

The Board meeting for the month of July was held this date at the Gardiner Town Hall at 7:00 PM. Present were Supervisor Katz, Councilmen Wiegand & Finger, Councilwoman Lemmon and Councilperson Kern. There were approximately 25± audience members.

**ANNOUNCEMENTS**

July 16 – Annual 5K Run. 6:30 PM Majestic Memorial Park, Benefits to the Gardiner Fire Dept. & Gardiner Library.

Sept. 12 – Gardiner Day. Volunteers are needed

**PUBLIC HEARING CONTINUATION - ZONING REVISIONS**

Supervisor Katz reviewed with the Board the changes/recommendations made by the Planning Board. Building Inspector Hank Vance was present to answer and discuss any questions they may have on the zoning. They discussed Section 220-28, non-conforming lots and the set back issues involved. Also discussed was the definition of an acre – the size of an actual acre vs. a builder’s acre. If this is changed, then all technical sections of the law will need to be re-written. Board members discussed among themselves at great length decreasing the acreage from five (5) to four (4). Councilman Wiegand would like it changed to four (4) acres, keep it in place for two (2) years, see how the economy moves forward and revisit at that time. He suggested placing a sunset clause in the law pertaining specifically to this.

Audience comments were as follows:

**Nancy Cass** – what is the town’s definition of affordable. What is affordable to them may not be to someone else.

**Rich Koenig** – stated that the Town Board cannot legislate the aesthetics of the Town. Developments are constructed by the lay of the land, not because of laws. Less acreage gives the developer more options

**Virginia Coleman** – protection of vegetation and line of site should be written into the law.

**Tim Hunter** – three (3), four (4) or five (5) acres – whatever the Town Board decides will be the right thing to do. Keep in mind once it is built it is built. There is no removing it or going back. Also stated that more houses would raise his taxes.

**John Habersberger** – cluster housing will result in more people not less.

**CLOSE PUBLIC HEARING**

At 8:00 PM the public hearing was closed on motion of Supervisor Katz, seconded by Councilperson Kern and carried.

Board members decided to keep the acreage at five on motion of Councilperson Kern, seconded by Councilwoman Lemmon and carried. Supervisor Katz voted nay.

The remainder of the law will be re-written.

**CLARKE SUBDIVISION**

Resolution No. 87 – Acceptance of Street Name – Offered by Councilman Finger

**WHEREAS**, the Town of Gardiner Planning Board has reviewed the application of the Clarke Lefevre Patent Subdivision, and

**WHEREAS**, the Planning Board requested that the street of the proposed subdivision be named, and

**WHEREAS**, the applicant has provided the following street name(s) for the proposed subdivision: Patentee Drive & Sarah’s Way

**WHEREAS**, the Ulster County Real Property Tax Agency has approved the name(s) proposed: Patentee Drive & Sarah’s Way

Now, Therefore, Be It Resolved, that the Town Board of the Town of Gardiner approves the name(s) Patentee Drive & Sarah's Way

For the Clarke Lefevre Patent Subdivision and directs the Town Clerk to forward this resolution to the Planning Board.

Seconded by Councilwoman Lemmon and carried.

**Resolution No. 88** – Clarke-Lefevre Patent Subdivision – Offered by Councilperson Kern

**WHEREAS**, Steven Clarke and Judy Clarke have offered for review and approval by the Town of Gardiner various documents in connection with a subdivision plat known as “LeFevre Patent Subdivision” and situate on the southerly side of New York State Route 44/55 in the Town of Gardiner; and,

**WHEREAS**, the Clarke's have signed and submitted an Offer of Cession of the title to the streets and highways within said subdivision and have further offered to the Town additional drainage easements and/or site easements and/or slope easements and/or fire easements depicted on the final subdivision plat; and,

**WHEREAS**, the Clarke's have further signed and submitted a Subdivision Improvement Agreement setting forth certain obligations which they have agreed to undertake with respect to the construction and installation of various improvements within the subdivision; and,

**WHEREAS**, the Clarke's have further signed and submitted two (2) Right of Way and Maintenance Agreements with respect to Lots 12, 13, 16 and 17 within said subdivision setting forth rights and obligations with respect to the common use and maintenance of certain easements and rights of ways; and,

**WHEREAS**, the Clarke's have further signed and submitted a Statement of Intent and Highway

Construction Agreement wherein they have agreed to various undertakings and responsibilities; and,

**WHEREAS**, the Clarke's have further signed and submitted a Conservation Easement Agreement with respect to two (2) conservation easement parcels situate within the LeFevre Patent Subdivision; and,

**WHEREAS**, the Clarke's have further signed and submitted and agreed to a Declaration of Covenants, Easements, Restrictions and Homeowners Association Agreement Recitals with respect to a common plan and scheme for the development of the LeFevre Patent Subdivision; and,

**WHEREAS**, the Clarke's have further posted a Letter of Credit in the amount of \$590,000.00, as issued on December 19, 2008 by First Pioneer Farm Credit ACA in order to ensure the performance of their obligations as set forth above; and,

**WHEREAS**, the Town Board after consultation with the Kellar, Kellar & Jaiven, Esqs., attorneys for the Town, have determined that the documents submitted to date are acceptable and that provided the Clarke's have met all conditions of the Final Subdivision Approval granted on September 16, 2008 by the Town of Gardiner Planning Board, the subdivision plat is hereby recommended for signature and dating by the Planning Board.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Gardiner that the Town hereby accepts the aforementioned instruments in accordance with the terms and conditions contained therein; and,

**BE IT FURTHER RESOLVED**, by the Town Board of the Town of Gardiner that the Town Supervisor execute all documents and accompanying recording forms, where necessary, upon the vote of the Town of Gardiner Town Board herewith.

Seconded by Councilwoman Lemmon and carried.

**COHN SUBDIVISION**

**Resolution No. 89** – Cohn Subdivision – Offered by Councilman Finger

**WHEREAS**, Ronald Cohn and Lois Cohn have offered for review and approval by the Town of Gardiner various documents in connection with a subdivision plat known as “Ridge View Subdivision” and situate on the westerly side of New York State Route 208 in the Town of Gardiner; and,

**WHEREAS**, the Cohn’s have signed and submitted an Offer of Cession of the title to the streets and highways within said subdivision and have further offered to the Town additional drainage easements and/or site easements and/or slope easements and/or fire easements depicted on the final subdivision plat; and,

**WHEREAS**, the Cohn’s have further signed and submitted a Subdivision Improvement Agreement setting forth certain obligations which they have agreed to undertake with respect to the construction and installation of various improvements within the subdivision; and,

**WHEREAS**, the Cohn’s have further signed and submitted a Right of Way and Maintenance Agreement with respect to Lots 7 and 8 within said subdivision setting forth rights and obligations with respect to the common use and maintenance of certain easements and rights of ways; and,

**WHEREAS**, the Cohn’s have further signed and submitted a Statement of Intent and Highway

Construction Agreement wherein they have agreed to various undertakings and responsibilities; and,

**WHEREAS**, the Cohn’s have further signed and submitted and agreed to a Declaration of Covenants, Easements and Restrictions with respect to a common plan and scheme for the development of the Ridge View Subdivision; and,

**WHEREAS**, the Cohn’s have further posted with the Town of Gardiner a Letter of Credit in the amount of \$292,400.00, as issued by TD Bank North and dated March 18, 2009, in order to ensure the performance of their obligations as set forth above; and,

**WHEREAS**, the Town Board after consultation with the Kellar, Kellar & Jaiven, Esqs., attorneys for the Town, have determined that the documents submitted to date are acceptable and that provided the Cohn’s have met all conditions of the Final Subdivision Approval granted on April 18, 2006 by the Town of Gardiner Planning Board, the subdivision plat is hereby recommended for signature and dating by the Planning Board.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Gardiner that the Town hereby accepts the aforementioned instruments in accordance with the terms and conditions contained therein; and,

**BE IT FURTHER RESOLVED**, by the Town Board of the Town of Gardiner that the Town Supervisor execute all documents and accompanying recording forms, where necessary, upon the vote of the Town of Gardiner Town Board herewith.

Seconded by Councilwoman Lemmon and carried.

**SIX MONTH FINANCIAL REPORT**

Supervisor Katz reported on the financial condition of the Town at the half year mark. A report was handed out to all with attachments explaining the revenues and expenses. If the finances continue in the same manner as the first half of the year the Town may have a shortage at the end of the year.

Supervisor Katz did report the completion of various projects and other issues in the Town. The crosswalks for the Rail Trail in the Hamlet have been completed, ticketing at the overlook has been quite successful, landscaping around the Town Hall is done, the Kiosk at the Rail Trail and Route 44/55 has been installed, the toxic clean up from the vandalism at the transfer station is complete and the construction there is moving along.

**LIGHTENING STRIKE AT THE TOWN HALL**

On June 15 the Town Hall was struck by lightening. Considerable damage was done to the electrical systems in the Town Hall. Estimated damages total approximately \$20,000. Items to be repaired are the elevator, security systems, various computers, copy machines and phones. The lightening struck the cupola on the bell tower splintering it. This will also need to be replaced.

**BUSINESS DEVELOPMENT COMMITTEE UPDATE**

Councilman Wiegand reported that the committee is working towards increasing the number of jobs in Gardiner and build up the current businesses. They have had three (3) meetings since April. They will focus their initial efforts on existing businesses, then attract new business and work towards signage, parking in the hamlet, Rail Trail updates and creating a website for tourism for Gardiner.

Councilwoman Lemmon stated that she has applied on behalf of the Town, for a grant that is 100% funded for signs, kiosks, brochures and other marketing materials.

Meetings are held the second Monday of each month and any one is welcomed. An intern from SUNY New Paltz will be helping with business development and they will look at getting an intern for a web design. Other items of interest were working on a link to Ulster County Tourism, patenting “Gateway to the Gunks” and working on development of Steve’s Lane to attract new stand alone businesses.

**SOLAR FARM APPLICATION**

The Town is in receipt of an application to construct a solar farm on the old Widmark Farm property. Attorneys Jacobowitz and Gubits have filed a petition with the Town to amend the zoning code to allow for the farm. Supervisor Katz has spoken to them and indicated that an escrow account would need to be established for the Town to have our attorneys research this type of project. It has been reviewed by David Brennan of Young, Sommer, LLC. Mr. Brennan has returned an opinion giving the town three (3) options.: 1.) Change the zoning law, 2.) adopt a PDD or specific energy zone or 3.) consider section 220-10(B) of the zoning law. This section may allow for any unforeseen zoning projects in the Town. The next step for the Board is to contract with a technical consultant to work with Mr. Brennan. The Board agreed to move forward under the current zoning law.

**ETHICS CODE LAW**

A copy of the Ethics Law was forwarded to attorney Paul Kellar for his review and comments/recommendations. Supervisor Katz stated that he is still opposed to Section 26-4(e) Representation before one’s own agency. A revised final draft will be presented at the August meeting.

**REPORT OF THE COMPREHENSIVE PLAN COMMITTEE**

Councilman Wiegand and Councilman Finger reviewed their list of completed projects, in progress projects and on-going projects. Projects planned for 2009 were as follows: develop parking in the hamlet, encourage agriculture, incentives to encourage construction of affordable housing, energy conservation and use of sustainable sources of energy, flood mitigation plan, long term plan for parks and public access, create a dog park and improve services for the elderly.

Projects planned after 2009 were as follows: municipal water supply, organize town’s administration, possibly consider a town manager and investigate direct access to the CLI District from a state road.

**SIDEWALK MAINTENANCE LAW**

Supervisor Katz reviewed the changes to the law. Board members agreed to set a public hearing for August 11, 2009. The Town Clerk will forward copies to the Town Planning Board and the Ulster Country Planning Board.

**FLOOD HAZARD LAW**

The Town must adopt a new version of the Flood Damage Law as required by FEMA. New flood maps have been drawn up and in order for our Town to qualify to participate in the National Flood Insurance Program, these maps must be adopted by a local law. A public hearing was scheduled for August 11, 2009. The Town Clerk will forward a copy of the law to the Town Planning Board and to the Ulster County Planning Board.

**JUSTICE COURT GRANT APPLICATION**

**Resolution No. 90** – Offered by Councilwoman Lemmon

**WHEREAS**, There is available grant moneys through the New York State Unified Court System to assist in the operation of the town justice courts; and

**WHEREAS**, the Town Board of the Town of Gardiner and the Justice Court of the Town of Gardiner are in agreement that this grant would benefit the operation of the Justice Court and should be applied for; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Supervisor of the Town of Gardiner is hereby authorized to sign the grant application and all subsequent documents with respect to the grant, as needed.

Seconded by Councilperson Kern and carried.

**ECONOMIC RECOVERY – GARDINER SIDEWALKS – PHASE II**

**Resolution No. 91** – Offered by Councilperson Kern

**WHEREAS**, the Gardiner Sidewalks: Gardiner Library to the Reformed Church Identified as PIN 8780.38, an Economic Recovery Project (hereinafter “the Project”) in the Town of Gardiner, Ulster County (hereinafter “the Municipality/Sponsor”), is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 100% Federal funds and 0% non-federal funds.

**NOW, THEREFORE**, the Municipality/Sponsor’s Legislature duly convened does hereby:

**RESOLVED**, that the Municipality/Sponsor’s Legislature hereby approves the Project; and it is hereby further

**RESOLVED**, that the Municipality/Sponsor agrees to advance the Project through the Municipality/Sponsor’s resources and agrees that the Municipal/Sponsor’s Board hereby authorizes the Municipal/Sponsor to pay in the first instance the full federal and full non-federal costs of any and all phases(s) or portions thereof.

**RESOLVED**, that the Municipality/Sponsor’s Board makes a 100% commitment of the non-federal share (if any) of the costs of Preliminary Engineering, Right of Way Incidentals, Right of Way Acquisition and Construction/ Construction Inspection phases of work for the Project or portions thereof, with the federal share of such costs to be applied directly by the New York State Department of Transportation (“NYSDOT”) pursuant to the State/Local Agreement; and it is hereby further,

**RESOLVED**, that the sum of \$893,000 is hereby appropriated from General Fund Reserves and made available to cover the cost of participation to complete the Project including all phase(s) or portions thereof

**RESOLVED**, that upon the completion of the construction of the Project, or a fully usable portion thereof, the Municipality/Sponsor agrees to maintain the Project, or fully usable portion thereof, at their sole cost and expense; and it is hereby further

**RESOLVED**, that in the event the full federal and non-federal share of the Projects exceeds the amount appropriated above, the Municipality/Sponsor Legislature shall convene as soon as possible to appropriate said excess amount immediately; and it is hereby further

**RESOLVED**, that the Town Supervisor is hereby authorized to execute all necessary Agreements or certifications on behalf of the Municipality/Sponsor, (subject to the Municipal/Sponsor Attorney’s approval as to form and content), with NYSDOT in connection with the advancement or approval of the Project identified in the State/Local Agreement; and providing for the administration of the Project and the Municipality/Sponsor’s first instance funding of the non-federal share of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and it is further

**RESOLVED**, that in addition to the **Supervisor**, the following municipal titles: **Deputy Supervisor** is also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

**RESOLVED**, that a certified copy of this Resolution be filed with the New York State Commissioner of the Department of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

**RESOLVED**, that this Resolution shall take effect immediately.

Councilperson Kern moved the adoption of the resolution. Seconded by Councilman Wiegand.

### **SMART GROWTH GRANT APPLICATION**

**Resolution No. 92** – Offered by Councilman Finger

**WHEREAS**, the Town of Gardiner has been actively involved in a hamlet revitalization program since 2004, and has taken several significant steps to help implement smart growth policies throughout the Town; and

**WHEREAS**, the Town has found that despite our progress, we’ve had trouble attracting people to the central hamlet and for those locals and visitors that do come to the hamlet, the lack of adequate and well-designed signage and parking has been an impediment for them to stay and enjoy what Gardiner has to offer; and

**WHEREAS**, in order to address this issue, the Town has formed a new Business committee that has been actively partnering with the Gardiner Association of Businesses, the Mohonk Preserve, and the Shawangunk Mountains Regional Partnership. Collectively, these various organizations have identified several steps that can be taken to help reposition the Gardiner hamlet as the “Gateway to the Gunks”, including a comprehensive approach to improving signage, the design of parking areas and the marketing of the hamlet;

**NOW, THEREFORE BE IT RESOLVED** that the Town Board of the Town of Gardiner, a New York State Municipal Corporation, authorizes the Supervisor, Joe Katz, to file an application to the NYS Department of State Smart Growth Grant Program for an amount not to exceed \$39,000 to aid in our hamlet revitalization program.

Seconded by Councilman Wiegand and carried.

**DUSINBERRE ROAD NOISE ISSUE**

Noise emanating from Kimlin Propane was once again brought up. Supervisor Katz reported that the code enforcement officer, Hank Vance, has met with Kimlin Propane. Mr. Vance has sent a memo to Supervisor Katz with his recommendations. Councilperson Kern stated that the noise is ongoing and affects residents to the south of the business. The building inspector addressed the noise issue only to the east of the business. She commented that there is the availability of a device for measurement of the noise levels from the Town of Newburgh and requested that the Town check with the Town of Newburgh on the cost of renting their machine. Supervisor Katz believes the measurement should be done after Kimlin Propane is finished with their expansion. Councilman Wiegand said he attended the Planning Board meeting and was under the impression that sound testing was already done and that the Planning Board had set requirements to alleviate sound issues to the east. The eastern and southern border noise issues were discussed at length. A motion was made by Councilman Wiegand, seconded by Supervisor Katz and carried, accepting the code enforcement officer's report. Councilperson Kern voted nay.

**SUPERVISORS MONTHLY REPORT**

The Supervisors Report for the month of June was accepted as presented on motion of Councilwoman Lemmon, seconded by Councilman Finger and carried.

**CLAIMS**

Claims were approved for payment on motion of Councilwoman Lemmon, seconded by Councilman Wiegand and carried. They are listed on Abstract #6 as follows: General Fund voucher #302-363 \$45,243.28; Highway Fund voucher #150-185 \$154,931.29; Sewer District #1 voucher 20-27 \$8,085.61; Library Fund voucher #91.107 \$3,158.21; Capital Town Hall voucher #1 \$9,775.00; Transfer Station voucher #7 \$935.25.

**BUDGET TRANSFERS & SUPPLEMENTAL APPROPRIATIONS**

**Resolution No. 93** – Transfer within Library Fund – Offered by Councilman Wiegand Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, Library Fund, is hereby amended to provide for transfers in the amount of \$275.55 from Acct No. 19.06.7410.431 Library Telephone to Acct No. 19.06.7410.430 Library Office Supplies, \$91.00 from Acct No. 19.06.7410.433 Library Postage & Freight to Acct No. 19.06.7410.439 Library Rent & Repairs and \$2,765.00 from Acct No. 19.06.7410.452 Library Building Repairs to Acct No. 19.06.7410.459 Library Service Contracts. Seconded by Councilman Finger and carried.

**Resolution No. 94** – Transfer within General Fund – Offered by Councilman Finger Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, General Fund, is hereby amended to provide for transfers in the amount of \$52.19 from Acct No. 00.01.1220.403 Supervisor Conference to Acct No. 00.01.1220.402 Supervisor Mileage and \$12.69 from Acct No. 00.06.7110.413 Park Repairs to Acct No. 00.06.7110.412 Park Electric. Seconded by Councilman Wiegand and carried.

**Resolution No. 95** – Transfer within General Fund – Offered by Councilman Finger Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, General Fund, is hereby amended to provide for transfers in the amount of \$1524.30 from Acct No. 00.01.1990.400 Contingency

to Acct No. 00.01.1620.478 Lighting Storm and \$954.95 from Acct No. 00.06.1990.400 Contingency to Acct No. 00.06.1680.478 Lighting Storm.

Seconded by Councilman Wiegand and carried.

**Resolution No. 96** – Supplemental Appropriation General Fund – Offered by Councilman Wiegand Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, General Fund, is hereby amended to provide for supplemental appropriations in the amount of \$12,331.53 in Acct No. 00.01.1440.463 Engineer/Sidewalk and \$3,218.20 in Acct No. 00.07.8030.467 Engineer/Sewer District.. Further Resolved, said monies to be taken from the Unexpended Balance in the General Fund. Seconded by Councilwoman Lemmon and carried.

**Resolution No. 97** – Supplemental Appropriation Capital Town Hall Fund – Offered by Councilman Wiegand

Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, Capital Town Hall Fund, is hereby amended to provide for supplemental appropriations in the amount of \$9,775.00 in Acct No. 30.01.1620.405 Town Hall Other Contractor.

Further Resolved, said monies to be taken from the Unexpended Balance in the Capital Town Hall Fund. Seconded by Councilwoman Lemmon and carried.

**Resolution No. 98** – Supplemental Appropriation Library Fund – Offered by Councilman Wiegand

Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, Library Fund, is hereby amended to provide for a supplemental appropriation in the amount of \$7,185.78 in Acct No. 19.09.9710.700 Debt Service Interest.

Further Resolved, said monies to be taken from the Unexpended Balance in the Library Fund. Seconded by Councilwoman Lemmon and carried.

### **PRIVILEGE OF THE FLOOR**

**Henry Tortora** – asked the status of the cell tower. Supervisor Katz told him it was still in the courts.

**Nancy Cass** – asked Councilperson Kern the outcome of the Film Conference she attended.

**Marion Kells** – stated that the zoning laws are not for the people who live or want to live here. They are only good for the tourist.

**Nancy Cass** – stated that the public hearing for the zoning law was cut short. The public was not allowed enough time to voice their comments or ask questions.

**Tim Hunter** – increase in taxes are mostly school taxes. The increase is a uniformed amount with every \$1 taken in – we spend out.

**Rich Koenig** – the zoning holds back the ability for people to live out their dream in Gardiner.

### **PAVING ROUTE 44/55 AND THE SIDEWALKS**

Supervisor Katz stated that the Town is in a Catch-22 with the State. NYS DOT wants to pave Route 44/55 from Route 208 to Church Farm Road. The Town must install a drainage pipe across Route 44/55 as part of the sidewalk plan. DOT will not allow the Town to dig up the road once it has been paved, but the Town can't put it in now because of the funding from the grant. The cost to put it in now would be approximately \$6,000-\$7,000. This would have to come out of the Town funds. Supervisor Katz sees no other way of handling this and asked the Town Board for authorization to expend the funds to install the pipe across Route 44/55 for drainage purposes and required by the sidewalk plan. Motion made by Councilman Finger, seconded by Councilwoman Lemmon and carried.

**ADJOURNMENT**

At 10:20 PM the meeting was adjourned on motion of Councilwoman Kern, seconded by Councilman Wiegand and carried.

Respectfully submitted,

Michelle L. Mosher  
Town Clerk