

LUMBERLAND TOWN BOARD MEETING MINUTES
& PUBLIC HEARING – LOCAL LAW #1, 2013 –“PLANNING BOARD WAIVER”
MARCH 13, 2013

The Lumberland Town Board held a regular monthly meeting on Wednesday, March 13, 2013, at 7 p.m., at the Town Hall in Glen Spey, N.Y. Supervisor Nadia Rajsz opened the meeting at 7 p.m., followed by the Pledge of Allegiance.

Roll Call was administered to those members present:

Supervisor Nadia Rajsz
Councilman/Deputy Supervisor Joseph Carr
Councilman James Akt
Councilman Ron Thiele
Councilman David Leamon

Also present were Town Clerk Virginia Horn, Chief Constable Patrick Cahill, Town Attorney Danielle Jose-Decker, Deanna & Natalie Rajsz, Guy Harriton from the River Reporter, Susan Morley, ZBA Chair Lewis Powell, Constable Robert Maas, Jennifer Maas, Kevin & Kayla Maas, Mr Quinn, Caroline Akt, Ed Gavalla, Attorney Jacob Billig, Andy Mead, Cathy Sterling, Susan Gregg, Helga Rupnick, Sophia Martynec, Fire Dept. President Ann Steimle, Tax Collector Heather Worzel, , 2 representatives from the Kadampa Meditation Center, Kaitlin Haas from the Sullivan County Democrat, Bohdan Kandiuk, David Riley and an unnamed resident.

Supervisor Rajsz reported that they have a Public Hearing scheduled and the regular meeting will have to be closed to open the Public Hearing. Councilman Carr made a motion to close the regular meeting at 7:02 p.m., seconded by Councilman Leamon, all in favor, so carried. Councilman Carr made a motion to open the Public Hearing at 7:02 p.m., seconded by Councilman Akt, all in favor, so carried.

PUBLIC HEARING – 7 P.M. –LOCAL LAW #1, 2013 ENTITLED “LOCAL LAW EXTENDING 1998 ZONING LAW (WITH APPLICABLE AMENDMENTS THERETO) TO APPLICATIONS PENDING BEFORE THE PLANNING BOARD ON MAY 1, 2012”.

Supervisor Rajsz read through the Local Law noting that the purpose of this Local Law was to address the matter that had been before the Planning Board before the new zoning laws were approved on May 1, 2012. Supervisor Rajsz stated that this Local Law, if approved, would grant the applicant to go by the former zoning laws instead of the new zoning laws that were approved May 1, 2012. Supervisor Rajsz reported she has received the determination by the County Division of Planning that a 239 review of the proposed law that the proposed subdivision has no adverse impact to the zoning.

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OPEN FLOOR FOR 1ST TIME

Attorney Jacob Billig, subdivision applicant Ed Gavalla's attorney, reported that the original subdivision proposal called for 6 lots, noting there is a house currently on one of the lots. Billig reported his client has invested almost \$50,000 into the project already and had submitted his proposal before the new zoning was approved. Billig stated his client was aware of the pending new zoning approval, however, due to unforeseen complications, his application was delayed and did not meet the deadline before the new zoning took effect. Billig noted the Town Board had previously considered the passing of this Local Law but it was not approved. Billig stated they have approached the Town Board to reconsider this Local Law in the fact that the proposed subdivision has no environmental impact and by adding additional lots would increase the tax base. Susan Gregg questioned where this proposed subdivision was located? Billig reported it is on Rt. 97 & Tuthill Road. Gregg questioned what kind of homes are being built there? Billig reported there are no homes being built, that they are just subdividing the lot. Supervisor Rajsz stated if this Local Law does not pass the owner would have to redo his site plans and re-submit the project. Billig stated that they are asking the Town to go forward with this project and approve the Local Law. Billig noted that there have been waivers issued from Planning and Zoning Boards automatically. Billig stated that the Planning Board will have oversight on the project. Supervisor Rajsz stated this would be promoting business because the owner is considering conducting his business from the property and the additional lots would bring in revenues through taxes. Supervisor Rajsz noted that this property falls under the River Management Plan and it is a positive plan.

OPEN FLOOR FOR 2ND TIME

Ed Gavalla reported that a normal subdivision takes 6 –7 months to complete, noting he was in no rush when he submitted his plans and he has a vested interest in the project. Gavalla noted that the Zoning Rewrite Committee did not ask the Planning Board if there were any projects before the Board at the time of the rewrite.

OPEN FLOOR FOR 3RD TIME

Councilman Carr reported he worked on the Zoning Rewrite and questioned if there may be anyone else that would come back to ask for a waiver would they have to honor it since if you do it for one you would have to do it for everyone? Councilman Leamon reported that this is a policy decision and that it is a bad policy to pass laws that would only benefit one person. Leamon noted that the Planning and Zoning should have the authority to grant a waiver, noting these decisions should be up to the Planning and Zoning and not up to the Town Board.

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The Town Attorney reported that the current zoning does give the Planning Board the authority to grant a waive, noting it is the Town Board's job to set those rules. Supervisor Rajsz stated that this is the proposed law that the Town Board has to consider approving. Supervisor Rajsz reported that the Town of Liberty is in the process of reviewing their approved zoning and that Gavalla's project is the only one affected by this issue. Susan Gregg stated that there were extenuating circumstances during the process and agreed that the Town Board should approve this Local Law. Susan Morley reported the Planning Board was stopped by the Town Board by their approving the new zoning and could not go any further. Helga Rupnick stated that they are setting a precedent by it looking like they are favoring one person and it should be stated in the zoning that if there is a project before the Planning Board it should note they will continue to follow the previous zoning. One resident questioned why will it hurt to give Gavalla the 2 more lots? Ann Steimle questioned why is it setting a precedent when it should have been grandfathered in? Billig stated that good people are making the right point, noting the owner filed the paperwork before the new zoning was approved and the merits of their case can only be decided by the Town Board. Supervisor Rajsz stated that this is not a thriving community and we need to move forward. Billig stated he did not feel it would be setting a precedent and that the Town Board can fix this. Supervisor Rajsz verified that there were no other projects before the Planning Board that would have been effected by this issue. Gavalla requested Councilman Leamon not call this the Ed Gavalla Law, noting he is a taxpayer, he filed his paperwork and went through the proper procedure. Gavalla stated that if this Local Law is not passed he will apply for agricultural status and that will decrease the tax base if the subdivision does not go through.

Supervisor Rajsz stated they should reconvene the committee to readdress the new Zoning Law again and they need to move forward. Councilman Leamon stated he did not question the motives of the applicant, just the procedure policy and that it should broaden and empower the Planning Board and the ZBA to approve these subdivisions. The Town Attorney stated that to make significant changes is a type 1 action, however this Local Law is a type 2 action. Councilman Thiele questioned how this would change the law? The Town Attorney reported that the Town Board, by approving the new Zoning Law, voted for a minimum of 5 acre lots, which was a sweeping change from the previous law of a 2 acre minimum. The Town Attorney stated that anyone filing a project after the May 1, 2012 date of approving the new zoning laws is now under those new regulations and going through the process.

Councilman Carr made a motion to close the Public Hearing at 7:46 p.m., seconded by Councilman Thiele, all in favor, so carried. Councilman Thiele made a motion to reopen the regular Town Board meeting at 7:46 p.m., seconded by Councilman Carr, all in favor, so carried.

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MINUTES

Councilman Thiele made a motion to accept Minutes of February 11, 2013, and February 13, 2013 as written, seconded by Councilman Carr, all in favor, so carried.

CORRESPONDENCE

1. Monthly Reports:
 - a. Supervisor
 - b. Town Clerk
 - c. Buildings
 - d. Highway Superintendent
 - e. Constables

2. Pattern for Progress newsletters
3. ZBA Mtg. Minutes & letter
4. Kleiber letter- Highway Dept.
5. NYS Dept. of Corrections letter- plants availability
6. DVAA grant approval – Decentralization Project
7. NYS Dept. of Health- Inspection report – Town Hall
8. Planning Board Mtg. Minutes –Jan. & Feb.

Supervisor Rajsz read the Kleiber letter praising the Highway Superintendent and the Highway Dept. on their work on the road he lives on. Supervisor Rajsz congratulated the Highway Dept. for doing a good job this winter. Supervisor Rajsz reported that Item #5 was from the Dept. of Corrections reporting they have free plants that are available to the Town. Supervisor Rajsz reported Grant Writer, Frank Schwarz, got a grant for \$860 from the DVAA.

PRE-FILED RESOLUTIONS

- #50 - ZBA Appt. –Akt
- #51 - Approve Local Law #1, 2013 – Planning Board Waiver
- #52 - Advertise Stone & Gravel Bid
- #53 - Advertise Surplus Office Equipment
- #54 - BAR appts. – Rajsz & Gregg
- #55 - Retirement Reporting - Hunt
- # 9 - Procurement Polices & Procedures (Held from Jan. Mtg.)
- #56 - Generator Part Purchase Approval (Late File)
- #57 - Supervisor’s Office Computer Purchase Approval (Late File)
- #58 - Eldred Little League – Use of Town ball fields (Late File)

Councilman Carr reported he received more information tonight regarding the proposed Local Law, noting the public has shown that they are in favor of approving the Local Law

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and he was here to serve the public. Ed Gavalla and his attorney, Jacob Billig, Thanked the Town Board for approving Local Law #1, 2013. Billig also Thanked the Town Attorney for her work on the issue and stated the Town is well served by our Town Attorney.

Supervisor Rajsz explained that Resolution #55 was needed because the Comptroller's Office has changed the way they calculate the time served, noting this resolution has to be posted for 30 days and sent to the Comptroller's Office. Supervisor Rajsz reported a new block heater was needed for the generator because it is diesel. Supervisor Rajsz reported her assistant needs a new computer, noting they have gotten comparable prices. Supervisor Rajsz reported her assistant does not need the more complicated computers that are needed in the other offices.

PROCLAMATIONS – CONSTABLE MAAS

Supervisor Rajsz reported they are doing a Proclamation for Constable Maas to recognize his participation in recent criminal apprehensions. Supervisor Rajsz stated we have a dynamic Constabulary and read the Proclamation. The Chief Constable also made a presentation to Constable Maas in the form of a Certificate and statue.

REPORTS OF BOARD MEMBERS

Councilman Thiele reported there have been no committee meetings and the new maintenance mower would be her next month.

Supervisor Rajsz reported she has requested Councilman Leamon review our existing bond. Councilman Leamon reported he has reviewed it but it is complicated. Supervisor Rajsz reported she will attend an IDA meeting that is reviewing projects.

Councilman Akt reported the generator is hooked up.

Councilman Carr reported the Seniors are out of hibernation and that the Fire Dept. is doing a wonderful job.

Supervisor Rajsz reported she attended a birthday party for a resident that has just turned 100 years old, noting Walter Balaban was presented several certificates from the Town and County and State officials. Supervisor Rajsz reported that Senator Bonacic sent a letter acknowledging his receipt of the two Town resolutions that were sent to him, noting these were for the gun legislation and the plea bargaining for traffic tickets issue. Supervisor Rajsz reported that she was contacted by someone from the Communities of Extinction that they are interested in doing a segment on the Town of Lumberland and the cost to the Town would be \$24,000 to do it. Supervisor Rajsz reported that the Sullivan County Pride

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Awards will be held on May 5th at the Villa Roma and she has nominated Alex Grech from the Millbrook.

Supervisor Rajsz stated she is on a transportation committee to address the issue in the County and the Towns. Supervisor Rajsz reported there is no transportation for the seniors but there are grants available that would reimburse the cost of purchasing a vehicle of 80%, noting they are just in the talking stages and the next committee meeting is on the 20th at noon at the Government Center in Monticello.

Supervisor Rajsz reported that she received an email from Joan Rosenfelt regarding the cat issue, noting that they have already done a resolution allowing the DCO to pick up and transport stray or feral cats to the Humane Society. Susan Morley noted that Rosenfelt takes on the responsibility of taking care of those cats she is complaining about. Susan Gregg reported there is a law that says if you feed the cat it is yours. The Town Attorney noted that if you were to feed that cat and then abandon it you could be charged with animal cruelty or neglect. The Town Clerk reported they have called every agency to ask about this issue and they all say that if you feed that cat it is considered yours.

Supervisor Rajsz reported that there is a local water restoration plan in progress and a grant available through the UDC to enhance an access ramp to the river in the Town. Supervisor Rajsz noted the area considered is County owned and they are investigating into more land for parking for the ramp access. Supervisor Rajsz also noted that Landers Canoes is looking for land for parking.

Supervisor Rajsz reported the Town Attorney has submitted a letter regarding FOIL (Freedom of Information Law) requests and requirements that any communications of public officials on their personal emails, Facebook, or Twitter accounts that involve Town business must be forwarded to the Town Clerk who will then forward those messages to the Town Attorney for review. The Town Attorney reported this is in the preliminary stages of becoming mandatory for all public officials that communicate via these forms of communications that are subject to FOIL requests.

Supervisor Rajsz reported that the LOSAP paperwork is now completed and has been posted for 30 days and needs to be filed and sent to PenFlex. The Town Attorney stated that the approval from the Town Board needs to be in a verbal resolution form that can be done in a verbal motion. Councilman Ron Thiele recused himself from voting because he a member of the Fire Dept. Supervisor Rajsz stated that the motion is the Town Board will accepting the active service award list from the President of the Fire Dept as presented to the Town Board with all of the active members and the points that they earned for 2012 as well as prior 2012 service credit. Steimle verified that the program has already started.

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Councilman Akt made a motion to approve, seconded by Councilman Leamon, the vote was 4 – 0 with Councilman Thiele abstaining from voting.

The Town Clerk Thanked Ann Steimle for noting a correction to her agenda, that there is a state wide “burning” ban, not a “banning” ban, which was a typographical error.

The Tax Collector reported the tax season will be over at the end of March and she should be done by Friday, March 29th. The Tax Collector reported there have been questions about the second notice being sent out but she has explained that notices print out even to those that are on the payment plan just as a reminder that their last payment was due.

Susan Morley reported the Seniors schedule is on the calendar in the Senior Center.

The Chief Constable noted his monthly activity.

Fire Dept. President Ann Steimle reported that they recently had a structure fire in which pets expired but everyone else was safe. Steimle noted that this is a good time to check the batteries in your CO detectors. Steimle reported that they have several members in classes, a couple of which are struggling through their class. Steimle reported that they recently had an ice technician class on Highland Lake. Steimle congratulated Bob Maas on his recognition, noting she worked with Bob yesterday on a call. Bob Maas stated that the volunteers do not get paid and they do it every day. Supervisor Rajszyk stated that the volunteers are very dedicated to what they do. Bob Maas stated that, hopefully, the LOSAP program should motivate the younger generation to stay within the town.

OPEN FLOOR TO PUBLIC

Caroline Akt stated she has a complaint against Councilman Thiele for his postings on Facebook that were directed towards her and her husband. Akt noted that she has not responded to the postings. Councilman Thiele stated he did not use any specific names and his comments on Facebook did not have anything to do with town business. Supervisor Rajszyk requested the Town Board members behave as elected officials and refrain from any negative comments on Facebook and other social media because it unnecessarily degrades us and our positions. Supervisor Rajszyk stated we are here to serve the people of this community. Councilman Leamon stated he has not posted anything on Facebook since he has become a Board member.

The Kadampa Meditation Center representative reported they will be having an event at the end of April and will need parking, and as in the past, she will check with the Senior Center to see if the back parking lot is available.

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ABSTRACTS

Councilman Carr made a motion to approve Audit and General Fund & Highway #3, 2013, with General Fund Claims G3-#102 through #182, in the amount of \$ 54,208.33 , General Fund Prepaid Claims in the amount of \$ 70.00 , Highway Fund Claims #H3- # 93 through #177, in the amount of \$80,527.57, _with a total of Abstract #3, 2013 of \$134,805.90 .

Councilman Carr made a motion to adjourn at 8:52 p.m., seconded by Councilman Akt, all in favor, so carried.

Respectfully Submitted,

Virginia V. Horn
Town Clerk