

A meeting of the Town Board of the Town of Lewisboro, Westchester County, New York, was held on January 15, 2009 at 7:30 p.m. at the Town House, 11 Main Street, South Salem, New York.

PRESENT: Supervisor - Edward Brancati
Councilmen - Peter DeLucia, Al Perruzza, Daniel Welsh
Town Clerk - Kathleen G. Cory
Town Attorney - Jessica Bacal

ABSENT: Councilman - Bruce Pavalow

Also attending was Deputy Supervisor Joann Vasi, Facilities Maintenance Manager Joel Smith, Wetlands Consultant Bruce Barber and Town Planner Jan Johannessen.

Mr. Brancati called the meeting to order at 7:30 p.m.

PLEDGE OF ALLEGIANCE

The Supervisor led the Pledge of Allegiance to the flag.

CODE – Discussion re Proposed Amendment to Chapter 220-Zoning re Cluster Zoning

Mr. Brancati said the planners have provided a draft of proposed legislation regarding cluster zoning. Jan Johannessen, the Town's planning consultant reviewed the draft which was prepared at the request of the Town's Planning Board. He reviewed the history of clustering in Lewisboro. In June of 1973 the Town Board authorized the Planning Board to approve cluster subdivisions, and in September of 1973 the Planning Board adopted "Standards for Conservation Development". In 1985 the master plan that was adopted recommended the continued use of cluster. About 1987 there was a lawsuit against the Town and as a result the cluster approval was repealed.

The Board reviewed a lawsuit brought against the Town by a developer because the Town wanted both cluster zoning and a recreation fee. The Town Attorney quoted from the Judge's decision in the Bayswater case. The Judge ruled that "payment of recreation fee under Section 281 of Town Law is clearly improper and unauthorized." Mr. DeLucia said it is unfair to ask the developer to do both. After further discussion, Ms. Bacal commented that in 1991 the Town was challenged in court over the recreation fees but was found to be acting properly.

After further discussion, Mr. DeLucia noted that many cluster developments give density bonuses, and he asked if that would that apply. Mr. Brancati asked if the Town granted a density bonus, could it still charge the recreation fee. Mr. Welsh asked for more research on the question.

Mr. Johannessen said his firm has prepared more cluster developments than conventional developments. Wetland consultant Bruce Barber said the environmental aspects are identified in the clustering process. There will be an attempt to practice avoidance of impacts in an up-front situation that will reduce costs for the environmental review process. That will be beneficial to the developer. He added that studies have been done that indicate people generally appreciate

cluster development. Studies around the country show that property values are enhanced by cluster development which ties together open spaces and creates a green belt network for all residents to enjoy.

Mr. Johannessen said clustering also benefits because there are fewer roads and fewer utilities. He said in Lewisboro over the years there have been six cluster developments approved between 1973 and 1994 that resulted in 189 building lots.

In drafting the ordinance Mr. Johannessen said he tried to use language that already exists in the Town's zoning law. He tried to provide a relatively simple ordinance using language that has stood the test of time. The permitted uses would be the same as would otherwise be permitted in the underlying zoning district, and it would apply to all zoning districts. There are three ways cluster zoning can be implemented: it can be requested by the applicant, requested by the Planning Board, or the Planning Board can request that the Town Board require a cluster plan. There is a required open space set-aside, but not a percentage—that would be determined on a case-by-case basis.

He said the 1987 law only allowed cluster development in residential zoning, but it could be used in commercial districts. During further discussion it was noted that lot sizes smaller than one acre don't provide any meaningful relief from the setback requirements, and cluster zoning isn't needed on small lots anyway. Open space set aside should be tailored to the Town of Lewisboro, not just something from another municipality's ordinance. Mr. Johannessen said the Board should be sure law is consistent with master plan, and he needs to do more research on that.

Mr. Barber mentioned that another way to determine density is based on the carrying capacity formula which sets site constraints based on the goals of the Town, not necessarily the zoning district. For example, if there's an aquifer, steep slopes, poor soils, if there will be septic systems, the Town could start with small achievable, clear steps and amend the law as the Board sees fit.

Mr. Perruzza said the amendment should be as symbiotic as possible to match the Town's goals, should have some but not too much flexibility and be very clear on the procedure. Mr. Barber said fees in lieu of recreation fees need to be looked at in much more detail, also the issue of density bonus and perhaps even affordable housing, and more adequate notification and procedure if it is going to the Town Board needs to be included. Mr. DeLucia said he is more concerned that the notice is clear, that the Town and the applicant have the proper procedures to go through. He emphasized legality and fairness.

Mr. Welsh suggested an alternative method of determining a density bonus. He also asked what kind of teeth the Board would have in the preservation of land, what would be the conditions the Planning Board could establish. Mr. DeLucia said he would rather have a homeowners' association so the Town could get the tax money, rather than have a land trust own it. Mr. Welsh asked what the time period would be, 99 years, or forever? Mr. Johannessen said it is designed to be in perpetuity. Mr. DeLucia said homeowners' associations should be required by the Planning Board.

The Board discussed the timing of procedures toward a public hearing. The planner will come back to the Board by the January 22 meeting with another draft.

OAKRIDGE WATER AND SEWER DISTRICTS – Authorize Agreement re State Funding

On motion by Mr. DeLucia, seconded by Mr. Brancati, the Board voted as follows:

THE VOTE:	Yes	- Brancati, DeLucia, Perruzza, Welsh	(4)
	No	- None	(0)
	Absent	- Pavalow	(1)

RESOLUTION

RESOLVED, that the Supervisor be and hereby is authorized to sign an agreement with the New York State Environmental Facilities Corporation regarding funding from the New York Clean Water State Revolving Fund for the Oakridge water system.

CLAIMS – Authorize Payment

On motion by Mr. Brancati, seconded by Mr. Welsh, the Board voted 4-0 to pay claims in the amount of \$39,431.35.

RECEIVER OF TAXES – Authorize Increase in Fees

The Board reviewed a request from the Receiver of Taxes for increases in fees charged by her office.

After discussion, the Board voted on motion by Mr. Brancati, seconded by Mr. DeLucia, as follows:

THE VOTE:	Yes	- Brancati, DeLucia, Perruzza, Welsh	(4)
	No	- None	(0)
	Absent	- Pavalow	(1)

RESOLUTION

RESOLVED, that the Receiver of Taxes be and hereby is authorized to increase fees as follows:

	FROM	TO
Advertising Fees for Liens	\$15.00	\$20.00
Redemption Fees	0	\$5.00
Filing Fees	\$150.00	\$400.00
Memo Bill Fees	\$3.00	\$5.00

OAKRIDGE WATER DISTRICT – Discussion re Unpaid Water Bills

The Receiver of Taxes addressed the Board regarding problems collecting water rents in the Oakridge water district. One issue discussed was the problem of collecting from tenants of the

shopping center. Some bills have been unpaid for as long as 30 months. Mr. Brancati said the Town cannot shut off the water to a residence, but it might be possible to do it on commercial property.

Mrs. Vasi said she would also like permission to charge a 2% late fee on unpaid bills. She asked if the Town could amend the Town Code or district regulations to provide for the late fee.

Mr. Brancati said the Town needs answers to the questions regarding shut-off and late fees. The late fee would be 2% after 30 days, 5% after 60 days and 10% after 90 days, or fees at 30, 60 and 180 days. The Board needs to know what the process is, and if approval is needed from the Public Service Commission. There are 332 residences and about 20 businesses in the district. Ms. Bacal said she will look into the questions.

Mrs. Vasi said the problem lies with the tenants because the bill is the responsibility of the owner, not the tenants. She said she is sending the bill to the tenant and the owner, but the owners are saying it is the tenant's responsibility. Mr. DeLucia said the standard practice should be to send the bills to the owner. Mrs. Vasi said she does notify the mortgage lender of unpaid water bills.

Mr. Welsh reminded the Board of a complaint from a business owner at Oakridge that the water service was intermittent. It was noted that the system is now upgraded and service has been much improved.

WATERSHED – East-of-Hudson Grant - Lake Truesdale Project

Mr. Brancati said a firm called Land-Tech had prepared plans for a lakes improvement project for Lake Truesdale. The Lakes Committee has talked to the Town's planning consultant about a proposal to help them complete their project. Kellard Sessions Consulting had proposed three phases, and the Lakes Committee would like to have Kellard Sessions get the plan up to the point of preparing a bid package. Then Land-Tech will put together the bid package for less money than Kellard Sessions. Phase II will be done by Land-Tech.

Mr. Brancati said one past problem was a miscommunication with Land-Tech. It was understood that they were preparing bid documents and that was not the case. Mr. Welsh asked for clarification regarding what tasks each firm will be doing. Mr. Brancati explained, and said Land Tech has estimated it would cost \$5,000 to prepare the documents, much less than Kellard Sessions estimated.

Mr. Perruzza asked what has been done under the watershed grant. Mr. Brancati said a project has been undertaken at Lake Kitchawan and another at the end of Twin Lakes Road to install rip rap and planted vegetation to slow run-off. The project at Lake Katonah is in the planning stage—it was bid out but no bids were received. Mr. Welsh said there was a small project undertaken on Timber Lake. The neighborhood did their own work and will seek reimbursement for expenses. Mr. Perruzza questioned the time frame for the grant funding, which was a five-year cycle. Mr.

Brancati said the Town is at the half-way point: 2 1/2 years out of 5. He said progress is being made and regular reporting is needed.

On motion by Mr. Brancati, seconded by Mr. Perruzza, the Board voted as follows:

THE VOTE:	Yes	- Brancati, DeLucia, Perruzza, Welsh	(4)
	No	- None	(0)
	Absent	- Pavalow	(1)

RESOLUTION

RESOLVED, that Kellard Sessions Consulting be and hereby is authorized to perform services in connection with the Lake Truesdale East-of-Hudson project, Phase I at a cost not to exceed \$5,000 as detailed in their letter dated December 5, 2008.

TOWN BOARD – Liaisons

The Board members reviewed the 2008 list of liaisons and chose the departments they wished to represent. The entire Board will take turns attending school board and library board meetings.

EXECUTIVE SESSION – Employment History

On motion by Mr. Brancati, seconded by Mr. DeLucia, the Board voted 4-0 to go into executive session to discuss the employment history of particular persons.

On motion by Mr. DeLucia, seconded by Mr. Perruzza the Board voted 4-0 to come out of executive session.

TOWN OFFICIALS AND EMPLOYEES – Salary Established for Pam Veith

On motion by Mr. Brancati, seconded by Mr. DeLucia, the Board voted as follows:

THE VOTE:	Yes	- Brancati, DeLucia, Perruzza, Welsh	(4)
	No	- None	(0)
	Absent	- Pavalow	(1)

RESOLUTION

RESOLVED, that the hourly rate for Pam Veith as the Senior Adult Recreation Director be and hereby is established at \$17.00 per hour not to exceed the budgeted annual salary of \$7,615.00.

TOWN OFFICIALS AND EMPLOYEES - Amendment to Employee Handbook re Prorated Sick Time, Vacation Time and Personal Time re Termination

On motion by Mr. DeLucia, seconded by Mr. Brancati, the Board voted as follows:

THE VOTE:	Yes	- Brancati, DeLucia, Perruzza, Welsh	(4)
	No	- None	(0)
	Absent	- Pavalow	(1)

RESOLUTION

RESOLVED, that the Town Board does hereby amend the employee handbook such that sick time, vacation time, and personal time obtained by an employee in the year in which employment is terminated with the Town of Lewisboro be prorated for that year dependent on the employee’s last day of employment with the Town.

TOWN OFFICIALS AND EMPLOYEES - Amendment to Employee Handbook re Service Required for Health Benefits in Retirement

On motion by Mr. Brancati, seconded by Mr. DeLucia, the Board voted as follows:

THE VOTE:	Yes	- Brancati, DeLucia, Perruzza, Welsh	(4)
	No	- None	(0)
	Absent	- Pavalow	(1)

RESOLUTION

RESOLVED, that the Town Board does hereby amend the employee handbook such that the requirement of achieving 15 years of service to the Town, 10 years of which immediately precede retirement in order to obtain health insurance in retirement from the Town, for those employees hired after April 1, 1999, shall not apply to those employees who obtain 10 years of service to the Town within the 12 month period following the adoption of the employee handbook which was adopted December 18, 2008; instead these employees will only be required to obtain ten (10) years of continuous service to the Town which immediately precede retirement to be eligible to receive this benefit.

TOWN OFFICIALS AND EMPLOYEES - Amendment to Employee Handbook re Employee Data Calendars/Time Sheets/Notification of Delays

On motion by Mr. Brancati, seconded by Mr. DeLucia, the Board voted as follows:

THE VOTE:	Yes	- Brancati, DeLucia, Perruzza, Welsh	(4)
	No	- None	(0)
	Absent	- Pavalow	(1)

RESOLUTION

RESOLVED, that the Town Board does hereby amend the employee handbook such that employee data calendars shall be submitted monthly to department heads and the Supervisor or his/her designee; that time sheets are also submitted to department heads for their approval or the Supervisor or his/her designee if an employee is a department head or a department of one for

approval; that notification of delays or closings in the event of inclement weather shall be handled by the Supervisor or his/her designee.

ADJOURNMENT

On motion by Mr. DeLucia, seconded by Mr. Brancati the Board voted 4-0 to adjourn at approximately 10:30 p.m.

Kathleen G. Cory
Town Clerk