

The regular meeting of the Town Board of the Town of Ballston was held Tuesday evening, May 1, 2012 at the Town Hall on Charlton Road. Members present were Supervisor Patricia Southworth, Councilwoman Mary Beth Hynes, Councilman Jeremy Knight, and Councilman William Goslin. Also present were Town Attorney Murry Brower and Town Clerk Carol Shemo.

Supervisor Southworth called the meeting to order at 7:30 p.m. and the Pledge of Allegiance was recited.

RESOLUTION 12-068

APPROVAL OF MINUTES

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin to approve the minutes of the meetings.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szcsepaniak, Knight and Goslin

Nays 0

CORRESPONDENCE

A letter was submitted to the Town Clerk from Polly Windels concerning a property owner representing himself as a spokesperson for the Town of Ballston at the Saratoga PLAN meetings.

REPORTS OF TOWN OFFICIALS

Lynette Ziskin, Chairperson of the Jenkins Park Advisory Board, stated the park annual Spring Clean-up was a success with 30 people working and completing many projects.

Building Inspector Thomas Johnson, Highway/Water Superintendent Joseph Whalen, Dog Control Officer John Christopher, Animal Control Officer Thomas Shambo, Library Trustee Barbara Wilson, Supervisor Patricia Southworth and Town Clerk Carol Shemo submitted reports for April, and they are on file in the Town Clerk's office.

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

There was no Supervisor's Financial Report. Since we are without a bookkeeper, Supervisor Southworth said that handling payroll was the priority. The report will be available for approval at the next Town Board meeting.

Supervisor Southworth reported that the sales tax revenue increased by 6.56% over April 2011 figures. She has submitted a new Ethics and Disclosure Statement since she has been appointed to the Board of Directors of the Saratoga County Rural Preservation. She was a speaker at the Rally to Stop State Mandates that was organized by a Town resident and attended by Councilman Goslin. The people attending this rally asked State Officials to eliminate programs and not to create new programs and services that are not 100% funded. There will be a presentation at our Town Hall, "May Day for Mandate Relief", this month and the information will be on our website.

COUNCIL MEMBERS REPORTS

Councilman Szczepaniak stated there will not be a spring bulk pick-up. County Waste quoted a price of \$50,000 or \$13 per household. The Town is looking at a Fall pick-up and is talking to County Waste about a less expensive option.

Councilman Goslin spoke concerning the Mandate Rally. He stated the Town positioned itself well with Supervisor Southworth speaking at the rally, the planner of the rally is a Town resident and members of the school board were present. All local politicians can unite under the cause for mandate relief. He thanked Lynette Ziskin for a well organized and productive Jenkins Park Clean-up Day.

Councilwoman Hynes reported that Global Foundries has finalized the contract with the Saratoga County Water Authority. She thanked Highway Superintendent Joseph Whalen for interacting with the Director of the Saratoga County Water Authority to resolve the credit of \$70,000 for the Town. She continues to work with the Library Board of Trustees on the Personnel Policy for the Library.

Councilman Knight is working on the Health Insurance and he will have numbers and options for the June meeting. He hopes to have firm numbers for the health insurance for the budget by the end of the Summer.

PRESENTATION ON ANCHOR DIAMOND PARK

Dan Russell, Chairman of the Parks and Recreation Committee, provided an update from last year's presentation on Anchor Diamond Park. The major changes are that the estate is settled and we have refined our estimate since we know the parcel and could do a site visit with CT Male. He provided information on 4 options for the park.

- Option 1, 49 acres, was the option that was approved by the Town Board when the budget was unknown.
- Option 2, approximately 75 acres, extends the 49 acres to encompass existing trails.
- Option 3, same acreage as Option 2, concerns the site distances for the entrances.
- Option 4, approximately 100 acres, this is the parcel the Parks and Recreation Commission has recommended from the beginning. With the increased acreage, there is better access to the new trail and the existing trail.

Supervisor Southworth asked the following questions: lighting for the park, cost of tree cutting, hunting or snowmobiling at the park, need for soil testing and designating it a passive park.

Mr. Russell replied that the committee used the information available from Jenkins Park. There will be one light in the parking area and at the roadway and no lighting along the trails. Hunting and snowmobiling will not be allowed. The \$1,000 for tree cutting is based on cost at Jenkins Park with volunteers doing the work. CT Male did an environmental evaluation and it showed the land was never used for industrial activity or waste disposal. They interviewed the owner and walked the site.

Councilwoman Hynes thanked the committee for all their hard work. She questioned why with the increase in park acreage that the maintenance costs remain the same. Also she is concerned that residents have complained about the speed limit on Middleline Road and asked about the site distances for the entrances to the park. She asked what will happen to the 50 acres of land surrounding the park.

Mr. Russell stated that the maintenance cost will be the same for all the options because they will be maintaining the same 7–10 acres of land. Once the nature trails are established, there will be work parties to maintain the natural trails. CT Male recommended the site distance needed and park entrance signage. They said there is no need for a speed limit change or the need to cut down the hill. No soil testing will be required.

Mr. Lang, the owner of the potential park property, stated the 50 acres surrounding the park has a good chance of being sold as a small farm.

Councilman Knight asked how the park boundaries will be marked to show where the Town property ends and private property begins.

Mr. Russell stated that stakes with signage will denote park land.

Mr. Stern asked how much money the Town received for the park He has a concern with our general liability insurance covering volunteers cutting down trees.

Town Attorney stated that Surrogate Court settled the estate but he does not have a precise number yet. He is confident that the Town will receive between \$800,000 – \$900,000.

Mr. Paul Simpson said the proposed 49 acre property was agreed to by the Town Board. When did this change?

Ms. Eddy said the soil and water on this property needs to be thoroughly tested before buying unknown land. What are the determining factors for testing when you walk the property?

Mr. Russell replied it is CT Male's professional opinion that testing is not necessary and the committee accepts their recommendation.

Ms. Windels said the other two properties were said to be too expensive in the original proposal. She has a concern that the Town is open to legal complications since the Parks and Recreation Committee did not open up the bidding to the other 2 property owners.

Mr. Russell stated that the 100 acre property has always been the recommendation of the Parks and Recreation Committee.

Ms. Donovan said the Parks and Recreation Committee did a great job. She is concerned about the maintenance costs. Is there something else besides park maintenance that we want to spend the money on for the Town?

Mr. Palmer believes the 49 acre parcel was a good choice. We are not respecting the Ballston Lake Overlay District. DEC Wetlands are on this property and it will be difficult to work this property.

Mr. VanVorst asked the dollar amount of the tax loss removing this property from the County and School Tax Rolls?

Mr. Voehringer stated that a reasonable fence is needed to control people from going onto posted land. This presents a problem for the farmer. This project needs to go before the Planning Board and go through the subdivision process.

PRIVILEGE OF THE FLOOR

Ms. Annette Bliss, Vice President of Lane Enterprises, spoke concerning the proposed zoning change. Her company sells drainage products to hundreds of municipalities in New York and New England. She does not know what the future holds for her industry and her company will have to change and adapt to the times. The Town Board should not limit her company's future and force them to relocate to another area. She asked the Town Board to allow the businesses involved a chance to review the zoning changes and voice their opinions before any action is taken.

Jim Craig Esq., representing Curtis Lumber Industrial Park, outlined his concerns with the impact of the proposed zoning change on the Curtis Industrial Park. He said the Town's Comprehensive Plan urges development at the Industrial Development Area. The Curtis Industrial Park has spent money on improvements and on land purchases. Several big tenants are not able to expand and these changes are at odds with the Comprehensive Plan. He believes that property rights will be taken away without Due Process.

Mr. Carusone asked if the Town has made a decision on White's Beach Road that would cause the Railroad Crossing project to be held up or put off for some time.

Supervisor Southworth replied that the Town's concern has to do with the timeline to put in the crossing. The Department of Transportation would like us to petition for White's Beach Road to be a public road, but they would like to wait until the end of 2014 to install the crossing. The Highway Superintendent has a concern since he is responsible for road safety.

Town Attorney Brower stated that there is no guarantee that the Department of Transportation will do the crossing. Once we take over the road and if the Department of Transportation decides not to fund the crossings project, CP Rail can ask the Administrative Law Judge to have the Town put the crossing up at a cost of \$300,000 to \$400,000. Now the Town will have a liability issue. One solution to this problem is to enter into an agreement with CP Rail that if the Town took over the road, that CP Rail would agree not to recommence any petitions for a certain period of time that would take us outside 2014.

Ms. Windels asked the Town Board not to make any decision concerning a zoning change without reviewing the Comprehensive Plan. The Comprehensive Plan discourages building of housing developments because that would increase the need for Town services. Rather the Town should encourage and promote commercial and industrial growth to maintain the balance. She believes there should be a public hearing on the park; it is too momentous a decision and it should be left up to the voters.

Mr. Stern has a concern about restricting business in the Industrial Zone. Our zoning should not be too restrictive.

Ms. Pott, Chairperson of the Farmland Protection and Preservation Committee, said we should have open and transparent government and the voters should weigh in on the park.

Mr. Palmer is against spot zoning to eliminate a proposal before the Town.

AGENDA ITEMS FOR CONSIDERATION AND ACTION

RESOLUTION 12-69

APPROVE EXPENDITURE FOR THE TOWN SUPERVISOR TO ATTEND ACCOUNTING SCHOOL

A motion was made by Councilman Knight and seconded by Councilman Goslin to approve the expenditure of \$85 for Supervisor Southworth to attend accounting school from April 18 – April 20, 2012. There will be no budget impact.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

RESOLUTION 12-70

APPROVE THE OVERNIGHT STAY FOR THE TOWN ASSESSOR TO ATTEND CORNELL SEMINARS

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin to approve Town Assessor Peter Hotaling to attend the Cornell Seminars in Ithaca offered by the New York State Assessors Association from July 16 – July 20, 2012. These continuing education courses are included in the Assessor's budget.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

RESOLUTION 12-71

HIRE A LIBRARY COMMUNICATION SERVICES SPECIALIST

A motion was made by Councilman Szczepaniak and seconded by Councilman Goslin to approve the transfer of \$8,000 from the Library Fund Balance to the Library Contractual Fund 74104.17 for the purpose of hiring a communication services specialist.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

RESOLUTION 12-72

APPROVE THE OVERNIGHT STAY FOR THE TOWN HISTORIAN TO ATTEND ASSOCIATION OF PUBLIC HISTORIANS CONFERENCE

A motion was made by Councilman Knight and seconded by Councilman Szczepaniak to approve Town Historian Richard Reynolds to attend the Association of Public Historians of NYS Conference on Long Island from May 1–2, 2012. This conference has been included in the Historian's Budget.

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin

Nays 0

RESOLUTION 12-73

RENEWAL OF DELTA DENTAL CONTRACT

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin to approve the renewal of the Delta Dental contract at the same rate as last year. The Employee Rate is \$42.86 and the Family Rate is \$109.11

ADOPTED Ayes 5 Supervisor Southworth, Councilwoman Hynes and Councilmen Szczepaniak, Knight and Goslin

Nays 0

DISCUSSION – MASS GATHERING LAW

Councilman Goslin asked the Town Board their comments on the proposed changes he drafted to the Mass Gathering Law.

Supervisor Southworth stated that now the law is quite arbitrary on who comes to get a Mass Gathering Permit. We need a consistent and fair law with good enforcement tools. Will this law apply to the Curtis Industrial Park and Lakeside Farms and will family events held at the Town Hall also need a permit?

Councilman Knight said the Mass Gathering draft proposal does not infringe on the Agricultural and Markets Law as it relates to farming operations.

Town Attorney Brower stated that the draft contents are fine. The Board needs to work out the issues.

DISCUSSION – SOLAR REGULATIONS

Supervisor Southworth reported that the Board has held multiple meetings and a couple of workshops concerning possible changes to our solar regulations. The Board has worked through a final draft. The Town Attorney has put together some proposed legislation.

Councilman Szczepaniak stated that resident Lisa Dorn has new information concerning the positioning of solar panels. The information concerns the safety hazard caused by solar panels reflection and also shading issue on neighbor's property. He believes solar panel pole mounts need to go through the review process of the Planning and Zoning Boards.

Councilman Goslin would like to wait another month to allow more input from the residents and everyone has an opportunity to speak. He also believes the solar panel pole mounts need to go through the review process of the Planning Board.

Supervisor Southworth is against sending residents to the Planning Board for the solar panel pole mounts due to added time and expense for the residents.

Councilwoman Hynes said the Board did not put a moratorium in place. We need to bring these proposals to a conclusion. The Board should set the final language on the solar regulations and set a public hearing at next month's meeting.

Town Attorney Brower said that there is no case law on the issue of solar reflection hazards and he has no comments on the shading. He will get the final legislation on the solar regulations ready and they will be posted on the Town website.

DISCUSSION – INDUSTRIAL ZONING

Councilman Goslin stated that this discussion on industrial zoning is not about the Asphalt Plant but about a zoning change. He listed the following points:

- It is the duties of the Board as the legislative body to revise local laws. As a representative of the people, he is responsible to propose changes and there are many issues to address in our zoning code.
- The asphalt plant highlighted a gap in the zoning laws. There are no restrictions in the Industrial Park. That is the only connection to the asphalt plant.
- The proposed zoning change will give the Planning and Zoning Board the ability to determine what is appropriate for the Town and the tools to do their job.

- The proposed zoning change will remove the word Manufacturing and replace it with Light Industrial.
- The proposed zoning change will prohibit the expansion of non-conforming uses. Let the Planning Board and the Zoning Board determine what and how it should be expanded.
- Change an outdated definition of Heavy Industrial. It is not the manufacturing of heavy or big things. Heavy Industrial is manufacturing that impacts the environment.
- The Comprehensive Plan speaks of Light Industrial many times particularly in the connection with the mixed use area with commercial industries. Light Industrial is supported in our community.
- The vote on the resolution is a vote whether we will continue to allow any industrial use in our Town or to give the Planning and Zoning Boards the ability to determine which industries are appropriate and which are not appropriate. It is a vote to protect the sensitive environment of the Town of Ballston. Without this change, we may impact this environment by heavy industrial and impact the residents near the industrial zone.

RESOLUTION 12-74

REVISE THE LANGUAGE IN THE ZONING LAW FROM MANUFACTURING TO LIGHT INDUSTRIAL

A motion was made by Councilman Goslin and seconded by Councilman Szczepaniak to approve the following draft resolution:

Be it resolved that the Town Board of the Town of Ballston agrees to move forward with a zoning change to prohibit industrial activity that is likely to generate significant levels of truck traffic, noise, pollution, vibration, dust, fumes, odors, radiation, radioactivity, poisons, pesticides, herbicides or other hazardous material, fire or explosion hazards, or other undesirable conditions. The proposed change will remove the word “manufacturing” from table A56 (§ 138) permitted uses in our industrial zones and add “light industrial” to the same table.

Be it further resolved that the definition of light industry and heavy industry be change to the definitions below.

Be it further resolved that the Town authorizes the formation of a new zoning law that prohibits the expansion of any facility that does not conform to the light industrial standards.

Be it further resolved that the Zoning Subcommittee works with the Town Attorney to review the environmental impact of this change in zoning.

Be it further resolved that the following language be considered when revising the zoning law:

Intent:

The intent of this change is to prohibit heavy industrial applications that could potentially impact our environment and the welfare of our residents. This zoning law is intended to give our Planning Board and Zoning Board the ability to determine which industries should be allowed in our industrial zones.

Light Industrial Use:

Light Industrial use will permit light manufacturing, processing, assembly and fabrication facilities, wholesale warehouses and storage facilities, equipment maintenance and research and development. This district is primarily for selective industries whose activities do not adversely impact the environment or quality of life of the residents of the Town or create an impact which is injurious to the public health, safety or general welfare of the residents or property owners of the Town of Ballston.

Accepted Light Industrial Uses:

1. Storage, warehousing or distribution of manufactured products.
2. Transportation services, accessory and local.
3. Automobile and truck rental facilities and public garages.

4. Automotive repair shops and garages and auto body shops.
5. Warehousing, public and private.
6. Public utility uses, including but not limited to electrical substation, telephone exchange, water facility or other similar use.
7. Animal-care facilities.
8. Emergency ambulance facilities.
9. Automobile service stations.
10. Buildings accessory to the above which are an integral part of any of the above uses and are not in conflict with the purpose of this article.
11. Research laboratory and facilities.
12. Equipment maintenance.
13. Accessory retail.

Prohibited Uses:

The following is a list, while not all inclusive, of examples and uses which do not meet the intended purpose of light industry and are therefore prohibited. The following uses are expressly prohibited as constituting either heavy industrial use or incompatible light industrial use:

1. Asphalt plant.
2. Manufacture or storage of fireworks, explosives or munitions.
3. Manufacture of cement or abrasives.
4. Manufacture of fertilizer or glue.
5. Manufacture, processing, storage, production or refining of petroleum or other flammable liquids or gases.
6. Manufacture of alcohol, dye or rubber.
7. Manufacture of corrosive acid or alkali.
8. Manufacture or production of hazardous and/or toxic chemicals, as defined in 15 U.S.C. § 1261.
9. Manufacture of ammonia, chlorine, bleaching powder, boilers, large steel tanks, Large steel vessels, asphalt, brick, tile, glutinous derivatives, lampblack, lime cement, plaster of Paris, and oil cloth, linoleum, paint, varnish, turpentine, printing ink, pyroxoline plastic or articles made therefrom, soap, starch, glucose, dextrine products, sulfurous products, nitric acid, hydrochloric acid, tar or tar products, crude rubber products, alcohol or carcinogenic dyes.
10. Assaying any metal except gold or silver.
11. A crematory.
12. Distillation of coal, wood, bones or tar.
13. Rendering or reduction of fats, tallow, grease, lard or any organic material, including garbage, offal, dead animals of any kind or refuse of any kind.
14. An iron, steel, brass or copper foundry.
15. Structural steel or metal fabrication where a drop hammer is used.
16. Refining of petroleum.
17. Tanning, storage or curing of rawhides or skins.
18. Slaughtering of animals or birds.
19. Packing, curing or processing of raw fish or raw fish products.
20. Smelting of metals.
21. Corralling of livestock or poultry for slaughter or transshipping.
22. Motor vehicle, snowmobile or other motorized vehicle racing or track operation or car or midget auto races.
23. Auto wrecking yards or scrap metal storage.
24. Stone or gravel crushing.
25. Power-generation plants.
26. Any storage or warehousing of chemicals or petroleum products that are not ancillary or incidental to the main on-site use and that does not adhere to all requirements of state and federal regulations, including but not limited to NYS DEC, US OSHA and US EPA regulations.

RESOLUTION 12-76

PURCHASE 100 ACRES OF LAND FOR ANCHOR DIAMOND PARK

A motion was made by Councilman Szczepaniak and seconded by Councilman Goslin to approve the following resolution:

Be it resolved that the Town Board of the Town of Ballston accept the recommendation of the Parks and Recreation Committee to purchase an additional 51 acres for Anchor Diamond Park making the total park 100 acres as outlined in Option 4 in the presentation material. This transaction will be subject to acceptable meeting of minds between Buyer and Seller and contracts being entered into are also subject to environmental survey by the Town's Environmental Engineer.

ADOPTED Ayes 3 Councilwoman Hynes, Councilmen Szczepaniak and Goslin
Nays 2 Supervisor Southworth and Councilman Knight

Councilman Knight fully supported Option 1 the purchase of 49 acres for the park. The 100 acre property gives the Town approximately 9 years to cover the maintenance costs of the park, instead of approximately 20 years to cover the maintenance cost of the park in Option 1. It is not right that four hundred people asked for the right to vote on this issue and were not allowed to vote. This is agricultural land that is pulled out of the district and it should go to County Planning.

Councilman Goslin sees this as a unique opportunity for our Town to purchase a park that will serve many generations. We should honor Mr. Schidzick's request and purchase a nice park for our community. He totally supported this resolution.

Councilwoman Hynes believes the Town is very fortunate to have this bequest and that the Town Attorney's estimated value of the bequest is close. If the estate is on the shorter side of \$900,000, we can phase in improvements and trails in a way that makes sense. She thinks it would be a mistake to keep a large amount of money for maintenance. In the years to come, the Town of Ballston will be experiencing a lot of growth and we will be glad we have a piece of open space.

Supervisor Southworth said this is a wonderful opportunity and it is great to honor this bequest. She feels the 49 acres of passive park land is the best option for the Town. Government is struggling to fund itself and we continue to cut highway expenditures. The property for the park will be dollars off the county tax roll. Nine years of maintenance is not long enough to support the program and she does not want to send Town residents a tax bill for the park.

RESOLUTION 12-77

APPOINT INTERIM STORMWATER MANAGEMENT COORDINATOR

A motion was made by Councilman Goslin and seconded by Councilman Szczepaniak to appoint Jeffrey Cwalinski as interim Stormwater Management Coordinator at the same rate of pay as Stormwater Management Coordinator Lester Bonesteel for a six week period.

ADOPTED as amended Ayes 5 Supervisor Southworth, Councilwoman Hynes and
Councilmen Szczepaniak, Knight and Goslin
Nays 0

Jeffrey Cwalinski is a member of the Planning Board. He will need to recuse himself from the Planning Board at the time someone comes before the Planning Board for business he has worked on as the interim Stormwater Management Coordinator.

On a motion of Councilman Szczepaniak and seconded by Councilwoman Hynes, the meeting was adjourned at 9:45 p.m. Carried unanimously.

Respectfully submitted,

Carol R. Shemo
Town Clerk