

June 14, 2016 – Regular Meeting

The regular meeting of the Gardiner Town Board was held at 7 PM at the Town Hall. Supervisor Majestic presided, with Councilwoman Walls and Councilmen Dukler, Hinson and Reynolds present. There were approximately 14± audience members.

### **ANNOUNCEMENTS**

- There are still vacancies for campers in the Summer Recreation Program. Contact the Director for more info.
- A reminder that any pool that can hold 24 inches of water or more is required to have a permit from the building department.
- A Primary Election will be held on Tuesday June 28 from 12 Noon to 9 PM.
- July 21 the annual 5K run will be held at 6:30 PM at Majestic Park. Sign up on line.

### **APPOINTMENT TO PARKS AND RECREATION COMMISSION**

There were three (3) applicants to the Parks and Recreation Commission. After interviews the Board appointed Brian Houser for a seven (7) year term to expire in 2023 and George Devine for a six (6) year term to expire in 2022. Motion was made by Councilwoman Walls, seconded by Supervisor Majestic and carried.

### **TOWN HALL EXTERIOR PAINTING AND REPAIR**

Councilman Hinson forwarded to the Supervisor the scope of work and estimate received from McMahan's Improvement last year. Ms Majestic will provide a scope to the Board shortly.

### **LOCAL LAW – SUBDIVISION/PARKLAND LAW**

The public hearing for a local law to allow for fees paid in lieu of parkland for new subdivisions has been opened for quite some time now. Supervisor Majestic is not in favor of the law. We already have a stringent zoning law that promotes Open Space. This defeats the purpose of this section of law. Councilwoman Walls however is in favor of the law. It does not take giving land off the table. Funds that are generated can go for further development of parks or used for park programs. Board members discussed about where the funds go and how they can be used. Supervisor Majestic read the e-mail received from Dave Brennan addressing the UCPB required recommendations.

Board members were satisfied with the law and at this point offered one last question/comment time to the audience.

David Sides – stated he was in favor of the law.

### **CLOSE PUBLIC HEARING**

On motion of Councilwoman Walls, seconded by Councilman Hinson and carried, the public hearing was closed at 7:30 PM.

### **ADOPTION OF LOCAL LAW – FEES IN LIEU OF PARKLAND**

On motion of Councilwoman Walls, seconded by Councilman Dukler and carried the following local law was adopted as follows: Supervisor Majestic voted nay.

**A Local Law** to amend Section 188-22(A) (Parks and Open Space) of the Town Code of the Town of Gardiner, New York.

**Be it enacted by the Town Board of the Town of Gardiner as Follows:**

**SECTION 1. TITLE** This local law shall be known as “A Local Law Amending the Subdivision Regulations Regarding Parks and Open Space.”

**SECTION 2. AUTHORITY** This Local Law is enacted pursuant to the authority of Municipal Home Rule Law and the Town Law.

**SECTION 3. PURPOSE AND FINDINGS** The purpose of this local law is to modify the provisions of the Subdivision Regulations that pertain to the reservation of parks and open space associated with residential subdivisions.

The Town Board has found that, in certain instances, developers have provided to the Town parkland or open space that is unusable or deficient. This has resulted in the Town taking title to multiple parcels that have little use as parkland and which go unutilized and provide no benefit to the residents.

The Town Board hereby determines that each residential subdivision in the Town results in the demand for recreational space, activities and uses. As land is subdivided for residential purposes and additional residential units are constructed, the additional population places demands on the existing recreational infrastructure and programs. The impact on the recreational infrastructure has not been mitigated by the types of parkland that have been previously donated by developers, those lands often being substandard, undevelopable or unusable and having little to no recreational value. Other lands set aside in the subdivision process are often held in the name of a home owners' association and are therefore not available to the entire community.

The Town of Gardiner is a compact place and the distance between residential areas and recreational resources is not significant. Finally, the Town is the location of (or in close proximity to) many recreational resources including Mohonk Preserve, Minnewaska State Park, Shawangunk Mountains and the Rail Trail.

As a result, the Town Board desires to emphasize the payment of moneys-in-lieu of recreation land so that funds may be accumulated to be expended on recreation programs or the acquisition of significant suitable, high-quality recreational facilities.

**SECTION 4.** Chapter 188 of the Town Code of the Town of Gardiner is hereby amended as follows:

Town Code §§188-22(A)(1)-(3) are hereby deleted in their entirety and replaced with the following provisions:

- (A) Payments in lieu of the reservation of parkland on subdivision plats containing residential units.
  - (1) The Town Board has determined that subdivisions containing residential units results in the demand for recreational space, activities and uses. As land is subdivided for residential purposes and additional residential units are constructed, the additional population places demands on the existing recreational infrastructure and programs. The impact on the recreational infrastructure has not been mitigated by the types of parkland that have been previously donated by developers, those lands often being substandard, undevelopable or unusable and having little to no recreational value.
  - (2) Every new residential subdivision shall make a payment in lieu of donating parkland. The amount of the payment shall be set by the Town Board by resolution on such terms and conditions as the Town Board sees fit and shall be updated from time-to-time by the Town Board. However, the fee schedule shall set forth different fees for lots associated with Major or Minor Subdivisions, as those terms are defined in this law.
  - (3) The monies collected pursuant to the provisions of this section shall be deposited into a dedicated, separate fund to be used by the town exclusively for park, playground or

other recreational purposes, including, but not limited to, the acquisition of property or the operation of recreational programs.

- (4) An applicant for subdivision approval may apply to the Town Board for a waiver of this section 188-22(A) requiring payment in lieu of parkland by proposing a significant park or recreational facility to serve the community.
- (5) The Town Board will assess the size and suitability of lands proposed for the park or recreational facilities, the nature of the facilities proposed, the costs or value of the proposed facilities as well as other practical factors including whether there is a need for additional facilities in the immediate neighborhood and the assessed value or cost of the lands to be dedicated.
- (6) The Town Board will refer the waiver request to the Planning Board for its review and recommendation.
- (7) The determination by the Town Board to grant the waiver shall be deemed a legislative decision.

**SECTION 5. TRANSITION PROVISION** Upon the effective date of this Local Law, any subdivision that has not yet received preliminary plat approval shall be required to comply with the provisions of this Local Law. Upon the effective date of this Local Law, any subdivision that shall have already received preliminary plat approval shall be exempt from this Local Law.

**SECTION 6. SUPERSESSON** Pursuant to Section 10 and 11 of the Municipal Home Rule Law of the State of New York, this Local Law is intended to supersede the provisions contained in Section 277 of Article 16 of the Town Law of the State of New York which require: that a subdivision plat, when required by the planning board, show a park or parks suitably located for playground or other recreational purposes; that the planning board make a finding that a proper case exists for requiring that a park or parks be located within the town; and that if the planning board determines that a suitable parks or parks cannot be located on the subdivision plat that money in lieu of parkland may be required.

**SECTION 7. VALIDITY** If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Gardiner hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**SECTION 8. EFFECTIVE DATE** This Local Law shall take effect after adoption by the Town Board and upon filing in the office of the New York State Secretary of State.

#### **FEDERAL EPA ASSESSMENT FOR LANDFILL**

Supervisor Majestic researched who or what company would be doing the free assessment offered to the Town for a potential solar farm. The assessment would be performed by a retired employee of the EPA who has contracted to do these free assessments. Satisfied with this a motion was made by Councilman Hinson, seconded by Councilman Dukler and carried, allowing the Supervisor to move forward with this free assessment.

**HIGHWAY EMPLOYEES – UNCOVERED HEALTH EXPENSES**

A motion was made by Supervisor Majestic, seconded by Councilwoman Walls and carried, authorizing the Town to pay the uncovered health expenses of highway employees presented to the Town.

**OUTDOOR ENTERTAINMENT LAW PROCEDURES**

Supervisor Majestic reviewed the current law. She found that the threshold seems to be 5,000 participants at which time it appears the state law would apply. Councilwoman Walls questioned what the state parameters are and if it is actually a requirement to have such a law in the Town code. Ms Walls believes that this is the bailiwick of the code enforcement officer. She will contact Association of Towns for guidance materials and would also like to have an application created for the permit.

**LOCAL LAW – TERM OF OFFICE FOR HIGHWAY SUPERINTENDENT**

On motion of Supervisor Majestic, seconded by Councilman Dukler and carried, the Town Board scheduled a public hearing for July 12, 2016 at 7 PM for a local law to increase the term of office for the Highway Superintendent from two (2) years to four (4) years.

Councilman Hinson stated that he is in support of the town voters making the decision to change the term of office.

**SOLAR FARM MORATORIUM**

Board members discussed the action to be taken to create a moratorium for solar farms. Attorney Paul Kellar has drafted a law for a moratorium for the Board to review. It was agreed upon to establish the moratorium for nine (9) months and to have the law differentiate between personal source of energy versus commercial....selling the energy to the community.

**MINUTES**

On motion of Councilman Dukler, seconded by Councilwoman Walls and carried the minutes of March 28, April 5, April 12, April 20, May 3 and May 10 were all approved as written.

**SUPERVISOR MONTHLY REPORT**

The Supervisor's Report for the month of May was approved as presented on motion of Councilwoman Walls, seconded by Supervisor Majestic and carried.

**CLAIMS**

Claims were approved for payment on motion of Councilman Dukler, seconded by Councilman Reynolds and carried. They are listed on Abstract #5 as follows: General Fund voucher #191-246 \$27069.68; Highway Fund voucher #107-135 \$14032.49; Sewer Fund voucher #11-12 #2321.50.

**BUDGET TRANSFER**

**Resolution No. 73** – Budget Transfer in General Fund – Offered by Councilwoman Walls Resolved, pursuant to Section 122, Town Law, the 2016 Annual Budget, General Fund, is hereby amended to provide for the transfer of \$100.00 from Acct No. 00.01.1670.421 CE Office Supplies to Acct No. 0.01.1670.438 CE Legal Notices, \$85.00 from Acct No. 00.02.3620.421 CE Office Supplies to Acct No. 00.02.3620.422 CE Software Support, \$650.00 from Acct No. 00.06.7110.401 CE Park Misc to Acct No. 00.06.7110.440 CE Pole Barn, \$1500.00 from Acct

No. 00.07.8160.470 CE Repairs & Maintenance to Acct No. 00.07.8160.401 CE Misc Landfill and \$5.00 from Acct No. 00.07.8160.421 CE Office Supplies to Acct No. 00.07.8160.401 CE Misc. Landfill.

Seconded by Councilman Dukler and carried.

**ADJOURNMENT**

On motion of Councilwoman Walls, seconded by Councilman Dukler and carried, the meeting was adjourned at 8:20 PM.

Respectfully submitted,

Michelle L. Mosher  
Town Clerk