

**STATE OF NEW YORK
COUNTY OF DUTCHESS
TOWN OF LA GRANGE**

**TOWN BOARD MEETING
March 25, 2009**

Present: Supervisor Wagner
Councilman Joseph Luna
Councilman Steve O'Hare
Councilman Dale Borchert

Absent: Councilman Gary Beck

Recording Secretary: Christine O'Reilly-Rao, Town Clerk

Others Present: Wanda Livigni, Administrator of Public Works
Diana Ciampaglione, Environmental Consultants
Ron Blass Esq., Van De Water & Van De Water

A regular meeting of the Town Board was held on Wednesday, March 25, 2009 at the LaGrange Town Hall, 120 Stringham Road. Supervisor Wagner called the meeting to order at 7:30 p.m. The Town Clerk led the flag salute.

The Supervisor asked for a motion to approve the minutes from March 11, 2009. Councilman Luna moved to do so, seconded by Councilman Borchert and carried unanimously.

Supervisor Wagner asked for a motion to amend the minutes from January 14, 2009 due to a typographical error that had Route 83 rather than Route 82 noted as the location of parcels set for rezoning. Councilman Borchert so moved, seconded by Councilman Luna and carried by all.

Mr. Wagner asked for a motion to waive the 30 day waiting period for a liquor license renewal for D&R's P.C. Paddock, Inc. located at 273 Titusville Road, Poughkeepsie, New York 12603. Councilman O'Hare so moved, seconded by Councilman Borchert and carried unanimously. (SEE ADDENDUM)

Correspondence

Highway Superintendent Kelly had advised the Board of a tentative paving schedule for 2009-2016. (SEE ADDENDUM)
Supervisor Wagner noted that this was part of the Town's planned multi-year financial planning strategy.

Megan Root, Director for Smoke Free Dutchess, had written to Supervisor Wagner asking for support in limiting tobacco advertising at retail stores. A sample resolution for the Town Board's future consideration was provided. (SEE ADDENDUM) She stated in her letter that "Prevention of initiation of tobacco use is closely related to the reduction/removal of tobacco ads."

Mr. Wagner also stated that correspondence regarding Cablevision channel changes will be on file in the Clerk's office for one week.

The Supervisor stated that the Public Hearing for rezoning two parcels at the corner of Arthursburg Road and Route 82 had been removed from the agenda. The applicant, Mousa Enterprises, Inc. had withdrawn their application. He read the letter from Mr. Adams, attorney for Mousa Enterprises for the record. (SEE ADDENDUM)

Mr. Wagner further stated that that the zoning application had gotten out in front of the Master Plan and that the Board must review the Master Plan thoroughly prior to any zoning changes in that area. The matter will begin to be addressed at the next workshop Wednesday, April 1st at 7:00 p.m. and the public is welcome to attend. The Board will solicit public participation and input in brainstorming sessions. When the applicant resubmits the zoning application, a new Public Hearing will be scheduled. He added that there are many hurdles which applicants must pass prior to any zoning changes, which would include recommendations from Federal, State and County Agencies, such as FEMA, DEC, and DC Planning Board as well as Town Planning and Zoning Boards. The process is a long one and the Board wants it to be thorough.

He stated that Public Comments at the end of this meeting will be welcome on any subject, but if addressing the rezoning matter, the comments will not be in the context of a Public Hearing. Had the Public Hearing gone forward, there would have been a stenographer present to record comments verbatim.

Supervisor's Report

The Town Board has been considering enacting a moratorium on building in the 100 year flood plain. The DEC will no longer allow traditional methods of cleaning out creeks to mitigate flooding. He asked the Board to consider working on this matter by looking at State and Local Statutes to coordinate development in flood plain areas. Ms. Livigni has begun working on this and Mr. Wagner would like to see the language in plain English. The problem is not unique to LaGrange.

Councilman Luna would support passing a moratorium in order to revisit flood plain regulations.

Councilman Borchert would first like Ms. Livigni to look at existing regulations and see which would and which would not apply right now. He would support moving toward a moratorium, but not until Ms. Livigni determines how much time it would take to pull the information together.

Councilman O'Hare wanted to know what current or pending projects would be affected by a moratorium.

Ms. Livigni stated that there is a statute in the Town Zoning Ordinance in a section called "Flood Damage Regulations" which does not allow for building in the AE Zone (100 year flood plain), but there are loopholes. In addition, when the Town Board considered the residential development plan defining the building square, it was proactive by adopting the more stringent environmental regulation.

She was unsure as to whether or not Harvest Ridge Subdivision would be affected since they have already received preliminary approval. However, Crystal Lakes may be affected and probably already is due to the Town's definition of the building square. Also the proposed Mousa rezoning project as well as the Town Center would be affected.

Supervisor Wagner once again urged audience members to contact their elected officials regarding the proposed MTA tax and log onto the Chamber of Congress website to voice their opposition.

He stated that the Town had applied for stimulus money for the Titusville sewer plant in order to pay down the debt or secure low interest money for expansion. Working with Mr. Blass, the Town has a Bond Counsel who can hopefully assist us in securing stimulus funds from the Environmental Facilities Corporation.

He asked Ms. Livigni about an update to the stimulus money the Town applied for improvements to Dr. Fink Road.

Ms. Livigni stated that the improvement would actually be regional since students from Unionvale, Beekman and Pleasant Valley attend Arlington High School. She feels that there is a slim chance of the Town getting the money, so she recommended that the Town not pay for independent consultants. She will work on the matter herself.

The next item on the agenda was a sign ordinance which would correct some issues that have resulted in businesses applying for variances. Councilman Luna has been working on this and recently Councilman Beck offered some additional changes for the Board's consideration. (SEE ADDENDUM)

Councilman Luna stated that rather than set a Public Hearing at this time, he would like to give the Board the opportunity to review the changes submitted by Mr. Beck.

Councilman Borchert agreed and suggested that they look at the changes at the next workshop.

Committee Reports

Water & Sewer

No report

Recreation

Councilman O'Hare stated that the Baseball League is looking to build a playground at the baseball fields on Noxon Road. There are flooding issues in that area and a playground may worsen this by channeling the water and creating other problems.

Community Day is scheduled for Saturday, June 13, 2009. The theme will be the Quadracentennial Celebration of Henry Hudson's voyage up the Hudson River.

Mr. Huff has mailed out the recreation booklet/calendar which details events up to December 2009.

Mr. Wagner stated that as to the playground for that site, Mr. Huff, Director of Recreation is concerned about maintaining the playground with the current staff he has. He feels it may overburden his staff and possibly become a liability issue. Since LPI funds which are earmarked for parks and recreation come directly from developers and no building is going on right now, Mr. Wagner is cautious about building a playground the present time.

Open Space

Councilman Borchert stated that the committee is reviewing the application package and will provide commentary in the next few weeks.

Highway

No report.

Town Board Comments

There were no comments from the Board.

Town Attorney

No comments

Public Works

Ms. Livigni asked for Board approval to name a street in the Golden Fields Development Caligiuri Court.

Councilman Luna moved to approve the name, seconded by Councilman Borchert and carried unanimously.

Environmental Consultants

No comments

Public Comment

Councilman Luna moved to open the Public Comment, seconded by Councilman Borchert and carried unanimously.

Mr. Paul Lenci of the LaGrange Library informed the Board that the restrooms at the library are undergoing renovation and only porta johns are available at this time. Also, there are rather large pot holes in the parking lot which can cause problems for small cars.

Mr. Wagner and Ms. Livigni will be meeting with Bob Kaminski on April 2, in an ongoing effort to find a potential home for the library.

Mrs. Gail Parzyck of Arthursburg Road addressed the Board. She had submitted a letter regarding the proposed rezoning issue to Supervisor Wagner and wanted it entered in the minutes in its entirety.

Mr. Mark Costello of Arthursburg Road addressed the Board about the rezoning issue for Arthursburg and Route 82. He asked Mr. Wagner if the process for rezoning is lengthy, would it help at all if it was decided that the Master Plan is masterful and not be changed at all, and would that be the end of it in terms of things we've been threatened with.

Mr. Wagner stated that it was entirely possible, but that the decision has to be tempered by the fact that the property owner has property rights.

Mr. Costello countered that possibly the owner would be willing to donate the property to the Town for the library.

Mr. Wagner replied that he did not think that that the library would be interested in those parcels.

Mr. Peter Plavchan of Apple Summit Lane addressed the Board. He asked that his petition be included in the minutes. (SEE ADDENDUM) The petitioners asked that the parcels in question for rezoning remain R120. It was stated that changing to commercial designations would harm their safety and cause significant loss of property value. The petition was signed by 37 out of 39 residents of the Arthursburg hamlet. In addition, neighboring properties from Route 82, Sylvan Lake Road, Lyceum Drive and the shop owners in both plazas signed the petition which made the total number of signatures 74. He noted that the 4 houses across from the A&P were never notified that the Master Plan changed their zoning to commercial. The records on file with the Assessor's office indicate these 4 houses as R-120, and Dutchess County records also reflect this. He added that the Master Plan was filed and supposedly done with in 2005.

He went on to offer information on the 3 parcels on Route 82.

#1 -300 feet of frontage on Route 82 and is 40 feet wide and was bought for \$1.00 according to Town records.

#2- 3.18 acres

#3- Approximately 1 acre with a price tag of \$953,000, closed in June 2007 and taxed at an assessed value of \$69,000 which Mr. Plavchan stated is an under assessment.

He then gave the Clerk two large signs from the Town of East Fishkill that notifies the public of any spot zoning. He added that not everyone gets the paper and this would give all residents of the Town notice of any Public Hearing regarding zoning changes.

He feels that this zoning process should be put to an end with common sense. The property is problematic and the parcel which has the creek with fish, turtles and ducks in it should not be developed. The 3 acre property which faces Arthursburg Road should be kept residential.

He suggested that the Town use eminent domain or open space money to purchase these parcels and put a library on it or a sign that welcomes people to the Town. He further stated that the Board should apologize for what he and his neighbors went through over this matter. In addition, the Board should not touch the Master Plan every time there is a zoning issue. He then brought up the matter of retail space in the Town Center.

He went on to state that he was going to deliver a letter from school Superintendent Pepe to the Justice Department in Washington regarding hidden taxes of \$500,000 in the school budget from the MTA. He wants Washington to investigate the MTA.

He suggested that the Board dock Councilman Beck's pay for his prolonged absence or eliminate his position.

He vowed to attend all future meetings along with his neighbors to ensure that the Board respects the will of the majority, which he said is to keep the parcels zoned R-120.

Ms. Torella of Nancy Drive addressed the Board to voice her opposition to the proposed rezoning. She stated the rezoning would be an environmental assault to nature. She also pointed out that Dutchess County Planning had commented 4 times against a gas station on that property. She asked that her letter to the Board be made part of the minutes. (SEE ADDENDUM) She added that her letter also includes a study about the Whortlekill Creek and pollution sensitive species. She asked what businesses are allowed in a C-1 designation.

Supervisor Wagner answered for a gas station to be permitted on C-1, a special use permit would have to be issued by the Planning Board. The C-1 designation allows for a multitude of business uses including restaurants, but C-2 does not allow restaurants. A special permit is only issued after numerous hurdles are crossed in the Planning Board process, including addressing the fact that underground gas tanks are permitted within 500 feet of a water course.

Ms. Torella asked why the Master Plan must be updated at this time.

Mr. Wagner replied that the Board needs to look at the big picture and not just the rezoning application. He further noted that the County has significantly softened their comment on the rezoning. In 2005 they stated there would have to be a super majority to override their opinion and now the comment is one of "local concern".

Councilman Borchert added that the Board is not revising the Master Plan. When the applicant came before the Board and pointed out that the surrounding areas are all commercial, the Board realized it had to review the reason why these parcels were not zoned commercial. In addition, the fact that the 4 property owners in that vicinity did not realize that they were now in a commercial zone needs to be addressed to make sure the intent of the Master Plan was applied.

Ms. Torella asked if the Board would require an Environmental Impact Study should the applicant reapply.

Councilman Luna stated that it is always required.

Ms. Torella urged the Board to use Open Space money to purchase that land and make a nature preserve which would be a gateway to the Town. The residents of LaGrange voted yes for the Open Space bond and this would be a great way to welcome people to the Town.

Mr. Wagner stated that part of the process of reviewing the Master Plan would be to see how that area is addressed in the Open Space Plan.

She then asked about getting the Master Plan on the Town website.

Mr. Wagner replied that the website is currently being rebuilt at this time.

Lizette McCracken of Route 82 lives across the street from the A & P. During the summer, kids hang out in the A & P parking lot and the noise is bothersome. She calls the police and the kids are gone before they get there. Also, in both summer and winter, tractor trailers park there at night and run either the air conditioner or heater and the noise comes into her house, making it difficult to sleep.

Supervisor Wagner replied that he would contact the State Police to let them know about the problem.

Gail Parzyck wanted to add that the property up for rezoning lies on an earthquake fault, so the Board would probably like to consider that when determining what use would be best for those parcels. Her home is on shale and she is concerned about her well and foundation if any blasting needs to be done on the property.

Mr. Peter Elezovic of 123 Arthursburg Road addressed the Board. He has lived on his property for 17 years. His house dates back to 1767. Since the A&P was built, the natural drainage of his property has changed. Now, 70% of the property is subject to flooding. He uses 3-4 pumps a year in order to drain the water from his basement. His neighbor's property is subject to flooding on 50% of the acreage. He also mentioned that the noise from the compressors and generators was like being next to an airport. He was against the building of the A&P and is against any building in the parcels under discussion except for residential building. The property with the creek should not have anything built on it. The A&P was built in the wrong place on farmland with 9-12 feet of fill. The flooding in that area is due in part to broken pipes on the East Fishkill side. The water goes over Arthursburg Road into the wetland then back into the creek hits the corner at a 90 degree angle. This goes on every year.

Mr. Wagner asked if he had brought this to Ms. Livigni's attention.

Mr. Elezovic replied he had not.

Ms. Livigni offered to look into the matter and try and assist him.

Councilman Luna suggested he give Ms. Livigni his name and address, which he subsequently did.

Mr. Daniel Garay of Apple Summit Lane addressed the Board. He stated that he had addressed the Board last year about the LaGrange Youth baseball and the stream in the back of the ball field. At that time the Board told him that water had to take its course and they could do nothing about it. Mr. Garay stated that the same is true for the property in question. Since the A&P was built he has had flooding issues on his property, even though he is on high ground. He felt that you can't build there because it is a wetland and there are drainage problems.

Mr. Plavchan addressed the Board again. He asked Ms. Livigni to look up U TUBE.com LaGrange, New York 2007. It is a video showing the entire corner under water. Since the A&P was built on the 100 year flood plain, the flooding is worse.

Supervisor Wagner asked for a motion to close the public comment. Councilman O'Hare so moved seconded by Councilman Borchert and carried by all.

Councilman Borchert to adjourn the meeting seconded by Councilman Luna and carried by all. The meeting was adjourned at 8:29 p.m.

Respectfully Submitted,

Christine O'Reilly-Rao
Town Clerk

ADDENDUM

- **Waiver of 30 Day Waiting Notice for Liquor License for D&R's P.C. Paddock, Inc.**
- **Highway Superintendant Kelly's 8 year Proposed Paving Program**
- **Sample Resolution from Smoke Free Dutchess**
- **Letter from Jon Adams, Esq. representing Mousa Enterprises Inc.**
- **Affidavit of Posting : Public Hearing for Proposed Zoning Changes Route 82 and Arthursburg Road**
- **Letter and modifications to sign ordinance from Councilman Gary Beck**
- **Letters from residents of the Arthursburg hamlet regarding the proposed zoning changes**
- **Petition presented by Peter Plavchan**