

MINUTES OF THE MARCH 11, 2010 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE HELD AT THE TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, N.Y., COMMENCING AT 8:00 P.M.

PRESENT: SUPERVISOR WARSHAUER; COUNCIL MEMBERS: DANIEL PASCHKES, RICHARD LYMAN, PETER FALCO AND PAUL McCONVILLE

ALSO PRESENT: JAMES J. SULLIVAN, ESQ.  
TOWN CLERK, JOANNE PACE

**CALL TO ORDER:** Supervisor Warshauer called the meeting to order at 8:00 p.m.

**CALL FOR EXECUTIVE SESSION:** None

**ANNOUNCEMENTS:**

The Supervisor's Forum will be held on Saturday, April 10, 2010 from 10:00 a.m. – 11:30 a.m. and the focus will be on senior issues.

**MINUTES: Acknowledge/Correct/Accept Minutes of Town Board Work Session of February 17, 2010 and the Town Board meetings on March 4, 2010.**

**RESOLUTION #: 67 -10**

**Board Action:** Motion by Councilman Lyman, seconded by Councilman Falco, all voting aye on the following:

RESOLVED, that the Town Board hereby accepts the minutes of the Town Board Work Session of February 17, 2010 and the Town Board meeting on March 4, 2010 with the noted corrections.

**NEW BUSINESS:**

**Comprehensive Plan-Second Joint Town Board/Planning Board meeting to discuss the Draft Comprehensive Plan for the Town. The sections to be covered include: B. Land Use and C. Natural Resources and Open Spaces**

Supervisor welcomed the Planning Board members and introduced Bill Harding, Chair of Comprehensive Plan, who read through two sections, B. Land Use and C. Natural Resources and Open Spaces. Bill started by saying that Pound Ridge is a semi-rural, low-density, residential community with many narrow roads lined by old stonewalls, mature hardwood trees and extensive woodlands. Environmental elements have shaped the residential development of Pound Ridge. Zoning, Planning, Conservation and Water Control restrictions help to try to blend development into the natural surroundings. With housing conversion, it is important to preserve older homes to give an opportunity for seniors and others with more limited incomes to find moderately priced housing.

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The Town also contains a single, small commercial area, Scotts Corners, which serves as the shopping center for the community. Scotts Corners is the historic center of commerce and should remain so.

Under Development Pressures and Land Use Regulations, Pound Ridge has historically been a leader in natural resources based, conservation-focused land use planning and zoning, with its three-acre zoning district and wetland setbacks. Pound Ridge is divided into seven zoning districts. Approximately 99% of the Town is zoned for residential use. This forms the character of our Town. It has been the Town's policy to create a limited amount of commercial development. In the 1974 Scotts Corners Study and again in the 1981 Plan of Development, it shows that there may be more commercial space in Scotts Corners than is needed to fulfill the demands of the residents. It should undergo no further expansion but allow some reshuffling of its uses.

Supervisor Warshauer pointed out that there needs to be amendments to the Planning and Zoning Section because some of this has already been done.

Under the Housing Needs section, it says that the Town enacted Accessory Apartments in an effort to provide more housing options for those of moderate income in the Town. It also mentions the fact that the Town recently created a Housing Board, to address the Town's housing needs.

Residential Development Potential was discussed. The plan identifies a total of 10,504 acres of residentially zoned land in Town. About 47% has already been subdivided into single family lots. The remaining 5,554 acres is the more environmentally challenged properties.

The Environmental Considerations section characterizes Pound Ridge by the presence of a variety of environmentally sensitive lands. Counsel Sullivan asked whether it would be typical in a Comprehensive Plan to simply talk about the need to have a fiscally well balanced development when the reality of it is that better than 70% of the taxation residents pay in this town are beyond our control. The majority is school tax and county tax and because of that wouldn't there be a need to look at the impact of that level of taxation which we have no control over or is it not appropriate to have it in there. Bill Harding felt it was definitely appropriate to put it in the Comprehensive Plan and let the residents know what the tax stresses are and the percentage we don't have any control over because Westchester County is different from other counties requiring the Towns, Villages and Cities to make that tax whole no matter what amount they collect from the parcels.

There was some mention of the fact that Pound Ridge has been scientifically determined to be part of a "biotic corridor". The Town's present character as a semi rural single-family residential community should be maintained. Bill brought up the paragraph that

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says the Town should consider the creation of an Architectural Review Board (ARB) or similar entity, to provide for a review of proposed developments, improvements, alterations or other activities within non-residential zones and designated historic areas, for the purpose of maintaining consistency and appropriateness of desired design, aesthetic and architectural standards. In the Residential Development Section 2 b. the first sentence "Immediately examine" should be replaced with "Shall consider".

The identity of the Hamlet as the historical and cultural center of the community should be preserved. The Plan gives the Town Board a nice platform to engage in whatever preservation they wish to. Bill then referred to the Special Character Overlay Districts which refers to the areas outside the defined historic Hamlet which have special historical or community character significance, but does not meet the criteria for formal designation. Councilman Paschkes questioned how the nursery property comes into this. What can we do to protect that portion of Town? Bill said that the Town Board would define the area they wish to take a hard look at and create whatever land use they want for that land without changing the zoning. John Bria, Planning Board member, asked if the Town Board could create a zone so that the land couldn't be anything but a nursery. Bill said that they probably wouldn't want to do that but they could add additional protection to that specific area. If the owner of the property would sell to a developer, they would have to follow the Hamlet zoning guidelines.

In Scotts Corners, the plan urges balancing development with the infrastructure, or lack of infrastructure. Surfaces and groundwater quality must be protected and enhanced. The plan suggests that the development of public or commercial water and wastewater infrastructure should not be encouraged or permitted. Councilman Paschkes is not comfortable with saying we shouldn't develop commercial water and wastewater infrastructure because of the problems we currently have in Scotts Corners. We have a patchwork of barely functioning septic systems and even have some old cesspools. We have State requirements under MS4 that we are supposed to be improving our wastewater runoff and if we have an opportunity that presents itself to improve that patchwork of systems into a functioning network of systems, within the scope of what is currently there, he doesn't see why we should have language in the Comprehensive Plan that discourages that. Bill was saying that he agrees with Councilman Paschkes but if they were to improve the systems, it should be done by matching it with appropriate, articulated restraints; land to land use regulatory restraints.

Housing Section: This was read through and it is necessary to add in how the Housing Settlement Agreement factors into this. There is a model zoning fair housing ordinance that we would have to consider. John Bria asked if that supersedes our Town ordinance or environmental laws. Supervisor Warshauer said no, the model ordinance addresses the resident selection process, income qualifications, sales and rental restrictions and the approvals process. It requires that 10% of any development of 10 or more units must be affordable and that these units must be affirmatively marketed to ensure outreach to

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racially and ethnically diverse households. The County is in the process of working out the final implementation plan. The solution to meet this settlement is going to be different in each community. We have to be open to finding opportunities that are within the character of our community. In the Plan, 6 f. refers to the demolition of smaller (usually older) homes and the construction of new larger homes in their place which has negatively impacted the character of the community one house at a time. Restoration should be an alternative to demolition and it will contribute to the affordability quotient. Steve Kushner agrees with that and it shows real diversity; however, he doesn't know how you can get around protecting the historical homes from demolition. It is hard to implement. Councilman Paschkes stated that the reverse side of that is you are taking away value of homes from homeowners. Supervisor Warshauer said that the challenge is how, in the future, do we create the small house as part of something new. Bill Harding said that sometimes offering an incentive such as a tax abatement to preserve or build around or into their home saving the old could work.

Bill Harding read on through each section and in the Town-owned property section, the Town should ensure that any changes or additions to the Town House be in keeping with its current architectural and historical character. They should consider designating it as a Historic Landmark.

Miscellaneous Land Use Regulations were read through. Councilman Paschkes went to an Association of Towns meeting and a suggestion was made of instituting a policy that calls for a no net loss of trees as a result of land development. For example, if you are clearing an area of 50 trees, the developer should look for an opportunity to plant 50 trees somewhere on the property to prevent a net loss of trees. Bill Harding said that this is becoming a more popular tool and is more easily accomplished than a no net wetland loss. It is more of a tree trading policy. It should be considered to be part of the Comprehensive Plan. It can be part of the Natural Resources and Open Space section of the Plan that was discussed next. Further discussion took place regarding development of land and the replacement of trees. Steve Kushner said that as much as he would like to see a tree placed for every tree taken down, it is not necessary to replace scrub trees. Elyse Arnow asked about a Heritage Tree Ordinance and Supervisor Warshauer said that it is mentioned in the Natural Resources and Open Space section of the Plan. Pound Ridge has traditionally strived to protect its wildlife habitats, scenic open space and natural resources. It is this precious heritage that is a defining characteristic of Pound Ridge.

Before going onto the next section, Steve Kushner asked why we are stopping at recommending an Architectural Review Board for commercial use. He thinks we should have an ARB for residential use as well. Councilman Paschkes said that within the commercial district and the historic district, he would agree with Steve, however, realistically if you ride down certain streets in Pound Ridge, you have ultra-modern homes down to antiques. "The horse is out of the barn", so to regulate it now is not

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feasible. To go back to a landowner or homeowner and tell them you can't build the dream home they want to would impose the taste of an ARB on the builders. After further discussion, it was agreed that it is a scale versus style issue. Supervisor Warshauer asked if they would then need an ARB or does the Planning Board have the ability to deal with these issues at a site plan review. The Planning Board members said that the Town could reinforce what the role of the Planning Board is give them the authority to apply scale and architectural review to certain applications. Supervisor Warshauer asked if they have the power to apply scale and design review would they still need an ARB and they said no. They should be able to apply certain design standards. The Town doesn't really want to legislate style. Supervisor Warshauer said that the recommendation regarding ARB in the Comprehensive Plan needs to be modified to be more inclusive and to recommend that the Planning Board be given the power and the tools to consider scale. Councilman Falco commented that typically the members of an ARB are architects or landscape architects and he is wondering if members of the Planning Board should be architects if we are giving them the authority to apply scale and design review. Steve Kushner wanted to speak for himself and said that he would still like style standards. Supervisor Warshauer said that generally an ARB looks at consistency of architecture. They wouldn't impose personal feeling about what they like but consistency.

Elyse Arnow also brought up sustainability of building materials, LEEDS certification and energy standards and was wondering if that could be legislated and put in the Comprehensive Plan. Supervisor Warshauer said to legislate certain components of LEEDS and sustainability is difficult because of the timing. You don't get LEEDS certification until a year or more after the building has been completed and proven that you followed all the requirements. NYSERDA funds are available for those components above and beyond the local requirements. If you make the local requirements include energy-star, you are not entitled to NYSERDA funds. We have to be very careful with the wording of local requirements.

The commercial space in Scotts Corners was discussed further and it is mentioned in the Plan that the potential for new commercial space should be significantly reduced to reflect the historical level of occupancy in these districts. Supervisor Warshauer noted that the plan states that the zoning recommendation of converting commercial to residential like we did in PB-C, should apply to PB-A and PB-B as well.

Natural Resources and Open Space was discussed next. The last two sentences of the first part of C. are the goals for the Town. "The challenge is for the Town to maintain the quality of life made possible by its well-preserved semi-rural environment. The Town is to be a leader in the use of ecologically sustainable practices in the creation and management of existing and future development." There have been some small changes from Land Trusts and we will get the updated information for the final draft of the Plan. Elyse Arnow said that she will get an accurate count of conservation easements. Under

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the Natural Resources section, the first sentence is very important. "Every property in Pound Ridge is dependent upon its own private well for potable water." Under Trends and Observations, Elyse Arnow mentioned that under road salt, there should be a new standard practice in Town when plowing driveways. The use of salt and sand should be restricted. We need to educate residents and the people plowing the driveways on the important facts about water runoff. The fuel tank and septic systems section needs to be amended to include new regulatory requirements that are being drafted by the County and State.

Under the Methods of Preservation and Regulation, Elyse Arnow asked if there was any reference to dark sky and lighting. She feels it is a resource and should be preserved or regulated as such limiting the lighting allowed at night. This is not really addressed in this section and she would like the Town Board to consider putting something in this section as an observation. Bill Harding mentioned that it is in the Community Character section of the Plan.

When going through the recommendations under impervious surfaces and groundwater recharge, Supervisor Warshauer said that the language has to be amended to show the things that have already been done. In fact, the County Health Department actually institutes some of the monitoring program and in g., include the MS4 regulation. Leah Benincasa of the Conservation Board asked if the Town should plan to have an aquifer study to document the changes. Bill Harding said that it is in d. on page C-12. John Bria, Planning Board, said that the Plan says under recommendations section h. that "homeowners should be encouraged to utilize storm water collected through roof gutters, rain barrels and other devices for watering lawns and plantings. He feels this is very impracticable and probably won't happen. Bill Harding said that there are rain gardens that really work. This language could be updated to reflect this.

Reading through the Plan, the next section on Septic Systems b. has to be updated because it will soon be required now to have periodic septic maintenance as a condition of MS-4. Under the use of pesticides, John Bria feels that this is more than an education process. Supervisor Warshauer said that his Supervisor Forum on Saturday, November 6, 2010 will focus on water quality measures and understanding our aquifers. John Bria feels that legislation will be a better way of controlling the use of pesticides and herbicides applications. Gail Jankus, Conservation Board said that it is hard to regulate because surrounding communities may allow it and it can still seep into our aquifers. The best method is education and the Conservation Board periodically sends out informative pamphlets with this material. Elyse Arnow said that we just can't stop at education because there must be other things other Towns do. She wants us to be more creative.

Open Space Preservation and Protection was read through and Sam Mylnar, Planning Board, asked if the Town Board has an opinion on funding of Open Space. Supervisor Warshauer said that the Town Board plans to put a referendum on the ballot for

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November 2010 to consider continuing the Open Space Fund, as the original referendum establishing the fund expires in 2010. The Plan says that the Town should adopt property tax incentives for landowners who place conservation easements on their properties for protection of water resources, scenic view sheds and/or wildlife habitats. This paragraph can actually be eliminated because Federal and State tax incentives now exist in a subsisted way to reward those who place conservation easements on their property.

The most important line under conservation subdivisions is “the Town should adopt provisions which allow the Planning Board to mandate the submission of a conservation subdivision plan under certain prescribed conditions.” Bill Harding said that it is important for the Planning Board to consider alternative plans.

It was agreed that the Deer Impacts section should be expanded to more specifically identify the environmental impact that the overpopulation has had on properties in Town.

The energy conservation section also needs to be updated to include the efforts of the newly established Sustainability Task Force and the Northern Westchester Energy Action Coalition.

The next joint meeting between the Town Board and the Planning Board will be on Community Services and Facilities on Thursday, April 8, 2010.

**Deer Management Plan-schedule Public Hearing for April 1, 2010**

**RESOLUTION #: 68 -10**

**Board Action:** Motion by Councilman Lyman, seconded by Councilman Paschkes, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the Town Clerk to call for a Public Hearing on the Deer Management Plan to review the history of the plan, consider amendments and consider continuing the Plan in 2010.

**Consider Agreement with Drug Testing Company**

The Town has a proposal for a new drug testing company that will save the Town money. It has been reviewed and approved by Counsel. The effective dates will have to be changed and the signature has to be changed to be the Supervisor’s signature not the Director of Finance.

**RESOLUTION #: 69 -10**

**Board Action:** Motion by Councilman Lyman, seconded by Councilman McConville, all voting aye on the following:

RESOLVED, that the Town Board hereby accepts the 2010 Agreement for On-Site Drug and Alcohol Testing Services from Empire Consulting, LLC with the amendments to the dates and the signature. There will be an annual enrollment fee of \$250.00 and the other charges will be per drug and alcohol test.

**Highway Department-Discussion on proposal for Stage II Vapor Recovery**

The Town advertised for proposals for the installation of Stage II vapor recovery on an existing gasoline dispensing system at the Highway Department and only received two proposals. One proposal was from Northeast Environmental, Inc. in Mamaroneck, N.Y. for a price of \$4,750.00. The work proposal provides labor, material and equipment for the installation to remove existing dispenser nozzle and hose, install vapor recovery line from dispenser to AST, install new Coaxial hose, break away and short spout nozzle with boot and install hose retractor. The second proposal is from Conklin Services & Construction, Inc. in Newburgh, N.Y. for the price of \$3,476.00. They would convert the existing gasoline dispensers to handle Stage II vapor requirements. They would add a balance system, new splitter valve and piping, hose nozzle and breakaway. All work would be done in conformance with mandated requirements.

**RESOLUTION #: 70 -10**

**Board Action:** Motion by Councilman Lyman, seconded by Councilman McConville, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the Supervisor to execute the agreement with Conklin Services & Construction Inc., 94 Stewart Ave., P.O. Box 7418, Newburgh, N.Y. 12550 to convert the existing gasoline dispensers to handle Stage II vapor requirements. They would add a balance system, new splitter valve and piping, hose nozzle, breakaway and retractor for the cost not to exceed \$3,476.00. The additional item mentioned in the proposal adding Stage I vapor connections for the amount of \$750.00 is not required.

**Town Clerk-request authorization to attend the annual NYS Town Clerk's Association Conference**

**RESOLUTION #: 71 -10**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilman Lyman, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes Town Clerk Joanne Pace to attend the New York State Town Clerk's Association Conference in Saratoga from Sunday, April 25<sup>th</sup> to Wednesday, April 28, 2010 and to be reimbursed for expenses incurred (registration, travel, lodging, meals) not expected to exceed \$950.

**FINANCIAL MATTERS:**

**Receipt of monthly reports**

The monthly reports have been received from the various departments and are on file with the Town Clerk's office.

**Pay Bills**

**RESOLUTION #: 72-10**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilman McConville, motion passing 4-0 with Councilman Falco abstaining on the following:

WHEREAS, Councilman Falco has audited the claims for payment and has reported that same could be paid, Now, Therefore, Be It

RESOLVED, that the Supervisor be and is hereby authorized to pay the following claims for payment provided there are sufficient funds in the account to which a claim may be charged:

<b>GENERAL FUND</b>	<b>G</b>		<b>\$53, 226.06</b>
<b>HIGHWAY FUND</b>	<b>D</b>		<b>\$29, 098.01</b>
<b>PARKING DISTRICT</b>	<b>ST</b>		<b>\$508.52</b>
<b>TRUST AND AGENCY</b>	<b>T</b>		<b>\$88, 747.54</b>
<b>CAPITAL</b>	<b>H</b>		<b>\$</b>

**ADJOURNMENT:** There being no further business to come before the Board, Supervisor Warshauer adjourned the regular meeting at 11:15 p.m.

Joanne Pace

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Dated at Pound Ridge, New York  
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