

A meeting of the Town Board of the Town of Lewisboro, Westchester County, New York, was held on Monday, December 5, 2016, at 7:30 p.m. at the Town House, 11 Main Street, South Salem, New York

PRESENT: Supervisor - Peter H. Parsons
Councilmen - Frank Kelly, John Pappalardo, Daniel Welsh
Town Clerk - Janet Donohue
Absent - Peter DeLucia

Also attending was the Attorney for the Town Anthony Mole', Facilities Maintenance Manager Joel Smith and Chief of Police Charles Beckett.

And approximately 9 residents/observers.

Mr. Parsons called the meeting to order at 7:34 p.m.

PLEDGE OF ALLEGIANCE

Supervisor Parsons led the Pledge of Allegiance to the flag.

VETERAN HALL OF FAME – New York Senate

Mr. Parsons stated that New York State Senator Terrence Murphy inducted our local resident, Harry Soderlund, into the Veteran's Hall of Fame. Unfortunately Mr. Soderlund was ill and could not attend so he and his wife attended tonight's Town Board meeting. Mr. Parson's read the following:

Harry Soderlund grew up in Cross River as the eldest of six boys and one girl. His father had served as an Army Engineer in World War II, landing at Omaha Beach before fighting his way across Europe. Harry worked in his father's contracting business while he was still at John Jay High School and then was encouraged by his father to enlist in the US Navy as a Seabee in 1969.

He was trained as an equipment operator in Gulfport, Mississippi, becoming an EO3, Petty Officer Third Class. His first assignment was three weeks doing Search and Recovery after Hurricane Camille for which he received a Commendation. After a short stint building lighthouses and roads in Puerto Rico, he was sent to California for combat and weapons training before embarking for Cam Ranh Bay in Vietnam. During his twelve months there he worked with the Marines and Navy Seals doing underwater demolition. For this he was awarded the National Defense Medal, the Vietnam Service Medal and the Vietnam Campaign Medal. In May 1971, he was separated from the Navy ninety days early because of his service in Vietnam.

Harry proudly recites the Seabees motto: "Construimus, batuimus" – "We build, we fight".

We should be proud of Harry and all our Vietnam Veterans and at the same time vow that we will never again treat our veterans with the lack of respect which he and other Vietnam Veterans had to endure on their return to their country.

PUBLIC COMMENT PERIOD

FALUN GONG – Resolution Requested

Ted L'Estrange, on behalf of Falun Gong practitioners in the Hudson Valley, presented the Town Board with an information packet and sample resolutions regarding the persecution of the Falun Gong practitioners in China. Mr. L'Estrange urged the Board to pass a resolution that would call on the President of the United States and members of Congress to condemn the Chinese persecution against members of Falun Gong. The Board thanked Mr. L'Estrange.

KATONAH ART CENTER – Traffic on Bedford Road

Steve Rogers, of Old Bedford Road, read the following letter at the meeting.

Good evening. My name is Steve Rogers of 69 Old Bedford Road. Tonight, I rise to speak on behalf of myself and my neighbors in Old Goldens Bridge.

Since the Spring of this year, myself and fellow residents have shared with the Town Board either through these public sessions or individual discussions and correspondence our concerns about the Katonah Art Centers' tenancy in the Goldens Bridge Community House and its negative and unsafe impact on our hamlet. We have brought before you issues of traffic volume, traffic speed, inadequate parking, ambient light and noise, long hours of operations, stress on the septic, concerns about our shared aquifer, etc. We have appreciated the recent efforts of Councilman Pappalardo to hear us out but this situation goes beyond symptomatic solutions to the broader issue of state law and our town zoning code.

We want to believe that the Town Board entered into its relationship with Katonah Art Center (KAC) with good intentions, however, we've come to believe it was not with good judgement.

After months of seeking solutions with the KAC director, the Highway department and members of this Board, we've come to realize that KAC's for-profit motives are in direct conflict with the interests of its residential neighbors.

As a for-profit limited liability company, the Katonah Art Center operates seven days a week from 9:30am to 9:30pm in the heart of our residentially zoned district. It currently offers 130 visual arts classes and 32 specialty workshops. Additional events occur regularly and frequently throughout the year such as summer camp programs, holiday camp programs and large gallery openings. That does not include the fact that customers can also rent the space out for birthday parties, wine and art parties, etc.

We understand that a for-profit business must market itself and grow to be successful but it's precisely KAC's for-profit activity that puts them in direct conflict with their neighbors' rights to quiet enjoyment of our homes as conveyed to us in the deeds to our properties.

For example, next Sunday afternoon from 2pm to 5pm my wife and I will be hosting a holiday party. You're all cordially invited to stop by. As a courtesy, we notified the KAC director that there will be increased activity at our house. She subsequently informed us that there will be 3 birthday parties at KAC during that time window. As a result, we and our guests will be inconvenienced for the sake of KAC's for-profit activities. Parking will be difficult, if not, impossible to find. Despite the suggestion that KAC's customers park at the train station, I assure you that they do not and am I not convinced they've ever been instructed to do so by KAC.

But this situation goes beyond mere inconvenience. There are some serious safety, health and economic concerns as well.

For example, KAC's after school programs mean traffic volumes pick up right as our neighborhood children get dropped off the bus. A child has been nearly hit more than once. Dog walkers have complained of the same. Traffic volumes have increased dramatically. I can't let my kids ride their bikes most days on what use to be a quiet dead end street. We have submitted our traffic report to the Town Board but I am resubmitting a copy to the Town Clerk now for the official record.

Beyond traffic, there's a collective concern over the shared aquifer. It's not safe to blindly assume that KAC's increased activity will not pollute or adversely affect wells and stress the Community House's septic. Moreover, what guarantees does the Town Board have that volatile organic compounds and heavy metals from paints and pottery glazes won't make it into the ground water?

To illustrate the nature of our shared aquifer, when the Town drilled the new well for the Community House approximately 24 months ago, my well failed the same day, the very same minute. Newly relocated from the City with two little kids, I received a panicked call from wife

who wanted a solution that day. Since the guy drilling the Town well was literally 5 feet or so beyond our shared fence, she shouted across to him and asked for help. \$3,300 later we had a new pump and water that day. When the issue was raised to the Town Supervisor, he dismissed the connection between the two events but I've subsequently been educated by well experts about the hydraulic cones created by drilling new wells and their impact on existing wells. Therefore, my wife and I have experienced the impact on our shared aquifer with the Community House and, it's not without cause, that we are concerned about what makes its way into the drains at KAC. According to FOIA requests neither the new well, the change of use for the septic or KAC's summer camps are registered with the county's health department as required.

If I were on the Board, I'd be asking, "what's the Town's liability if our tenant pollutes its neighbors' drinking water?"

And, while we appreciate that the Town's investment in upgrades to the Community Center, neither the Town nor KAC has as much invested in this neighborhood as we home owners. Speaking personally, my wife and I were attracted to the neighborhood for its antique homes and potential. We took a bet on this neighborhood being like the main drag in Katonah was 20 or 30 years ago. The houses in Old Goldens Bridge are beginning to turn and people are fixing them up. Susan Nakamura, Ejil Ujal, Jayne Preiser, Michelle and Bill King, Sal and Chrissy Coangelo, and my wife and I have all recently invested in our homes and the neighborhood. We have a vision for this corner of Lewisboro but feel the Town's decisions have been counterproductive and excluded us from the process.

Antique homes in a special character district require a special kind of buyer like ourselves. As homeowners, we are not helped by KAC's presence that has changed the once bucolic and quiet nature of this neighborhood. Our property values will likely be negatively affected. You

have already heard from Susan Nakamura that her "rent to own" tenants have backed out citing the increased traffic, parking issues and noise. I estimate living next door to KAC's activity may knock 10% to 15% off the value of my home or \$70,000 to \$110,000. Moreover, I had to put up a \$12,000 fence to regain my family's privacy. A fence, by the way, that should have been the responsibility of the private commercial business next door according to Town Code(220-15 B5 / B6, calling for adequate screening between commercial businesses and residences).

Indeed, our town's zoning code exists to address these conflicts of interest and protect the rights of all parties. We are dismayed that the Town Board gave no consideration to the interests of us neighbors or to applicable zoning and land use requirements when it entered into the lease with KAC. There are no provisions to protect our rights in the town's lease with KAC. Moreover, the lease apparently attempts convey immunity from normal zoning and site approval requirements. As our attorney, Michael Sirignano, spells out in great detail in his letter to the Town Supervisor, Town Board cannot convey that municipal indulgence to KAC and, according to state law, the Town Board may not permit property acquired or held by it for public use to be wholly or partially diverted to private use. Therefore, the lease itself is illegal.

In the lease, KAC specially agreed to "obey all rules, regulations, ordinances, health laws, sanitation requirements, or other municipal or governmental laws, rules, regulations, ordinances or requirements in the operations of its business." By its very use and operation, KAC is daily breaching this covenant, violating State law, violating county health requirements and violating at least 17 town codes.

As taxpayers, we wonder about the economic wisdom of the arrangement. Net rental income of approximately \$48,000 per year before the costs of lawn care, snow removal and daily visits from town workers are deducted seems like a relatively small sum of money to prioritize over the interests and safety of local residents. Moreover, KAC continues to use vendors from

neighboring towns so money isn't being reinvested directly into the neighborhood. Frankly, this is not our definition of revitalization.

Because the normal variance, planning and site approval processes weren't followed by the Town Board in this situation, we haven't had the normal venues to have our voices heard. To this point, we have not turned to traditional and social media to pressure the Board or KAC. Instead, we've elected to communicate our concerns directly to the Town Board and KAC but we feel that we've gone unheard.

Therefore, we respectfully ask that the Town Board respond to the letter sent by our Attorney without further delay and that the Town Board and/or its zoning enforcement officer direct KAC to immediately cease all illegal commercial operations until zoning compliance is met or the lease is broken due to cause or invoking the six month exit clause.

I hope the Town Board appreciates the burden and risks it has placed on its own residents and thoughtfully reconsiders its decision to lease to a for-profit commercial business in the heart of a residential district that it is meant to protect.

Mr. Parsons stated that Mr. Rogers had refused to meet with himself and Mr. Pappalardo the last time they offered to meet. Mr. Rogers feels that endless conversations at this point were not going to be productive. Mr. Rogers and neighbors are now working with attorney Michael Sirignano, who delivered a lengthy letter and exhibits to the Town Board the previous Friday.

Mr. Rogers invited Mr. Parsons to his holiday party on Sunday, December 11 from 2 – 5 p.m. Mr. Rogers also stated that as a courtesy, he informed the owner of KAC that there would be increased activity at his house. The owner informed Mr. Rogers that she was having 3 birthday parties during the same time frame. Mr. Rogers stated that he and his guests will be inconvenienced yet again.

Mr. Rogers also stated he cannot let his children ride their bikes on what used to be a quiet dead-end road. Dog walkers are afraid of being hit by cars going to KAC.

Mr. Rogers stated his property shares an aquifer with the KAC. He also mentioned that there is a collective concern with the septic system. What guarantees does the Town Board have that heavy metals from the paints and pottery won't make it into the well lines. Mr. Rogers also stated that when the new town well was drilled, Mr. Rogers well failed at the same exact time. A new pump was then installed on their property for \$3,300, which was not reimbursed to them by the Town.

Mr. Rogers stated that he and neighbors felt excluded from the process of the decision to rent to KAC. Mr. Welsh stated that he had a long series of public meetings, surveys of what should be done with the building and constant indications of concern from the neighbors as to what or wasn't going to be done with the building. Mr. Welsh stated that Mr. Rogers himself attended a few of those meetings. Mr. Rogers agreed but felt that normal processes were not followed such as Zoning or Planning procedures.

Mr. Rogers asked that the Board read in great detail what their attorney, Mr. Sirignano wrote in his letter.

Mr. Kelly asked Mr. Rogers how long he has lived in this home and Mr. Rogers responded approximately 26 months. Mr. Kelly asked if that was before or after the major heroin drug arrest and weapons arrest across the street. Mr. Rogers replied after. Mr. Rogers still believes there may be some suspicious activity going on and he has shared this with the police chief.

Respectfully Mr. Rogers would like to work with the Board to find a resolution to this conflict.

The Board thanked Mr. Rogers for his comments.

Sarah Hodgson, a Lake Katonah resident who about 5 years ago used to live at 161 Ridgefield Avenue, which she stated was a road with shared driveways off the road. Ms. Hodgson is a dog trainer and took the barn and rebuilt it to run her dog training business. She stated that a neighbor came to a Town Board meeting in tears stating that Ms. Hodgson's clients would be coming past her house and she was worried her children would be threatened. Mr. Hodgson states that she has very high end clients who have median incomes in the millions. Ms. Hodgson stated that what was at stake was that there was a very, very old residential law from the time it was a farming

community that would not allow people to run a small business. Ms. Hodgson stated that this was dividing the town.

In the end, Ms. Hodgson stated that the Town Board decided to uphold the Zoning laws and shut down her business. Mr. Parsons asked if she was sure that the Town Board did this and she replied yes, absolutely. She has no ill will.

Ms. Hodgson is very good friends with Mr. and Mrs. Rogers. Ms. Hodgson has informed Mr. Sirignano that she will ride as far as this train goes. If it goes to the Supreme Court she will be with them with her papers and what the town upheld in her case. Ms. Hodgson goes to KAC with her child and she sees the traffic and it shouldn't be in this neighborhood. The Board turned her down for a much smaller group. Ms. Hodgson stated that if the Board doesn't relocate KAC it will be a thorn in the town's side.

Ms. Hodgson also feels that the Town or KAC should reimburse the Rogers for the well repair and the fence that they erected.

The Board thanked Ms. Hodgson for her comments.

CONSENT AGENDA

On motion by Mr. Kelly, seconded by Mr. Pappalardo, the Board voted 4-0 to approve meeting minutes and to receive and file departmental reports.

MINUTES - Approved

On the above motion and second, the minutes of the November 21, 2016 Town Board meeting were approved.

THE VOTE:	Yes	- Kelly, Pappalardo, Parsons, Welsh	(4)
	No	- None	(0)
	Absent	- DeLucia	(1)

REPORT – Monthly Reports

On the above motion and second, the November, 2016 reports from the Building and Police Departments were received and filed.

THE VOTE:	Yes	- Kelly, Pappalardo, Parsons, Welsh	(4)
	No	- None	(0)
	Absent	- DeLucia	(1)

FUNDRAISER – Bundled Coat Drive

On motion by Mr. Parsons, seconded by Mr. Kelly, the Board voted as follows:

THE VOTE:	Yes	- Kelly, Pappalardo, Parsons, Welsh	(4)
	No	- None	(0)
	Absent	- DeLucia	(1)

RESOLVED, that the Town Board does hereby authorize the use of the Cyrus Russell Community House for a coat drive fund raiser to be held on Saturday, December 10, 2016 which is part of the New York Cares organization, and be it further

RESOLVED, that the Town Board does hereby waive the required fee for use of the building.

WESTCHESTER COUNTY AGRICULTURAL DISTRICT NO. 1 – Recertifying Process (8:09 – 8:15 p.m.)

Mr. Parsons stated that the Westchester County Board of Legislators recently adopted a resolution formally commencing the review process for recertifying the Westchester County Agricultural District. Districts must be recertified every 8 years and as part of the recertification the Westchester County Board of Legislators must decide whether to continue the district, with or without modifications. Town Attorney, Anthony Mole’ stated that the proportion of Lewisboro’s share of the district is small compared to that of the other municipalities involved. Mr. Mole’ feels that they are looking to see if the Agricultural District is accomplishing its purpose. Town of Lewisboro is 2% of the Agricultural District.

Mr. Parsons stated that if anyone has any ideas he will convey this to the council of legislators.

ORGANIZATIONAL MEETING – Revised Format (8:16 – 8:20 p.m.)

Mr. Parsons wanted to have a brief discussion regarding the format of the Organizational meeting. He believes that it can be “bunched” and a shorter “script” can used. Anthony Mole’, Town Attorney stated that the Board could state that they move to adopt the resolution as written. The Board would like to know about any new members in advance of the meeting and as in previous years they would like to review the “script” prior to the meeting.

Mr. Parsons then stated that the Lakes Committee has not met in the last year. Mr. Parsons has spoken with David Sachs, Jan Anderson and Paul Lewis. The committee as it stands no longer has a function because the execution of the grant has concluded. Mr. Parsons would like to dissolve this committee and then ask the members to come up with any ideas as a useful purpose for a Lakes Committee in this town. Mr. Welsh stated that if they found a grant they could come to the Board. Or any of the members could come forth on behalf of their own lakes. Mr. Kelly expressed that he feels that there are enough lakes in Lewisboro that there should be some type of schedule when they meet with each other but it doesn’t need to be government sponsored.

Mr. Parsons also stated that he spoke with Mr. Dean Travalino who is the Chairperson of the Cable TV Committee. Currently the 6 members have a 1 year term. Mr. Parsons suggested that this be changed to 3 year terms and stagger the existing membership.

CRISIS INTERVENTION TEAM TRAINING – Discussion (8:20 – 8:23 p.m.)

Mr. Parsons stated that a resident, Janet Heneghan, approached the board regarding Crisis Intervention Team Training in the Town of Lewisboro. Chief Beckett feels that this type of training is very important. Chief also mentioned that one of our officers, who is a Veteran, is working with someone from the Veteran's administration on how to deal with Veterans who are coming back from war.

The Board feels that there is no downside to this training and are very much in favor. Mr. Parsons and Chief Beckett will discuss this further.

CABARET LICENSE – Renew Cabaret License for Horse and Hound

On motion by Mr. Kelly, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Kelly, Pappalardo, Parsons, Welsh	(4)
	No	- None	(0)
	Absent	- DeLucia	(1)

RESOLUTION

RESOLVED, that the Town Board does hereby authorize renewal of a cabaret license for the Horse and Hound for a period of one year, subject to the Building Reports being received.

CABARET LICENSE – Authorize Extension of Time for Horse and Hound for New Year's Eve

On motion by Mr. Kelly, seconded by Mr. Pappalardo, the Board voted as follows:

THE VOTE:	Yes	- Kelly, Pappalardo, Parsons, Welsh	(4)
	No	- None	(0)
	Absent	- DeLucia	(1)

RESOLUTION

WHEREAS, the Horse & Hound Restaurant, a local business establishment located on Spring Street in South Salem, has requested permission to permit musical entertainment at its premises after midnight on New Year's Eve 2016/17; and

WHEREAS, Section 98-7(A) provides that no musical entertainment is permitted between the hours of midnight until noon by any premises holding a cabaret license; and

WHEREAS, the Horse & Hound Restaurant is the holder of a cabaret license issued December 5, 2016; and

WHEREAS, the Town recognizes that New Year's Eve is a special event at which patrons of the restaurant are likely to desire to celebrate beyond Midnight.

NOW THEREFORE, BE IT RESOLVED, THAT the Town Board hereby exercises its discretion as set forth in Town Code Section 98-7(A) and grants permission to the Horse & Hound Restaurant to permit musical entertainment to continue for no more than one (1) hour past midnight on New Year's Eve 2016/17.

CLAIMS – Authorized for Payment

On motion by Mr. Kelly, seconded by Mr. Parsons, the Board voted 4-0 to authorize payment of the Town's bills in the amount of \$147,053.90, but holding the Sal's towing payment until a positive identification on which vehicle was towed.

POLLING OF THE BOARD

RAIL TRAIL – Update

Mr. Welsh stated that he received an email from Jan Johannsen of Kellard Sessions saying that the DEC was indicating that the Town needs to obtain a permit for the small piece of the rail trail since some fill will be needed. Mr. Welsh stated he feels the length is approximately 200 yards. Mr. Johannsen will be forwarding a quote to Mr. Welsh.

KATONAH ARTS CENTER – Discussion

Mr. Pappalardo would like to offer his time to try to resolve the issue with the Katonah Art Center. The issues he feels can be resolved if the parties can caucus and spend some time coming up with solutions. Mr. Pappalardo has offered repeatedly to mediate between the parties and that offer stands. After reading the letter for a second time from the group's counsel he feels that, in his mind, it further validates that the issues can be resolved if they can open up some dialogue.

LANDTRUST – Old Field Preserve

Mr. Pappalardo congratulated the Lewisboro Land trust. They continue to forge forward on their self-funded projects. They are on to the second phase and this is not costing the Town any money. Mr. Parsons also added particular thanks to our maintenance department Kevin Finney, Chris Curran and Joel Smith and to Pam Pooley who did a lot of work with installing the Garden of Reflection. They have also continued to keep the path open for Handicapped Accessibility.

MEETINGS – Date Set

There will be a Town Board meeting on Monday, December 19, 2016 at 7:30 p.m. at the Town House, 11 Main Street, South Salem, New York.

EXECUTIVE SESSION – To Discuss Legal Issues

On motion by Mr. Parsons, seconded by Mr. Kelly, the Board voted 4-0 to go into executive session at 8:30 p.m. to discuss legal issues.

On motion by Mr. Parsons, seconded by Mr. Pappalardo, the Board voted 4-0 to come out of executive session at 9:30 p.m.

On motion by Mr. Parsons, seconded by Mr. Pappalardo, the Board voted 4-0 to adjourn at 9:31 p.m.

Janet L. Donohue
Town Clerk