

RED HOOK TOWN BOARD MEETING

February 13, 2018

A 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 7:30 p.m.

Present: Supervisor Robert McKeon
Councilman Harry Colgan
Councilman William O'Neill
Councilperson Sarah Imboden
Councilwoman Christine Kane
Town Clerk Sue McCann

Also Present: Attorney Christine Chale

Supervisor McKeon called the meeting to order and opened with the Pledge of Allegiance.

SUPERVISOR'S REPORT

The January 2018 report: Opening Balance - \$4,301,589.01; Receipts - \$498,337.67; Disbursed - \$656,666.13; Balance - \$3,993,260.55

The community preservation fund balance is now \$987,000.

Copy Attached

TOWN CLERK'S REPORT

The Town Clerk's report for the period January 1 – 31, 2018 was read as follows: Total local shares remitted to the Supervisor - \$4,686.19; Amount remitted to NYS Ag. & Markets - \$54.00; Amount remitted to NYS Dept. of Health - \$45.00; Amount remitted to NYS DEC - \$33.06; Total State, County and Local revenue - \$4,818.25. She filed the Town Clerks 2017 financial report and the 2017 Tax Receiver financial report and gave a summary of amounts collected. As of today for the 2018 taxes \$3,159,024.23 has been collected.

On a motion of Councilman Colgan seconded by Councilwoman Kane moved to accept the Town Clerk's and Supervisors reports.

Adopted Ayes 5 McKeon, Colgan, O'Neill, Imboden, Kane
Nays 0

GRANT AWARD – JUSTICE COURT

Town Justice Jeffrey Martin explained that every year they apply for grants which are sent to the Office of Court Administration. We obtained \$11,950.00 this year to pay for chairs and surveillance security equipment. Over the last 10 years they've obtained over \$100,000. He also announced that Judge Jonah Triebwasser is number two on the list of the State Magistrates Officers. In two years he will be President of the Magistrates in the State. He's worked very hard.

Linda Keeling asked if surveillance equipment is just for the Town Hall campus.

Justice Triebwasser told her it has to do with the Courthouse. The grant has to relate to Court.

Justice Martin said they obtained about \$7,000 for the Village of Red Hook.

ANNOUNCEMENTS

Supervisor McKeon announced that a snow plow truck is in the shop right now and at this time only 4 of the 6 plow trucks are functioning. If we have snow in the next couple of weeks there might be a delay in plowing the routes.

PUBLIC HEARING LOCAL LAW A – TO AMEND ZONING LAW REGARDING SUBSURFACE UTILITY SYSTEMS

Supervisor McKeon opened the public hearing at 7:44 p.m.

Town Clerk McCann read the public hearing notice.

Supervisor McKeon opened the public hearing for comments.

John Lyons, Land Use Attorney with the firm of Grant & Lyons, together with Co-counsel Whiteman, Osterman & Hanna, represents Mr. Dominic Tampone, George and Cathy Michael and Garth Burger, all Town residents. In reviewing this law, motivation is one of the first subjects that crossed his mind. What is the motivation? Why now? Could this be meant to punish selected citizens for their efforts for trying to see that the zoning law is enforced and

applied fairly? Having taken a look at this proposed law, it is unconstitutional, illegal; it doesn't make sense, and is contrary to policies and goals of the Towns comprehensive plan. He went on to explain the definition of subsurface systems. He went through the comprehensive plan and said it is inconsistent with the major themes of that plan. This law constitutes illegal spot zoning. It contradicts the comprehensive plan and is for the benefit of one specific land owner and does not benefit the community as a whole in any way. It fails to meet the basic threshold that every local law must meet. The defects of the content of this law called into the good faith of the Board in proposing this law. He commented that there is still time for the Board to do the right thing, which is to drop this proposal.

George Michael read from a letter he submitted dated February 13, 2018. In the letter, he questions why the zoning law is being changed, who it affects, and is it a good idea. The Michaels feel that the Shafer project (Gaslight Motel) is too big for the lot, leaves no room for the septic system, and their concern is the stress on the aquifer for the entire neighborhood. The increased demand would deplete the aquifer at the level of their wells in satisfying the water demands for the expanded motel. They are also concerned with the septic system. From their perspective the project will change the character of the neighborhood while pumping the water out of their wells. Our zoning laws were written to protect against this type of development.

Linda Keeling commented that the official Town notice does not address the subsurface utility system going into the attached property lot. She described what the notice addressed. The language is awkward and unclear, and there was no SEQRA process done prior to the public notification of this law. The Town Board did not discuss Local Law A at their January 24th meeting. The size of the Shafer proposal is too big for the size of the property. There seems to be a misrepresentation by the applicant regarding the number of rooms. She added other issues unrelated to the Shafer property, such as food truck laws, and a farmers property assessment reduction. She pointed out the costs being paid to attorneys and planners.

Supervisor McKeon interrupted Mrs. Keeling asking if she had any more comments on Local Law A. They need to move on to other items on the agenda.

Linda Keeling said that under the first amendment she is allowed to talk.

Supervisor McKeon said there is a three minute rule. He tried to encourage her to stick to the matter at hand.

Linda Keeling continued to read her comments, asserting her first amendment rights. She is concerned about the legal fees paid for lawsuits and other issues. She is also concerned with the Greenway Plan regarding land development.

Supervisor McKeon asked if there were more comments.

Warren Replansky, Attorney representing the Shafers, commented that he thinks the law is excellent, and that it addresses an ambiguity that presently exists in the law. It is totally consistent with the Town's current zoning law and the comprehensive plan. The zoning law as presently drafted permits a parcel in the residential zone to accommodate an accessory use for a commercial enterprise in the adjacent zone. To some extent, this problem came about because of a recent change on our zoning law. The Towns Zoning Enforcement Officer has already determined that sewage disposal systems are permitted accessory uses, that the law as applied to the case before the Planning Board permitted the location of the leach field in the residential zone. That has been the determination of the Town that has not been overturned by the ZBA. This law is well crafted and well drafted to remove any ambiguity, it is not unconstitutional, it is not spot zoning, you did conduct a SEQRA review and he urged the Town to adopt this Local Law. His clients have appeared before the Planning Board for three years to get this project approved. They've conducted every environmental study, the issue tonight is not the merit of the plan, but the merit of this zoning law is undisputed.

Nick Annas, ZBA Chairman, is concerned with due process. From his perspective, the Board is circumventing the ZBA. Bob Fennel made an interpretation and someone wants to challenge that. They have that right. We need to treat all of our citizens the same and he does not believe we are doing that. Mr. Tampone wanted to file a grievance; he wanted the ZBA to look at that interpretation. From a technicality, the ZBA blocked it because it appeared they were beyond the 60 days and had no right to an appeal. As things went on, it appears that the ZBA was wrong in the establishment of that 60 day period. Rather than allow that, the ZBA chose to side with the Shafers and fight Mr. Tampone. More precisely, it is Mr. Annas' opinion that Supervisor McKeon decided to side with the Shafers to fight Mr. Tampone. He thinks a lot of the Supervisor's actions, especially in the last six months, are because he wants to run this Town alone rather than with the consent of the rest of the Town Board. He feels that Supervisor McKeon spent thousands of dollars defending something that Mr. Annas feels should have just been let go. Any truth can withstand the severest of scrutiny. This local law seems to render all

of this moot after you spent this money fighting one of our citizens. He thinks this is unethical and probably illegal.

Genevieve Trigg, Attorney from Whiteman, Osterman & Hanna, LLP, Co-Counsel with Grant & Lyons, was in attendance to explain their opposition to Local Law A. She referred to a letter their office submitted yesterday. She said the law is invalid and should not be adopted and explained legislative intent and how it is untrue. She explained how this Local Law contradicts the Greenway Connections and is inconsistent with the Town's Comprehensive Plan. Another issue she brought up is the fact that the Town Board failed to comply with SEQRA. What studies has the Board relied upon in evaluating the potential impacts of this Local Law? There is a pending law suit in Dutchess County Supreme Court. The Towns continued pattern of bad faith will not be tolerated.

Vanessa Shafer spoke in terms of Local Law A. In her opinion this is smart development. It is the kind of law that rural Towns should be putting into place. They have been before the Planning Board for over three years. It began with an original meeting with the Task Force well over three years ago. When they initially put their application in to the Planning Board, zoning laws were different and there was no issue regarding the location of their septic system at the time. Fifteen months after their application was submitted, they were well into developing their design, and paying engineers when the Town changed the zoning law which eliminated the use of RD3 for lodging. Their project was well underway before that law was changed. In regard to the location of their septic, spot zoning could be brought up in their behalf too. They are in line with the zoning law and in terms of the location of their septic, they had a feasibility study done, and it will be located where the soil is best. Its location will be beneficial to all property owners, including themselves.

Dominic Tampone didn't know that Local Law A was going to be based along a project, one in particular. He read some comments and cited legislative declaration from the Open Meeting Law, NYS Dept. of State. Based on that, he said the process the Town Board engaged in at best is disingenuous, but more likely negligent. He does not feel the Board met their obligation of informing the public. Quotes were cited between Supervisor McKeon and Councilman Colgan regarding the drafted law. There was no discussion before the January 9th meeting. Mr. Tampone asked who asked the Town to draft the law. What project came up that reminded the Board that they had to clarify zoning? How does a law change that affects so many people and redefines subsurface septic systems, wells and utilities be defined as a "pretty simple little law"? He questioned the definition of transparency and open government in Red Hook. The fact that this law is to the benefit of one parcel owner is wrong. He asked that the Board not vote until residents can exercise their constitutional rights.

Supervisor McKeon asked if there were any more comments. There were none.

On a motion of Supervisor McKeon seconded by Councilman O'Neill moved to close the public hearing.

Adopted	Ayes	5	McKeon, Colgan, O'Neill, Imboden, Kane
	Nays	0	

PUBLIC HEARING LOCAL LAW B – REDUCTION OF MEMBERS OF THE TOWN OF RED HOOK ZONING BOARD OF APPEALS

Supervisor McKeon opened the public hearing regarding Local Law B at 8:33 p.m.

Town Clerk McCann read the public hearing notice.

Supervisor McKeon opened for comments.

Ann Rubin, ZBA Clerk, shared a few observations. She can't comment on how a five member Board would work but she did talk about a seven member board. The ZBA entertains applications for variance requests for our zoning. The ZBA sets a precedent in the zoning district that application is for. They create a stronger precedent in the case of an interpretation where a decision by our Zoning Enforcement Officer could potentially be overturned. Their decisions run with the land and those decisions still rest long after everyone is gone. She explained the process and discussion the ZBA goes through. It seems a more robust discussion is had with more members rather than with fewer. In a smaller community, if a member or two has to recuse themselves there is still a quorum to allow for a fairly robust discussion. The history of the land can be pertinent.

On a motion of Supervisor McKeon seconded by Councilman O'Neill moved to close the public hearing.

Adopted Ayes 5 McKeon, Colgan, O'Neill, Imboden, Kane
 Nays 0

DISCUSSION/RESOLUTION TO APPROVE LOCAL LAW A – TO AMEND THE ZONING LAW REGARDING SUBSURFACE UTILITY SYSTEMS

Supervisor McKeon began with comments about how the law was created. He asked for clarification from Town Attorney Christine Chale.

Attorney Chale explained that the law and draft EAF were reviewed at the last meeting. The law was prepared at our suggestion to address on a policy basis, an issue that went through the Zoning Enforcement Officer who rendered a decision. The decision stands. They discussed the issue with our Planner and felt it appropriate to draft a law for the Boards consideration that would put the issue as a policy matter before the Board. That issue was one of whether a subsurface utility system should be allowed to cross a district boundary throughout the Town. In discussion with the Planner it was felt that it is an appropriate measure in a narrowly drawn zoning district. She gave an example. The law would confirm the characterization of a utility system as a type of accessory structure, the permission for subsurface utility system across boundary would be limited to the business related districts. The planner felt that would have a minimal impact on the Town as a whole and would support the Centers and Greenspaces initiative to encourage development in those narrowly defined areas. She suggested looking at the language and going through the comment process. She noted that the Town Clerk submitted notices to neighboring communities, Planning Board and to Dutchess County Planning. A recommendation was received from the Planning Board asking a question about the text of the law, but the question was addressed in the law. That was their only comment. They forwarded a recommendation that this law is consistent with the Local Waterfront Revitalization Program. DC Planning sent a determination that this is a matter of local concern. We have Part 2 of the Environmental Assessment form. Previously, she reviewed this with Michele Greig of Greenplan. She reviewed the responses on the form with the Board and identified the modified definitions including subsurface utility systems. She explained the intent of the local law in the main commercial centers in the Town. It is consistent with the Centers and Greenspaces plan as well as the Town's Comprehensive Plan. As proposed in the draft, there are no other potential environmental impacts or no evidence of a significant impact. The draft of the Local Waterfront Revitalization Program (LWRP), prepared by Michele Greig, was reviewed and explained. It was noted that Michele, when looking at the draft law, noted that lots can be merged at any time. Supervisor McKeon asked if there were any suggested changes.

Councilperson Imboden needs more time to look at the changes and wished that Michele Greig was at the meeting. We should have more time to look at the SEQRA.

Councilman Colgan seconds that opinion and perhaps goes further. This law is dangerous as applying it to Centers & Greenspace. He cannot support this at this time. It muddies the water in terms of boundaries in the Centers & Greenspace area and it is something he really does not want to see.

Supervisor McKeon commented that what he understands is that this is a narrowing of what currently exists on our law. Throughout the Town this can occur anywhere and this is limiting the potential of a subsurface system that extends across another zoning district. If we take no action then this activity can take place throughout the Town even in environmentally sensitive areas. He isn't sure how it can be characterized as dangerous.

Councilperson Imboden asked if this is allowed by law or if it is allowed because of the Zoning Enforcement Officer's interpretation in one case and it sets a precedent of an allowance.

Councilman Colgan asked if it's a law because the ZEO interpreted it that way or is it a law because of the way it is written.

Attorney Chale responded that it's the law because of how he (ZEO) interpreted it. Unless the Board adopts a different policy decision, that is the law that stands for the Town.

Councilman Colgan said that's why he would want to adopt a different policy.

Councilwoman Kane commented that having served many years on the Planning Board she would support this law. Right now this is allowed anywhere and there is always the possibility of merging lots so that we can have that situation in environmental constrained areas and in our historical areas, where that may not have been the intent when this was drafted. The Planning Board supports the laws adoption. The Town Board should strongly take their recommendation into consideration. Understand they are the people who have to deal with this on the front line. The Board has an opportunity to take action to straighten that out. This is a narrowing of what is allowed. She sees this as an improvement.

Councilperson Imboden asked if anyone else feels as concerned as she does about this issue of a lot line being adjusted at any time and make a parcel larger. It may allow for development larger than what was intended in the Centers and Greenspaces Plan.

Supervisor McKeon told her this is totally consistent. It was hoped for and anticipated that there would be a sewer. Right now there is a proposal in front of the Village for a sewer system. Centers and Greenspace encourages development. He explained how this is in line with the Centers and Greenspace Plan.

Councilman Colgan commented that the sewer system is ultimately the answer. That was the intent in Centers & Greenspace but this could encourage further septic systems in the Centers & Greenspace, and the removal of boundaries.

Councilwoman Kane said that one of the main points of Centers & Greenspace was to encourage businesses in the districts as defined and to support the hamlets and village centers. Reality is that we will never have sewers throughout the whole Town.

Councilman Colgan said that he hopes we do eventually. It is essential in Centers & Greenspace because the parcels are so small. We can't actually operate with these small parcels. The whole intent of Centers & Greenspace was to make things compact.

Supervisor McKeon asked if Councilman Colgan was suggesting wanting to eliminate this possibility Town wide instead of reducing it to a small area. He would like total elimination?

Councilman Colgan answered yes.

Councilperson Imboden is also saying what Councilman Colgan was saying and she needs more time to consider costs and benefits. We are in this position because of the ZEO's interpretation?

Councilman O'Neill said that some of them have talked about this for a couple of years. When we did Centers & Greenspace we knew we may need to make changes. We had to redefine some issues that had to be changed. The ZEO has a pretty good grasp of the situation. At that point we had opinions from our Planner. This was not crafted with any ulterior motive, not designed for anyone in particular. Situations change. As far as the Town this seems to be the right thing to do, make adjustments in the law. The Town Board has to address this.

Supervisor McKeon asked previously about changes in the LWRP consistency determination. He did not hear any recommendations to make any changes.

On a motion of Councilwoman Kane seconded by Councilman O'Neill moved to approve the LWRP determination.

Adopted	Ayes	5	McKeon, Colgan, O'Neill, Imboden, Kane
	Nays	0	

RESOLUTION 2018 #6

RE: ADOPTING A SEQRA DETERMINATION OF NONSIGNIFICANCE FOR LOCAL LAW NO. A (PROPOSED) OF 2018 REGARDING SUBSURFACE UTILITY SYSTEMS

On a motion of Councilman William O'Neill seconded by Councilwoman Christine Kane moved to approve the resolution.

Adopted	Ayes	3	McKeon, O'Neill, Kane
	Abstained	1	Imboden
	Nays	1	Colgan

Copy attached

RESOLUTION 2018 #7

RE: AUTHORIZING THE ADOPTION BY THE TOWN BOARD OF THE TOWN OF RED HOOK OF LOCAL LAW A (PROPOSED) OF 2018 RELATING TO SUBSURFACE UTILITY SYSTEMS

On a motion of Councilman William O'Neill seconded by Councilwoman Christine Kane moved to approve the resolution.

Adopted	Ayes	3	McKeon, O'Neill, Kane
	Nays	2	Colgan, Imboden

Copy attached

DISCUSSION/RESOLUTION TO APPROVE LOCAL LAW B- REDUCTION OF MEMBERS OF TOWN OF RED HOOK ZONING BOARD OF APPEALS

Councilperson Imboden directed a comment to ZBA Secretary Anne Rubin. She listened to what Anne said, but Councilperson Imboden has seen five member boards work. The number of people as far as robust discussion isn't a concern of hers. She agrees with some issues that Anne brought up. Because of reducing the ZBA to five members, she feels that we should have two alternates.

RESOLUTION 2018 #8

RE: AUTHORIZING THE ADOPTION BY THE TOWN BOARD OF THE TOWN OF RED HOOK OF LOCAL LAW B (PROPOSED) OF 2018 RELATING TO THE REDUCTION OF MEMBERS OF TOWN OF RED HOOK ZONING BOARD OF APPEALS

On a motion of Supervisor Robert McKeon seconded by Councilwoman Christine Kane moved to approve the resolution.

Adopted Ayes 5 McKeon, Colgan, O'Neill, Imboden, Kane
 Nays 0

Copy attached

REORGANIZATION

Economic Development Committee

On a motion of Councilperson Imboden seconded by Councilman Colgan moved to reappoint Marty Reilingh, Dan Budd, Todd Baright, Jessica Stingo, and George Verilli for terms to expire December 31, 2020.

Adopted Ayes 5 McKeon, Colgan, O'Neill, Imboden, Kane
 Nays 0

On a motion of Supervisor McKeon seconded by Councilwoman Kane moved to reappoint Amanda Bodian, Chris Klose, Ken Migliorelli and Richard Wambach for terms to expire December 31, 2019.

Adopted Ayes 5 McKeon, Colgan, O'Neill, Imboden, Kane
 Nays 0

On a motion of Supervisor McKeon seconded by Councilman Colgan moved to reappoint Richard Wambach as Chair for a term to expire December 31, 2018.

Adopted Ayes 5 McKeon, Colgan, O'Neill, Imboden, Kane
 Nays 0

Ethics Board

The Board discussed the makeup of the Ethics Board. They will look into the law.

Recreation Commission

On a motion of Supervisor McKeon seconded by Councilman Colgan moved to reappoint Charlie Nugent, Laurie Lovice, Tom Gilbert and Yvonne Turchetti for terms to expire December 31, 2019.

Adopted Ayes 5 McKeon, Colgan, O'Neill, Imboden, Kane
 Nays 0

On a motion of Councilwoman Kane seconded by Councilperson Imboden moved to reappoint Doug Strawinski as Chair for a term to expire December 31, 2018.

Adopted Ayes 5 McKeon, Colgan, O'Neill, Imboden, Kane
 Nays 0

DISCUSSION AUTHORIZING EXTENSION TO ENGINEERING AGREEMENT

Supervisor McKeon explained that he, Recreation Director John Kuhn, Purchasing Agent Ted Kudzy and Recreation Commission Chair Doug Strawinski reviewed bids for our current

engineers with regard to the recreation annex property. Plans were reviewed and a firm was recommended.

Councilperson Imboden had a question about project. What she is interested in is the cost. Supervisor McKeon commented that we identified the possibility of using the Town Highway crew and we expect to reach out to some local contractors. Many have assisted us in the past and we were advised that we would be in a position to sit and ask if they would be interested in donating some services. We have to identify the plans first.

Councilperson Imboden commented that this proposal only addresses the Challenger Field. Do we have a revision of the overall master plan?

Supervisor McKeon said the proposals are comparable. Weston & Samson are going to amend their plans that were done several years ago.

Councilman O'Neill asked who is going to pay the \$82,500.

Supervisor McKeon explained that it is all part of the project. We've allocated monies for this new recreation park and we continue to work on the budget for an ultimate build out. We have the \$200,000 grant which requires that we build the field by October 31.

Councilperson Imboden asked at what point do we look at the whole price tag and make an informed decision. What is the overall cost? We haven't really sat down and discussed the issue. What exactly have we taken on here? The Town Board should be able to see all of this. Maybe this isn't economically feasible.

Supervisor McKeon said the only way to know the whole cost is to see the plans and go out for bids. We can sit with the Highway Superintendent and possible volunteers. Then we can go out to bid for the remainder of the costs and make a decision.

Councilman Colgan said that we have to make decisions as we move along. Eventually we have to decide on the cost of what it would be to maintain.

Attorney Chale explained the contract.

RESOLUTION 2018 #9

RE: AUTHORIZING AN EXTENSION TO T&B ENGINEERING, P.C.
AGREEMENT FOR PROFESSIONAL SERVICES TO INCLUDE PROFESSIONAL
SERVICES REGARDING RECREATION CHALLENGER FIELD AT RECREATION PARK
WEST

On a motion of Supervisor Robert McKeon seconded by Councilman Harry Colgan
moved to approve the resolution not to exceed \$82,500.

Adopted	Ayes	5	McKeon, Colgan, O'Neill, Imboden, Kane
	Nays	0	

Copy attached

CORRESPONDENCE

Supervisor McKeon shared correspondence that he received from New York State DOT detailing the summation of the sidewalk project. The project cost came in under budget.

PUBLIC COMMENT PERIOD

Supervisor McKeon opened for comments.

Linda Keeling commented about taxes not being paid on time. She pointed out one taxpayer specifically. She asked about other residents getting assessments reduced before tax bills come out. She also brought up the issue of food trucks while the Town does not have an ordinance.

On a motion of Councilperson Imboden seconded by Councilman Colgan moved to adjourn the meeting at 9:55 p.m.

Adopted	Ayes	5	McKeon, Colgan, O'Neill, Imboden, Kane
	Nays	0	

Respectfully submitted,

Sue McCann, Town Clerk