

MINUTES OF THE APRIL 11, 2013 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: RICHARD LYMAN, PETER FALCO, DANIEL PASCHKES AND ALISON BOAK

ALSO PRESENT: TOWN ATTORNEY, JAMES J. SULLIVAN, ESQ.  
TOWN CLERK, JOANNE PACE  
DEPUTY SUPERVISOR, JONATHAN POWERS

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

**CALL FOR EXECUTIVE SESSION:** None

**ANNOUNCEMENTS:** None

**MINUTES: Acknowledge/Correct/Accept Minutes of Town Board Meetings of March 14, 2013, Work Session held on April 4, 2013 and Executive Session held on April 4, 2013.**

**RESOLUTION #: 98-13**

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

RESOLVED, that the Town Board hereby accepts the minutes of the Town Board Meeting of March 14, 2013 and Work Session held on April 4, 2013. The Executive Session held on April 4, 2013 will be acknowledged at the May 2, 2013 Town Board meeting.

**NEW BUSINESS:**

- **Schedule a Public Hearing to consider adoption of the Local Law entitled “Local Law Pertaining to the inclusion of Fair and Affordable Housing in the Zoning Chapter of the Town Code”, as required by the Westchester County Housing Settlement Agreement and recommended by the Planning Board**

David Stolman, F.P. Clark Associates Planning Consultant, tweaked the language of the model ordinance for Fair and Affordable Housing based on the discussion and recommendation at the last Planning Board meeting. He mentioned that the Town currently has certain affordable housing regulations in the Zoning Law but a separate category needed to be created of affordable housing regulations to comply with the Westchester County Affordable Affirmatively Furthering Fair Housing Units Model Ordinance. The major change is the name change from affordable units to “below market rate” units and on page 1, two new definitions were added; one for *Affordable Fair Housing Dwelling Units* and one for *Affordable Housing Unit-Eligible Household*. Essentially under the first paragraph, there are two varieties. One is for a for-purchase unit and the other is for a rental unit. For-purchase dwelling is for those whose income does not exceed 80% of the area median income. For the rental dwelling unit, the renter’s income

can not exceed 60% of the AMI. Some discussion followed regarding the rental cost and the utility costs. There is question about how it works when utilities go up in price but you cannot increase the rent. In order to meet the guidelines, the physical rent on the property would have to drop. Jon Powers, Deputy Supervisor, asked if there is a provision that would allow the landlord to increase the rent and David Stolman answered by saying yes as long as the median income has increased. If the utilities take a big jump and the rent is increased slightly, then it exceeds 30% of the 60% of the AMI; does the landlord have to right to increase the rent to adjust for the utility increases? That couldn't be answered, but Mr. Stolman will get the answer from the County. Similarly, the question applies to renters who pay their own utilities-if the price of utilities increases to that the rent plus utilities exceeds the 30% threshold, must the landlord lower the rent to make the unit comply?

The language in Article XV remained basically the same except for changing affordable units to *below market rate*. A new Section G. is added as saying "*New dwellings and occupancies. Notwithstanding the subsections above, subsequent to the effective date of §113-100 of this chapter, all new affordable dwelling units created in accordance with §113-99 shall be affordable fair housing dwelling units regulated by §113-100, rather than below market rate units. The same shall be true for all new occupancies.*

Under the Section 113-57 K shall be revised to read as follows:

- K. *Except for any affordable fair housing dwelling unit component of the project, which shall be regulated by §113-100 of this chapter, the priority for occupancy of "senior citizen housing," both at the time of initial purchase and at the time of resale, shall be in the following order.....etc.*

Councilman Paschkes said he thought he read that priority lists were held "unconstitutional". David Stolman said it is kept in the ordinance because all the new units created would be without a priority list; however, under the existing regulations it has been used in Pound Ridge for existing units. All new units would have to be regulated in accordance with the County law which has no priority list. Any new occupant or turn over resident would be following the new law.

Most of the regulations under Section 113-100 Affordable Fair Housing Dwelling Units follow Westchester County's model ordinance, but not exactly and it doesn't have to. David Stolman explained what is said under this section. There was some discussion and question about how to actually create the affordable housing in a subdivision. If the developer is selling 10 lots and one lot or 10% of the subdivision has to be set aside for an affordable housing unit, how does that actually happen and who is responsible for it happening? Counsel Sullivan said that he thought that the approval for the subdivision would be conditioned upon what the developer must do to validate the subdivision. The practicality of that working raises a whole lot of questions. There is the obligation to build an affordable unit. Supervisor Warshauer said that the deed restriction could handle the sale of the lot; the challenge is going to be the size of the house. The entire draft ordinance is in the Town Clerk's office and on the website.

The incentives for the provision of affordable fair housing dwelling units include that each single-family detached affordable dwelling may be located on a lot at least 75% of the minimum lot area allowing for a smaller home. The other incentive is that the Planning Board has the discretion to waive up to fifty percent of the recreation fee.

Counsel Sullivan asked Mr. Stolman if the Town Board could put in a provision saying that “the Town reserves to itself for good cause the right to amend and modify this statute.” It would be implying that the Town is not relinquishing their home rule. They reserve that right in case it doesn’t work out. David Stolman said that it couldn’t hurt to put it in if the Town Board has any doubt that there would be some trouble changing this regulation. The units have to be affordable over a period of fifty years; he doesn’t think the statute has to be carved in stone for fifty years. The County’s Model Ordinance could conceivably change at some time down the road.

The next section discussed was the area in the PB-C District where a new paragraph was added as Section 113-58.2, D. stating *Notwithstanding the subsections above, subsequent to the effective date of §113-100 of this chapter, all new affordable dwelling units created in accordance with §113-58.2 shall be affordable fair housing dwelling units regulated by §113-100, rather than below market rate units. The same shall be true for all new occupancies.* Discussion took place regarding a grandfathering concept. Existing rental units wouldn’t have to comply with the new regulations until renewals come up. Everything is grandfathered until they turnover. This is actually a policy decision versus a regulation.

In the “senior citizen housing” zoning section 113.57 was changed to read *Except for any affordable fair housing dwelling unit component of the project, which shall be regulated by §113-100 of this chapter, the priority for occupancy of “senior citizen housing, “both at the time of initial purchase and at the time of resale, shall be in the following order, etc....*

The Planning Board recommendations are as follows:

- Any term in the body of the new law which is defined should be capitalized
- On page 8, 4.G. Revise heading to read : Minimum gross *conditioned* floor area.
- On page 8 4.G. Eliminate entire paragraph below table which begins “For the purpose of this section.....”
- On page 9 4.H. Revise minimum number of occupants permitted in a four-bedroom dwelling unit to four (4)
- On page 9 4.J. Revise the first sentence of the sub-section to read “~~In the case of owner occupied~~ *All* affordable fair housing units shall have the title to said property and be *deed* restricted....”
- Page 11 L (2). Revise to read: “The Planning Board ~~is authorized to~~ *may in its discretion* waive up to fifty percent (50%)...”
- Page 11 M. Delete entire paragraph concerning expedited project review process.

David Stolman said the Town Board should consider carefully before they put in the expedited section. It is not necessary to do this. It was decided to circulate the draft ordinance without adding the extra meeting if the approval process extends beyond one year.

David Stolman asked for clarification of the 10% or 20% compliance for all new occupancy. The sentence “The same shall be true for all new occupancies” is vague. If the Town Board questions what that means, then it needs clarification. It should say “*The same shall be true for all new occupancies of all existing below marketing rate units.*” It will be changed on the top of page 7 and on page 12 under D.

#### **RESOLUTION #: 99 -13**

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

RESOLVED, that the Town Board hereby authorizes the Supervisor to circulate the draft as amended of the Local Law entitled "Local Law Pertaining to the inclusion of Fair and Affordable Housing in the Zoning Chapter of the Town Code", to Westchester County pursuant to General Municipal Law 239 as required by the Westchester County Housing Settlement Agreement and schedule Public Hearing for Thursday, May 2, 2013 at 8:00 p.m.

- **Deer Management Plan – Review 2012 report and consider continuing the program for 2013**

Jon Powers, Committee member, gave a brief synopsis of the existing Plan that has just completed its 7<sup>th</sup> year of operation. Since the start of the program, the total deer take has been 432 on Town managed hunting properties. Jon Powers mentioned that safety and the environment is our primary concern with the program. The deer count went down a little from last year bringing in 37 deer versus 51 last year. This could be due to the lack of food source and the shortage of acorns as well as unseasonably warm weather. As we continue with the program, it is necessary to get reliable information to determine the deer density in Pound Ridge. The Committee is recommending doing an infrared study from the air as the best means of population counting. Aquarian is doing this already and the plan is to get them to contract with us to do Pound Ridge and the Reservation. There are a couple of things we would like the DEC to allow us to do:

- to issue tags here to make the process easier.
- January is a very successful time to hunt deer, so the Committee would like permission to have people hunt into January instead of when the existing season ends December 31<sup>st</sup>.
- Hunter improvement by combining a seasoned hunter with a less experienced hunter.

This program is an environmental program not a recreational program in Pound Ridge. It was originally started by the Conservation Board to help restore the under-story and aid in controlling storm water runoff. Annual photographs are being taken to determine any type of forest regeneration and return of the under-story. Deer density should be determined per square mile. A goal has been to have 11-15 deer per square mile. The Committee has to determine whether that is an appropriate number. Having those deer density numbers would allow us something to compare to the original numbers, chart the changes and adjust our program to the areas of highest deer density.

Councilman Paschkes asked why we don't have an accurate report on whether or not the understory has improved after seven years. He also disagrees that Horseshoe Hill should be part of the hunted Town managed properties because of the densely populated area. Chief Ryan said it is hard to do the study and usually takes approximately 18 years to get true results. He also reiterated the fact that Horseshoe Hill is a very safe area for hunting. It is very safe and there have not been any reported incidents.

We must continue to review our methods and discuss the program with private land owners, the Mianus Program, the Conservation Board, the Westchester Land Trust, the County Parks Department, NYC DEP, NYS DEC and our neighboring towns. Chief Ryan recommends having the Town fund this program at a very small level so that we can begin to purchase equipment that can better help collect data including additional cameras, GPS units and construction of exclosures. Putting in the exclosures could aid in getting a more accurate study of restoration of the understory. The Town Board asked Gail Jankus, Chair of the Conservation Board, to get some estimates of costs for the exclosures.

**RESOLUTION #: 100-13**

**Board Action:** Motion by Councilman Lyman, seconded by Councilman Falco, the Board polled as follows: Councilman Falco, aye, Councilman Lyman, aye, Councilwoman Boak, nay because of her strong beliefs against killing any living creature. Also, she expected a more serious proposal evaluating the effectiveness of this program and she is concerned about the increasing tasks of the Police force. Councilman Paschkes, nay because he strongly objects to hunting at Horseshoe Hill, and Supervisor Warshauer, aye, the motion passing 3-2 on the following:

RESOLVED, that the Town Board hereby accepts the 2012 Pound Ridge Deer Management Final Report and agrees to continue the program as proposed for 2013.

Councilman Falco gave special thanks to Chief Ryan, Sgt. Mulcahy, Caroline Meyer, Jon Powers and the Deer Management Plan committee for all their hard work.

- **Police Department – resignation of P.O. Kaufman**

**RESOLUTION #: 101-13**

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

RESOLVED, that the Town Board hereby accepts the resignation of Police Officer Arthur Kaufman effective May 1, 2013.

**-Authorization for Joan Dooley to attend the annual dog control officer's conference**

**RESOLUTION #: 102 -13**

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

RESOLVED, that the Town Board hereby authorizes Joan Dooley, Dog Control Officer, to attend the annual ACO/DCO conference May 7-May 8, 2013 in Guilderland, NY. The total cost will not exceed \$200.00 and it is budgeted in 2013.

**-Authorization for Chief Ryan to sign the TraCs software agreement**

New York State Police, working with the New York State Department of Motor Vehicles, the Governor's Traffic Safety Committee, the Office of Court Administration and other state and federal agencies, has developed a system for the electronic transfer of that data from law enforcement agencies to DMV and courts. The system is called TraCS (Traffic and Criminal Software). Chief Ryan is requesting permission to sign the TraCS software agreement.

**RESOLUTION #: 103-13**

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

RESOLVED, that the Town Board hereby authorizes Chief David Ryan to sign the TraCS software agreement as described above.

- **Eastwoods/Pound Ridge Golf Club-consider request to adjust the frequency of groundwater sampling, as recommended by the Planning Board**

Councilman Lyman recused himself from the discussion on the Pound Ridge Golf Club. Geraldine Tortorella, Hocherman, Tortorella and Wekstein, spoke on behalf of the Pound Ridge Golf Club along with John Benvegua, Vice President of Leggette, Brashaers & Graham and Michael van der Heijden, consultant from Woodard & Curran, regarding the water monitoring system and the request to adjust the frequency of groundwater sampling to a quarterly basis versus the monthly basis currently in effect. The Planning Board members reviewed the audit report for the Pound Ridge Golf Course as prepared by Woodard & Curran dated February 13, 2013 and recommends allowing U.S. Summit Co./Eastwoods LLC to return to quarterly ground water sampling instead of the current monthly sampling. The audit findings conclude the Golf Course is in substantial compliance with the requirements for those items as set forth in the Monitoring Plan amendments. Michael van der Heijden, consultant from Woodard & Curran, went through the specific recommendations for the modifications to the water monitoring plan. The Golf Course is operating in accordance with all established and approved procedures, and therefore sees no reason why they cannot go back to quarterly monitoring. Ms. Tortorella said that it has been five years and feels that they are in compliance with very low concentration of chemicals and some no longer being detected.

**RESOLUTION #: 104 -13**

**Board Action:** Motion by Councilman Falco, seconded by Councilwoman Boak, the Board polled and motion passing 4-0 on the following:

RESOLVED, that the Town Board hereby accepts the request of the applicant as recommended by the Planning Board and the Town's consultant, Woodard and Curran to amend the frequency of groundwater and surface water monitoring from monthly to quarterly.

Councilman Lyman returned to the Town Board for the rest of the meeting.

- **Recreation Department –basketball & tennis court repairs**

David Goldberg, Recreation Supervisor, wrote a memo to the Town Board stating that the basketball and tennis courts are in need of some repairs and resurfacing. He has three quotes for this project as follows:

**BASKETBALL COURTS**

Copeland Coating - \$12,650  
Oval Tennis - \$11,750  
M & M - \$13,450

**TENNIS COURTS**

Copeland Coating - \$18,880  
Oval Tennis - \$44,000  
M & M - \$17,400

He is recommending that the award be given to Copeland Coating at the cost of \$12,650 for the basketball courts and \$18,880 for the tennis courts for a total of \$31,450.

**RESOLUTION #: 105 -13**

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

RESOLVED, that the Town Board hereby awards the repair of the basketball courts to Copeland Coating in the amount of \$12,650.00 and the repair of the tennis courts to Copeland Coating in the amount of \$18,880.00 for a total of \$31,450.00 per recommendation of David Goldberg, Recreation Supervisor.

**-requests approval to donate a 2013 pool pass for PRES**

The Recreation Commission is requesting a donation of a 2013 pool pass for use at the PRES event. The value will be \$300.

**RESOLUTION #: 106 -13**

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

RESOLVED, that the Town Board authorizes the Recreation Commission to donate a 2013 pool pass to the Pound Ridge Elementary School for their school event with a value of \$300.00.

- **requests authorization to purchase pool equipment**

The Recreation Commission is requesting permission to purchase pool equipment. They received three quotes as follows:

Recreonics - \$7,469.60

Lincoln Equipment - \$7,725.05

Brock Enterprises, LLC - \$8,356.10

Dave Goldberg, Recreation Supervisor, is recommending purchasing from Recreonics. \$10,000 was encumbered from the 2012 budget for this use.

**RESOLUTION #: 107 -13**

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

RESOLVED, that the Town Board hereby authorizes David Goldberg, Recreation Supervisor, to purchase pool equipment from Recreonics in the amount of \$7,469.60. It was encumbered from the 2012 budget.

- **Highway Department-requests permission for Vinnie Duffield to attend Highway Seminar on June 2-June 4**

**RESOLUTION #: 108-13**

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

RESOLVED, that the Town Board hereby authorizes Vinnie Duffield, Highway Superintendent, to attend Highway school in Ithaca on June 2-June 4, 2013. The total costs are not to exceed \$500.00. The cost will come out of A5010.405.

- **Fire Department-requesting to waive dumpster permit fee**

**RESOLUTION #: 109 -13**

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

RESOLVED, that the Town Board hereby waives the dumpster permit fee for the Pound Ridge Fire Department so they can dispose of 17 plastic/rubber water hoses at the Town's recycling center.

- **Authorization to execute Consent Judgment and issue refunds as outlined therein**

**RESOLUTION #: 110-13**

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

RESOLVED, that the Town Board hereby authorizes the execution of the Consent Judgment for Vogelstein vs. Pound Ridge and Casarella vs. Pound Ridge as ordered below:

Vogelstein 2012 Block 10526, lot 4.9 reduced from \$663,000 to \$500,000 (\$163,000) reduction

Vogelstein 2012 Block 10526, lot 7 reduced from \$75,000 to \$75,000 (\$0 reduction)

Caserella 2012 Block 10263, lot 65 reduced from \$165,000 to \$152,000 (\$13,000 reduction)

- **Proposed amendments to Peddlers and Solicitors Law**

The Police Department is now charging a fee to peddlers and solicitors to get their fingerprints read by an outside agency. The Town Clerk is recommending that an amendment be made to the Peddlers and Solicitors ordinance to reflect that a fee is being charged. Chapter 78-4, Section 1 can be extended to include “a fee will be charged for fingerprinting”. Chapter 78-9, FEE, could have an ending sentence that could say “As noted in paragraph 78-4, Section 1, a fee will be charged for fingerprinting”.

**RESOLUTION #: 111 -13**

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

RESOLVED, that the Town Board hereby authorizes the Town Clerk to schedule a Public Hearing on May 2 to consider amending the Peddlers and Solicitors Local Law Chapter 78 to reflect that a fee will be charged for fingerprinting as set by the DCJS.

- **Discuss Paraco agreement for dual fuel for vehicle conversions**

The Paraco Gas Corporation gave the Town Board a sample agreement to convert some of the Town vehicles, mainly the Police cruisers to propane and it has been reviewed by the Town Attorney. It was noted that the Town Board members did not receive the second agreement from American Alternative Fuel who would do the conversion. Councilman Lyman will send it to them first thing in the morning.

It costs less per gallon than gasoline and is a cleaner burning fuel. It offers 10% less fuel efficiency but can mean better performance than gasoline. Propane cuts greenhouse emissions over 20%. There would be an upfront conversion cost of approximately \$4,900 per vehicle. The conversion would be a “bi-fuel” system, where the vehicles could still run on gasoline. There is a

seamless change over from propane to gas and there is a separate LED gauge for the propane. It includes installing a separate tank, feeder lines and injectors, control hardware and dashboard switch to choose fuel type. It would also require a pumping station to be installed at the Highway Department. Propane would lower fuel costs, reduce emission and it is a domestic fuel.

Paraco AutoGas partners with American Alternative Fuels and they provide EPA certification for conversion systems and training for certified technicians. This is a low pressure fuel and is easier to maintain and easy to disperse.

**RESOLUTION #: 112-13**

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

RESOLVED, that the Town Board hereby authorizes the Supervisor to sign both contracts once the Town Board has an opportunity to read them both and agree with them.

- **Water Control Commission-request release of bonds**

**RESOLUTION #: 113 -13**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilwoman Boak, the Board polled and motion passing 4-0 with Councilman Lyman abstaining on the first bond, on the following:

RESOLVED, that the Town Board hereby authorizes the Water Control Commission to release the following bonds as the work has been satisfactorily completed:

Eastwoods LLC, 18 High Ridge Road, Block 9316, Lot 18.9, \$20,000 paper bond for mitigation and plantings work required by the Water Control Commission, Marc Levitt, 52 Old Logging Road, Block 9317, Lot 76.20-2 cash bond for construction of a swimming pool.

**Town Clerk – outdoor seating in Scotts Corners-consider issuing Special Use Permit for 2013**

**RESOLUTION #: 114-13**

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

RESOLVED, that the Town Board hereby waives the Public Hearing and authorizes a Special Seasonal Use Permit for Blind Charlie's Café for outdoor

seating during the months of April through October between the hours of 7:00 a.m. and 10 p.m., AND, BE IT

FURTHER RESOLVED, that the Town Board hereby waives the Public Hearing requirement and authorizes a Special Seasonal Use Permit for DiNardo's Restaurant for outdoor seating during the months of May through October between the hours of 11:00 a.m. and 10 p.m., AND, BE IT

FURTHER RESOLVED, that the Town Board hereby waives the Public Hearing requirement and authorizes a Special Seasonal Use Permit for North Star Restaurant for outdoor seating during the months of May through October between the hours of 5:00 p.m. and 11:00 p.m., AND, BE IT

FURTHER RESOLVED, that the Town Board hereby waives the Public Hearing requirement and authorizes a Special Seasonal Use Permit for Maggie May's Frozen Yogurt & Ice Cream for outdoor seating during the months of April through September between the hours of 12:00 noon and 10:00 p.m.

**Maintenance Department-request for installation of an air ventilation system at Pool House**

The Maintenance Department received two estimates to install an air ventilation system for the Pool House as follows:

Eastern Air Ventilation	\$8,843.00
Interstate Fire & Safety	\$7,490.00

They request the bid to be awarded to Interstate Fire & Safety as low bidder. After reviewing the two bid proposal, it was noted that one bid includes the electrical work and the other did not. They will ask Ray Andretta to get the two bids to propose equally. We will discuss this at the May 2, 2013 meeting.

**FINANCIAL MATTERS**

**Receipt of Monthly Departmental Reports**

The monthly reports have been received for March 2013 and are available in the Town Clerk's office.

**Pay Bills:**

**RESOLUTION #: 115-13**

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

WHEREAS, Councilwoman Boak 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>\$183,729.58</b>
<b>HIGHWAY FUND</b>	<b>D</b>		<b>\$53,413.47</b>
<b>PARKING DISTRICT</b>	<b>ST</b>		<b>\$70.00</b>
<b>TRUST AND AGENCY</b>	<b>T</b>		<b>\$100,565.60</b>
<b>CAPITAL</b>	<b>H</b>		<b>\$2,015.00</b>

**ADJOURNMENT:** There being no further business to come before the Board, Supervisor Warshauer adjourned the regular meeting at 11:20 p.m.

Joanne Pace  
Dated at Pound Ridge, New York  
April 12, 2013