

## Wawayanda Town Board Meeting 02/27/07

February 27, 2007

A monthly workshop meeting of the Town Board of the Town of Wawayanda was called to order at 7:30 P.M., on Tuesday, February 27, 2007 at the Town Hall, Ridgebury Hill Road, Slate Hill, New York. This was a re-scheduling from the regular 3<sup>rd</sup> Tuesday of the month because the Town Supervisor and three Councilpersons planned to attend the annual Association of Towns Conference which conflicted with our meeting date. Notice of this meeting was posted on the bulletin board at Town Hall and was advertised on February 14, 2007 in the legals of the Times Herald Record.

Those present were:

John R. Razzano	Supervisor
David S. Cole	Councilman
Edward Krajewski	Councilman
Gail M. Soro	Councilwoman
Richard Penaluna III	Councilman
Teresa Pierce	Town Clerk

Absent: Richard Guertin Attorney for the Town

Also Present: Ann Yates - Planning Board Chairperson; Barbara Parsons & Mary Markiewicz - Planning Board Members; Gladys Hall - Historian; Kathryn Sherlock - Deputy Town Clerk; and 7 other individuals.

### PLEDGE TO THE FLAG

#### VIDEO/AUDIO TAPING PROCEDURES FOR MEETINGS: Supervisor Razzano

addressed a recent article in the newspaper, and a request received from a town resident in regard to the video taping of Town meetings. He stated that, as a Town Board, they will allow this to be done, providing that certain rules are followed. He then reviewed them, as follows:

#### VIDEO/AUDIO TAPING PROCEDURES FOR MEETINGS

- 1) All equipment must be in place and set up 15 minutes prior to the start of any meeting.
- 2) All video or audio equipment must be stationary during any meeting and is not to be moved for any reason that can cause distraction or obstruction during proceedings.
- 3) Equipment must be set up as not to impede any exits or entrances for emergency purposes.
- 4) Equipment must be set up in the designated areas as deemed by the Town Clerk/Town Board.
- \* 5) The respective Boards reserve the right to address any concerns regarding video/audio recording that are disruptive or otherwise causing a distraction.

\* #5 was eliminated when the foregoing was adopted as Town Policy in later proceedings of this meeting.

#### ATTORNEY FOR THE TOWN:

**Supervisor Razzano** advised that **Richard Guertin, Esq.**, has left the law firm of MacVean, Lewis, Sherwin & McDermott, which had been appointed as 'Attorney for the Town' at the annual re-organization meeting. Mr. Guertin has opened up his own law office which is located on Dolson Avenue in the Wilson Tower Building.

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to release the law firm

**Wawayanda Town Board Meeting 02/27/07**

of MacVean, Lewis, Sherwin & McDermott, and to appoint Richard Guertin as the Attorney for the Town.

**ALL IN FAVOR - CARRIED**

**ORANGE & ROCKLAND TAX CERTIORARI CLAIM:**

Attorney John H. Thomas, Jr. of Jacobowitz and Gubits, LLP, and our Town Assessor, Dennis Ketcham have been negotiating a settlement of the Tax Certiorari Claim filed against the Town by Orange and Rockland Utilities.

A prepared resolution was presented which would authorize the Supervisor to sign an agreed upon settlement.

Resolution as follows:

**Resolution #2 - 2007  
TOWN OF WAWAYANDA**

**Settling of Tax Certiorari Claim**

At the meeting of the Town Board of the Town of Wawayanda, County of Orange, State of New York, held at Town Hall in said Town on the 27<sup>th</sup> day of February, 2007;

WHEREAS, Orange and Rockland Utilities, Inc., has commenced tax certiorari proceedings against the Town of Wawayanda in the Supreme Court of the State of New York, County of Orange for the 2005-06, the 2006-07, the 2007-08 and the 2008-09 tax assessment years bearing Orange County Index#'s 5001/05 and 5930/06; and

WHEREAS, it appears from the recommendation of the Town Assessor, the Town's appraiser, and John H. Thomas, Jr., Esq., of Jacobowitz and Gubits, counsel for the Town of Wawayanda in the aforesaid proceeding, upon a thorough investigation of the claims that further proceedings and litigation by the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth below in reasonable and in the best interests of the Town; and

WHEREAS, Orange and Rockland Utilities, Inc., is willing to settle these proceedings without interest, costs or disbursement, in the following manner;

- (1) That the proceeding for the 2005-06 tax year be confirmed at an assessment of \$9,724,867 and that there be no change in this assessment for tax map no. 1-1-51.22;
- (2) That the proceeding for the 2006-07 tax year be confirmed at an assessment of \$9,724,867 and that there be no change in this assessment for tax map no. 1-1-51.22;
- (3) That the proceeding for the 2007-08 tax year be assessed at a total assessment of \$8,554,390 for tax map no. 1-1-51.22;
- (4) That the proceeding for the 2008-09 tax year be assessed at \$5,042,970 for tax map no. 1-1-51.22;
- (5) That petitioner(s) real property taxes for the 207-08 and for the 2008-09 School taxes and for the 2008 and for the 2009 County and Town taxes be adjusted accordingly and that petitioners(s) be reimbursed for any overpayment without interest, if paid within sixty (60) days of notice of entry, or be credited with the corresponding decrease in taxes, as the case may be; and

**Wawayanda Town Board Meeting 02/27/07**

- (6) That the petitioner agrees to waive the right to challenge the 2009-10, the 2010-11 and the 2011-12 real property tax year assessments pursuant to RPTL § 727 provided that the said assessment of tax map no. 1-1-51.22 is not increased from \$5,042,970;

NOW, BE IT THEREFORE RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to §68 of the Town Law, and it is further;

RESOLVED, that Dennis Ketcham, Assessor of the Town of Wawayanda and John H. Thomas Jr., Esq. on behalf of Jacobowitz and Gubits, LLP be and they hereby are designated as the officers of the Town who shall apply for such approval pursuant to the aforesaid section and law and be it further;

Upon Roll Call Vote:

Supervisor:	John Razzano	Aye	Councilperson:	David S. Cole	Aye
Councilperson:	Gail M. Soro	Aye	Councilperson:	Richard Penaluna, III	Aye
Councilperson:	Edward Krajewski	Aye			

Vote: Resolution carried by a vote of 5 to 0

**CODE ENFORCEMENT OFFICIALS EDUCATIONAL CONFERENCE:**

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to authorize Jack Grifo, Code Enforcement Officer, to attend the annual Code Enforcement Officials Educational Conference to be held at the Poughkeepsie Grand Hotel, Poughkeepsie, NY, on April 18, 19 & 20, 2007, at a cost of \$250.00 for the three day conference.

**ALL IN FAVOR - CARRIED**

**DAVE LEBLANC - DOLSONTOWN RD. PROPERTY & SOUTH PLANK RD. PROPERTY:**

**Dolsontown Road Property:** **Mr. LeBlanc** informed the Board that he recently purchased the Calpine property on Dolsontown Road. At this time there is a project in the works, but he is not at liberty to discuss it. Added that when the time comes, Jim Ulrich will be the Engineer handling the presentation to the Planning Board. He noted that there is water on the property and he is going to have a 72 hour pump test done. Calpine never conducted the test because they contracted with the City of Middletown for water.

**South Plank Road Property:** **Mr. LeBlanc** stated that he recently discovered that the STAR exemption had been removed from his property on South Plank Road. Apparently, this was done last year, but he did not notice it when he paid his school taxes. Said that it is his understanding that the STAR exemption applies to a person's primary residence, and although he owns three other houses in Greenville, this is the house which he considered his primary residence. Said that when he questioned our assessor about the removal of the STAR exemption, he was told that it was done because the house had been listed for sale, and when the assessor visited the property and looked into a window, he did not see any furniture. Mr. LeBlanc stated that there is no law stating that there has to be furniture in the house in order for it to be considered your primary residence. Also, he was upset because, according to the Assessor, notification (which Mr. LeBlanc said he never received) had been mailed eight days after the March 1<sup>st</sup> deadline, thereby denying him the right to dispute the decision, or the right to apply for one of his other homes in Greenville.

As a result of this action, he said he has lost more than \$800 (eight hundred dollars) and feels that he is due a refund.

**Other Issues:** **Mr. LeBlanc** gave the impression that he felt that he was being singled out for political reasons. He told of how he recently found out that a Town of Wawayanda Board

## Wawayanda Town Board Meeting 02/27/07

member had gone to the Town of Greenville's Assessor's Office to check on the exemptions that he was receiving in their town. He also told of how he had been taken off the Wawayanda voter registration list during the last election, as a result of a letter which had been submitted to the Board of Elections indicating that he no longer lived in Wawayanda. He produced a copy of that letter which he obtained from the Board of Elections. It had been signed by Gail Soro.

Mr. LeBlanc said he was inconvenienced and was required to go to the Board of Elections, but was allowed to vote by paper ballot when a Judge determined that he was a legal Wawayanda resident at the time.

**Mr. LeBlanc** spoke about a recent FOIL request for records from the Assessor's Office. Based on the information he received, he concluded that a former town official is receiving exemptions (agricultural and commercial) that he does not qualify for. He told of how the exemption fluctuated when he was in office compared to the present time. He also spoke about property on Route 6 which receives a STAR exemption, even though the number of mailboxes along the road indicate that there are five families in the house. Said that it was his understanding that the qualification for receiving a STAR exemption is no more than three families residing in a residence.

### Response from the Board:

**Councilman Krajewski** asked "How many wells are on the former **Calpine property**?"

**Mr. LeBlanc** replied that there are three wells on the property. According to the well drillers records, two are capable of producing 250 gallons per minute, and the third produces 175 gallons per minute.

**Supervisor Razzano** said that at this point in time the town is not in dire need for water and that the town does have an agreement with the City of Middletown for 200,000 gallons of water. Added that if some of the proposed development comes through it is quite possible that we could reach the contracted amount a lot sooner than anticipated, and as we all know the City of Middletown is certainly not in a position to offer us more water. If this turns out to be the case, then the water on this property could be advantageous to both Wawayanda and Middletown if something could be worked out in the future.

**Mr LeBlanc** suggested that the correct way to handle that situation would be to have the Town of Wawayanda broker the water to the City of Middletown, so that we would be able to control where the water would go in the future.

**Supervisor Razzano** addressed the issue regarding the removal of the **STAR exemption** from Mr. LeBlanc's property. The major concern he had was the lack of notification prior to the March 1<sup>st</sup> deadline, because if Mr. LeBlanc he had been given due notice, he could have challenged the assessor's decision.

He said that he has spoken to the Assessor on several occasions about the need to stay on top of things, and to make sure that the Agricultural exemptions are being treated fairly and not being abused, as well as the STAR and any other exemptions or assessments.

**Councilman Krajewski** said the he certainly does not condone the actions that have been taken and Mr. LeBlanc should have been given ample time to either fight the decision, or obtain the exemption on one of his other residences.

**Supervisor Razzano** said that the money that was lost was on the school tax and not the property tax, and that the Town could not do anything about refunding the money.

**Councilwoman Soro** said that she would like to hear all of the facts and that there is usually two sides to every story.

**Supervisor Razzano** assured Mr. LeBlanc that he would speak to the Assessor about these accusations and see what he has to say.

**Howard Shapiro/Agricultural Exemptions:** Noted that last year he made the Supervisor aware of the improper giving of an Agricultural exemption by the Assessor's office. He then spoke about the farm that he has rented on McBride Road for the past twenty years. Stated that last

## Wawayanda Town Board Meeting 02/27/07

year it had been sold for tax purposes. The new owners applied for the exemption but were informed by our Assessor that they did not qualify for the Agricultural exemption and was forced to pay the full tax.

Mr. Shapiro said that he was in the Assessor's office today and they informed him that the property was sold, and it did not qualify. Considering that he has farmed that property for the past twenty years, he does not agree with this determination, and said that this is just another example of the Assessor's office arbitrarily denying an exemption.

**2007 MULTI SPORTS CAMP:** A few months ago, the Board discussed the possibility of having the US Sports Institute conduct a sports camp during the summer at our town park. At that time the Board agreed to have Supervisor Razzano follow through on this matter.

**Supervisor Razzano** explained that he has met with the gentleman who is in charge of the camp, and they settled on the week of July 23<sup>rd</sup> thru July 27<sup>th</sup>, 2007 to conduct the camp. For use of our facility, the town had the option to receive \$10 back for each enrollment, but Supervisor Razzano felt that it would be better to have the Sports Camp give a scholarship for each 10 paid registrations. In this way, one or more needy children can benefit. They could be chosen through the 'Minisink Cares' program.

As a means of spreading word about the camp, the Minisink School was contacted, but we were told that they do not allow any for-profit solicitation.

**Supervisor Razzano** said that he would like everyone to spread the word about this program. He then addressed questions and concerns from members of the audience.

It was noted that the program would not be restricted to Wawayanda residents, and that the park would still be open to town residents while the camp was being conducted.

Answers to other questions about inclement weather and whether or not a nurse would be on duty will be researched and then addressed at the next Town Board meeting.

**RANDALL HURST/PENDING LITIGATION:** **Supervisor Razzano** spoke about a letter which was received from **Randall Hurst** in regard to the pending litigation associated with Ridgebury Farms, Lakeridge Associates, Jansen, LLC and Way Way Yonder, LLC. In the letter, Mr. Hurst's opinion of the lawsuit was that it is "frivolous". He asked that the future of Wawayanda be considered above anything else during negotiation proceedings.

### EXECUTIVE SESSION/PERSONNEL MATTER:

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to interrupt the regular meeting so that the Board may convene in Executive Session in regard to a personnel matter.

**ALL IN FAVOR - CARRIED**

**EXECUTIVE SESSION:** No action taken.

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to close Executive Session and re-open the regular meeting.

**ALL IN FAVOR - CARRIED**

**LAURA SLOWIK/TEMPORARY REPLACEMENT DURING MATERNITY LEAVE:** **Laura Slowik** will be out on maternity leave for approximately 3 months from August through October. She submitted a request that Jean Rose be hired to fill in during that period. She also asked for a two week training period prior to the leave.

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to hire **Jean Rose** as a temporary replacement for Laura Slowik while she is out on maternity leave, and to also allow a two week training period prior to the leave.

**ALL IN FAVOR - CARRIED**

### CORRESPONDENCE & COMMUNICATIONS:

**Code Enforcement Fines:** **Supervisor Razzano** responded to **David Whitwoth's** inquiry at the

## Wawayanda Town Board Meeting 02/27/07

February 8<sup>th</sup> meeting questioning how much money has been raised by fines issued by the Code Enforcement Officer for the year 2006. The information that was provided indicated that there was a \$100.00 fine which was classified as animal related, and a \$750.00 fine issued to Tedeman, the old Pillar Building.

**Mr. Whitworth** commented that he is surprised that the amount was so minimal given the number of individuals flouting the Zoning Code, and added that he would have expected more effort on the part of the Building Inspector/Code Enforcement Officer.

**FOIL Request/David Whitworth: Supervisor Razzano** asked Mr. Whitworth if he had received the response to his FOIL request.

**Mr. Whitworth** responded that he did receive the information, and thanked him.

In the exchange that followed, Supervisor Razzano noted that the information was created to respond specifically to his request. Otherwise, the information would not have been obtainable, because, according to FOIL, a record does not have to be created, if it does not already exist.

**David Whitworth/Town Attorney at Workshop Meetings: Mr. Whitworth** asked why the Town Attorney was not in attendance at this meeting. Gave the opinion that it is a bad decision for him not to be present.

**Supervisor Razzano** responded that he will not be calling Attorney Guertin to the Workshop meetings, unless there is something pressing. Said that it is financially prudent not to have him attend the Workshop meetings, and that he has spoken with Supervisors from other towns who follow the same practices. If there are any pressing issues, they are addressed at the Business Meeting or over the phone before the meeting, and if there is something that needs his legal opinion, a reply will be available at the next meeting.

**Video/Audio Taping of Meetings: Mr. Whitworth** referred to the video taping procedure as previously stated by Supervisor Razzano, and said that it should be a town wide policy.

**Councilman Krajewski** responded that the video taping of meetings was addressed at the Association of Towns Conference, and it was explained that under certain circumstances the Zoning Board can prevent video taping because they have the power of subpoena.

**David Whitworth** asked "When was the last time the Zoning Board issued a subpoena?"

**Councilwoman Soro** said that since this issue has been brought up again, the particular individual responsible for this action on this particular Board has had problems in the past on how he has dealt with the public with regard to these types of situations. Added that she believes that he needs to be spoken to, and a letter needs to be put in his personnel file, and if he cannot behave himself, then he needs to be removed.

A lengthy discussion took place with participation from Anna Miller, a teenager who had attempted to video tape a recent ZBA meeting, but was stopped from doing so, Deborah Glover, Barbara Parsons, and members of the Town Board.

**Anna** gave an accounting of how things transpired that night, and this was verified and elaborated upon by her mother, Deborah Glover. Ms. Miller said that as a citizen she has a right to stand up for what she believes in. Governments should be open to the public.

At one point, **Councilwoman Soro** suggested that the Chairman of the Zoning Board come before the Town Board in an Executive Session to explain his actions. Added that he has a legal responsibility to the taxpayers of this town to make sure that he conducts himself in an appropriate manner, and if he doesn't, the Town Board has an opportunity to remove him or censure him for his behavior.

**Councilman Cole** spoke about an Association of Towns Conference session which was conducted by Robert Freeman, the Director of the Committee on Open Government. Basically, Mr. Freeman said "An open meeting is just that, an open meeting". However, there are exceptions, such as a subpoena, or any other special circumstances where restrictions could be in place from the ZBA, and that is allowed. Councilman Cole added that the criteria the Supervisor discussed at the beginning of the meeting provides a legitimate and reasonable criteria which is based on what Mr. Freeman said. It is not verbatim, but in summary form.

## Wawayanda Town Board Meeting 02/27/07

**Barbara Parsons** stated that she believes that since the Town Board appoints the other Boards, it has the ability to make this a policy of the Town. She strongly believes that the policy of this Town should be open meetings and that video taping should be allowed because the Zoning Board of Appeals does have the authority to go into Executive Session and vote in Executive Session if they do not want it video taped. This is something that the Town Board cannot do. There was concern that the policy was only applicable to the Town Board. Members of the Board were urged to formally adopted the Video/Audio Taping Procedures as a town policy.

**Councilman Cole** brought attention to #5 of the Video/Audio Taping Procedures which stated "The respective boards reserve the right to address any concerns regarding video/audio recording that are disruptive or otherwise causing a distraction".

**MOTION** by **Councilwoman Soro**, seconded by **Councilman Cole**, to eliminate #5 from the procedures, and to adopt numbers 1 thru 4 as the **Town's policy** in regard to the **Video/Audio Taping Procedures for Meetings** of all Town of Wawayanda Boards.

**ALL IN FAVOR - CARRIED**

\*\* The adopted 'Video/Audio Taping Procedures For Meetings' policy appears on page 1 of these minutes. - Please note that #5 of the procedures has been eliminated.

**Zoning Codes/Status of Revisions: David Whitworth** asked the Supervisor where the Town was with the revisions to the **Zoning**.

**Supervisor Razzano** explained that he has completed his review of the codes and said that it has been a challenge trying to coordinate the Attorneys and Engineers. He anticipates that in the near future we will begin the review.

**Comprehensive Plan Document: Barbara Parsons** questioned when copies of the Comprehensive Plan would be available.

**Teresa Pierce**, Town Clerk, responded that she intends to take the document to Staples to have copies made, and they should be available in the very near future.

**Special Meeting/February 15, 2007: Councilwoman Soro** questioned the Supervisor as to why such short notice was given for this meeting. Stated that she was aware of the meeting scheduled for 5:00 PM, but did not receive notice of the 4:00 PM Strategy Meeting until 10:00 AM that morning. She did not believe that adequate time was given.

**Supervisor Razzano** stated that the reason why the Special Meeting was called was because it was not until that morning that Councilman Krajewski expressed a desire to attend the meeting. Up until then, only he and Councilman Cole planned on meeting, but with Councilman Krajewski's presence, a quorum would be created, and in order to meet the requirements of the open meetings law, notification had to be posted.

**Correspondence to Planning Board & Zoning Board: Councilwoman Soro** spoke about a letter that Supervisor Razzano sent to the Planning and Zoning Boards, and wanted to know why the Town Board was not copied.

**Supervisor Razzano** said that he would make sure she received copies of future correspondence.

**Health Insurance Benefits: Councilwoman Soro** mentioned the Health Insurance Resolution that was put forth last year. Said that the Supervisor informed her that funds were in the budget for 2007, but she does not recall any discussion taking place in public concerning health insurance for the individuals who were put forth in the resolution, so therefore the Supervisor did not give adequate notice about what he was planning to do. She said that she believes this action was wrong and the Resolution should be rescinded.

**Councilwoman Soro** made Motion to rescind the medical benefits for the Supervisor and Town Councilpersons. It was not seconded, so the motion was not put to a vote.

**Supervisor Razzano** disagreed with **Councilwoman Soro** and said the numbers were all there,

**Wawayanda Town Board Meeting 02/27/07**

and that there was in fact proper notification. Stated that all the hours he puts into the job, and all that he has accomplished, justifies the small compensation that he is receiving.

**Library Meeting: Councilman Cole** informed the board that next Library Committee meeting will be held here at Town Hall on March 1<sup>st</sup>, 2007 at 7:00PM.

**Asphalt Plant/Phillipsburg Road: Councilwoman Soro** asked if the other Board members were aware of the proposed asphalt plant on Phillipsburg Road. She then voiced concerns in regards to the heavy trucks and the impact they will have on our town roads. In regard to Councilwoman Soro's remarks, **David LeBlanc** said that the Asphalt Plant has been approved, and that it has taken 8 years for the approval.

**David LeBlanc/Health Benefits:** Stated that, as far as the Health Benefits are concerned, in the previous administration a great deal of money was expended on Attorneys and their traveling time, and the salary for the Deputy Supervisor. Felt that Supervisor Razzano has saved the Town a tremendous amount of money, puts in a lot of hours, and is doing a fine job, so he deserves the benefit. He then thanked him for lowering our taxes.

**David Whitworth** asked Supervisor Razzano and Councilman Penaluna if they paid their employees benefits. Both **Supervisor Razzano** and **Councilman Penaluna** responded to his question and said that it is irrelevant because you cannot compare apples to oranges.

**No other comments or questions.**

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to adjourn the meeting.

**ALL IN FAVOR - CARRIED**

**MEETING ADJOURNED: 9:08 P.M.**  
**PREPARED BY KATHRYN SHERLOCK**

**RESPECTFULLY SUBMITTED,**

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**Teresa E. Pierce, RMC**  
**Town Clerk**