

RED HOOK TOWN BOARD MEETING

March 19, 2008

A special meeting of the Town Board of the Town of Red Hook, Dutchess County, New York was convened in public session at the Town Hall, 7340 South Broadway, Red Hook at 8:30 p.m.

Present: Supervisor Sue Crane
Councilman James Ross
Councilwoman Micki Strawinski
Councilman Harry Colgan
Councilman Robert Latimer
Town Clerk Sue McCann

Also Present: Attorney for the Town Christine Chale

Supervisor Crane welcomed everyone to the special meeting to discuss Anderson Commons. She then opened the meeting with the Pledge of Allegiance.

DISCUSSION CONCERNING ANDERSON COMMONS

Supervisor Crane explained that this centers around two questions brought before the Board by the principals of the Anderson Commons subdivision. She asked Keith Lore if he was prepared to review his letter with the Board.

Mr. Lore explained that it all comes down to when they put the application in it was done well before the change in the increase of the recreation park fees. Because there was a question he asked the Attorney at the time (Mr. Al Trezza) for an opinion on that. Mr. Lore was advised by the Attorney to send him a letter with the request. Mr. Trezza sent his opinion back to Mr. Lore, and his opinion was that he should pay the \$900. (Mr. Lore presented copies of his letter to the Attorney and the Attorney's opinion to Mr. Lore) He thought that the fee he was responsible for was the \$900 at that point until he was informed otherwise.

Supervisor Crane said it was her understanding from the documents she has that the application was a sketch plan that first went before the Village then to the Town Planning Board.

Mr. Lore explained that the Village was the lead agency so he had to go to them first. They were simultaneous. They went through the process as they were supposed to.

Supervisor Crane went through some of the documentation in the files and referred to a letter to the Planning Board in the Village of Red Hook dated April 13, 2005. It was a letter from Dutchess County Planning and Development written by Noela Hooper, Senior Planner. She indicated in the letter that the application was rejected because they did not feel that it was complete for review under General Municipal law because it was submitted as a sketch plan for preliminary discussion. It was requested that the application be resubmitted when it was ready for formal review. Supervisor Crane understands the letter as saying the application was not yet ready for County review. The Board will meet in Attorney/Client discussion after they discuss whatever various Board members have to say about this. She has a question regarding the timing of the letter and the increase in fees.

Mr. Lore doesn't see what the County has to do with the Town regarding his application. He went through the stages of development. He submitted an application and the Town took his money. The sketch plan is part of the process.

Supervisor Crane is trying to understand if he was at sketch plan presentation or application, and does that put him into the process legally without County approval. That is the question she has.

Mr. Lore told Supervisor Crane that he couldn't get into the process without it.

Councilman Ross referred to the Planning Board's timeline. The full EAF was submitted on February 11, 2005. That certainly tells him that if you submit a full EAF you are definitely in planning and are in the process. You are a long way into it if you are doing a full EAF.

Supervisor Crane noted that the application for sketch plan endorsement was dated on March 7, 2005.

Councilman Colgan feels there has to be some very legal criteria for this that we need to know and understand.

Supervisor Crane referred to Keane and Bean's letter to the Planning Board dated August 29, 2006, received August 30, 2006 which is a full year later. It is in regard to the recreational fee of \$3,000. It too raises questions that are hard to answer. It follows letters, and FOIL requests regarding rec fees. We really do need to look at all of this in light of the timeline that makes this application legally held liable for that change in rec fees. There are two opinions, that of Mr. Joel Sachs of Keane & Beane, the other opinion from Al Trezza, former Attorney for the Town.

Supervisor Crane referred to minutes that showed former Supervisor Marirose Blum Bump was interested in raising recreation fees and apparently had done some research among other townships to try to determine what would be a fair and reasonable recreation fee. She proposed \$5,000 for each lot in the subdivision and the Town Board rejected as being far in excess of what they thought they should do at the time. The Board at the time did raise the fees to \$3,000. That was agreed upon by three members.

Keith Lore informed the Board that just like Keane & Beane had case law, you'll find that most Towns do a lot of research into raising a fee. They have statistics that back it up and reasons to back it up.

Councilwoman Strawinski believes our Recreation Committee did that.

Mr. Lore said they didn't do it at the ten minute meeting they had to raise it at a workshop, not at a Town Board meeting.

Supervisor Crane read a letter from former Councilman Harold Ramsey lending support for Mr. Lore and the issue of the recreation fees. He was surprised this is even an issue as he thought it was decided a couple of years ago.

Attorney Chale asked if there is any other information to be provided to the Board. She then suggested going into attorney/client session to discuss the legal issues at hand.

Supervisor Crane read a memo from the Planning Board to the Town Board citing the project excluding Anderson Commons that was submitted before May 3, 2005 which received conditional approval after that date. It concerned other subdivisions from October 2004 to May of 2005 that received conditional approval. There are other projects beside Anderson Commons that the Board's decision will impinge upon.

Councilman Ross said the Town Board discussed this at length even prior to raising the recreation fees to the extent that we did. It was a large increase and we had to discuss projects that were before us at the time. It was his personal understanding at that time that they were already in the stream and this particular project in question had a full EAF submitted. It was submitted before they even knew the Town Board thought to raise the recreation fee. Councilman Ross let the Board know at that time that he thought it should be the old fee. As a matter of fact they discussed at length with former Supervisor Blum Bump that she wanted that 20 acres as possible Town property. Councilman Ross told her that he didn't think the Town would want the liability of that property and that it would be best held by the development itself and a homeowners association. He felt strongly that the recreation park fee should be the fee which existed at the time they submitted the application and the EAF. Particularly because a large project like this could take two to five years. The Town could raise rec park fees again. There should be a certain point of their submission where that is the fee they go on. Before final approval there could be two or three increases. We increased the fee to \$3,000 because people said it was time for an increase. That dramatically affects any project, particularly one of this scale it affects the cost of development.

Councilwoman Strawinski asked about the history of the recreation fees, what were the rec fees before the \$900?

Councilman Ross said it was lower, but it was \$900 at least three to four years. He was on the Board when it was raised to \$900. At that time when we raised the fee to \$900 the Planning

Board brought us all kind of information. When we raised the fee to \$3,000 there wasn't as much research. At first a higher fee was talked about and he thought it was exorbitant. \$3,000 was a compromise that the Board came to. He felt that going up 300% at one time wasn't right and felt strongly that applications and projects that were well along their way by a number of months regardless of final approval; to hold them hostage at a fee that was changed somewhere mid stream doesn't seem right. He would never be in favor of that. The whole idea is to be as fair as possible. He always thought the right thing to do was to charge the fee that was in place at the time of the application and the EAF.

Councilwoman Strawinski said since we don't have that in writing in our own Town Law, we have to depend on other precedents.

Councilman Ross answered that our own attorney at that time gave us his memo and he spoke to Maury Jarros, Esq. who is considered the "guru" of Town Law in the state of New York. He certainly trusts Mr. Jarros' opinion as he is the most experienced attorney from the Association of Towns.

Supervisor Crane referred to a letter from Keith Lore giving background, dated October 26, 2006. Mr. Lore said that previous Supervisor Marirose Blum Bump told the Board that Mr. Lore had reneged on his offer. He did not. It was the Town Board, not Mr. Lore who turned down that offer.

Keith Lore explained that if you look at the minutes of the meetings this gets brought up and is postponed at numerous Town Board meetings. It actually states "need to answer Anderson Rec Park question". It never got answered. It is in the minutes, it is not like it is hidden somewhere.

Supervisor Crane referred to an excerpt from the minutes of March 7, 2006. It is certainly understandable that Mr. Lore wants an answer, he deserves an answer.

Mr. Lore told the Board to recap from the initial statement, to say that one document is stronger than the other; as far as he is concerned it is his initial application that should count. He can't see how anyone can pick and choose at one particular time which document is more of a powerful document than the other one. That starts the whole process. Without that initial application he couldn't move on to the next step. He did the right thing by asking the Town Attorney and for months no one denied that he shouldn't pay the \$900 until a year or two later. Mr. Lore wanted to go on record saying that he is upset with the fact that the newspaper and others are saying he is asking for a reduction in the fee. He is not asking for a reduction. He is asking for the proper fee to pay.

Supervisor Crane asked if anyone else had anything to add.

Councilwoman Strawinski suggested going into Executive Session.

Mr. Albert Trezza, former Attorney for the Town, requested a moment to speak. Mr. Trezza would have agreed with Joel Sachs opinion at first because that is a general rule of thumb. Mr. Trezza said the real issue here is the element of fairness. There is a substantial amount of money involved and they have the right to rely on what was there at the time. That is what Mr. Jarros told him. Mr. Jarros is one of the premier municipal lawyers in the state of New York. The real telling issue is that the Board never gave anyone notice, nor did they discuss it in the form of a resolution. You don't discuss it then bring it up after you pass a resolution. That was Mr. Jarros' opinion and Mr. Trezza concurs. He thinks Mr. Lore has suffered great expense going forward to prove it. He also thinks Mr. Lore has a good argument in a court of law to have the \$900 sustained. Mr. Lore as well as the other people affected should not be charged the \$3,000 in his opinion.

Councilwoman Strawinski asked Recreation Park Chairman Doug Strawinski if the Rec. Commission made a recommendation. She thinks documentation was sent to the Board saying the Rec. Dept. had done a study based on something that was in the Poughkeepsie Journal and perhaps was not verbally presented but in their minutes.

Mr. Strawinski said the Recreation Park Commission made the recommendation but it was for the Board to decide and they acted on it.

Mr. Lore asked why the information wasn't brought up the night it was raised. The letter from the Rec. Park Commission was never read. Mr. Lore told the Board that if they do determine to raise to the \$3,000, what will stop them from raising the fee tonight? What is the difference between tonight and two or three years ago?

On a motion of Councilwoman Strawinski, seconded by Councilman Latimer, move to go to Attorney/Client session.

Adopted	Ayes	5	Crane, Ross, Strawinski, Colgan, Latimer
	Nays	0	

On a motion of Councilman Latimer, seconded by Supervisor Crane, move to close the Attorney/Client session.

Adopted	Ayes	5	Crane, Ross, Strawinski, Colgan, Latimer
	Nays	0	

On a motion of Councilman Colgan, seconded by Councilman Ross, move to adjourn the meeting at 11:15 p.m.

Adopted	Ayes	5	Crane, Ross, Strawinski, Colgan, Latimer
	Nays	0	

Respectfully submitted,

Sue McCann, Town Clerk