

DATE: FEBRUARY 26, 2015

KIND OF MEETING: TOWN BOARD

WHERE HELD: SCHODACK TOWN HALL

CLERK: DONNA L. CONLIN

PRESIDING OFFICER: DENNIS E. DOWDS

MEMBERS PRESENT: FRANCIS CURTIS
JAMES E. BULT
SCOTT SWARTZ
MICHAEL KENNEY

MEMBERS ABSENT:

ATTORNEY:

COMPTROLLER:

OTHERS PRESENT: NADINE FUDA, DIRECTOR OF PLANNING & ZONING
KEN HOLMES, SUPERINTENDENT OF HIGHWAYS

Supervisor Dowds called the February 26, 2015 meeting to order at 7:07 p.m. with the Pledge of Allegiance and dispensed with roll call. All present as noted above.

Discussion Items

Audit: S. Dowds opened discussion on an audit the Board is considering. He suggested that they should solicit proposals from three accounting firms that have municipal expertise. Most firms prefer to do a 3-yr. engagement vs. a 1-yr. engagement. He estimated that the 2014 audit would cost between \$25,000 - \$35,000 and subsequent years would be in the \$15,000 - \$18,000 range. He added that they cannot do this until the 2014 Annual Financial Report has been filed with the State, so it probably won't happen until this July or August. Building on his recommendation to have the audit, C. Curtis suggested that they should also audit past years in 2 – 3 year blocks which would give the additional benefit of having the Moody's bond rating again. S. Dowds felt that was unrealistic, as it would probably cost several hundred thousand dollars. Further, Moody's will give us a bond rating with the 2014 audit. He felt it would be more beneficial to continue the service as we move forward. C. Curtis felt that it wouldn't hurt to find out what the costs would be to go back 8 years. C. Bult suggested that a Request for Proposals (RFP) should be prepared, advertised and not limited to three firms. The Supervisor said he intended on advertising the RFP and whoever wants to bid on the project can do so.

Surplus Items: The Supervisor said the jeeps at the Town Hall and the Transfer Station should be declared surplus and sold. C. Curtis said he spoke with Karen Justus in the Assessor's Office and she said she thought the Jeep was running good and wondered why the Board was considering selling it. The Supervisor said it had really not been used this winter. C. Curtis said he was told that it wasn't used for data collection because of the severe winter weather conditions we have had. He asked what they (Assessors) will use if

the car is sold. S. Dowd felt they could use their personal vehicles. He noted that he had spoken with the Assessor and was told that it should not be a problem. For identification purposes, the Town could order a magnetic emblem that employees could put on the side of their cars when using them for town business. C. Curtis asked if use of personal vehicles is covered under the town insurance policy. The Supervisor said he believed so and asked the Town Clerk to research it and get back to him. The Town Clerk said she hadn't contacted the insurance company yet, but believed there was some type of coverage, but did not know the specifics. C. Kenney asked how many miles were on the Jeep. Nadine Fuda said the 2005 Jeep has around 35,000 miles. C. Kenney felt they should review this further before making the decision to sell it. The discussion then turned to the sale of the Transfer Station Jeep. Board members felt it could be auctioned after their truck is back in service. C. Curtis asked if there were any police vehicles that can be sold as well. The Supervisor said not at this time.

Zoning Committee Solar Update: S. Dowds introduced the members of the Zoning Update Committee – Nadine Fuda (Director of Planning & Zoning), David Calarco (Chair of the Zoning Board), Paul Puccio (Planning Board Member) and Nicole Allen (Laberge Engineering). Nicole Allen began by telling the Board that over the past year, there has been an influx of solar applications, so the committee was asked to thoroughly review solar guidelines as there are no current regulations. They were charged with the task of ensuring that property owners have the ability to access solar collectors and at the same time protect the adjacent property owners. They looked at three principal pieces: rooftop or building mounted solar facilities; ground-mounted solar facilities and large-scale utilities (solar farms). They focused on: allowing homeowners to install most solar collectors through the building permit process so that department can regulate, monitor and make sure it is done safely; providing a threshold for when a solar collector will require a special permit before a building permit; addressing solar collectors when installed as accessory structures, as well as on an accessory structure, and providing a more detailed regulatory process for large-scale solar collector systems which are often referred to as "solar farms". When they reviewed ground-mounted installations, they took into consideration that the yard location would not be a problem with regard to size, glare, or infringement on adjacent property owners. They also put in regulations with regard to the districts so you are protected in the commercial zones but basically allowing it in the residential zones as long as it wasn't too large. Lastly, the large-scale utility presented unique concerns so they determined that the best approach was to consider each application individually through the Planned Development (PD-2) process. They wanted the ability to provide security and visual protections with either screening or berming to ensure it would be aesthetically acceptable to adjacent property owners. Using the PD-2 regulations gives the Town and Planning Boards the ability to review them in detail on an individual basis, rather than trying to regulate all of them on a stand-alone basis. The proposal will be a zoning amendment to the Code of the Town of Schodack.

With regard to the structure of the proposed law, P. Puccio said an important facet was using more generic definitions which they felt gave the town more flexibility so the Code would not have to be amended every time there is a change in technology. He added that they wanted to make sure, within residential areas, that the collectors would be no closer to the road than the setback of the principal building for ground-mounted applications. They didn't want them to impinge on sight or have them become aesthetic

nuisances. Lastly, they wanted a law that provides guidance and was enforceable. Another important protection in the law related to abandonment of large-scale utilities. A certificate from the utility company must be provided to the Town that the solar is in use. If it is not in use for two years, it will be declared abandoned and would have to be removed. To ensure the removal is done, all applicants must provide a bond or surety to the town.

Nadine Fuda explained why they felt the PD-2 zone would be the best option for large-scale utilities. After an application goes through the process in the Planning Board, it then moves to the Town Board and they will have the final determination whether it is something they want in the PD-2 overlay in that area. By following this process it gives both boards a level of control so large-scale utility sources are not located in "prime" spots unless the boards think it would be beneficial to the Town. D. Calarco added that by doing it this way, the Town Board is not relying solely on the discretion of the Planning Board for a decision. Ms. Fuda said by the time the application gets to the Town Board it should be fairly well laid out but it gives the Town Board the opportunity to say they would like to see more screening, etc. Mr. Puccio said they left the whole concept of screening open-ended so they have more control over the aesthetics and sight control.

Ms. Allen noted that agricultural properties are entitled to alternative energy options to help run the farm so they made sure they exempted anything that is currently excluded by Ag. & Mkts. Law. Ms. Allen then reviewed the time-line for implementing the law, hoping that it could be concluded within the next few months.

Atty. Gruenberg said he found the terms "impervious" and "permeable" somewhat confusing (§219-39.3 B (3) (a) and (b)) and suggested that they added to the definitions and perhaps they consider only using one set of terms (i.e. - impervious and pervious or impermeable and permeable). S. Dowds suggested that the words "at the time of application be added to (§219-39.3 C (13) (b)).

C. Curtis thanked the Committee for their time. Last year, according to the Building Department reports, there were over 1.2 million dollars of solar collection systems put into this town and he himself has a solar collector system. He recommended that the term "battery" should be changed to another term. Committee members explained why the term was used. In concluding their presentation, committee members thanked the Board for allowing them to operate with just four people as it made it possible for them to come to a consensus in a much more feasible fashion. Nicole Allen said she will make the minor changes to the document tonight and send to the Town Board tomorrow. **Determination:** Since the Town Board must formally forward the proposal to the Planning Board, the Supervisor polled the members and it was the consensus of the Board to forward the final draft, incorporating the suggestions made this evening, to the Planning Board.

Pond View Rd.: Atty. Gruenberg explained that the Town Board has been approached by the owners of The Spinney to accept Pond View Rd. The Town Clerk and Director of Planning researched this and found information, via a Town Board resolution in 1991 and a subsequent contract with the former owners of the property in 1999, indicating that the intent of the Town was to accept the road when it was in its final form and approved by the town engineer. Atty. Gruenberg believed that the owners are requesting that the Town take ownership at this time because they are moving forward with Phase II of the Spinney at Pond View. He said since there is information that the Town has committed to taking the road contractually, and by resolution, the Board needs to get information from the highway superintendent and engineer regarding the current condition of the road before final

acceptance is considered. The Highway Superintendent, Ken Holmes, said the last time he reviewed the road was 14 years ago. He assumes that it will probably need reconstruction work. He added, typically, after 14 years a catch basin needs to be repaired or replaced. He cannot look at them now because of the snow and ice cover. If the Town is going to take that road, he believed there were quite a few things that would have to be done. C. Bult noted that he also asked the Town Clerk to do some research and found that it was originally bundled with Empire Blvd., which has been accepted by the Town. His point was that when the Board accepted Empire Blvd., they included language in the resolution that the median between the ingress and egress lanes would be maintained by the property owners, not the Town and he would like similar language included in the final resolution for Pond View Rd. He didn't think the Town should be responsible for permanent maintenance of the median. S. Dowds said it is inevitable that the Town will have to finally take the road over, but he would like it done after Phase II is complete. Ms. Fuda suggested that the Town Board should let the owners know that, while it is the intent of the Town to take ownership of the road, it has to be sent back to the Planning Board. In that way they can establish an escrow account to pay for the engineering review. **Determination:** It was the consensus of the Town Board: to send this to the Planning Board for their evaluation and to have them establish an escrow account for the engineering review; that it is subject to the review of the Superintendent of Highways; that it shall be taken until after the completion of Phase II and that the owners shall maintain the median in perpetuity.

Goldstein Estates/Edgewood Drive: Nadine Fuda addressed the Board regarding the Homeowners' Association (HOA) for Goldstein Estates. She explained that it was created and filed with the State. As part of the subdivision approval by the Planning Board, an HOA is required to handle all the drainage on the properties. Unfortunately, it appears that most of the homeowner's were not told at the time they purchased their lots that there was an HOA. The original owner of the subdivision sold the property and the current owner, Rosewood Homes, which owns the main house and last two available lots, told her that they would like to abolish the HOA. They suggested that the owner of the main house would maintain the pond; the drainage swale would be the responsibility of the property owner on which it is located and the cul-de-sac would be the responsibility of the property at that end. She told them that was not acceptable per the regulations. Atty. Gruenberg said he spoke with the attorney for Rosewood Homes and explained that the HOA is set up to handle their drainage issues, signage, medians, etc. This HOA was legally filed and is attached to all their deeds. **Determination:** Atty. Gruenberg said he will send a letter to the new owner's attorney stating the town's position.

Spinney: C. Bult asked Ms. Fuda the status of Phase II for the Spinney. She replied that it has been completely approved and a site development permit has been issued. S. Dowds said they will probably spend this year preparing the site and will not be building until spring of 2016. Ms. Fuda added that they indicated that they will be building the clubhouse sometime this year. C. Bult said his issue is with regard to the sewer fees when they start building the units. He thought it was imperative that the Board have some kind of resolution about that prior to Phase II being built. If it can't be resolved by then, he wondered if the Board could consider a moratorium on the sewer connections. Atty. Gruenberg said he recognized the town's position. One outstanding claim was resolved in our favor due to a timing issue, but now we are coming into some projects that are in the existing district and

the board has inherited a problematical charging mechanism. He continued that during discussions with the Supervisor, it was indicated that the Town may be in need of additional sewer capacity, which might be the impetus to reopen negotiations on the intermunicipal sewer agreement with the Town of East Greenbush (He noted, for the record, that he also serves as attorney to the Town of East Greenbush). The problem stems around the \$5,000.00 "hook-up" that is collected by Schodack and sent to East Greenbush for the sewer connection. The term "hook-up" fee is used throughout the intermunicipal agreement and those fees are limited to the reasonable costs to the municipality. In fairness, the people in Schodack that use the East Greenbush sewer service really do not bear any burden for the capital costs for the wastewater treatment, which is solely borne by the residents of East Greenbush. It is the wording in the agreement that creates the issue and the owners of Spinney maintain the position that the charge was declared unconstitutional by Judge Zwack. The Board expressed concern that the owners will sue them under the existing agreement. Discussion continued regarding how this could be equitably resolved for everyone as it presents some challenging dynamics. Board members would like additional capacity and East Greenbush could use additional funding to offset the debt for the wastewater treatment plant. C. Bult said that we can tell them we want more capacity but if East Greenbush is not interested, that is where the discussion ends. Atty. Gruenberg suggested someone from the Town Board reach out to the Supervisor of East Greenbush to get on the agenda of their pre-board workshop and then make a presentation to them. **Determination:** S. Dowds will call the Supervisor of the Town of East Greenbush.

Webmaster: C. Bult asked for a status update on the discussion with the webmaster. The Supervisor responded that he was not able to talk with him because Mr. Wheeler has been sick, but hopes to bring him into the office within the next week. C. Bult noted that there was a slight improvement, but the underlying issue still needed to be resolved. S. Dowds reported that his secretary is researching other website options, all of which allow department heads to post their own information, notices, etc. He said his goal is to get an attractive and user friendly site that can be maintained and updated by department heads in a timely fashion.

ADJOURNMENT

As there was no further business before the Board, C. Bult made a motion to adjourn the 02/26/15 Town Board meeting at 8:27 p.m., seconded by C. Swartz. Meeting adjourned.

Respectfully Submitted,

Donna L. Conlin
Schodack Town Clerk/RMC/CMC

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