

## Wawayanda Town Board Meeting 03/20/07

March 20, 2007

A Monthly Meeting/Worksession of the Town Board of the Town of Wawayanda was called to order at 7:37 P.M., on Tuesday, March 20, 2007, at the Town Hall, Ridgebury Hill Road, Slate Hill, NY.

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: Dennis Ketcham - Assessor, Mary Markiewicz & Barbara Parsons -Planning Board Members; Gladys Hall - Historian; and 7 other individuals.

### PLEDGE TO THE FLAG

### PUBLIC HEARING ON A PROPOSED LOCAL LAW TO AMEND THE WATER CODES OF THE TOWN OF WAWAYANDA, ENTITLED 'WATER USE CODE OF THE TOWN OF WAWAYANDA'.

The purpose of this law is to repeal the existing Chapter 189 of the Code of the Town of Wawayanda entitled "Water", and to adopt a new Chapter 189 in its entirety to assist in the orderly and safe use of the water supply for property in the Town of Wawayanda.

Supervisor Razzano read the 'Notice of Public Hearing' as it appeared in the Times Herald Record on March 13, 2007.

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to open the public hearing.

**ALL IN FAVOR - CARRIED**

### PUBLIC COMMENTS & QUESTIONS:

**David Whitworth:** Asked if comments from Orange County Planning have been received. He was informed that they have not yet been received, so it is the intention of the Board to leave the public hearing open.

**Supervisor Razzano had received a letter from Charles W. Crover of Roarke Well Drilling, Inc,** which he read aloud. In the letter, Mr. Crover expressed his concerns with section 189-4 which requires property owners to connect to a water main. He maintained that such a requirement is illegal and could initiate a lawsuit.

**Supervisor Razzano** spoke about the standard of water codes which basically state that once there is a municipal supply, you must connect within a year's time.

**Maryann Labanowski** commented that her sister lives in Goshen and that she was required to connect, but she is not required to use the water.

**Attorney Guertin** responded that, generally, municipal codes require that you tie in.

No other comments or questions at this time.

**Supervisor Razzano** stated that the public hearing will be kept open until the comments are received from the Orange County Planning Department.

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**PUBLIC HEARING ON A PROPOSED LOCAL LAW TO AMEND THE SEWER CODE OF THE TOWN OF WAWAYANDA, ENTITLED 'SEWER USE CODE OF THE TOWN OF WAWAYANDA'.**

**Supervisor Razzano** read the 'Notice of Public Hearing' as it appeared in the Times Herald Record on March 13, 2007.

The purpose of this law is to repeal the existing Chapter 138 of the Code of the Town of Wawayanda, entitled "Sewers", and to adopt a new Chapter 138 in its entirety to assist in the orderly and safe use of property in the Town of Wawayanda.

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to open the Public Hearing.

**ALL IN FAVOR - CARRIED**

**Councilwoman Soro** initiated discussion on several sections of the law, as follows:

•**Section 304 - Discharge of Polluted Water to Natural Outlet:** **Councilwoman Soro** questioned how the streams would affect the neighboring towns.

**Attorney Guertin** pointed out that this section is prohibiting the discharge of polluted water, unless it is treated.

•**Section 309 - Connection to Public Sewer Systems Required:** **Councilwoman Soro** questioned the one year grace period for the owner to connect into the public sewer collection system.

**Attorney Guertin** explained that this requirement was in the original draft which was written by Stearns & Wheler, and that it certainly gives a property owner enough notice to connect to the system.

**Councilwoman Soro** asked "If a leak or a clog in the system were to develop, would it be the home owner's responsibility to fix the problem?"

**Supervisor Razzano** responded that the town owns the main, and from the mainline to the home is the homeowner's responsibility.

•**Section 310 - Wastewater from Outside the POTW Service Area - Intermunicipal Agreements:** **Councilwoman Soro** questioned what district this section would apply to.

**Supervisor Razzano** stated that this section was also part of the Stearns & Wheler document, and although there is no need for it at this time, it was left in to keep our options open for the future.

Further discussion took place regarding the wording of this section, with **David Whitworth**, **Barbara Parson**, and **Deborah Glover** offering their perspective on how it may have come about. .

•**Section 407 - Septage Removal:** **Councilwoman Soro** questioned the 'enforcement' of the section.

**Attorney Guertin** said that this section provides the language if the circumstance ever came about to enforce 'Septage Removal'.

In the discussion that followed, it was agreed that the word 'shall' will be replaced with the word 'should', thereby making the law to read "septage should be removed from the cesspool or septic tank by a licensed hauler, etc"

•**Section 503C - Sewer Pipe Installation:** **Councilwoman Soro** questioned the second paragraph of this section, and asked where the language came from. Added that the language in this section appears to be stronger than what is in our current building code.

**Supervisor Razzano** said that this came from the old code, and that the wording was adjusted so that there would be no gray area in its interpretation.

**Section 507 -** **Supervisor Razzano** stated that **Jeff Mills, Water & Sewer Operator** pointed out that changes needed to be made in the verbiage. He recommended that the word 'pressure' be changed to 'jetting', and the word 'monitoring' be replaced with 'televised inspection with recording'.

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•**Section 508 - Liability Insurance Coverage During Construction Period:** This section was determined to be a duplication and will be deleted.

•**Section 601A- Permit Required for Sewer Connections/Approved Contractors:** Changes were made to the verbiage regarding the town having the ability to approve the contractor to work on the facility.

•**Section 1013 - Sample Splitting:** The last line of this section will be adjusted to indicate that the costs related to the sampling and analysis “**shall be paid by such industrial user**”.

•**Section 1102 - Notification of Violation: Councilwoman Soro** questioned if notification by mail was sufficient. After a brief discussion it was decided that the wording will be changed to read “**the System Operator mails or otherwise serves the notice**”.

•**Section 1104 - Administrative or Compliance Orders: Councilwoman Soro** asked for an explanation regarding the second paragraph and the involvement of the **Town Court**.

**Attorney Guertin** explained that it pertains to the enforcement process, and that the Town Court could, at some point, be involved in an enforcement proceeding. This would then provide the Court with some ability to deal with this as it deems appropriate with the circumstance.

**David Whitworth** expressed his concern with this section. His questions were addressed by **Attorney Guertin**.

•**Section 1403 & 1404 - Applicability:** After some discussion it was deemed that these sections were not needed and would be deleted.

•**Section 1213 - Records and Accounts: Supervisor Razzano** questioned the language with regards to having an “**Independent Auditor**” conduct the audit. Recommended that the verbiage be removed.

**Councilman Krajewski** agreed with the Supervisor’s recommendation.

**Attorney Guertin** commented that it would be a better practice to have an annual audit by an independent auditor.

**David Whitworth** spoke about **Section 503C**, and asked if the removal of trees would apply to builders.

He was informed that this section only applies to the construction of sewer mains.

No other questions or comments at this time.

It was noted that the revisions that were discussed will be incorporated into a revised draft of the law.

**Supervisor Razzano** stated that the public hearing will be kept open until the comments are received from the Orange County Planning Department.

**EXECUTIVE SESSION/PENDING LITIGATION:**

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to interrupt the meeting so that the Board may convene in Executive Session on a personnel matter regarding a specific individual, and also to discuss a pending litigation matter.

**ALL IN FAVOR - CARRIED**

**EXECUTIVE SESSION:** No action taken.

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

**ALL IN FAVOR - CARRIED**

**Wawayanda Town Board Meeting 03/20/07****CORRESPONDENCE & COMMUNICATIONS:**

**NEW YORK RURAL WATER ASSOCIATION'S CONFERENCE:** Jeff Mills, Water & Sewer Operator, submitted a request for authorization to attend the 28<sup>th</sup> Annual Technical Conference & Exhibition 2007, which is being held on May 7<sup>th</sup>, 2007 through May 10<sup>th</sup>, 2007, at the Saratoga Hotel & City Center, Saratoga, New York. The total cost for conference, food, and accommodations is \$752.00, and Mr. Mills will be using the town jeep for transportation. The training conference provides him with a portion of the required training hours for both his water and waste water license.

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to authorize the attendance of **Jeffrey Mills** at the 28<sup>th</sup> Annual Technical Conference & Exhibition being held on May 7<sup>th</sup> through May 10<sup>th</sup> in Saratoga, New York.

**ALL IN FAVOR - CARRIED**

**ORANGE & ROCKLAND UTILITIES:** Barry Short of Orange & Rockland Utilities, submitted a request asking that the Town of Wawayanda forward a letter of support for the construction of a natural gas infrastructure on Dolsontown Road. Board members agreed that the gas line would be beneficial to future development in the town. Based on the discussion that took place, Supervisor Razzano will be forwarding a letter of support for this project.

**HIGHWAY DEPARTMENT SUMMER HOURS:** Michael Green, Highway Superintendent, sent notification to the Town Board that the Highway Department will be starting 10 hour work days, 6:00 AM to 4:30 PM, as of April 16, 2007.

Board members felt that the summer work schedule is starting earlier and earlier each year, and is being extended longer and longer. In discussion, it was noted that according to our Personnel Policy, the summer work schedule for the highway department is to start on June 1st, and end on August 31st. Board members questioned if they have any authority over this matter.

Attorney Guertin agreed to research for information in the Town Law. He felt that Section 145 or 146 addresses the situation.

**RULES OF CONDUCT & DECORUM AT TOWN MEETINGS:** Supervisor Razzano stated that due to recent events that have taken place, Board members are unhappy with the way meetings are being conducted. In an attempt to restore order of Town Board meetings, the Supervisor offered the following resolution:

**TOWN OF WAWAYANDA  
RESOLUTION #3  
Rules of Conduct & Decorum at Town Meetings**

Whereas, the New York State Open Meeting Law (Article 7, Public Officers Law) gives members of the public the right to attend meetings of public bodies but does not give the public the right to speak or otherwise participate at those meetings, except at public hearings and under other limited circumstances, and

Whereas, New York State Town Law authorizes a Town Board to enact rules and regulations regarding the conduct of public meetings and public hearings conducted by the Town Board, and the New York State Committee on Open Government has agreed that a public body can adopt reasonable rules that treat members of the public equally, and

Whereas, the Committee on Open Government has stated that any such rules could serve as a basis for preventing verbal interruptions, shouting or other outbursts, as well as slanderous or obscene language or signs, and that a Town Board could regulate actions of the public attending meetings so as not to interfere with meetings or prevent others in attendance from observing or hearing the deliberative process, and

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Whereas, a Town Board has a responsibility to insure that everyone has the right to participate in a public hearing and therefore can reasonably limit the length and general nature of public comments to the subject of the public hearing so that a Town Board can consider various points of view, and

Whereas, a Town Board can limit other comments from the public at Town Board meetings to a specific time set in the agenda for public participation and comment.

Now, therefore, be it resolved by the Town Board of the Town of Wawayanda that the Town Board hereby adopts the following rules for public participation at the meetings of the Town Board:

1. Except for public hearings duly designated as such by action of the Town Board, public participation at meetings of the Town Board shall be limited to the public participation segment of the agenda of Town Board meetings, once a month, and not at Town Board Workshops.
2. Public comment, whether during the public participation segment of the Town Board meeting or during a duly designated public hearing, shall be limited to three minutes per person. An individual's time may not be given or traded to other speakers or reserved for other portions of the meeting.
3. Any person wishing to speak at a public meeting during the public participation segment or during a public hearing must sign the sign-in sheet upon entering the room, when such sign-in sheet is available, indicating his or her intention to speak, which sheet will be used by the Supervisor or the presiding officer to recognize speakers.
4. Any individual wishing to speak during the public participation segment or during a public hearing, when a sign-in sheet is not available, shall raise his or her hand. When recognized by the Supervisor or the presiding officer, the individual must stand and state his or her name and, if appropriate, group affiliation, and must state the subject he or she will be addressing.
5. Comments must relate to the purpose of the public hearing or to legitimate town business.
6. The Supervisor or the presiding officer shall act as timekeeper or shall designate another elected official as timekeeper.
7. Members of the Town Board, speakers and audience members must observe proper decorum. Any statements made during the meeting or during a public hearing by the Supervisor, members of the Town Board, town officials or employees, or members of the general public shall not involve personal, impertinent, or slanderous attacks on individuals, regardless of whether the individual so attacked is an elected official, a town official or employee, or a member of the general public.
8. The Supervisor or the presiding officer shall control the meeting. The use of profane, vulgar, inflammatory, threatening, abusive, or disparaging language or racial or ethnic slurs directed at the Supervisor, members of the general public, or statements by a person attending the meeting which are not made during the public participation segment of the agenda or during a public hearing, shall not be tolerated.
9. It is inappropriate to utilize a public meeting for the purpose of making political speeches, including threats of political action, and the same will not be allowed.
10. Comments by speakers must be addressed to the Town Board. Attendees may not address the Town Board unless recognized by the Supervisor or the presiding officer.

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11. Discussion between speakers and attendees of the public meeting or hearing are prohibited. A speaker may disagree with or support prior speakers in comments directed to the Town Board.

12. Banners, flyers or other signs are not permitted in the meeting room. Distribution of flyers in the meeting room are also not permitted.

13. If the Supervisor or the presiding officer fails to enforce the rules set forth above, any member of the Town Board may move to require him or her to do so, and an affirmative vote of a majority of the Town Board shall require him or her to do so. Any decision relating to enforcement of the rules set forth above may be appealed and overturned by a vote of a majority of Town Board members.

14. Any person who disregards the directives of the Supervisor or the presiding officer in enforcing the rules or who generally conducts himself or herself in a boisterous or inappropriate manner while addressing the Town Board disturbs the peace at a meeting and will be barred from further participation and forfeit any balance of time remaining for his or her comments.

15. If a speaker who has violated these rules refuses to step down, the Supervisor or the presiding officer may ask for the individual to be removed from the meeting room and charged with disorderly conduct as per the Penal Law.

16. The above rules shall take effect at the next meeting of the Town Board after the adoption of these rules.

Upon **MOTION** by **Supervisor Razzano**, and seconded by **Councilman Krajewski**, the foregoing resolution was duly adopted by a majority of the members of the Town Board by a roll call vote as follows:

<b>VOTE</b>		
Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Abstained**
Councilman Penaluna	-	Aye

**MOTION CARRIED**

**\*\*Councilwoman Soro** stated that she abstained from the vote because she had just received the resolution and did not have an opportunity to thoroughly review it.

**No other comments or questions.**

**MOTION** by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to adjourn the meeting.  
**ALL IN FAVOR - CARRIED**

**MEETING ADJOURNED: 10:50 P.M.**  
**PREPARED BY KATHRYN SHERLOCK**

**RESPECTFULLY SUBMITTED,**

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