughton, Attorney for the Village; various members of the public

I. Public Hearing:

a. Introductory Local Law 8 of 2020 – Wireless Telecommunications Siting:

A public hearing was held to entertain public comments on Introductory Local Law 8 of 2020 amending Section 310-38 of the Village Code entitled “Wireless Telecommunications Siting”. The public notice was printed in the Times Herald Record on July 9, 2020 and the following comments were received:

Mayor Egan noted a GML response has not been received from the County as of yet and the 30-day period as not passed so the Board cannot adopt the law this evening. The following comments were submitted by the Planning Board:

- 1) All references to a “preapplication” meeting process be deleted. The Planning Board strongly believes that all meetings with an applicant for a telecommunications facility involving any Planning Board member ought to be at an open public meeting in order to ensure transparency and public confidence in the process. In addition, given the severe federal limitations on the review period for such applications (commonly known as the “shot clock”), such a preapplication meeting process only limits the time that the full Planning Board has to review, consider and make a substantive determination on the application.
- 2) The definition of “Applicant” (§ 310-38(D)) should be amended to state that “Any person or entity submitting an application to the Village” The Planning Board’s opinion is that this will more accurately reflect the fact that almost every application will be submitted by other than a natural person.
- 3) Delete §310-38(G)(2) on page 24. The Planning Board is of the opinion that specifically referencing the SEQRA typing classification for “minor modification, co-location, or small cells in County or State rights-of-way” as a Type II action in this Code provision could render this provision outdated, or present confusion over its applicability, if the DEC were to subsequently modify its Type II regulations.
- 4) Modify § 310-38(G)(2) on page 27. As agreed by the Village’s wireless telecommunication facilities consultant, a telecommunication tower should not be of a “galvanized” finish; it should be a “matted” finish. Also, this subsection should be redrafted to include provisions to allow for stealth or otherwise muted appearances of cell towers (e.g., tree appearance).

The Village Board discussed the four comments from the Planning Board and agreed these changes should be incorporated into the law.

With no further comments, a motion was offered by Trustee Giacomazza, seconded by Trustee Burek, to close the public hearing.

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

Motion was then offered by Trustee Burek, seconded by Trustee Graziano, to accept written comments until close of business on August 7, 2020.

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

II. Public Comment on Agenda Items:

Matt Higgins noted the coronavirus has made communication of what is going on to the community very difficult. It was difficult for him to find information and to know what is going on in the Village, adding it was hard for him to find the topics being discussed and the documents associated with them and feels those without Internet access are left completely in the dark. He feels there should be some understanding for the public and how it affects everyone and that the residents are unable to keep up with the agenda or the laws being proposed. He feels the Water Quality Protection Law is a big piece of legislation and it should not be rushed, adding the public does not know what is going on, the mapping is not accurate and the wording is dubious as it allows mining on the aquifer. He then stated the mining application before the DEC will cause their blasting noise to affect all those that are in that area. He feels the water law is being rushed and needs to be changed to reflect the mining in the area. He also feels it needs to specify the active quarry versus the inactive south quarry by not greenlighting the very thing the Board objects too. Under prohibited activities, item "d" states wording that he feels should apply to active mining operation otherwise you are not separating a new activity from an old activity, adding the law will open it up for any facility in existence and feels that needs to be changed. Mayor Egan stated he respectfully disagrees with Mr. Higgins comments that it is difficult for the public to know what is happening in the Village government. Attendance at the meetings has not changed and he has not heard any complaints from anyone. The Board has used many means of communication during the pandemic. Attorney Naughton stated the map for the Water Quality Protection Law was recently updated by the Village Engineer and Planner and is the most current that exists. When further investigation is done the map can be amended but she does not believe that is a reason to hold up adopting the law. She noted the map was one of the reasons the law was delayed because there were discrepancies between the different maps and the Village could not engage anyone to craft a new one and the County did not have an updated map that could be used. The map proposed with the law is the most up-to-date mapping information available. With regards to mining, it is noted in the proposed law - Section 310-31.4(E)(1)(d) – and it states *"Mining or other commercial removal or relocation of earth materials, including but not limited to sand, gravel, topsoil, metallic ores, or bedrock. Any such facilities in existence as of the effective date of this Section must file a Water Pollution Control Plan with the Building Inspector by August 1, 2021."* Mining is a prohibited activity unless already existing and this will add an additional reporting requirement. Omitting any references to mining in the law could open the door for an argument to be made that would permitted mining in the overlay district, which she feels will defeat the purpose of why the Board wanted to adopt this law, which was to protect the water resources of the Village. Mr. Higgins stated his point is there is a difference between an active quarry and a reclaimed quarry. He feels that should be spelled out otherwise they will just do it and Attorney Naughton stated she disagrees adding there are other provisions in the Village Code that come into play in that instance. Mr. Higgins then asked when the flags will be raised from half-mast, an issue he spoke to the Mayor about two weeks ago. Clerk Potvin stated the President has ordered the flags to be at half-mast due to the passing of Congressman John Lewis. Mr. Higgins stated that should not be ordered and that he is upset that the flags are not flying at full mast.

Neil Crouse stated the Water Quality Protection Law was something that started in 2018 and he is glad to see that it is finally being considered for a vote. He hopes that it will be approved tonight and believes it is a good law that had a lot of work put into it. He added the Moodna Inter-Municipal Water Council will be very interested in getting copies of the law and the members may use it in their municipalities.

III. Administrative Business:

a. Acceptance of Minutes:

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

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

b. Approval of Abstract:

Motion was offered by Trustee Graziano, seconded by Trustee Burek, to approve Abstract 4 containing vouchers 200216 – 200311 and totaling \$648,337.23.

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

c. Budget Modifications:

Motion was offered by Trustee Gomez, seconded by Trustee Burek, to approve the following modification to the FY2019/2020 budget of the General Fund totaling \$43,893:

- Increase A1410.100 (VC – Personal Services) by \$351, A1410.200 (VC – Equipment) by \$37, A1410.401 (VC – FOIL Expenses) by \$52, A1410.411 (VC – Office Supplies) by \$213, A1410.430 (VC – Transportation/Travel) by \$172, A1420.404 (Attorney – Labor) by \$716, A1440.402 (Engineer – Planning Board) by \$2282, A1610.401 (General – Telephone Exp) by \$193, A1610.406 (General – Buildings/Grounds) by \$522, A1610.407 (General – Heat/Air Use/Rep) by \$819, A1650.401 (Telephone) by \$1547, A3410.401 (FD – Telephone) by \$177, A3410.472 (FD – Air Compressor Serv by \$516), A3620.100 (BD – Personal Service) by \$4953, A3620.102 (BD – Compensated Absences) by \$3322, A4020.100 (Registrar of Vital Records) by \$1200, A5010.101 (HD – Personal Services) by \$470, A5010.102 (HD – Compensated Absences) by \$2652, A5010.401 (HD – Telephone) by \$438, A5010.402 (HD – Electricity) by \$645, A5010.404 (HD – Water Bills) by \$21, A5010.422 (HD – Drug Testing) by \$85, A5110.407 (HD – Traffic Control) by \$209, A5110.448 (HD – Miscellaneous Repairs) by \$284, A5130.200 (HD – Machinery Equipment) by \$11,432, A5140.425 (HD – Grounds/Weeds Control) by \$10,584, A9060.802 (Dental) by \$1;
- Decrease A1410.454 (VC – Advertising) by \$773, A1420.401 (Attorney – Contractual) by \$716, A1610.408 (General – Shredding) by \$390, A1670.401 (Central Printing) by \$479, A1670.402 (Central Postage) by \$424, A1680.400 (Data Processing) by \$160, A1910.400 (Unallocated Insurance) by \$781, A1920.400 (Municipal Assoc. Dues) by \$117, A1980.400 (MTA Payroll Tax) by \$730, A3410.444 (FD – Schools/Dues) by \$693, A5110.465 (HD – Blacktop) by \$26,820, A8020.100 (PB – Secretarial Services) by \$2282, A9060.801 (Hospital/Medical) by \$1;
- Increase A1255 (Clerk Fees) by \$52, A1603 (Vital Statistic Fees) by 1200, A2555 (Building Fees) by \$8275

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

Motion was then offered by Trustee Graziano, seconded by Trustee Giacomazza, to approve the following modification to the FY2019/2020 budget of the Consolidated Water Fund totaling \$10,325:

- Increase FC8310.101 (Compensated Absences) by \$3902, FC8310.415 (Engineer) by \$798, FC8310.420 (TB Well Communicator) by \$311, FC8310.438 (Operations/Maintenance) by \$5195, FC8310.468 (Generator Fuel) by \$119,
- Decrease FC8310.402 (Electric) by \$10,325.

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

Motion was then offered by Trustee Gomez, seconded by Trustee Burek, to approve the following modification to the FY2019/2020 budget of the Water 6 (Amdur Park) Fund totaling \$4,094:

- Increase FA8310.438 (Operations/Maintenance) by \$3933, FA8310.442 (Lab Testing) by \$161,
- Decrease FA8310.402 (Electric) by \$1330, FA8310.422 (Blacktop – Lagoon) by \$2000, FA8310.441 (Sludge Removal) by \$764.

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

Motion was then offered by Trustee Gomez, seconded by Trustee Giacomazza, to approve the following modification to the FY2019/2020 budget of the Consolidated Sewer Fund totaling \$99,765:

- Increase GC1980.400 (MTA Payroll Tax) by \$81, GC8110.100 (Personal Services) by \$3919, GC8110.101 (Compensated Absences) by \$3902, GC8110.403 (Heating Oil/Gas) by \$108, GC8110.415 (Engineering) by \$2727, GC8110.437 (Special Projects) by \$61,611, GC8110.438 (Operations/Maintenance) by \$26,929, GC9030.800 (Social Security/FICA) by \$488,
- Decrease GC8110.402 (Electric) by \$22,317, GC8110.426 (Chemicals/Supply) by \$63,255, GC8110.439 (OC Sewer District) by \$14,193.

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

Motion was then offered by Trustee Graziano, seconded by Trustee Burek, to approve the following modification to the FY2019/2020 budget of the Sewer 1 (Valley Forge) by increasing GV8110.401 (Telephone) by \$47 and decreasing GV8110.402 (Electric) by \$47.

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

d. Fire Department Equipment Request:

Motion was offered by Trustee Burek, seconded by Trustee Giacomazza, to approve Fire Department Equipment Request 2020-15 totaling approximately \$5463.75 for the purchase of a replacement 30” pro-bar for 525, eleven units of five gallons of foam for 521, 200lb Rescue Randy for rescue drills, five Fire Vulcan LED lights and one CO2 meter detector for Car 7.

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

IV. Old Business:

a. VOTE – Introductory Local Law 1 of 2018 – Water Quality Protection Overlay District:

Mayor Egan the GML response was received on June 22, 2020 and they stated they have found “no evidence that significant intermunicipal or countywide impacts would result from its approval”. They also commended the Village for taking active steps to protect vital water resources through the use of a comprehensive zoning tool. On June 19 comments from the Planning Board were received. No other written comments were received by the June 19 deadline.

Motion was then offered by Trustee Graziano, seconded by Trustee Gomez, to adopt a negative declaration for this issue pursuant to SEQRA, after reviewing it.

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

Motion was then offered by Trustee Graziano, seconded by Trustee Burek, to adopt Local Law 6 of 2020 amending Chapter 310 of the Village Code by creating a subsection 31.4 entitled “Water Quality Protection Overlay District” as printed at the end of these minutes.

ADOPTED BY ROLL CALL AS FOLLOWS:

Mayor Egan AYES

Trustee Burek	AYES
Trustee Giacomazza	AYES
Trustee Gomez	AYES
Trustee Graziano	AYES

b. VOTE – Introductory Local Law 7 of 2020 – Entity Disclosure:

Mayor Egan noted the only written comments received since the hearing were from Building Inspector Thomasberger on July 15. Attorney Naughton stated she has reviewed the comments submitted by the Building Inspector and those submitted at the last meeting by Mr. Zlata. She offered the following responses:

Joe Zlata’s Comments – Mr. Zlata had concerns about the how the term “applicant” is being used and she feels the underlying issue can be addressed by the form that will be adopted by the Board at the next meeting which her office is preparing. He stated that the law be amended to reflect that “any and all changes to be entity that had received prior approval for a land use project” be reported to the Village and a new disclosure form submitted. She feels this suggestion is unmanageable as there would be no way to know if there were changes made and then no way to enforce it. Mr. Zlata also asked that with the disclosure form a copy of the documentation submitted to the NYS Divisions of Corporations be included. Attorney Naughton stated these could be included but many of these entities are created by attorneys and do not list the members (that would be included in private documents of the entity).

Building Inspector Thomasberger’s Comments – He has questions about the disclosure form to be used and she stated her office will prepare the form and there is no “reporting” requirement. If there were it would be between the Board and his office. He asked if the Village Board would need to approve all applications for building permits, planning/zoning board applications and she stated they would not. The only time the Village Board would be involved is under Section (B)(4)(i). He asked if each contractor/subcontractor would be required to file separate building permit applications and she said no the law only pertains to owners/entities applying for permits/approvals/etc. He suggested raising the exceptions for residential garages from 500sf to 1500sf to conform with the Zoning Code for accessory use. She stated that would be up to the Board and the Board collectively did not agree with this suggestion. He then felt it should be clarified that an applicant with property in single ownership is exempt. She does not understand what he means by this, adding if a property is owned by a single person that person is not required to fill out a disclosure form.

Motion was then offered by Trustee Giacomazza, seconded by Trustee Gomez, to adopt Local Law 7 of 2020 amending Chapter 96 (“Building Construction”) of the Village Code to implement an Entity Disclosure Law as printed at the end of these minutes.

ADOPTED BY ROLL CALL AS FOLLOWS:

Mayor Egan	AYES
Trustee Burek	AYES
Trustee Giacomazza	AYES
Trustee Gomez	AYES
Trustee Graziano	AYES

c. Authorize Mayor to Sign – Renewal Agreement with HDR:

Motion was offered by Trustee Gomez, seconded by Trustee Graziano, to authorize the Mayor to sign Mayor to sign a “Master Short Form Agreement for Professional Services” with HDR for various projects they consultant for the Village Board.

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

NOES 0

V. New Business:

a. Proposed Changes to Building Department Fees:

Trustee Giacomazza stated a lot of effort was put into the review of the fees and he thanked Inspector Thomasberger, as well as Planning Board Chairman Gerver and Zoning Board Chairwoman Ungerer, for this help with input. Motion was offered by Trustee Giacomazza, seconded by Trustee Gomez, to adopt the new fees relating to permits in the Building Department effective August 1:

General Fees:

Municipal Search:	
Residential	\$200.00
Commercial	\$250.00
Blasting Permit	\$300.00
Fireworks Permit	\$400.00
Operating Permit	\$200.00
Amendment to Building Permit	\$250.00
Floodplain Letter	\$100.00
Bungalow Permit	\$25.00/unit
Extension of Building Permit	
Residential	\$15.00/month (minimum 3 months)
Commercial	\$25.00/month (minimum 3 months)
Fire Permit	\$150.00
Public Assembly Permit	\$100.00 + \$50/day
Donation Bin Permit	\$50.00
Block Party Permit	\$100.00

Building Permits:

Residential	\$12.00 per thousand + \$50/CO
Commercial	\$15.00 per thousand + \$100/CO

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

b. Liquor License Application – Rushmore Estates:

Notice was received on July 2, 2020 that Rushmore Estates LLC, located at 14 Castleton Drive, Highland Mills, is applying for a liquor license from the NYS Division of Alcoholic Beverage Control State Liquor Authority. Mayor Egan stated a letter was sent to the Police Department to determine if there is any reason why the Village should object to this application being approved and they stated they have found no concerns that should be reported. Therefore, Village Clerk Potvin was instructed to send a letter to the State Liquor Authority.

c. Resolution – Village of Kiryas Joel Water Filtration Plant Zoning Laws Applicability:

Motion was offered by Trustee Graziano, seconded by Trustee Burek, to adopt the following resolution determining applicability of Woodbury’s Zoning Laws to Kiryas Joel’s plan to construct a water filtration plant within the Village of Woodbury:

WHEREAS, the Village of Kiryas Joel owns a parcel of property in Woodbury located at 147 Seven Springs Road in the Village’s R-2A Zoning District (30.3 acres) (“Seven Springs Road Property”); and

WHEREAS, Kiryas Joel allegedly desires to draw water from the New York City Catskill Aqueduct and two wells in the Town of Cornwall (Mountainville Wells) to supplement Kiryas Joel's present water supply; and

WHEREAS, upon information and belief Kiryas Joel has not yet received all necessary approvals to connect to the New York City Catskill Aqueduct, but is proposing to construct a water filtration plant on the Seven Springs Road Property; and

WHEREAS, under Woodbury's Zoning Code the construction of the water filtration plant requires a special permit and site plan approval by Woodbury's Planning Board; and

WHEREAS, Kiryas Joel purports in a letter that its water filtration plant project on property in Woodbury is not subject to Woodbury's zoning laws, claiming exemption under New York State statutory and common law; and

WHEREAS, Kiryas Joel is incorrect that the State statutes referenced by it exempts it from Woodbury's zoning laws or other land use regulations regarding the pump station and water treatment plant project; and

WHEREAS, pursuant to the decision of the New York Court of Appeals in *In re County of Monroe*, 72 N.Y. 2d 338 (1988), a common law "balancing of public interests" is required to determine whether Kiryas Joel would be exempt from the zoning and land use regulatory jurisdiction of the Village of Woodbury and its agencies ("Monroe Inquiry"); and

WHEREAS, the Woodbury Village Board of Trustees has reviewed and hereby addresses Kiryas Joel's claimed common law exemption from Woodbury's zoning laws for its water filtration plant project under the balancing test of *In re County of Monroe*,

NOW THEREFORE, after due deliberation, it is hereby

RESOLVED that the Village of Woodbury Board of Trustees, the municipal entity legally entitled to conduct the Monroe Inquiry, does hereby find in accordance with the relevant balancing factors:

- 1) Kiryas Joel is not a legally superior jurisdiction to the Village of Woodbury and, therefore, Kiryas Joel is not entitled to any preference regarding general municipal powers and its project.
- 2) There is no express grant of legislative authority to Kiryas Joel providing it immunity from Woodbury's zoning laws. Although Village Law § 11-1126 provides for certain exemptions from consents regarding the laying of pipe and necessary appurtenances for a connection to the New York City Aqueduct system, upon information and belief Kiryas Joel has not yet secured the necessary approvals and easements for such connection and, in any event, the exempted consents do not apply to local zoning laws. Further, Village Law § 11-1110 only provides for the basic legal authority for Kiryas Joel to lay and repair pipelines outside of its own Village boundaries; it does not provide for any exemption from local zoning laws in those areas outside of its own village borders. Nor does the court decision in *Town of Woodbury, et al. v. Village of Kiryas Joel* (Orange County Index No. 2877-2013) provide any relief to Kiryas Joel in this regard.
- 3) The construction of Kiryas Joel's water filtration plant is for a governmental purpose, but not a governmental purpose that benefits the Village of Woodbury or its residents. Kiryas Joel's intended and unnecessary placement of its water treatment plant outside of its own village borders to adversely affect the Village of Woodbury and its residents, while posing no inconvenience or impacts to the residents of Kiryas Joel, even though Kiryas Joel has the ability to use or procure property within its own village limits for the water filtration plant.
- 4) Enforcement of the Woodbury's zoning laws will have an insignificant effect on Kiryas Joel. Kiryas Joel simply has to make application to and appear before the Woodbury Planning Board for a special permit and site plan, a portion of which was submitted with its July 6, 2020 letter to the Planning Board. This is a simple process, causing no undue delay or interference with Kiryas Joel's project.

- 5) There will be a significant impact upon the legitimate local interests of Woodbury, as this property is located on a main road and within a residential district in the Village; any structure erected on this property will be highly visible. This use needs to be developed in a manner that is compatible with development in the area to the greatest practical extent, as provided for in Woodbury's zoning laws.
- 6) Kiryas Joel has not provided any alternative sites for their project in their own village or in less restrictive zoning areas in Woodbury, or alternative methods of providing the needed improvements. The potential availability of alternative sites for these improvements (including locating the water filtration plant within Kiryas Joel), and alternative designs, weighs against exempting Kiryas Joel from the Woodbury's zoning laws and land use regulatory authority.

and it is further

RESOLVED, that based upon the above-noted findings, and in accordance with the common law weighing of those findings as set forth in Matter of County of Monroe, and notwithstanding Kiryas Joel's position to the contrary, Kiryas Joel is hereby required to comply with the Village of Woodbury zoning laws and land use regulatory authority for its proposed water filtration plant and related improvements in the Village of Woodbury, and is thereby required to apply for and receive a special permit and site plan approval from the Village Planning Board.

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

Attorney Naughton stated this has come up due to a letter/partial application received from the Village of Kiryas Joel stating that they have conducted the balancing test from the County of Monroe per case law and their balancing says they do not have to comply with our local zoning. The resolution just adopted says the Board of Trustees has balanced these factors and that Village of Kiryas Joel is required to comply with our zoning.

VI. Public Comment:

Matt Higgins stated again he would like the flags raised to full mast as it has been at half-mast for three months.

Neil Crouse stated he watched the last Town Board meeting at which Supervisor Palermo stated he was going to submit a settlement agreement to the Village. According to what was said at that meeting, the Town would be willing to sign the deed taking ownership of the 112 acres at the Reservoir, they want the six acres at the Highway Garage subdivided and some of that land returned to the Town for a parking lot to be created for the Senior Center and they want about \$60,000 for a bond payment. It is his opinion that the settlement is not equitable in any way and that so much taxpayer's money has been spent on this issue. He feels he would rather see the court render a decision rather than this settlement because there could be a change in the boards make-up in the future resurrecting the issue again. Mayor Egan stated the bond payment was agreed by the previous Village Board at a joint meeting held with the Town Board in the Spring 2019. He had attempted to meet with Supervisor Palermo several times to discuss ending the lawsuit but did not get very far. Supervisor Palermo suggested to him that the Town would want a small piece of land adjacent to the Senior Center to create more parking (the current land that has been used to store waste pipe). He had thought that sounded reasonable but nothing has been presented with the exact details. The case is on the trial calendar as previously it was postponed due to settlement negotiations. When the settlement offering is received it will be forward to the Village's legal representatives for review. Attorney Naughton there is a court conference scheduled for next week to discuss this issue. If a settlement is reached, there would

be wording to protect against any future claims. Mr. Crouse then thanked the Village Board for passing the Water Quality Protective Overlay district law.

Sandra Capriglione thanked the Board for passing the Water Quality Preservation Overlay law, adding it means a lot to the Planning Board for their review process. She then stated part of the Town's lawsuit was that they wanted the Village to reimburse them for all the fees and expenditures they have incurred. Attorney Naughton stated no official settlement has been received but the Town Board did adopt a resolution itemizing their substantive items of their settlement offer. Mrs. Capriglione stated she hopes and requests both the Town Board and Village Board to be honest with the public regarding the true costs to the taxpayers for this litigation. She would like to see that written into the agreement. Attorney Naughton stated that is not something that should be in the agreement but it is something that can be FOILED.

Joseph Zlata stated when he FOILED the Town expenses relating to the lawsuit he was provided with legal costs but he feels whatever money that was spent should be part of the total. Clerk Potvin stated, to her knowledge, up until recently there has only been legal costs.

VII. Board Member/Department Comment:

Mayor Egan provided an update on the Speyside application before the DEC. Prior to the written comment deadline, he submitted comments along with a memo prepared by the Village Engineer. These comments outlined several areas of concern with the current applications. After that submission he participated in a subsequent video conference with the Village Engineer and Attorney. The result of that discussion was that a meeting should be requested with the DEC. The meeting was held on July 16 and during that discussion we amplified our concerns about the applications, especially the expansion. We discussed water supply and quality, impacts to the aquifer, drawdown effects on neighboring residential and municipal wells, noise, traffic, operating hours and several other issues. Specifically with regard to water supply, he pointed out the large amount of water being pumped out of the ground, with the majority of that water flowing downstream as "return", which not only does not benefit the Village at all but has potential dangerous impacts to our long term supply. He also offered a potential solution - he suggested that Speyside could possibly work with the Village to reclaim some of that water and potentially provide an additional supply that could solve our water problems for several years. This would require work on both of our parts but conserving the existing supply in his opinion is far better than allowing millions of gallons per month to be wasted. The DEC told us not only did they appreciate our concerns and suggestions, but they would accept written comment from us at any time, regardless of submission deadlines. Regarding the COVID-19 pandemic, we are closely monitoring not only our efforts but the numbers in other states around the country. He has been working with department heads to monitor travel with an eye toward compliance with the Governor's Executive Orders, specifically in the areas of testing and monitoring. We have begun a new procedure that will protect not only our employees but our residents that meet with any village employee.

Trustee Graziano thanked all that attended the meeting tonight. He noted he is glad that Phase 4 of the NYPAUSE has been accomplished but reminded the public we need to remain diligent to keep our infection numbers low. The nice weather is upon us and we all want to be outside and interact with others, especially with children. He asked all to be sure to wear a mask, practice social distancing and treat each other with respect. He then urged all residents to support our local restaurants and businesses as they have been hurting from the months of closures and the cumbersome rules they need to follow in order to reopen. He then stated as the pandemic has dragged on and the weather has

become hotter, tempers have seemed to flare. He feels we are a community that he is proud to live in and he believes we are better than some of what he has seen transpire lately. This is a community that strives to volunteer and help each other which is what makes us truly special. He asked that before you write a post on social media you think twice about it and his hope is that cooler heads will prevail.

Trustee Gomez stated there was a post on social media a new shed at the Animal Shelter and is point was to praise the work that was done by the Knights of Columbus (KofC), the Highway Department and the community. He stressed there was no political intention involved in making the post and he was under the assumption that the money which was raised at the fundraiser was used in making all the new improvements, which has been many. He apologized for any misunderstanding this might have caused but he will not apologize for praising the KofC for the great job that they have done, the time the community provides or the many man hours the Village Highway Department has done/continues to do so for such a great cause. He hopes in the future we can try and work better as a community and we do not point out the negative things in life, especially on social media platforms. He feels we should look to make Woodbury #1 – a strong and loving community.

Trustee Burek thanked all that attended the meeting this evening and she echoed the sentiments made by Trustee Graziano and Trustee Gomez. She noted the role of Village Trustee is not taken lightly and each member does this job because they truly care and what to help. She feels there is so much animosity seen every day - not just between strangers but between neighbors as well. She considers every person she meets as a neighbor and she will treat them with respect even if they themselves lack it. She believes that putting one's pride and differences aside and truly putting in the work for the betterment of our community is what takes courage and hard work. She feels we are all just humans following different paths but hopefully sharing in the common goal of making changes that have positive, long-lasting impacts to the place we call home.

Trustee Giacomazza noted this past Friday Congressman John Lewis passed away. He was one of the great Civil Rights leaders in our history, one of the original thirteen freedom riders who challenged segregation and a founder, early leader of the student non-violent coordinating committee which organized lunch counter sit-ins and helped organize the march on Washington. He was also on the front lines of the bloody campaign to end the Jim Crows Laws and he was a leader of the Civil Rights Movement who fought segregation and a champion of change for equality to the very end. He hopes that his strength and determination continue to inspire all of use as we move our country forward during these most challenging times. He was a man who was peacefully trying to make changes so that we all get along. Trustee Giacomazza stressed that he is a stronger believer that “when they go low, we go high” and he will continue to stress the Village Trustees are desperately trying to bring this community together. He feels it is unfortunate that people feel that they have to lower themselves to that point to look to divide the community and he prays for them.

VIII. Adjournment:

With no further comments received or business to discuss, a motion was offered by Trustee Gomez, seconded by Trustee Burek, to adjourn the meeting at 8:50PM.

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

Desiree Potvin, Village Clerk

LOCAL LAW 6 OF 2020

A LOCAL LAW AMENDING CHAPTER 310 OF THE CODE OF THE VILLAGE OF WOODBURY BY CREATING A SUBSECTION 31.4 ENTITLED “WATER QUALITY PROTECTION OVERLAY DISTRICT”

BE IT ENACTED by the Village Board of the Village of Woodbury, Orange County, New York, as follows:

Section 1. Chapter 310 (“Zoning”).

Section 310-3(A) (“Enumeration of districts”) is amended to add the following language:

Title	Symbol
Water Quality Protection Overlay	WQPO

Section 310-31.4 of the Village Code is hereby created as follows:

§ 310-31.4 Water Quality Protection Overlay District

A. Purpose and Intent of District.

1. It is the policy of the Village of Woodbury to promote the health, safety and welfare of the community by protecting and preserving the streams, water bodies, aquifers and groundwater resources that supply the Village's potable water, including reserve and future supplies, including both public water supplies and potable water for private wells. The intent of the Water Quality Protection Overlay District is to and to control activities that may pollute, degrade or reduce the availability of such surface and ground waters.
2. The Water Quality Protection Overlay District is an overlay on all of the Village's other existing zoning districts. Uses not permitted in the underlying district are not permitted in the Overlay District. This Overlay District does not change the use and dimensional requirements of the underlying land use districts unless specifically stated in this Section but imposes specific requirements that must be followed. Unless the Building Inspector or the Zoning Board of Appeals of the Village makes a finding otherwise, the more restrictive requirements will be applied by the Planning Board.

B. Findings.

- 1) The Village of Woodbury has the authority to conserve and protect surface and ground water quality pursuant to the police power vested in and granted to the Village under the common law and N.Y. Municipal Home Rule Law, which recognize the authority of local governments to protect the health, safety, and welfare of their community, including the persons and property therein.
- 2) Clean, safe drinking water is essential to public health and welfare.
- 3) The Village of Woodbury has public water systems that serve over 10,000 people. The systems are supplied by a series of wells that draw water from both consolidated rock formations and unconsolidated sand and gravel aquifers underlying Woodbury Creek and adjacent areas. The aquifer underlying the Ramapo River corridor serves Village residents through wells installed and operated by the Village of Harriman through an intermunicipal agreement and is a potential future source for expansion of the Village water supply as well.

- 4) The Village's groundwater is also the source of water for numerous wells for others. Adjacent municipalities, such as the Villages of Harriman and Kiryas Joel, private entities, and individuals utilize well systems that draw from aquifers located wholly or partly in the Village.
- 5) Tributary streams to the Woodbury Creek and Ramapo River recharge the aquifers utilized directly or indirectly by Village. As a result, to protect the quality of water in the aquifers, it is necessary to limit and restrict the potential for pollutants to enter the watersheds of the Woodbury Creek and Ramapo River.
- 6) Physical disturbance or introduction of pollutants into stream systems can contaminate or otherwise degrade them and the aquifers they recharge. Uncontrolled land development may also contaminate waters or change the hydrologic regime reducing recharge, which can damage the capacity of the aquifers as sources for water supply. Pollutants, including sediment from land disturbance, runoff of salt used on roads, sidewalks and driveways, nutrients and pathogens from wastewater effluent, pesticides and nutrients from agriculture and lawn care, and a variety of other sources, reduces the quality of riparian buffers, including forests and wetlands, that protect water quality and recharge aquifers. Such degradation threatens to create hazards to the health, safety and welfare of the people of the Village and neighboring municipalities, in addition to the costs associated with a disruption of potable water sources, including the increased costs of water purification and treatment. These risks can be reduced by restricting certain activities in the watersheds for these stream systems, and by limiting development activities near these streams.
- 7) The Village's streams and aquifers are already facing challenges from contaminants and loss of recharge. The New York State Department of Environmental Conservation has determined that water quality in the Woodbury Creek and its tributaries is currently affected by elevated chlorides, nutrient enrichment and siltation, resulting in whole or in part from development in the watershed. The New York State Department of Health has determined that some of the Village's wells are at risk from pollutants including nitrates and pathogens.
- 8) Protecting and preserving the Village's watersheds will provide significant collateral benefits. These lands and waters provide habitats for many of the Village's wildlife, and support recreational activities such as fishing, hunting, hiking, birding, and associated economic activity. Wetlands and riparian buffers also help control floodwaters by slowing and absorbing overland runoff.
- 9) The Village's Comprehensive Plan recognizes the importance of protecting surface water and groundwater resources, and specifically supports the creation of overlay districts to protect stream systems and aquifers. The Orange County Water Master Plan also recommends the use of local laws to address pressing threats of contamination, and particularly to provide maximum protection to sensitive aquifer areas and control activities that pose risks for contamination of underlying aquifers.
- 10) The regulations proposed will supplement and enhance regulatory controls protecting source water quality by mechanisms and techniques suggested under Orange County's well head protection study, and recommendations of the EPA for water source protection.

C. Definitions. For the purposes of this Section, certain terms or words used herein shall be interpreted or defined as follows:

- 1) Aquifer: A body of permeable subsurface soils and/or rock that can contain, store or transmit groundwater.
- 2) Buffer area: All lands within 100 feet of a stream or water body in the Overlay District.

- 3) Impervious surface: Surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water runoff into the ground, including but not limited to building rooftops, pavement, sidewalks and driveways. The Department of Environmental Conservation Stormwater Design Manual uses the threshold for infiltration of 0.5 inches/hour to determine infiltration feasibility and site limitations. Anything less than this rate shall be considered ineffective.
- 4) Overlay District: The Water Quality Protection Overlay District, as defined in Subsection D of this Section.
- 5) Protective structure: A structure, covering or container designed to prevent contact of precipitation with a stored material and prevent discharge of contamination to the environment. In accordance with the procedures set forth in this Section, the Planning Board and Building Inspector may specify appropriate protective structures to be used in the Overlay District or review applicants' proposals for protective structures.
- 6) Public water supply source: The aquifers that provide water to current municipal water systems and future targeted development areas. For purposes of this Section, the public water supply shall include the Woodbury Creek Valley Aquifer and the Ramapo River Valley Aquifer, as defined by the Orange County Water Authority.
- 7) Recharging freshwater wetland: A freshwater wetland as defined in § 165-3 of this code that the Planning Board finds, after consultation with the Village Engineer, directly and substantially recharges and replenishes underground water reserves.
- 8) Reservoir: Cromwell Lake and Earl Reservoir.
- 9) Riparian zone: The land within 50 feet of a stream or water body.
- 10) Stream: A permanent or intermittent water course, river, creek, ditch, or channel in which water flows, as identified in the "Water Quality Protection Overlay District Boundary Map, Village of Woodbury" on file in the Village Clerk's Office.
- 11) Top of the stream bank: The primary edge of the ordinary high-water mark, or break in slope for a watercourse, which maintains the integrity of the watercourse.
- 12) Waste: All putrescible and non-putrescible materials or substances that are discarded, including but not limited to garbage, refuse, industrial and commercial waste, sludges, rubbish, tires, ashes, chemicals, construction and demolition debris, objects, and vessels containing any of the foregoing.
- 13) Waterbody: Any natural or artificial pond, lake, reservoir or other surface water area that is not a stream and that usually or intermittently contains water, as identified in the "Water Quality Protection Overlay District Boundary Map, Village of Woodbury" on file in the Village Clerk's Office. For purposes of this Section, water bodies do not include ponds, basins or other structures designed and constructed specifically for stormwater management.
- 14) Water Pollution Control Plan: A written document describing hazardous materials present or typically used on a particular site, systems for containing these materials and preventing their discharge into the environment, and emergency response plans if accidental discharge should occur. The Building Inspector may require specific documentation as appropriate to the use or activity, including an assessment of existing stormwater management practices. If existing practices (stormwater or other) are determined inadequate, the Owner shall be required to modify these to be current and effective.
- 15) Watershed: A region of land that drains down gradient to a particular body of water. A watershed has interconnected streams, lakes, wetlands, and underground waters moving generally downhill to the body of water for which the watershed is named.

D. Establishment and Definition of District.

- 1) The Water Quality Protection Overlay District includes all lands in the Village, outside the United States Military Reservation and Harriman and Schunemunk State Parks, that contribute to the public water supply, including all lands in the Village outside of said parks and reservation from which water flows into streams or water bodies tributary to the Woodbury Creek or the Ramapo River. The map defining the Overlay District boundaries, entitled "Water Quality Protection Overlay District Boundary Map, Village of Woodbury" is available to the public in the Village Clerk's Office.
- 2) District Boundary Exceptions. This district shall exclude, and the provisions of this Section shall not apply to, any land that is proven to the satisfaction of the Building Inspector, upon consultation with and advice by the Village Engineer, not to drain into the waters described in this Section.

E. Regulated activities. The following regulations shall apply throughout the Overlay District.

- 1) Prohibited activities.
 - a) Disposal, deposit or discharge of solid or liquid wastes onto any land or waters in the Overlay District, except for (i) the washing of cars, driveways, patios, and other residential related incidental cleaning operations using only environmentally-friendly products, and (ii) subsurface wastewater disposal systems approved by the Orange County Health Department or the Village of Woodbury, and (iii) stormwater management facilities as set forth in Stormwater Pollution Prevention Plans prepared pursuant to the Environmental Conservation Law as approved by the Building Inspector in consultation with the Village Engineer, the Village Planning Board or the Department of Environmental Conservation.
 - b) Outdoor storage of any of the following materials, except in protective structures or vessels approved by the Building Inspector: bulk chemicals, hazardous materials, petroleum products, fertilizers, herbicides, pesticides, manure.
 - c) Underground storage of any petroleum product except as approved by the New York State Department of Environmental Conservation.
 - d) Mining or other commercial removal or relocation of earth materials, including but not limited to sand, gravel, topsoil, metallic ores, or bedrock. Any such facilities in existence as of the effective date of this Section must file a Water Pollution Control Plan with the Building Inspector by August 1, 2021.
 - e) Drilling of wells for oil, gas, gas storage, brine disposal, or similar purposes.
 - f) Burial of human or animal remains within 100 feet of a stream or water body.
- 2) Junkyards and refuse dumps. Establishment of junkyards and refuse dumps is prohibited in the Village of Woodbury pursuant to § 310-15. Any junkyards or refuse dump in existence as of the effective date of this Section must file a Water Pollution Control Plan with the Building Inspector by August 1, 2021.
- 3) No fertilizers, pesticides, herbicides or manure may be applied in the riparian zone of a stream or water body. For single-family residential dwellings, the application of environmentally friendly fertilizers per the New York State Nutrient Runoff Law, and anti-mosquito and tick spraying shall be allowed by New York licensed applicators and homeowners, with the use of only products approved by the Department of Environmental Conservation. This exclusion shall not apply to commercial residential and other developments.

- 4) No animal feedlots, manure storage or chemical storage may be located in the buffer zone of a stream or water body. Any existing facility with chemical storage shall file a Water Pollution Control Plan with the Village by August 1, 2021.
- 5) Salt application and storage. It is the policy of the Village that de-icing shall be conducted in a manner that minimizes the amount of salt used while maintaining public safety.
 - a) Bulk storage of salt or de-icing chemicals in the Overlay District shall only be allowed in protective structures approved by the Village Board, in consultation with the Village Engineer (for use by the Village) or by the Planning Board as part of a site plan application (for all others). For purposes of this paragraph, "bulk storage" shall mean the storage of quantities in excess of 100 pounds in a single location.
 - b) No collected snow that has been contaminated with salt or de-icing chemicals may be transported into and deposited within the Overlay District.
 - c) Maintenance and snow management for roadway safety as required by the Village, County and State highway departments is permitted.
 - d) In cases where the Planning Board finds that the transport of contaminated snow within the Village Boundaries is required, then the provision to allow this will be specifically stated within the resolution of approval. Furthermore, the applicant will be required to file a "Snow Disposition Plan" for Planning Board approval and enforcement by the Building Department.
- 6) Special Permit Uses.
 - a) The following uses shall only be allowed in the Overlay District if they are allowed in the underlying zoning district and if they are granted a Special Permit pursuant to Section 310-45 of this Code:
 - i. Gasoline stations and other facilities for the transport, storage or sale of petroleum or petroleum products.
 - ii. Automobile service stations, repair garages, and other facilities to service, store or repair automobile and/or recreational vehicles.
 - iii. Dry cleaning facilities.
 - b) The following additional requirements shall apply to requests for Special Permits for the uses listed in subparagraph (a) when proposed in the Overlay District:
 - i. The facility must be connected to a municipal sewer system, except for fuel pipeline under paragraph (E)(6)(a)(i) of this Section; and
 - ii. The applicant must develop a Water Pollution Control Plan, which shall be to the satisfaction of the Building Inspector and file such plan with the Building Department.
 - c) All existing facilities in the Overlay District with uses described in subparagraph (a) or other industrial or commercial uses identified by the Building Inspector to have a reasonable cause to do so, shall file a Water Pollution Control Plan with the Building Inspector by August 1, 2021 or within six (6) months of identification by the Building Inspector, whichever is earlier.

F. Riparian zone. A minimum 50-foot undisturbed Riparian zone shall be maintained adjacent to all streams and water bodies in the Overlay District.

- 1) The 50-foot Riparian zone shall be measured from the top of the stream bank of the associated stream or water body, except where a recharging freshwater wetland is located adjacent to said associated stream or water body, in which case the Riparian zone shall be measured from the delineated boundary of such recharging freshwater wetland.

- 2) The following requirements apply to the Riparian zone:
- a) No vegetation may be removed from a Riparian zone which has not already been cleared prior to the effective date of this provision, except dead and dangerous trees upon inspection and approval by the Building Inspector. This provision shall not apply to the maintenance of existing or approved lawn and planting areas of single-family residential dwellings.
 - b) No land disturbance is permitted in unpaved areas of the Riparian zone except for:
 - i. Structures such as flag poles, signs, and security lights, which would result in increases in impervious area, unless reviewed and approved by the Planning Board.
 - ii. Necessary stream bank or shoreline stabilization, with the review and approval of the Building Inspector in consultation with the Village Engineer as needed.
 - iii. Development of a water supply well that is approved by the Department of Health.
 - iv. Enhancement, as defined in paragraph (G)(1)(d).
 - v. When the Planning Board has jurisdiction for review and approval of a project in the Riparian zone for streams and waterbodies, the Planning Board must determine, after opportunity for public hearing, that either (a) there is no practical alternative to realize a compelling need of the community related to health, safety and welfare of persons and property therein, which need outweighs the loss of protection to the water supply; and (b) such land disturbance is necessary to avoid the likelihood that substantially all uses for which the property is zoned and suitable are precluded, so as to deny the owner all economically beneficial or productive use of the property, akin to a regulatory taking of the property. In its determination, the Planning Board shall consider whether: (i) the applicant has minimized proposed disturbance to the areas closest to the affected waterbody; (ii) the proposed use is compatible with adjacent uses; (iii) the impacts to the affected waterbody as a result of the proposed use is as benign as that of adjacent uses; (iv) the applicant has demonstrated there are no reasonable alternatives to the proposed development; and (v) the proposed improvements minimize and mitigate potential impacts.

G. New Development in Buffer Area. In order to protect the integrity of streams and water bodies, a regulated buffer area of 100 feet from each stream and water body in the Overlay District is hereby designated, in which the following requirements apply for new development. The buffer area shall be measured from the top of the stream bank.

- 1) Proposals for new site plan or subdivision approval which include plans for any building, structure, impervious surface, access roads, utilities, stormwater facilities, or land clearing in the buffer area shall require a special permit from the Planning Board pursuant to § 310-45. Additionally, any development and/or construction proposed in the buffer area which requires a building permit shall require a special permit and site plan approval from the Planning Board, except as noted in Subsection G(2).
 - a) Special permit approval pursuant to this Section shall require the Planning Board to make a finding that the applicant has met all of the following criteria:
 - i. The development is consistent with the purpose and intent of the Overlay District.

- ii. The construction of buildings, structures and impervious surfaces and disturbance of vegetation in the buffer have been avoided or minimized to the greatest maximum extent practicable. The Planning Board is hereby specifically authorized to relocate, or reduce the footprint, height or square footage, specify materials, require specific protocols for maintenance, of any building, structure or impervious surface, and/or the number of lots in a proposed subdivision, to the extent necessary to reduce impact on the buffer and associated streams or water bodies.
 - iii. The use and location of development is appropriate to the natural topography, soils, and other characteristics of the site to be developed.
 - iv. The development will minimize to the greatest extent practicable the impact, during construction or thereafter, on the quality or quantity of groundwater or surface water in the Overlay District.
 - v. The construction proposed will avoid substantial disturbance of the soils, topography, drainage, vegetation and other natural characteristics of the site to be developed.
 - vi. Adequate provisions have been made for the collection and disposal of all stormwater that runs off proposed roads, parking areas, roofs, and other surfaces. Groundwater will be recharged to the maximum extent practicable on-site.
 - vii. Filling, excavation and earth-moving activity have been minimized to the greatest extent practicable.
- b) The Planning Board shall consider a cluster development layout as defined in § 310-31, in any subdivision proposal requiring a special use permit hereunder. Open space shall be selected to maximize protection of water resources and preservation of the buffer area.
 - c) The Planning Board may require the applicant to prepare a stormwater pollution prevention plan, as defined in § 267-8 of this Code, for any development in the buffer area, whether or not the development would otherwise require such a plan.
 - d) Riparian zone enhancement. In addition to requiring preservation of the riparian zone adjacent to a stream or water body as provided in Subsection F and elsewhere in this Section, the Planning Board may require enhancement of the existing vegetation through the use of supplemental plantings, if necessary, to ensure that the riparian zone can properly and effectively perform its filtering and absorption functions. Disturbance of the riparian zone for the purpose of enhancement shall be by hand work, with no machine use.
- 2) Any building permit application for any residential structure or related impervious area of 200 square feet or less (cumulative) proposed within the buffer area shall require approval of the Building Inspector in accordance with the criteria below.
- a) The Building Inspector shall ensure that the proposal minimizes to the greatest extent practicable the extent of impact on the buffer and shall impose conditions to minimize to the greatest extent practicable any potential impact on streams or water bodies in the district.
 - b) The Building Inspector shall consider any practicable alternatives to so minimize impact on the buffer and on the stream or water body. These may include, as appropriate, alternative locations on the site or reduced footprint, height or square footage for the proposed buildings, structures or impervious surfaces.

- c) Such activity shall avoid impact on water bodies, streams and riparian areas to the maximum extent practicable and disturb the minimum area reasonably necessary for its completion. The Building Inspector shall have authority to require remediation of any area disturbed during construction, including best management practices, necessary to accomplish the purposes of this Section.
- 3) All approvals under this Subsection G shall be subject to the riparian zone constraints in paragraph F. Nothing in this Subsection G shall be interpreted to supersede any requirement or condition applicable to riparian zones pursuant to paragraph F.
- 4) Development of a water supply well that is approved by the Department of Health shall be permitted in the buffer area.

H. Administration and Enforcement. The requirements of this Section shall be administered and enforced pursuant to the applicable provisions of this Chapter, including special use permit procedures (§ 310-45), enforcement (§ 310-46), appeals (§ 310-49) and penalties (§ 310-50).

I. Existing Nonconforming Uses. Where nonconforming uses exist within the Overlay District, and except where a Water Pollution Control Plan is required to be filed as identified above, these uses may remain. If maintenance, repairs, or procedures required for compliance with Federal and State regulations are necessary they shall be permitted. Under no circumstances shall the nonconforming use be authorized to expand their facilities, impervious area, or capacity without receiving all required approvals including those from the Building Department and/or Planning Board.

J. Municipalities and governments bound. The provisions of this Section shall apply to all public officials and agencies and their agents, including without limitation those of the Village of Woodbury and all other municipal and governmental bodies.

Section 2. Zoning Map Amendments.

The Zoning Map of the Village of Woodbury is hereby amended to establish the Water Quality Protection Overlay District as shown on the attached map.

Section 3. Exemptions.

All projects that have completed the State Environmental Quality Review Act (“SEQRA”) process by receiving either a Negative Declaration or a Findings Statement from the Village of Woodbury Planning Board, and have such determination in effect on the date that this Local Law becomes effective, are exempt from this Local Law and may proceed under the prior applicable zoning law.

Section 4. Supersession.

To the extent that any State or local laws fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, then such laws are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

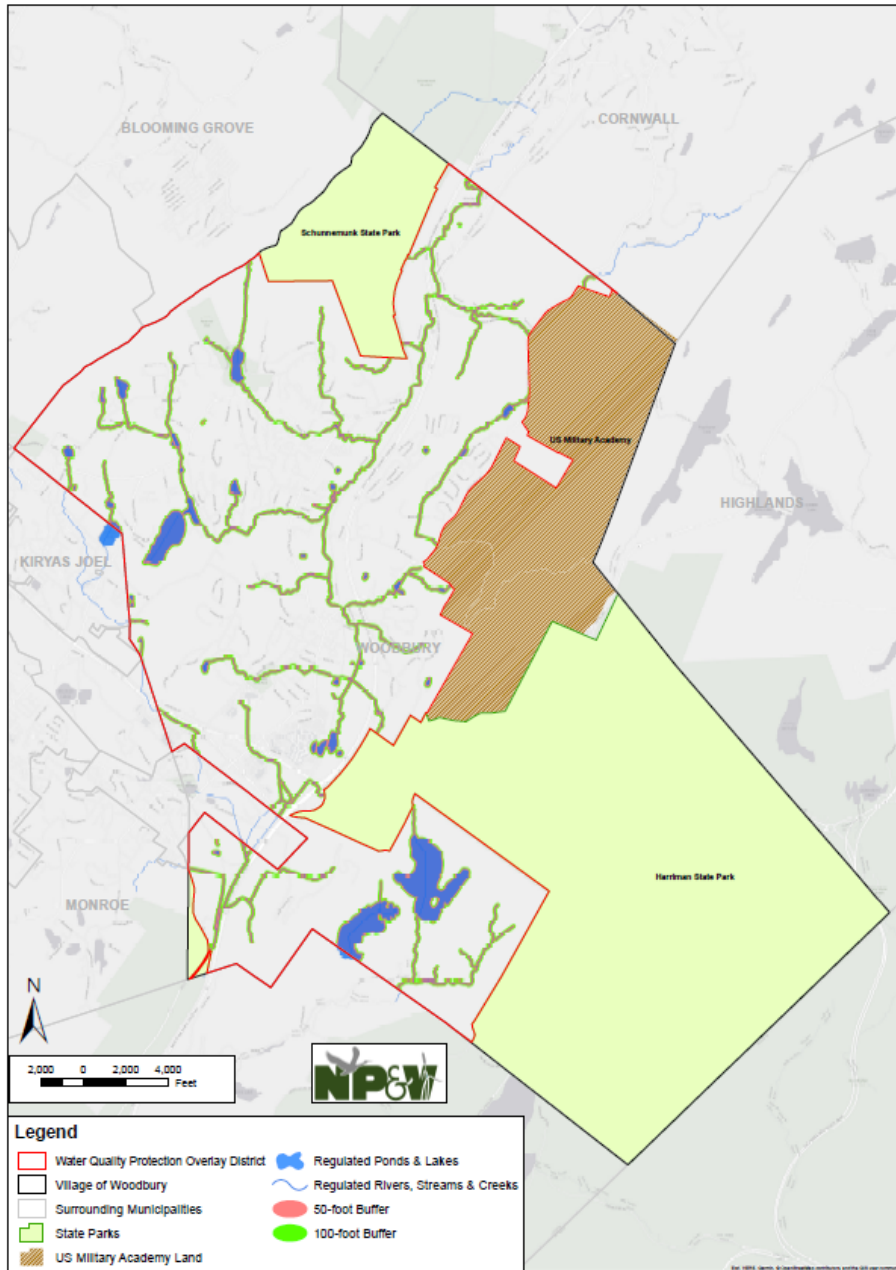
Section 5. Severability.

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

Section 6. Effective Date.

This law shall take effect upon the filing of this Local Law with the New York Secretary of State in the manner provided for in the Municipal Home Rule Law.

Village of Woodbury Water Quality Protection Overlay District



LOCAL LAW 7 OF 2020

A LOCAL LAW AMENDING CHAPTER 96 (“BUILDING CONSTRUCTION”) OF THE CODE OF THE VILLAGE OF WOODBURY TO IMPLEMENT AN ENTITY DISCLOSURE LAW

BE IT ENACTED by the Board of Trustees of the Village of Woodbury, Orange County, New York, as follows:

SECTION 1. PURPOSE

The purpose of this local law is to amend Chapter 96 (“Building Construction”) of the Code of the Village of Woodbury to implement an entity disclosure law.

SECTION 2. CHAPTER 96: BUILDING CONSTRUCTION.

A new Section 96-6.1 (“Entity disclosure law”) is created as follows:

§ 96-6.1. Entity disclosure law.

A. Legislative findings and intent. Invoking the powers granted to the Board of Trustees (“Board”) of the Village of Woodbury (“Village”), by the Municipal Home Rule Law, New York State Constitution and otherwise, the Board hereby finds that there is a critical and compelling need, in the public interests as set forth herein, to provide for full and fair disclosure of the person or persons substantively involved with entities making certain land use applications before the Village to ensure that any and all potential conflicts of interest or other ethical concerns can be identified and addressed by the Village and any and all affected parties. The law will foster the important goal of an open and transparent government operations, including the interaction of public officials and land use applicants, by requiring all land use applicants that are entities to disclose its limited and general members, shareholders, officers and directors or any other persons having control over such entity. The Board further finds and declares:

- 1) That in connection with development or potential development in the Village that land use applications may have a significant impact upon the health, safety and general welfare of the Village, its inhabitants and visitors, and upon existing uses, public services, traffic and the environment, in general.
- 2) That under these circumstances, the Board and the public need to know for purposes of avoiding conflicts of interest, and a meaningful review of potential conflicts of interest, the identity of every person (hereinafter a “nondisclosed person”) who is a shareholder, member, director, officer, beneficial owner, authorized person (defined below) having an interest, or anyone having a controlling position, in any limited liability company, general or limited partnership, joint venture, corporation, association, or other entity (hereinafter collectively and individually referred to as an “entity”), including an entity doing business as another named individual or entity, that applies for any land use approval, permit, or permission from any Village board or official.
- 3) Any “authorized person” as used herein shall mean a person, whether or not a nondisclosed person who is authorized to act or otherwise acts, solely or in conjunction with others, on behalf of an entity or to direct, influence or otherwise control the entity in any manner.

B. Disclosure requirement.

- 1) Every nondisclosed person for any entity applying for land use approvals, permitting, or permission, to undertake any activity within the Village shall complete an entity disclosure statement in the form approved by the Board, as may be amended from time to time by a Board resolution, and provide all information required in said form. Said statement shall be

affirmed or sworn to under the penalty of perjury and shall be filed along with any such land use application or request for permission to undertake any construction activity within the Village.

- 2) In the event that a land use project that has previously received approval is sold, assigned or otherwise transferred, whether by transfer of the property or transfer of the management or operation or both of the entity to another entity, the transferring entity shall notify the Village in writing, and any such succeeding entity must fully comply with this section before any work or other activity on the project shall be permitted to proceed, continue, or be completed.
- 3) Said entity disclosure statement shall apply to any approvals, permitting, or permission for land use in the Village (*i.e.*, any operation, construction or use affecting the land that requires authorization from the Village) sought from the Building Inspector, the Board of Trustees, the Planning Board, the Zoning Board of Appeals, the Architectural Review Board, or other Village board or official. No such Village board or official shall process, hear, rehear, approve or sign any application, permit or authorization which relates directly, or indirectly, to any land use requiring authorization from the Village unless the application for such authorization includes a fully completed entity disclosure statement form approved by the Village, signed and either sworn to or affirmed.
- 4) An entity disclosure statement is not required for any of the following activities:
 - a) Construction of a residential automobile garage, not in excess of 500 square feet. Said building shall not be used for any purpose other than the storage of automotive vehicles and other customary uses for a residential garage;
 - b) Construction of accessory structures, other than garages, not in excess of 300 square feet;
 - c) Construction of outdoor decks, sidewalks, or porches;
 - d) Construction of outdoor swimming pools;
 - e) Installation of fences;
 - f) Interior or exterior remodeling of a single-family detached residential dwelling in existence and with a valid certificate of occupancy as of the effective date this section, which does not involve any change of use or increase in the size of the dwelling. Remodeling includes, but not limited to, window replacement, door replacement, plumbing improvements, new siding, removal of interior walls, and similar improvements;
 - g) Installation or removal of home heating oil or propane tanks, in accordance with all applicable laws;
 - h) Repairs and maintenance for a dwelling in existence and with a valid certificate of occupancy as of the effective date of this section, including the removal and installation of an individual well or in-ground septic system; or
 - i) Other minor improvements to dwellings or residential lots with an existing certificate of occupancy not specifically noted in this subsection, authorized by the Building Inspector, after consultation with and determination by the Board of Trustees that the improvement falls within the scope, nature, and intent of the exemptions listed in this Subsection B(4)(a)-(h).

C. Penalties for offenses.

- 1) Where an entity, nondisclosed person, authorized person, or any agent or representative thereof refuses or otherwise fails to provide the information required under this section, the further processing of such application and any work related thereto (“the application”) shall be

suspended in all respects, until such time as the board or official before which application is submitted or pending determines that the entity has fully complied with all provisions of this Section. In the event of any form of transfer of the property that is the subject of the application occurs or the ownership or management or both of the project is transferred in any manner to another entity during a pending suspension of the application under this section, then, in addition to compliance with this Section, the application shall remain suspended until such time as the succeeding entity shall appear before such board or official before whom the application is pending and obtain approval for any continued work in relation to the application, or the processing of the application. The Building Inspector is authorized to and shall issue a stop-work order on any project where an application has been suspended under this Section.

- 2) If any entity, nondisclosed person, authorized person, or any agent or representative thereof provides no information, false information, or grossly inaccurate information, or otherwise makes any misrepresentation in any application, shall, in addition to the suspension of any pending application as set forth in Subsection C(1) above, be subject to a civil penalty of up to 1% of the stated value of the applicant's project as reflected in its application or the fair market value of the applicant's proposed project (whichever is greater) for any violation of this Section. The Building Inspector/Code Enforcement Officer is hereby authorized to issue an appearance ticket or other process in Justice Court, and the Board of Trustees may authorize the filing of a complaint in any court for any allowable remedy, for a violation of this Section.
- 3) Nothing herein shall be deemed to preclude a criminal proceeding being instituted by the people of the State of New York directly, or acting through the designated attorney for the Village, against the entity, nondisclosed person, authorized person, or any agent or representative thereof in any appropriate court.
- 4) Civil penalty. In addition to those penalties prescribed herein and by State law, any person or entity who violates any provision of this chapter shall be liable for all reasonable attorney's fees, costs and disbursements, including, but not limited to, expenditures for appraisers, accountants or other consultants employed by the Village, incurred by the Village in connection with the enforcement of this Section, and may assert such claim in any appropriate court proceeding.

SECTION 3: SUPERSEDING PROVISION.

To the extent that any State or local laws fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, then such laws, including, but not limited to, Village Code § 96-5, are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

SECTION 4: SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 5: EFFECTIVE DATE.

This law shall take effect upon the filing of this Local Law with the New York Secretary of State in the manner provided for in the Municipal Home Rule Law.