

RED HOOK TOWN BOARD MEETING

April 24, 2019

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
Councilperson 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.

DEC CAMP SCHOLARSHIP

Supervisor McKeon introduced Jen Cavanaugh member of the CAC.

Jen explained that the CAC, the VFW of Red Hook and the Hendrick Hudson Masons are sponsoring two children from the Red Hook School District to go the DEC's Environmental Camp. She thanked the VFW and Masons for paying for the scholarships. The two winners are Elizabeth Robertson and Stellan Marienthal-LeGendre. Elizabeth is unable to attend tonight. Bill Moore of the VFW #7765 presented Stellan the certificate.

Stellan is very excited to receive the scholarship and go to the DEC camp. She said it's a great opportunity.

ANNOUNCEMENTS

Supervisor McKeon announced the following:

-April 27 is a Senior Expo at the Community Center, the Arbor Day celebration here at Town Hall starting at 10 a.m., and the combined Tivoli/Red Hook Fire Companies barbeque in the evening.

-May 3 begins the Community Build for the Red Hook playground. The dates are May 3, 4, 5 and the following weekend, May 10 and 11. Volunteers are needed.

Councilperson Imboden reminded everyone that the recreation park will be closed starting Monday, April 29.

-May 11 is Apple Blossom Day in Red Hook.

- Memorial Day Parade will be on Monday, May 27, assembly begins at the HS and the parade starts at 10 a.m.

ARBOR DAY PROCLAMATION

Supervisor McKeon read the proclamation which explained the beginning of the observation of Arbor Day.

On a motion of Supervisor McKeon seconded by Councilperson Imboden moved to proclaim April 27 as Arbor Day.

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

PUBLIC HEARING CONTINUED

PROPOSED ACQUISITION OF FORMER ST. SYLVIA'S PARCELS

Supervisor McKeon explained the public hearing continuation regarding the proposed acquisition. Since the last meeting a walk through was conducted with the church regarding items that would remain and which items would stay with the church and moved to a different property. They continue to negotiate with the Archdiocese. At the last meeting people asked if the Town would consider some form of public/private partnership and it is an option that would be considered. If anyone has a suggestion it would be welcomed. He suggested the public hearing be continued until the May 22 meeting.

Town Clerk McCann read the public hearing notice.

Supervisor McKeon opened the public hearing for comments and presented a map of the parcels. There were no comments.

Councilperson Imboden asked Tivoli Mayor Joel Griffith if they've discussed this at any of the Tivoli Board meetings. Many people are confused about why the Town is having meetings but there are no meetings in Tivoli. She suggested they have an information session. Tivoli Mayor Joel Griffith said they've been talking about it in their workshops. They've talked about it in encounters with residents and they talk about it on the street. He feels that most people are starting to understand the CPF, how this would be paid for and why the Town is the leading agency. It is a great opportunity for both governments.

On a motion of Supervisor McKeon seconded by Councilman Colgan moved to continue the public hearing at the May 22, 2019 meeting at 7:35 p.m.

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

PUBLIC HEARING CONTINUED
PROPOSED AMENDMENT OF THE TOWN OF RED HOOK COMMUNITY
PRESERVATION PLAN, LOCAL LAW NO. C OF 2019

Supervisor McKeon explained the plan to include St. Sylvia's parcels.

Town Clerk McCann read the public hearing notice.

Supervisor McKeon presented several parcels that we've been working on with Winnakee Land Trust. We are working with them to develop trails. One small parcel is also being included in proposed Local Law C. He opened the public hearing for comments.

Linda Keeling suggested making attachments available on the Town's website.

Supervisor McKeon asked if there were more comments. There were none. He left the public hearing open until after the agenda item "proposed amendment to Community Preservation Plan" was opened.

WATER BOARD – REQUEST FOR WATER SERVICE EXTENSION

Supervisor McKeon explained the request from our Water Board to extend service to a homeowner on Whalesback Road. He referred to a memo from Water Board Chair Henry VanParys. There is no expense to the district.

RESOLUTION 2019 #39

RE: AUTHORIZING THE EXECUTION OF AN OUT OF DISTRICT WATER SERVICE AGREEMENT

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

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

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COMMUNITY CHOICE AGGREGATION

Supervisor McKeon explained that the Town is joining six other municipalities using the buying power to secure the distribution source of energy. Central Hudson distributes energy, someone else supplies it. We have the opportunity to choose. The Town will choose a default provider and residents will get information mailed. This was approved at a previous meeting, the provider is Joule Assets. He referred to an agreement document provided by our Town Attorney.

RESOLUTION 2019 #40

RE: AUTHORIZING EXECUTION OF A CCA ELECTRICITY SUPPLY AGREEMENT PURSUANT TO AGREEMENT BETWEEN THE TOWN OF RED HOOK AND JOULE ASSETS, INC.

On a motion of Supervisor Robert McKeon seconded by Councilperson Sarah Imboden moved to approve the resolution.

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

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PROPOSED AMENDMENT TO COMMUNITY PRESERVATION PLAN

Supervisor McKeon explained the amendment. We received correspondence from the CPF Advisory Committee who reviewed the memo from our Planner, the parcels, Open Space Plan, the Comprehensive Plan, scenic roads, and they went over the point system and looked at historic values. The committee unanimously recommends the proposed changes be adopted. We had referrals from our Planning Board and the Village of Tivoli Planning Board. The Town Board has reviewed the proposed law and its consistency with the LWRP and their findings. We find it to be a non-significant action.

RESOLUTION 2019 #41

RE: ADOPTING A SEQRA DETERMINATION OF NON-SIGNIFICANCE REGARDING AN AMENDMENT TO THE COMMUNITY PRESERVATION PLAN

On a motion of Supervisor Robert McKeon seconded by Councilperson Sarah Imboden moved to approve the resolution.

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

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On a motion of Supervisor McKeon seconded by Councilperson Kane moved to close the public hearing on Local Law C of 2019.

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

RESOLUTION 2019 #42

RE: APPROVING LOCAL LAW C (PROPOSED) OF 2019 REGARDING AN AMENDMENT TO THE COMMUNITY PRESERVATION PLAN

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

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

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CAMP RISING SUN

Supervisor McKeon referred to a request from Camp Rising Sun regarding a race, walk and bike ride from Oriole Mills Road to Center Road in Clinton, a full ten miles. A small portion is in the Town of Red Hook. Options were discussed with Highway Superintendent Theresa Burke. A representative from the Louis August Jonas Foundation – Camp Rising Sun, explained the charity walk/ride to their Clinton campus. July 20 is the date and they are looking for cones or sawhorses for Friday to Monday.

Highway Superintendent Theresa Burke said she will provide the cones and set them in place on Friday on the Town road only. After the race the people from Camp Rising Sun will store them and the Town Highway Department will pick them up on Monday. They won’t close the road but it should slow traffic.

Camp Rising Sun is looking for a letter of support for the State application.

On a motion of Supervisor McKeon seconded by Councilperson Kane moved to authorize the Supervisor to write a letter of support.

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

DISCUSSION – MUNICIPAL INNOVATION GRANT

Supervisor McKeon explained that we have to think about what to apply for this year. The grant application is due by Friday, May 3, 2019 at 3:00 p.m.. He presented some ideas and said that County Planners will help.

On a motion of Supervisor McKeon seconded by Councilperson Imboden moved to hold a special meeting for the purpose of reviewing the Municipal Innovation Grant application on May 2, 2019 at 9:30 a.m.

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

CORRESPONDENCE

Supervisor McKeon shared the following correspondence:

-Empire State Trail along River Road - a draft proposal for public input. We look forward to input from residents. Some letters were received for the proposal and some against it. The speed limit would be lowered to 30 mph.

REPORTS

Zoning Board of Appeals – there was one public hearing for three area variances. They reviewed a site plan presented by the applicant. The ZBA determined pertinent facts of the proposed construction.

Planning Board – held a public hearing and granted conditional approval to a project, commenced or continued to review two projects, reviewed Local Law B 2019 – extension of a moratorium on large scale commercial extractive operations in the Town.

Police Report – The March report showed 94 total incidents, 8 arrests and 27 tickets issued.

Assessor – entered exemption renewals along with entering IVP information on NYS Tax & Finance website. This will be the final year for the office to determine eligibility for Enhanced Star. All other renewals will continue. February, March and April sales were reported.

Purchasing – For the period February 27 to April 24 there were 60 purchase orders issued. He is working on a request for quotes on sealing and striping the Town Hall parking lot. Playground equipment will be delivered on May 2.

Water District – All levels normal. Fernando will work with them to establish last valid reading and verify contact information. New meters with a remote register can be read manually by activation with a pen/pencil. 4 meters were installed that could not be read. Hydrant flushing will take place on May 14 and 15. Fernando will check into a timer for manual pumps.

IMTF – Meeting with Michelle Greig from Greenplan reviewing a proposed draft of an annual operating permit for short term rentals and continued discussion of what regulations if any, should be enacted with respect to short term rentals in Red Hook.

Recreation Commission – Their most pressing issue is finding a Summer Recreation Director. Two resumes have been submitted. The snack bar has been renovated, projects are ongoing, and the fishing contest was held on April 13. The Sawkill was stocked on April 12. The park is in great shape now. The new tennis courts are being used by an adult league. This year there will be many renovations to the recreation park making much of it ADA accessible.

Tree Preservation Commission – The Town is once again recognized as a Tree City. Arbor Day celebration details were finalized. Trees were delivered and planting will begin. Codie Hay will demonstrate proper pruning technique and tree climbing gear.

Senior Services Committee - Senior Expo plans are being worked on. The focus is mostly on services, activities and groups that serve the senior community. There will be informational tables, fitness demonstrations, healthy food demonstrations and various other presentations.

PUBLIC HEARING

PROPOSED LOCAL LAW NO. D OF 2019 “A LOCAL LAW TO AMEND SECTION 143-146 OF THE ZONING LAW REGARDING PROJECTS RECEIVING SITE PLAN AND SPECIAL PERMIT APPROVAL PRIOR TO MAY 30, 2018

Supervisor McKeon explained the local law amendment.

Town Clerk McCann read the public hearing notice.

Supervisor McKeon referred to a letter from the Planning Board on March 27, 2019 in regard to LL 3 of 2018. There was a substantial change in our zoning and recently they wrote recommending amending Local Law 3 of 2018 to exempt any projects that received conditional final approval from the Planning Board prior to the date the law was adopted. They believe projects that were approved should be grandfathered. They provided a list of sixteen projects that had received approvals at the time of adoption. He opened the public hearing.

Linda Keeling asked the real reason for Local Law D when A and C were passed previously. This seems like a waste of taxpayers’ money. It’s perceived that Local Law D seems to be an unnecessary proposal favoring a single former project. It was not reviewed by the Planning Board until a faulty notice for Tuesday, April 22 which should have been noticed as Tuesday, April 23. It was after the Towns public notice went out on April 10. This is another example of

lack of transparency. This lack of transparency is collusive of the Town Board and Planning Board with the goal of keeping the public ill-informed. Multiple meetings were held on the same night for Tuesday, April 23. Regarding adding Local Law D of 2019, it should not be voted on tonight as it was procedurally defective. There seems to be a rush to pass this amendment without due consideration of the public's ability to attend and understand the discussion surrounding the amendment. This law seems to be targeting a specific project which is wrong. The Town should not add or change zoning laws to benefit a specific applicant while intentionally denying the rights of the public.

Norman Greig commented that the Town Board should consider this and approve it. It seems logical and just. The approval process for projects in Red Hook is lengthy and the zoning code in Red Hook is constantly evolving. If the project meets the zoning code it should not have to evolve as fast as the zoning code evolves.

George Michael addressed the Shafer project which would fall under this law. Why is so much time and money going into this project? Why is the Town so driven to make it a reality that it has rewritten the zoning law to custom fit the project? These actions have taken place with no regard for the neighbor's list of concerns, particularly the ones related to septic, wells and the area aquifer. Zoning laws are created to control development and prevent conflict. He explained the B1 district zoning as well as in the B1 and RD3 district. He said renovation might have been possible by now and in operation two years ago. He went on to explain his disappointment in plans for the project. He asked if anyone thought it was ridiculous to call a septic system an accessory structure. Mr. Michael listed five issues as a result of the zoning. He asked why? Who stands to win? He feels that neighbors concerns continue to be ignored.

Dominic Tampone asked for clarification. You said there were other plans involved. How many site plans are affected by the change in this law?

Supervisor McKeon didn't know the answer to that.

Councilman O'Neill said there are about 16 plans that would be grandfathered. They were already given prior approval, so that's what we are doing.

Dominic Tampone asked what the difference is between Local Law A and Local Law C that's weighed unfairly that we have to make this zoning change.

Supervisor McKeon asked if there were any more comments.

Genevieve Trigg, Attorney, commented that 13 months ago she was in attendance opposing Local Law A of 2018 on behalf of her clients. Local Law A of 2018 was an obvious attempt to moot her clients first Article 78 proceeding. She is surprised that the Town is willing to go so far all for the benefit for one applicant. We have a Dutchess County Supreme Court order that explicitly orders the Town to apply with the Hamlet Business design and review standards which were adopted under Local Law C of 2018 to the SHV's project. The judge ruled that the Planning Board ignored several legitimate environmental concerns raised by her client. To be clear all the court order requires is that the Town apply the same standard to every landowner in this Town, specifically those in the HB zoning district. If the project complies with zoning why not go through the lawful process? Instead, this Board continues to take extreme and calculated measures to ram through another Local Law to allow the Shafer's to avoid compliance with the HB zoning district. All for the benefit of just that one applicant. We contest that this applies to multiple projects, it applies to one. The bias is undeniable. What's further undeniable is the harm to the taxpayers. She cannot imagine how much the Town has spent in legal fees defending the SHV project and all the legislative actions taken. The only possible outcome of adopting this is future litigation. This local law was rammed through without basic legislative procedure. You had a closed door Attorney/Client meeting just a couple of weeks ago. The very next day there was a public hearing notice for this Local Law D that was circulated without any discussion. Even that public hearing notice is deficient on the requirements of Town law. You also failed to obtain proper Planning Board referrals. The Town Board failed to comply with SEQRA because it is impossible to comply with SEQRA in just ten days. The Board can't act on SEQRA for this Local Law until it acts on SEQRA for the Shafer project as the court order mandated. They will vigorously oppose this Local Law. Her clients encourage the Board to act in the best interest of all the Town, not just the Shafer's.

Warren Replansky, Attorney for the Shafer's, said that sometimes when Town Boards pass Local Laws they realize there were unintended consequences of those laws. He represents several municipalities and very often they have to take a look at laws that were passed and amend those laws to remedy an unintended consequence. In this case he doesn't know how it affects the other fifteen property owners who received permit approvals from the Planning Board. In good faith under the prior local law, his clients spent three years before the Planning Board and untold amounts of money pursuing their application before the Planning Board which was made substantially more difficult because of the opposition of two neighbors. Every hoop requested

his clients jump through, they did, every study to be made, his clients did and finally received approval for their project. A few days afterward this Local Law was passed and he cannot believe that the Town Board intended to require his clients go before the Planning Board again for another three year project under the new Local Law after they received approval. It was so vigorously pursued in good faith. He asked the Town Board to correct the unintended consequence, an error that was made that affects his clients. Simply amend the law to exempt property owners who received full approval from the Planning Board prior to the adoption of the local law. He thanked the Board for their courage doing this and they appreciate the Boards efforts.

Nick Annas said he is seeing a pattern. Working from the inside just as the Board is. There is a similar case right now in front of the ZBA. He explained. The person he is talking about went to Supervisor McKeon for an appeal then a short time later a proposition came and presented to the IMTF and they denied it. They wanted to retain the law as it is. It is regarding fencing. He asked our zoning enforcement officer what the status was and nothing has changed. Last year a letter was written that the homeowner had to be in compliance by a certain date. That date has long passed. He again asked zoning enforcement about the status. This morning Nick received an email. He read the email saying the zoning enforcement officer spoke with the Town Supervisor about the fence and he advised that he anticipates a revision to the fence section in the zoning law at the time of the next revision, then the fence would be permitted. This looks like you can circumvent the ZBA and make whatever changes you want. It appears you are running this Town alone.

Supervisor McKeon, for clarification, told Nick that about a year ago he mentioned to Bob Fennel that there was a recommendation for the Town Board to consider whether or not to allow fences on corner lots. He explained that in general they don't like to make such a tiny change to our zoning law because there are a lot of costs associated with change. We like to put a few things together for consideration. That will be brought to the Board when there are other items to consider. Whether that change gets done or not is really up to the Board, not any one individual.

Councilman O'Neill told Nick that the ZBA made a decision and that was the end of that role. If someone else in the Town decided there should be change in the zoning law, they can make that arrangement to change that law. The Task Force understood that it would be changed by some other process. This particular case was going to be dealt with in a different way based on recommendations of the specifics from the Zoning Enforcement people. It is an isolated case.

Nick Annas responded that it is not an isolated case, it is a pattern.

Councilman O'Neill disagreed. There is no pattern.

Supervisor McKeon hopes there is a pattern of taking recommendations from our departments.

That is something that is part of our role. He asked if there were any more comments.

He explained that the Town Board's role is to adopt zoning, not to approve projects or weigh in on Board of Health issues. The Board's role is to continually look at the zoning to make sure we have the best possible zoning to achieve the vision and goals of the Town's Comprehensive Plan. We continue to do that and make those changes. During the course of that however, there are projects in front of various Boards, so our responsibility should always be to be cognizant of the impact we may have on our residents, and in particular our residents who have applications in front of our Boards. He takes this very seriously. We have done a lot of work protecting this community. It is very important to us for so many reasons but we also have to be fair to the residents who come before our Boards. If we go ahead and change zoning like we did with lodging, we removed it from residential district. We did not construe at the time that we were going to impact any application or utility that was in the process of application. We adopted Local Law C of 2018 and we didn't anticipate impact on any applications. One particular project was referenced. It is not our role to approve or express favoritism to any project. The role of approval stands with the Planning Board. What we are looking at is a recommendation from the Planning Board that basically says in that role of fairness, they recommend, if someone received approval from them, that we should not upend their application at the last minute. For fairness, this is our role as the Town Board.

The Board reviewed materials. There is a recommendation from the Planning Board for Local Law D which they reviewed. We have that referral and other information from them for the Board's review.

Supervisor McKeon referred to County Planning stating that this issue is a matter of local concern. He read the resolution reaffirming prior SEQRA determination of non-significance and LWRP consistency determination.

RESOLUTION 2019 #43

RE: REAFFIRMING PRIOR SEQRA DETERMINATION OF NON-SIGNIFICANCE AND LWRP CONSISTENCY DETERMINATION LOCAL LAW NO. D (PROPOSED) OF 2019

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

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

Copy attached

On a motion of Supervisor McKeon seconded by Councilperson Kane moved to close the Public Hearing.

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

Supervisor McKeon read the following resolution. He asked if the Board had any comments.

Councilperson Imboden was on the Town Board when Local Law 3 was adopted. This is not an easy decision and what it comes down to is recognizing zoning. Part of this issue is remembering that this is a rare circumstance. We do not pass zoning lightly. It involves recognizing that sometimes you don’t get it right the first time. Many of us were very clear that we did not want to affect projects that were in the works at the time that were receiving approval. She cited a comment from the Planning Board that when they recommended approval, they did not believe it would impact projects that already received Planning Board approval. At the time she didn’t think those projects would be impacted. She sees this action as bringing us back to the original intent which was not to impact projects that were approved.

RESOLUTION 2019 #44

RE: AUTHORIZING THE ADOPTION BY THE TOWN BOARD OF THE TOWN OF RED HOOK OF LOCAL LAW D (PROPOSED) OF 2019 AS LOCAL LAW #4 OF 2019

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

Adopted Ayes 4 McKeon, O’Neill, Imboden, Kane
 Nays 1 Colgan

Copy attached

CORRESPONDENCE

Supervisor McKeon shared the following correspondence:

- email from Dutchess County regarding funding opportunities.
- email from William G. Moore who has observed 4 wheel quads using the property that borders his which the Highway Department uses for dumping trees and road waste. He is concerned about those quads having an accident because of the hazardous road material there. He asked what the policy is in regard to public use of that property. The land is not currently posted.

On a motion of Supervisor McKeon seconded by Councilman Colgan moved to adjourn the meeting at 9:45 p.m.

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

Respectfully submitted,

Sue McCann, Town Clerk