

Wawayanda Town Board Meeting 2/08/07

February 8, 2007

A Regular monthly business meeting of the Town Board of the Town of Wawayanda was called to order at 7:35 P.M., on Thursday, February 8, 2007, at the Town Hall, Ridgebury Hill Road, Slate Hill, New York.

Those present were:

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

Also Present: Cathy Cole - Tax Collector; Kathryn Sherlock - Deputy Town Clerk; Ann Yates - Planning Board Chairperson; Barbara Parsons & Mary Markiewicz - Planning Board Members; Gladys Hall - Historian; and approximately 15 other individuals.

PLEDGE TO THE FLAG**REGULAR BUSINESS:****PRESENTATION OF BILLS AND DEPARTMENT REPORTS:**

Reports from the Supervisor, Town Clerk, Planning Board, and the Building & Fire Inspector/Code Enforcement Officer, and the bills from the General Fund, Highway Fund, and Water & Sewer Districts were presented to the Board for review.

APPROVAL OF DEPARTMENT REPORTS:

MOTION by **Councilwoman Soro**, seconded by **Councilman Penaluna**, to accept the various departmental reports, as submitted.

ALL IN FAVOR - CARRIED**PAYMENT OF BILLS:**

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to authorize the payment of bills in the amount of \$6,940.31 from the General Disbursement Account, representing bills that were payable upon receipt. Breakdown as follows:

PPG 07-00003 thru 00004	
PPG 07-00052	\$4,259.69
PPWS 07-00003 thru 00004	
PPWS 07-00051	\$2,680.62

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to authorize payment of bills from the General Disbursement Account in the amount of \$149,705.79 Breakdown as follows:

General Fund	G07-11 thru 50, G07-92 thru 170 G07-217 thru 218	\$99,451.54
Highway Fund	H07-57 thru 91	38,601.23
Water/Sewer Districts	WS07-171 thru 216	11,653.02

Wawayanda Town Board Meeting 2/08/07**WATER/SEWER BREAKDOWN:**

Robinn Meadows Sewer District	\$2,724.00
Ridgebury Lake Acres Sewer District	1,852.15
Ridgebury Lake Water District	959.49
Denton Hills Water District	2,394.84
Arluck Water District	2,043.15
Water/Sewer Dist. #1	1,679.39
Water/Sewer Total =	\$11,653.02

ALL IN FAVOR - CARRIED**APPROVAL OF MINUTES:**

Teresa Pierce, the Town Clerk, submitted a memo requesting approval of the minutes of the December 7th and December 28th, 2006, January 4th, and January 16th, 2007 Town Board meetings.

MOTION by **Councilman Penaluna**, seconded by **Councilman Krajewski**, to approve the December 7th and December 28th, 2006 minutes, and the January 4th and January 16th, 2007 minutes of the Town Board meetings, as prepared by the Town Clerk.

VOTE

Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Nay
Councilman Penaluna	-	Aye

MOTION CARRIED

RENEWAL OF LIQUOR LICENSE: The Town Clerk has received notification, by certified mail, that the following businesses have submitted application to the New York State Liquor Authority for renewal of their liquor license:

- 1) **Fratelli's Pizzeria, 2376 Route 6, Unit 1, Middletown, NY** - notification from Nancy R. Glielmi, President.
- 2) **Bradley's Corners Bar & Restaurant, Routes 6 & 17, Middletown, NY** - notification from Simittar Singh, President.

This was referred to our Code Enforcement Officer, Jack Grifo, and he responded that he has not received any complaints about either of these establishments.

No Action taken or required from the Board.

COPPER BOTTOM INC./LIQUOR LICENSE: Robert Milite, the representative of 'The Copper Bottom, Inc.', d/b/a 'The Bottoms Up Restaurant & Pub, 1965 State Route 284, Slate Hill, NY 10973., sent notification that the corporation intends to apply to the New York State Liquor Authority for a license to sell alcoholic beverages at the above noted premise (formerly known as 'Ugly Baby').

As per Section 64, Subdivision 2a of the Alcohol Beverage Control Law and the Rules and Regulation of the New York State Liquor Authority, an intended applicant is required to send notice (by certified mail) to the municipal clerk and then they must wait thirty (30) days before the application can be filed with the State Liquor Authority.

The Town Clerk has consulted with our Code Enforcement Officer, Jack Grifo, about this matter, and Mr. Grifo said that he has no objection to the Town granting the waiver. Additionally, the new owner of this business has already been in to see Mr. Grifo about required permits.

A Fire Inspection is scheduled for February 15th.

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MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to adopt a resolution to state that the Town of Wawayanda, Slate Hill, New York 10973, has no objection to an On-Premise Liquor License being granted to The Copper Bottom, Inc. d/b/a The Bottoms Up Restaurant & Pub, located at 1965 State Route 284, Slate Hill, New York 10973, and do hereby grant the Thirty-Day Notice Waiver.

ALL IN FAVOR - CARRIED

KIRBY OPEN SPACE APPLICATION: Leslie & Tammy Kirby have contacted the Supervisor's office regarding two pieces of property that they own located at 769 Pocatello Road. They are currently in the process of having Orange County purchase the development rights to the property in an effort to preserve open space, and they are looking for the Town's support for this action.

A resolution was introduced by **Supervisor Razzano**, seconded by **Councilwoman Soro**, as follows:

Resolution #1 - 2007

RESOLUTION SUPPORTING AND CONCURRING IN THE APPLICATION OF TAMMY AND LESLIE KIRBY THROUGH THE ORANGE COUNTY OPEN SPACE PROTECTION PROGRAM TO PURCHASE DEVELOPMENT RIGHTS TO THE PROPERTY LOCATED AT 769 POCATELLO ROAD

WHEREAS, in 2004, the Orange County Legislature adopted the Orange County Open Space Plan, as an amendment to the County Comprehensive Plan, with the goal of preserving and protecting valuable open space and natural resources throughout the County;

WHEREAS, the Orange County Open Space Plan recommends the creation of the Orange County Open Space Protecting Fund to provide funds to villages, towns, cities, qualified not-for-profits and individual property owners for the purchase of land, development rights or conservation easements that meet the objectives set forth in the Orange County Open Space Plan;

WHEREAS, Tammy and Leslie Kirby wish to convey, and the County of Orange wishes to purchase, the Development Rights to the land located at 769 Pocatello Road, listed on the Town tax map as SBL 10-1-49 and 13-1-87.2;

WHEREAS, Tammy and Leslie Kirby intend to apply to the Orange County Open Space Protection Fund to purchase the Development Rights;

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Wawayanda, in its capacity as governing body of the Town, does hereby support and concur in the application by Tammy and Leslie Kirby for funding in order to sell Development Rights of their lands located at 769 Pocatello Road, listed on tax map as SBL 10-1-49 and 13-1-87.2.

The vote on the motion: Ayes **5** Nays **0**

VOTE

Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Aye
Councilman Penaluna	-	Aye

RESOLUTION ADOPTED

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RAJA / WATER SYSTEM CONNECTION (SBL:8-6-9): Supervisor Razzano provided an over view of the discussions that had taken place previously in regard to Harris Raja's request to have a proposed Gas Station/Convenience Store connected to the Arluck Water District.

Councilwoman Soro questioned if we were going to hold a meeting with the users of the Arluck Water District before a decision is made.

Supervisor Razzano responded that he had mailed letters to all property owners within the district, advising them about Mr. Raja's request. Overall there were six responses to this letter. Four responded affirmatively, and two voiced opposition because they feared there would be additional costs to them.

Councilwoman Soro commented that she had personally received e-mails from several people and they were not in favor of the connection to Mr. Raja's property. However, copies of these emails were not provided to the Supervisor or any Board member.

Additional conversation took place regarding the projects potential impact on this district as well as the availability of water, impact on the existing users, and the procedure that Mr. Raja would follow if the County were to place a water restriction on this district.

Supervisor Razzano explained that the circumstances surrounding the discoloration of the water stems from sediment at the bottom of the tank which was installed back in the 1950's, and added that at that time it was a used water tank. Explained that if the town were to keep the task of replacing the tank in house, using town employees, the cost of the project could be somewhere in the vicinity of \$35,000 (thirty five thousand) compared to the cost estimate of over \$100,000. (one hundred thousand) received by the previous administration. Once a new tank is installed it will greatly improve the water quality.

Prior to this meeting **Attorney Guertin** had conferred with Mr. Raja and he has agreed to contribute \$12,000 (twelve thousand dollars) to the district for the capital improvement.

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to adopt a resolution declaring a **Negative Declaration** based on the information submitted by the applicant and the information received by the Town Board with respect to the request to allow Harris Raja to tap into the Arluck Water District System under the conditions outlined by the Supervisor, and that the Town Board determines that this is an unlisted action for purposes of SEQRA (State Environmental Quality Review Act), and makes a negative declaration for this particular action.

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to allow Mr. Raja's property, identified as SBL 8-6-9, to tap into the Arluck Water District in respect to a proposed Gas Station/Convenience Store on Route 17M, and to authorize Supervisor Razzano to sign any and all documents and contracts associated with the hookup, subject to the following stipulations:

- 1) Project must receive Wawayanda Planning Board approval.
- 2) There will be a one time out-of-district user capital recovery fee of \$12,000, and the establishment will be considered an out-of-district user
- 3) Mr. Raja will be required to sign a contract with the Town of Wawayanda, which will be prepared by the Attorney for the Town
- 4) Mr. Raja will be responsible for all fees associated with the connection from his facility to the Arluck Water District, including the hiring of outside contractors, all materials and labor in conjunction with the construction of the water line, and any legal, engineering, consulting, and inspection fees.
- 5) Mr. Raja will be responsible to pay all future annual capital costs.
- 6) Mr. Raja will be responsible for the cost of the meter as well as the cost of installation.
- 7) The water will be metered and he will be subject to pay the meter water rates as established by the town

Wawayanda Town Board Meeting 2/08/07**VOTE**

Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Nay**
Councilman Penaluna	-	Aye

MOTION CARRIED

**** Councilwoman Soro** said she voted no because of her concern about the impact on existing users.

TOWN INSURANCE 2007: Supervisor Razzano said that the policy has gone down approximately \$5,000 from the previous year, and the total renewal amount is \$86,083.29. **Councilwoman Soro** questioned **Supervisor Razzano** if our insurance carrier was ever notified of the lawsuit that was filed in 2006.

After a lengthy discussion on the exact lawsuit **Councilwoman Soro** was referencing, **Attorney Guertin** said that this particular lawsuit has a different procedural posture at this point. The town has been extended additional time to respond because there are some preliminary discussions which are taking place, and if it cannot be resolved, then the insurance company should be notified. Taking into consideration that the insurance company did not cover for the previous lawsuit pertaining to the Moratorium, they may not insure us for this particular one.

Councilwoman Soro said that she had checked with Greg Townsend, our insurance agent, and he was not aware of this most recent suit which she referred to as 'Lower Road Associates', so **Supervisor Razzano** assured her that he will contact Marshall & Sterling to clarify matters.

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to authorize the Supervisor to sign for the renewal of the Town's insurance policy through the Marshall & Sterling Insurance Agency.

ALL IN FAVOR - CARRIED**TIME WARNER CABLE FRANCHISE FEE REFUND:**

Brenda Parks, Director of Government & Public Affairs, sent a letter to the Supervisor's office regarding the franchise agreement between the Town of Wawayanda and Time Warner Cable LLC, which requires that Time Warner pay a franchise fee of 3% of Gross Revenues to the Town providing that the Municipality may increase this sum to 5% which it has done. It has come to their attention that since 2004, it has been passing through this 5% franchise fee to its subscribers and creating a total sum of the pass through to be \$114,850.00. Therefore, the solution, which if agreed upon, between Time Warner and the Town, is to apply refunds on a prorated basis to the accounts of subscribers who were customers as of December 2006. Each of the subscriber will receive a one-time refund of \$68.24.

Ms. Parks has requested that the Supervisor sign and return a prepared agreement if the Board is in favor of this resolution.

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to adopt a resolution to authorize the Supervisor to sign the paperwork pertaining to the Time Warner Cable Franchise proceeding with the one time only refund of \$68.24 to those who have been subscribers since December 2006.

ALL IN FAVOR - CARRIED

Wawayanda Town Board Meeting 2/08/07**JUDGE MCELDUFF/REIMBURSEMENT FOR EXPENSES:**

Timothy P. McElduff, Jr., Town Justice, submitted a memo to the Board requesting reimbursement from the Town for certain costs incurred in connection with his position as acting Town Justice. He has purchased a judicial robe at a total cost of \$109.83, and is requesting advance approval of approximately \$175.00 for his attendance at the upcoming Justice Training Program being held at the 2007 Association of Towns Conference. Also, he is requesting 50% of the \$100.00 registration fee and 50% of the room rate of \$250.00. He will not be requesting reimbursement from the Town for food or travel.

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to authorize the reimbursement to Justice Timothy McElduff, Jr. for the cost of the judicial robe, and 50% of the registration fee and the room rate for his attendance to the Association of Towns Conference in New York City on February 19th & 20th, 2007.

ALL IN FAVOR - CARRIED

ORANGE & ROCKLAND TAX CERTIORARI:

Supervisor Razzano stated that he is going to hold off on this because he could not obtain the information he was waiting for from John Thomas, the Attorney from Jacobowitz & Gubitz, who is handling this matter.

CORRESPONDENCE:

McVeigh Road/Speed Control Road Signs: **Supervisor Razzano** discussed a letter that was received from the residents of McVeigh Road expressing their appreciation to **Councilman Cole** and **Councilwoman Soro** for their assistance with the installation of the speed signs.

Councilwoman Soro thanked **Highway Superintendent Green** for his quick response to having the speed control signs installed on Lower Road. Stated that she had gone into his office and within one hour he had contacted that Goshen School District, and the Goshen Highway Department, and because of that action two of the signs have been received and they were put up immediately on Lower Road, and two signs will go on Ryerson Road.

Councilman Cole stated that there were many different hands working on this matter as a joint effort which included himself, Highway Superintendent Green, the Goshen School District, and the Goshen transportation department.

Tax Collectors Report for 2007 Collections: **Supervisor Razzano** read aloud a memo submitted by **Catherine Cole**, Tax Collector which summarized that the Town warrant on property taxes for the year of 2007 is \$3,029,378.69. The total amount authorized for her to collect is \$6,334,228.88 (Town & County Taxes). During the month of January a total amount of \$4,756,750.30 was collected and deposited into the Tax Collectors M&T Bank Account at which time a \$3,029,378.69 disbursement was made to the Supervisor.

Quilting Committee: **Marguerite Lower** sent a letter to the Supervisor advising that the final meeting of the Quilting Committee will be held on February 24th, 2007, at 1:00 PM at the Senior Center. Advised that all of the twenty one block including the center piece will be completed at that time and they will be finalizing the colors for the quilt and the lattice. All are invited to attend.

Jean Rose/Planning Board Stenographer: Supervisor Razzano informed the Board that Ms. Rose has submitted a letter of resignation as Planning Board Stenographer due to an extensive amount of traveling that she will be doing after tax season. Some discussion took place as to a resolution to fill the vacancy.

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Library Committee Meeting: Councilman Cole stated that the Library Committee had met here at Town Hall for the first time this evening, and that he would like to acknowledge the individuals who have expressed an interest, as well as having their names put on record.

Library Committee Members as follows:

- | | |
|-------------------|-------------------|
| 1) Karen Chu | 7) Valerie Gold |
| 2) Marie Ulrich | 8) Carol Hurst |
| 3) Maria Cramer | 9) Dorothy Winner |
| 4) Irene Bell | 10) Dick Ludwig |
| 5) Guy Van Rossum | 11) Valerie Gold |
| 6) Mark Specthuie | |

MOTION Councilwoman Soro, seconded by **Councilman Cole**, to authorize the formation of the Library Committee comprised of the membership, as noted.

ALL IN FAVOR - CARRIED

PUBLIC COMMENTS & QUESTIONS:

Health Insurance Coverage: Councilwoman Soro spoke about the Health Insurance that was approved a couple of weeks ago for the Supervisor and any Elected Official. She said that she has been hearing rumors to the fact that there is going to be some sort of buy-out procedure that is going to be put into place with regard to the Health Insurance. Added that she wanted to go on record that she is against any buy out procedure where any Board member or the Supervisor would get a substantial amount of money, if they opted not to take the medical insurance.

Lower Road Associates/Pending Lawsuit: Randall Hurst asked if the Board could comment on the status of the lawsuit with Ridgebury Farms, Lakeridge, and Lower Road.

Attorney Guertin comment that discussions are taking place, and that there is currently no resolution. There may be a proposal to try to settle it coming forth from those who have brought the lawsuit, and that we do not have anything to discuss at this point.

Mr. Hurst also spoke about a letter that he submitted to the Supervisor office which he believed would be discussed at the last meeting and never was, and he was wondering what the protocol was.

Supervisor Razzano apologized for the oversight and stated that he would be reading his letter at the next meeting.

Zoning Laws/Video Taping of Meetings: Deborah Glover asked what the status of the Zoning Laws, and who is actually moving them forward.

Ms. Glover also discussed what she believes to be a group of by-partisan citizens who have put together what they call 'Wawayanda Hometown Internet News'. Stated that they will be video taping all of the Town Board, Zoning Board & Planning Board Meetings to be broadcast over the internet and the Cable 6 News.

Supervisor Razzano addressed the Zoning question by stating that there are a few matters that have to be addressed regarding Solid Waste, Water & Sewer and Street Codes. Hopefully, this matter will be addressed in the near future.

Pending Lawsuit: David LeBlanc questioned if the Town was expending any money to the Attorney for work on the Lawsuit from Ridgebury Farms, Lakeridge, etc., and was advised that very little has transpired to date.

Attorney Guertin stated that, at this point he is involved in it so the town is paying his fee, but there has been no activity so far.

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Code Enforcement Fines: David Whitworth asked how much money has been raised by fines issued by the Code Enforcement Officer, and was informed by the Supervisor that he did not have a number available.

Mr. Whitworth then asked what mechanism was set in place to make sure FOIL request are made.

Teresa Pierce, Town Clerk explained that the State procedure is followed.

Mr. Whitworth stated that he put in a request back in October and is still waiting for a response on the Water & Sewer District.

He then asked for an update on the **Open Space Committee**, and **Councilman Cole** responded to his question.

Edgeless City Course: Barbara Parsons spoke about a course that **Councilman Cole** and she had attended. Stated that it was very informative and that they worked on the mapping of certain towns. The Town of Wawayanda was one of the towns they worked on. Added, that sometime in the future they will be contacting the town to go over the map.

Councilman Cole read aloud a letter that was sent out this week to the large land owners in Wawayanda which provided information on the Preservation of Open Space, and offers all contact information at the County level.

Further discussion took place regarding the Preservation of Open Space.

Everyone who wished to speak was given an opportunity to do so.

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to interrupt the regular meeting so that the Board may convene in Executive Session in regard to contract negotiations with Regan Development.

ALL IN FAVOR - CARRIED

EXECUTIVE SESSION: No action taken.

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

ALL IN FAVOR - CARRIED

No other comments or questions.

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

ALL IN FAVOR - CARRIED

MEETING ADJOURNED: 10:12 P.M.
PREPARED BY KATHRYN SHERLOCK

RESPECTFULLY SUBMITTED,

Teresa E. Pierce, RMC
Town Clerk