

LUMBERLAND TOWN BOARD MEETING MINUTES
JULY 11, 2012

The Town Board of the Town of Lumberland held a regular monthly meeting on Wednesday, July 11, 2012, 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 James Akt
Councilman Ron Thiele
Councilman Jay Shafer

Also present were Town Clerk Virginia Horn, Deputy Town Clerk Hedwig Brush, Code Enforcement Officer David Sparling, Historian/Grant Writer Frank Schwarz, Town Attorney representative Jackie Riccani, Sophia Martynec, Cathy Sterling, Susan Gregg, Helga Rupnick, Ed Gavalla, Steve Dubrvosky, Theresa Bakner, Martha Tully, David Leamon, David Riley, Highway Superintendent Don Hunt, Jr., Fire Dept. President Ann Steimle, Caroline Akt, Bohdan Kandiuk, LEC CoChair Cheri Bodnaruik, Kaitlin Haas from the Sullivan County Democrat, Planning Board Chair Jess Gluckler and Peter Comstock.

Supervisor Rajsz introduced Jackie Riccani who is the Town Attorney's partner.

MINUTES

Councilman Carr made a motion to accept the Workshop Meeting Minutes of June 11, 2012 and the Regular Town Board Meeting Minutes of June 13, 2012 as written, seconded by Councilman Akt, all in favor, so carried.

Supervisor Rajsz stated she would like to go out of order before going into the Public Hearing for the zoning amendment which will be held at 7:15 p.m. Supervisor Rajsz read the Local Law which is to authorize the Planning Board to issue waivers in specific cases relating to the time between January 1, 2012 and May 1, 2012. Supervisor Rajsz stated that she is granting certain questions regarding this issue and there is 10 minutes left to ask questions before going into the Public Hearing. David Leamon stated that the sole purpose of this local law was for a waiver for a member of the Planning Board, noting that the amendment is not needed because the zoning already states that the Planning Board can grant a waiver. Supervisor Rajsz reported that she did not say that this was to favor any one person but was doing this local law on the advice of counsel. Town Attorney representative, Jackie Riccani, stated that it was understood that this was not intended to favor one person, that there were 4

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applications before the Planning Board before the new zoning went into effect. The Town Attorney stated that the current zoning provides Planning with the authorization to waive certain zoning, but the new amendment will allow the Planning Board to process under the prior code. Ricciani stated that the current law in place was designed to only waive to a specific project, whereas, the new amendment would allow the Planning Board to waive from all new zoning laws. Ricciani stated that the process was for more transparency and more comprehensive, whereas, the application of the prior laws were more burdensome. Supervisor Rajszyk reported that the new amendment is restricted to the time from January 1, 2012 through May 1, 2012. Planning Board Chair Jess Gluckler stated that there was just not one application involved, noting that Gavalla's application was in before January, 2012. David Leamon reported Gavalla's application went in September, 2011 according to the records. Gluckler stated that they felt since the application had gone in prior to the passing of the new law Gavalla should have been grandfathered in to the previous zoning laws. Leamon stated that Gavalla should be covered under the new zoning laws. Supervisor Rajszyk noted the Public Hearing would be opened in 2 minutes, noting she had received a letter from Gavalla's engineer this afternoon regarding his subdivision application.

Councilman Akt made a motion to recess the meeting at 7:15 p.m., seconded by Councilman Shafer, all in favor, so carried. Councilman Carr made a motion to open the Public Hearing at 7:15 p.m., seconded by Councilman Shafer, all in favor, so carried.

**PUBLIC HEARING – LOCAL LAW #3, 2012 –ENTITLED
“AUTHORIZATION FOR PLANNING BOARD WAIVER OF NEW ZONING
REQUIREMENTS IN APPROPRIATE CASES”. -7:15 P.M.**

OPEN FLOOR FOR 1ST TIME

Ed Gavalla reported that he is the applicant and had put in his application for his subdivision in October, 2011 before the Planning Board, noting at the time the Town Engineer was not present. Gavalla reported he was advised of different situations by the Planning Board and felt he couldn't have been more diligent. Gavalla reported he presented his sketch and the Planning Board gave him direction to move forward, noting he had no negative declarations from SEQRA or the DEC.

David Leamon stated that he did not have a problem with Mr. Gavalla but in the fairness of the law he felt that as a member of the Planning Board who attended the zoning rewrite committee meetings Gavalla should not be given a free pass. Leamon

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reported that under the current zoning this proposed amendment was not necessary, noting he felt there was no legitimate explanation for this proposed local law. Leamon questioned why any Town Board member would vote in favor of this local law.

OPEN FLOOR FOR 2ND TIME

Jess Gluckler, Planning Board Chair, stated he does not understand the legalese of the process but Gavalla came before the Board and recused himself from being involved as a Planning Board member when the Planning Board reviewed his application for his subdivision. Gluckler reported the Planning Board did not know the new zoning had gone into effect until June and that Gavalla would be subject to the new law. Gluckler stated they were not giving a member of the Planning Board special treatment because the Planning Board Attorney informed the Board that the Town Board had to make the decision as to whether Gavalla was under the prior zoning or the current zoning. Gluckler noted that Gavalla's engineer had a heart attack and that prolonged the process.

OPEN FLOOR FOR 3RD TIME

David Leamon questioned if the Planning Board would have proceeded had the their Attorney not counseled them that this subdivision was under the new law? Leamon stated that his question is why this proposed law was even being considered?

Ed Gavalla reported he was told to proceed forward with his subdivision plans and did not understand why Leamon is questioning the proposed amendment. Gavalla reported this could have been done without a problem and that he approached his application as normal but the zoning law changed before it could be done.

Ann Steimle stated that, with any time there is a transition in zoning, it should be taken into consideration and that she felt Gavalla did everything out in the open and that there was nothing wrong in the way he presented his subdivision plans.

Councilman Akt made a motion to close the Public Hearing at 7:26 p.m., seconded by Councilman Carr, all in favor, so carried. Councilman Thiele made a motion to reopen the regular meeting at 7:26 p.m.,

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CORRESPONDENCE

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

2. Comptroller's Newsletters
3. Cultural Series Board Agenda
4. ZBA Mtg. Min. – May
5. Pattern for Progress info
6. Life Administration Low-Income Forum on Energy info
7. Building Inspector letter
8. Delaware Highlands Conservancy Info
9. Grant Writer Updates
10. Upper Delaware Scenic Byways Agenda
11. Rural Futures Newsletter
12. Planning Board Mtg. Minutes –June
13. Supervisor's Letter- UDC – Pond Eddy River Access Parking Study Project

Councilman Thiele made a motion to accept Correspondence #1 through #13, holding #7, #9, & #13 for discussion, seconded by Councilman Akt, all in favor, so carried.

Supervisor Rajszyk reported that she also had a piece of correspondence that came in from the UDC regarding their fiscal plan.

Supervisor Rajszyk reported that Item #7 was a letter from the Building Inspector noting that the new zoning does not define studio apartments, as it did in an old zoning amendment, noting that it only defines an accessory use only in the districts that are listed for it. Supervisor Rajszyk noted that a lot of time was spent on the zoning rewrite but there were some oversights and that nothing is perfect and it can be amended. David Leamon questioned why this issue was brought up? Supervisor Rajszyk stated that the Building Inspector is out in the field and checks on the zoning regulations. Martha Tully stated that it was an oversight regarding care cottages, noting that they would not have to be removed if converted for another use. Building Inspector/Code Enforcement Officer Dave Sparling reported it is not his job to enforce zoning but to read the zoning and bring it to the attention of the Town Board, noting that studio apartments are not allowed in all districts.

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Supervisor Rajsz reported Item #9 was notification that the TAG grant was due by August 31st, noting they are applying for an emergency plan update.

Supervisor Rajsz reported Item #13 was a letter from the UDC which was signed by Chair Nadia Rajsz, regarding the Pond Eddy access site proposed by the Pond Eddy bridge, noting the UDC has sent a letter of support for the project.

Supervisor Rajsz reported the UDC held a workshop meeting on June 23rd to discuss a 5 year fiscal plan. Supervisor Rajsz noted they have discussed consolidating priorities, noting those include issues along the river, availability on the website and to protect and respect private property use along the river. Supervisor Rajsz reported they discussed 16 points and that the deadline for an agreement is July 24th.

Supervisor Rajsz reported she received an email from John Kelly, who has been our traffic court attorney, stating he is resigning to take another position and he also is making a recommendation for his replacement. Supervisor Rajsz noted that Kelly Thanked the Town Board for approving his appointment in the past.

PRE-FILED RESOLUTIONS

- #103 – Schedule Public Hearing – Petition to Extend Smallwood-Mongaup Fire District
- #104 - River Corridor Trash Removal Approval
- #105 - Local Law #3, 2012 Approval – Zoning Amendment
- #106 - LOSAP Plan Administration Firm services approval
- #107 - Schedule Public Hearing – Local Law #4, 2012 – MMFT Road Preservation
- #108 - Noise Permit – Mohican Lake Resort (Late File)
- #109 - Cemetery Deed Ownership Transfer Request (Late File)
- #110 - Alteration of Lumberland Fire District (Late File)

Supervisor Rajsz reported they needed to amend the time of the Public Hearings for Resolutions #103 and #110 to read 7:15 p.m. Steve Dubrosky and his attorney for the subdivision for Chapin Estates reported that they are required to get municipal approval of the local fire department extension since it is only 10 minutes away from the subdivision, noting the Smallwood/Mongaup Fire District is willing to serve the Chapin Estates subdivision. The Town Attorney reported Resolution #110 is an accompanying resolution in support of Resolution #103.

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Councilman Akt questioned where the trash will be dumped from the river corridor once it is picked up? Supervisor Rajsz reported it will have to be put in the town dumpster behind the municipal building, noting she may have to request a bigger dumpster for that area.

The Board members discussed Resolution #105. Supervisor Rajsz stated that they have listened to the discussion and felt this amendment to the zoning makes the zoning more open and transparent for the Planning Board. Supervisor Rajsz stated she is not in favor of doing something for just one person, but as a citizen and resident of the town would like to support what the Planning Board can do upon the advice of their attorney. Councilmen Carr, Thiele and Shafer voted against approving this amendment to the zoning. Supervisor Rajsz stated that it is now in the Planning Board's hands as to how to proceed.

Supervisor Rajsz reported that Resolution #106 is approval for a company to outline the LOSAP program for the volunteer personnel's retirement. Councilman Shafer questioned what would happen if the Fire Dept. got more members, noting he would not like to see the cap eliminated? Councilman Thiele recused himself from voting because he is a fireman. The majority of the Board members agreed to eliminate the total amount cap from the resolution.

Councilman Carr questioned if the Mohican Lake Resort was classified as a resort? Supervisor Rajsz noted that is what they are listed as.

Supervisor Rajsz reported that the Association of Towns will be holding a Planning Federation conference and the Planning Board Clerk has requested permission to attend the conference. Supervisor Rajsz noted that the conference will be held in Fishkill on July 31st for one day. Councilman Shafer questioned if the Planning Board Clerk needs to go, noting it should be for the Planning Board members to attend. Supervisor Rajsz reported the Planning Board now has 2 openings for members and 2 openings for Alternate members. Councilman Akt stated that the Clerk could attend and bring back the information to the Planning Board. Planning Board Chair Jess Gluckler stated that the Clerk is extremely knowledgeable and he recommended she be allowed to attend the conference. The Board members denied the approval with a 2 to 3 vote.

PROCLAMATION – GREGORY BODNARUIK

Supervisor Rajsz read the Proclamation in memory of Gregory Bodnaruik, who passed away recently and noted he was an active member of the Planning Board, the

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LEC and recently worked on the Zoning Rewrite Committee. Supervisor Rajsz stated his passing is a great loss to his community.

REPORTS OF BOARD MEMBERS

Councilman Carr Thanked the Highway Superintendent for his work for the July 4th parade and the Town for coming out for the parade and participating. Supervisor Rajsz Thanked Councilman Carr for the great parade.

Councilman Thiele reported that Linda Hazen has a list of projects for the parks.

Councilman Carr Thanked the Grant Writer for looking into a grant for the Senior Center. Grant Writer Frank Schwarz reported that a grant will not be happening this year.

Supervisor Rajsz reported the UDC will be hosting their annual river raft trip on August 5th.

Supervisor Rajsz reported that they had an update on the Pond Eddy Bridge project which is now at a stand still, noting that it will be addressed again in 6 months.

Planning Board Chairman Jess Gluckler reported that the clarification on the proposed subdivision was that they were told by the Planning Board Attorney that they needed to go to the Town Board for direction. Town Attorney Jackie Ricceni stated she would have to talk to the Planning Board Attorney regarding this issue.

Grant Writer Frank Schwarz reported they received the final cemetery brochure which will be available in the Town Clerk's Office, the Museum and from Cemetery Committee members, noting this is a guide to locating our local cemeteries. Supervisor Rajsz reported they do get calls for the location of the cemeteries. Schwarz reported the grant paperwork will be completed and delivered to Narrowsburg.

Historian Frank Schwarz reported the Scenic Byways plaque will be set tomorrow at the Brown Carr rest stop on Rt. 97, noting the plaque depicts the establishment of Rt. 97.

Highway Superintendent, Don Hunt, Jr., reported they have been busy, noting they are paving Taras Schevenko Road and grading. The Highway Superintendent noted the Highway Dept. will be helping to put up the Scenic Byways sign tomorrow.

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Fire Dept. President Ann Steimle reported they have been busy, noting they had 20 call this last month. Steimle reported the Fire Dept. did a great job during a recent house fire, noting they rescued an 11 month old puppy and a mother dog. Steimle reported their 2nd ambulance got a face lift and is back on the road. Steimle reported that on October 1st they will be getting the first set of updated radios, noting that this was made possible through a grant with other area towns. Steimle noted that EMTs will need an additional 40 hours of training. Steimle noted that the Fire Dept.'s annual chicken bbq will be July 28th, with delivery of dinners available.

LEC CoChair Cheri Bodnaruik reported they have been quiet and that not a lot was going on right now with the LEC. Bodnaruik reported they are working on getting their compost project going and they will be doing regular water testing, noting their meetings are the last Thursday of each month.

Code Enforcement Officer Dave Sparling congratulated the Fire Dept. on the work they did at the recent house fire, noting he was very impressed by their dedication to saving as much of the house as they could. Supervisor Rajszt also stated that the town appreciates everything the Fire Dept. does.

OPEN FLOOR TO PUBLIC

Peter Comstock reported the Town of Highland had passed their ban on heavy industrial activity, noting this is now establishing a no drilling zone in the Delaware Valley district. Comstock noted that the Town of Highland had opposition from hunting camps that wanted to be able to lease their lands for gas drilling.

Peter Comstock reported he is getting a Special Use Permit from the Planning Board for his residence and school for energy efficient alternative sources which will give him the maximum return on his investment from the solar company. Supervisor Rajszt questioned if any of the energy Comstock saved will go into the community or into a grid? Jess Gluckler reported the home owner would get credit and the utility would have to buy back the power not used, noting the project the Homestead School is doing is amazing. Supervisor Rajszt requested Comstock get information from the solar company for the town. Comstock noted the company he is using is East Coast alternative Energy.

Ed Gavalla stated he is very disappointed in the Town Board for not approving the zoning amendment and requested the Town Attorney define vested interest. Gavalla noted he was told he did not have a vested interest in his project and that is why he

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was told to come to the Town Board. The Town Attorney representative stated she would meet with Gavalla to discuss this issue.

Supervisor Rajsz read the Special Announcements, noting that the Democrats will not be meeting tomorrow night.

ABSTRACTS

Councilman Carr made a motion to approve Abstract #7, 2012, with General Fund Claims -#500 through #575, in the amount of \$ 32,965.42 , General Fund Prepaid Claims in the amount of \$ 60.00 , and Highway Fund Claims - #315 through #339 , in the amount of \$ 89,515.00, with a total of Abstract #7, 2012 of \$ 122,540.42 , seconded by Councilman Shafer, all in favor, so carried.

Councilman Carr made a motion to adjourn at 8:25 p.m., seconded by Councilman Thiele, all in favor, so carried.

Respectfully Submitted,

Virginia V. Horn
Town Clerk