

An agenda meeting was held by the Town Board of the Town of Ballston on Tuesday evening, June 24, 2014 at the Town Hall on Charlton Road, Ballston Spa.

PRESENT: Patrick Ziegler ----- Supervisor
Timothy Szczepaniak ----- Councilman
William Goslin ----- Councilman
Kelly Stewart ----- Councilwoman
John Antoski ----- Councilman
Carol Shemo ----- Clerk
James Walsh ----- Counsel

Supervisor Ziegler called the meeting to order at 7:35 p.m. and the Pledge of Allegiance was recited.

RESOLUTION 14-114

AUDIT OF CLAIMS

A motion was made by Councilman Szczepaniak and seconded by Councilwoman Stewart to approve the payment of the bills on the May Abstract. The bills were approved for payment as follows:

General Fund	No. 231 - 292	\$27,984.37
Highway Fund	No. 206 - 252	275,778.44
Gravel Pit Fund	No. 21 - 29	5,694.82
Park Fund	No. 10 - 13	1,535.07
Library	No. 181 - 219	19,296.53
Water Fund District 2 (SW)	No. 43 - 56	144,559.79
Blue Barnes Rd Dist. No.2 Ext# 13 (BBR)	No. 42 - 53	2,719.33
Brookline Rd Rte 67 No.2 Ext#12 (BRW)	No. 42 - 54	18,923.90
Goode St Dist. No.2 Ext#14 (GSW)	No. 42 - 54	13,476.23
Paradowski Rd Water Dist. No. 5 (RW)	No. 18 - 20	4,293.96
Route 50 Water No.2 Ext#7 (RTW)	No. 42 - 54	62,614.10
Scotchbush Water Dist. No.6 ((WW)	No. 18 - 20	6,596.97
Silver Ln Water Dist. No 6 Ext#1 (WX)	No. 18 - 20	339.67
Chapel Hill Water Dist. No. 2 Ext # 18 (CH)	No. 42 - 54	21,647.74
Brooks Heritage Dist. No.2 Ext #21 (RL)	No. 42 - 55	5,452.18
Stonebridge Enclave No.2 Ext #19	No. 42 - 54	2,723.83
Morningdale Court No. 2 Ext#24	No. 42 - 53	142.96
Trust & Agency	No. 13 - 18	17,116.52

ADOPTED: Ayes 5 Supervisor Ziegler, Councilman Szczepaniak, Councilman Goslin, Councilwoman Stewart and Councilman Antoski
Nays 0

SUPERVISOR'S REPORT

Supervisor Ziegler thanked the people for coming to the meeting and stated that the Town Board will not take action on the Rossi PUDD this evening. The attorneys will be reviewing the information and Town Attorney Walsh will draft a written response to the status of the Rossi PUDD.

COUNCIL MEMBERS' REPORTS

Councilman Goslin asked the people who wished to speak concerning Walmart to offer solutions to the problem and state what you want the Town to do. He reported the following:

- The sewer committee revised the resolution and will ask the Board to consider it at the July meeting.
- We are working on the auditing update and the auditing work for February of 2012 is completed.
- The Town Hall Offices have new computers since the XP operating system was no longer being supported by Microsoft.

PRIVILEGE OF THE FLOOR:

Ms. Lang is against the Walmart store in Ballston Spa. The store will not be off a highway exit. People will have to drive through the Town to get to Walmart.

Ms. Janack-Cook stated absolutely nothing good can come of a Walmart in this location. She lives across the street from Dominic Drive. She noted the increased traffic, 24 hr. operation with constant light and noise and the devaluation of the area homes. Local businesses in the area are great. Big box stores do not belong with homes.

Ms. Cook said she lives close to the site and 24/7 stores do not belong in a neighborhood area. She asked the Town Board to please think about the constant lighting, noise and traffic. As a first responder, she is concerned about the potential for increased drug use and camping at the Walmart parking lot.

Ms. Pierce asked the status of the Dolomite lawsuit and if the judge has made a ruling.

Town Attorney Walsh replied that the judge has not made a ruling but he anticipates a ruling in about 3-4 weeks.

Mr. Pierce thanked the Board for taking action on designating Ballston Lake as an inland waterway. It passed both Houses of the State Legislature and the bill was signed by the Governor. He asked if Board liaison will be appointed to work with BLIA on grant funding. He also reported on the water testing in the Ballston Lake Watershed Area. The test reports on fecal coliform should be 200 colonies per 100ml of water and they were as follows:

- Two lake samples were 9c/100ml and 32c/100ml.
- Stream at Sweet Road was 200c/100ml
- Main Street across from the bike path was too numerous to count
- Palmer Road was 250c/100ml
- The stream on 146A by the former Clients First building was 700c/100ml

This report identifies some problems and the need to correct these problems in the future.

Ms. Lake spoke against Walmart. She has lived in the Ballston Spa Village since 1976 and ten years ago the people fought hard to keep Walmart out of the area. The Comprehensive Plan was developed to protect the area from big box stores. Now they have found a loophole and want to come back. This will severely change their lives. It is found that most of the traffic reports concerning big box stores traffic predictions fall 43% short of the numbers. Walmart's presence will increase noise, congestion, pollution and crime. With a 24/7 store, security will be an issue in a Town without a police force. She asked the Board to consider the cost of keeping Walmart workers poor at the expense of the rest of us. The Walmart stores cost the taxpayers thousands in subsidies and are known for suing the Towns to lower their taxes. In the Comprehensive Plan the Board stated that it was necessary to manage growth so the character of the Town was maintained. Walmart will not maintain the character of the Town or Village of Ballston Spa.

Ms. McPherson spoke against Walmart. Her main concern is increased traffic in an already congested area. Route 50 cannot be widened. Her solution for the Board is don't allow Walmart into the Town. You will not only negatively affect your Town but also your neighbors.

Ms. Benge-Mackey spoke against Walmart. She lives in a small town because of the value of community. Local businesses support the community. They support the farmers, school events and baseball teams. She is concerned with schools close by and the increased traffic. It would be a high cost to pay to have Walmart in the area.

Ms. Curvin is opposed to Walmart and any big box store in the Town and Village. Due to the loopholes in the zoning, the people have to keep fighting this battle. The Board should make sure the zoning has teeth, reflects the Comprehensive Plan and the wishes of the people.

Ms. Welsh a long time resident said the solution to the Walmart problem is to follow the Comprehensive Plan and keep the Town and Village special. She wants it to remain a special place for her grandchildren.

Ms. Mauro, counsel for Walmart stores, needed to address one point concerning the alleged expiration of the PUDD approval. She directs the Town's attention to the September 11, 2012 opinion letter issued by Building Inspector Thomas Johnson addressing whether significant or substantial progress has been made in compliance with the PUDD and also defining whether undue interruption has or has not taken place in compliance with the PUDD. Walmart has done

site due diligence since 2011 and they have been in active negotiations since 2012. The PUDD legality is moot concerning the statute of limitations.

Ms. Franco and Ms. Foti are sixth graders in the Middle School and live in the Village of Ballston Spa. Their favorite things are to go to the library, farmers market and walk to friends' houses. They are concerned that they won't be able to do this with the increased traffic from Walmart. It is already challenging with the traffic and no sidewalks. If Walmart moves into the area, they hope they add sidewalks and a crossing guard.

Ms. Jasinski said most people are aware of their responsibility to address the future of their community. Do we need to keep revisiting the zoning? She does not understand why a corporation would want to come back to a Town that decided that we did not want this and is back in our face again. People are moving to the Town for home grown reasons.

Ms. Stapf reminded the people that we are the first Fair Trade Certified Town in New York State. Walmart doesn't match the ethics that we have set up in this Town.

Ms. Myers said a Walmart site is not suitable for a big box store. Traffic gridlock is already caused by events at the fairgrounds, SPAC, racetrack and village events. A Walmart at that site will greatly affect their quality of life in a negative way.

Mr. Templin stated that Walmart is a poor corporate citizen. In California, Walmart employees used 38% more public assistance than other corporations. In NYS, \$ 50,000,000 has been spent in subsidies for Walmart. The financial impact will be for every 2 jobs Walmart brings in, 3 higher paying jobs are lost. Statistics show that with a Walmart the local retail sales will decrease by 3% and local businesses have stated a 3% loss would put them out of business. Walmart is not good for the Town or the community. He is willing to donate his services to help you find a solution to this problem.

Mr. Baker, with Young and Sommer Law Firm in Albany, said although this Town Board did not pass this legislation, the Town Board is responsible and needs to come up with a solution. The Town Board needs to protect the Town and the property owner and be consistent with the Comprehensive Plan. In response to Mr. Johnson's letter, it cannot, by matter of law, be legally right since they did not apply for site plan approval. It is impossible under the PUD and the zoning code to move forward without submitting this plan. Mr. Rossi needed to come to the Town Board and ask for an extension. He sat on his rights until the zoning expired. At a minimum, the Town Board has mandatory jurisdiction to approve a change of sketch plan. A sketch plan was attached to that law which does not conform in any manner to the plan that was presented by Walmart to the Planning Board. The Planning Board is not allowed to move forward without the Town Board approving that change which is subject to SEQRA. The Town Board can reverse that zoning and make it consistent with what the vision was for this Town. Review of the records shows that there was a fight over Walmart in 2004. The Town changed the zoning to limit the size of stores to 90,000 sq. ft. In 2010, Rossi brought his PUDD to the Town Board. It was a bait and switch, that didn't highlight the fact that they were bringing in a Walmart. The map, plan and description indicated mixed use, flex space and retail use. They slipped in the provision that all the retail, not to exceed 137,000 sq. ft., could all be in a single building. The Town Board needs to change the zoning and amend the PUDD. The Town should enact a moratorium suspending any permanent applications in that PUDD while you go forward with the amendment. The Town Board should do a proper environmental and planning review put restrictions on uses and manner of hours of operation and adopt the PUDD.

Ms. Anderson submitted a letter to the Town Board on behalf of Smart Growth of Ballston. She presented a petition to the Town Board with 950 signatures against the Walmart store. She directs the Town Board to consider page 1 of the Comprehensive Plan. It states the Town's primary concerns looking forward includes ensuring the community retains its rural, small-town character, remains a great place to live and that the area's natural resources, open spaces and agricultural land are protected.

Mr. Baskin is a member of Smart Growth Ballston. He believes the Town Board needs to re-examine this PUDD. A big box store does damage by an increase in crime, traffic, 24hr RV camping year round and the sacrifice of local stores. The Town Board needs to look to the Comprehensive Plan, fix the zoning and support a moratorium.

Mr. Battenfield is curious of the traffic study since Route 50 cannot be enlarged. He has written a letter to the Town Board to tell them that Walmart will do nothing to enhance the area of Village of Ballston Spa and the neighboring area.

Mr. Pokrzywka commends the Town for its support of Buckley Farms on Saturday. He stated that the Comprehensive Plan is subject to change. If the current PUD conforms to the current zoning and laws, then it would be overstepping the Town's authority to go against it. The area is situated for development and traffic.

Mr. Rossi II, attorney for the Rossi PUDD, thanked the Town Board for the opportunity to speak this evening. He wrote a letter to Building Inspector, Thomas Johnson, nine months before the expiration of the 24 month period stated in the PUDD, to make sure they had made substantial progress as part of the PUDD. Building Inspector Thomas Johnson and the Attorney for Planning and Zoning Peter Reilly agreed that they had made substantial progress. Reliance was built on Mr. Johnson's response to his letter. He stated wetland mitigation takes precedent to any road building that has to occur, and sewer and water needs to occur and that happened June 2011 – September 2012. This is substantial progress. Since 2012, the traffic engineering Phase I and Phase II and the expanded Phase II, the DEC excavation plan for the land has occurred. More importantly, subdivision plans were submitted to the Planning Board in March 2013. This was within the 24 month period. No roadway could have been built until the user of the property signed on. This would have started the enhanced traffic scenario. No roadway was sensible until site plan occurred. We have done everything in compliance. Hundreds of thousands of dollars have been spent as a result of the PUDD. Several more hundreds of thousands of dollars have been spent since 2012 letter stating the Rossi PUDD has made substantial progress. People are not finding out the facts; they are just knocking down a user. This is illegal and the Town should not make this mistake. The Rossi Family is hoping for a peaceful resolution to this matter.

Mr. Ogden spoke concerning the proposed scavenger's law and asked why the Town was considering it.

Supervisor Ziegler stated that the metal pickup helps keep the cost of the Town-wide pickup down. Also, the Board is responding to complaints from Town residents about people scavenging through their pickup items. If people wish to give their items to those in genuine need, they can have the Salvation Army come for their pickup items.

Councilman Szczepaniak reported that the Town reached out to other vendors but only County Waste was interested in doing the collection. It is very advantageous for the taxpayer to have the bulk metal collection to offset the cost of the junk pickup. The cost of the collection with the metal included changed the cost from \$40,000 to \$27,000.

Councilwoman Stewart said the law is overbroad for the purpose of helping the public understand the importance the metal is to having a Town-wide pickup. We are balancing the needs of our residents to help with the cost of the pickup, addressing complaints of scavenging and traffic hazard. With this law, we will make the public aware that the bulk metal collection is necessary to reduce the cost of the pick-up. She asked to amend the law as written to add the county law enforcement to this law.

Mr. Aquirue stated if the majority of the Town does not want something, it is the Town Board's responsibility to give the Town what they want. You have enough resources on your side. Think about the cons. The Town does not need a big box store; it kills the community and stifles the traffic. It should be obvious that the Town Board's task is to the people not to small vested interest.

Mr. Bashant gave the Town Clerk two letters for correspondence at the next meeting. He said there were three topics to focus the discussion: mixed use, detriment to the Village and need for collaboration with neighboring communities. The Town and the Village are established communities that don't need a shot in the arm to grow. The solution is sustainability. We need to grow more sensibility and work with neighboring community to provide for all the people.

Mr. Andersen, a ninth grader student at Ballston Spa High School, spoke about the traffic in this area. The Walmart will result in an increase in traffic in an already congested area. The beauty of nature that surrounds his home will be greatly reduced.

Supervisor Ziegler thanked the residents for sharing their comments. He appreciates that we can have this discussion. Our New England style of government, The Town Hall model of government, has the seat of government as close as possible to the people. There will not be a public statement or decision on the Rossi PUDD at this meeting

NEW BUSINESS FOR CONSIDERATION AND ACTION:

The Town Board will consider Local Law No. 1 of 2014 concerning the scavenger law. Town Attorney Walsh said the law was amended by Councilwoman Stewart to add the County Law Enforcement to the designated enforcement officers. The law only applies to the bulk item pickup. Since this is not a substantial change to the law, it is not necessary to have another public hearing.

Councilman Szczepaniak said that he initiated this legislation to benefit every taxpayer. The primary reason for this law was to save money so the Town could afford to do the pickup. With the bulk metal pickup included the savings is about \$20,000 - \$25,000. He and Highway Superintendent Whalen spent many hours trying to get any waste collecting company to put in a quote on this collection. Most collection services do not have the staff and the trucks to do a Town-wide collection. County Waste was the only service available to do the job. Also, with this law, he is responding to the many complaints by residents about people rummaging through their curbside items late at night. It is a safety issue especially for families with young children.

Councilman Goslin said he understands the reason for the law and the need to save money. He is not in favor of the restriction on people who wish to take items for their own personal use.

Councilman Antoski is surprised that the price is based on reclamation of the metal. He is not in favor of legislating garbage pickup.

Supervisor Ziegler believes it is necessary legislation. He has an issue with the safety of young children with people scavenging on the person's property. It is important to keep the cost down so the Town can afford the pickup which has been asked for by the residents.

RESOLUTION 14-115

APPROVE LOCAL LAW NO. 1 OF 2014 AMENDING THE TOWN CODE CHAPTER 73, HEALTH & SANITATION REGARDING SCAVENGING AND SCRAPPING.

LOCAL LAW NO 1 OF 2014

PROPOSED CHANGES TO CHAPTER 73, HEALTH & SANITATION LAW

RESOLUTION 14-115

Moved by: Councilman Szczepaniak

Seconded by: Councilwoman Stewart

WHEREAS, the Town Board of the Town of Ballston has been considering a Local Law to amend Chapter 73, Health & Sanitation Law §73-6 D regarding "scavenging" and §73-14 regarding enforcement of this article of the Code of the Town of Ballston; and

WHEREAS, this Town Board has held a public hearing on June 24, 2014 at 7:20 p.m. at which time all parties in interest were afforded an opportunity to be heard and to publicly comment on the amending of the Code of the Town of Ballston as set forth above;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Ballston does hereby establish a local law to amend §73-6 D and §73-14 of the Code of the Town of Ballston to adopt Local Law No. 1 of 2014, as set forth below:

§73-6 D. Scavenging and Scrapping.

- 1) Upon placement of household waste, garbage, refuse, recyclables (including, but not limited to paper, glass, plastic and metal items), furniture, or other material out for residential curbside collection, Town bulk item pick up or upon delivery to any disposal location designated by the Town, it shall be a violation of this article for any person other than a Town licensed garbage and refuse collector hired by the property owner or authorized agents or employees of the Town to disturb, rummage in or sort through, remove collect or pick up any such waste, garbage, refuse, recyclables, furniture or other material or cause the same to be disturbed, sorted through, removed collected or picked up.
- 2) Nothing in this article shall abridge the right of any person to give or sell their recyclables or unwanted personal property to any person, provided that such items have not been set out for residential curbside collection, Town bulk item pick up or delivered to a Town designated disposal location.

§73-14 Enforcement officers designated.

The Zoning Officer, the Building Inspector, County Law Enforcement and such persons as may be designated from time to time by the Town Board of the Town of Ballston or any of them, are hereby designated as the officers charged with the enforcement of this article and the code hereby established and are herein referred to as the "enforcement officer."

BE IT FURTHER RESOLVED, that this resolution shall take effect when filed with the Secretary of State of the State of New York.

Roll Call Vote:

Supervisor Ziegler	Yes
Councilman Szczepaniak	Yes
Councilman Goslin	No
Councilwoman Stewart	Yes
Councilman Antoski	No

Adopted.

Supervisor Ziegler reviewed the items scheduled for the Town Board Meeting on July 8, 2014.

RESOLUTION 14-116

ENTER INTO EXECUTIVE SESSION FOR DISCUSSION ON OUTSTANDING LITIGATION CONCERNING DOLOMITE.

A motion was made by Councilman Szczepaniak and seconded by Councilwoman Stewart to approve entering into Executive Session for discussion on outstanding litigation concerning Dolomite.

ADOPTED: Ayes 5 Supervisor Ziegler, Councilman Szczepaniak, Councilman Goslin, Councilwoman Stewart and Councilman Antoski

Nays 0

RESOLUTION 14-117

RETURN TO REGULAR SESSION

A motion was made by Councilman Szczepaniak and seconded by Councilwoman Stewart to approve return to regular session.

ADOPTED: Ayes 5 Supervisor Ziegler, Councilman Szczepaniak, Councilman Goslin, Councilwoman Stewart and Councilman Antoski

Nays 0

No action was taken at Executive Session.

A motion was made by Councilwoman Stewart and seconded by Councilman Antoski to adjourn the meeting at 10:15 p.m.

Respectfully submitted,

Carol R. Shemo
Town Clerk

