

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

**TOWN BOARD MEETING  
August 24, 2011**

**Present:** Deputy Supervisor Joseph Luna  
Councilman Edward Jessup  
Councilman Gary Polhemus  
Councilman Gary Beck

**Absent:** Supervisor Jon Wagner

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

**Others Present:** Ron Blass, Esq. Van De Water & Van De Water  
Steve Mance, Environmental Consultants

The regular meeting of the Town Board was held on Wednesday, August 24, 2011, at the LaGrange Town Hall, 120 Stringham Road. Deputy Supervisor Luna called the meeting to order at 7:00 p.m. The Town Clerk led the flag salute.

Deputy Supervisor Luna asked for a motion to approve the minutes for August 10, 2011.

Councilman Jessup moved to do so, seconded by Councilman Beck. The motion carried.

**Public Hearing**

Deputy Supervisor Luna asked for a motion to open the Public Hearing regarding a local law addressing outdoor furnaces.

Councilman Polhemus moved to do so, seconded by Councilman Jessup. The motion carried unanimously.

There were no comments from the Public.

Councilman Jessup moved to close the Public Hearing, seconded by Councilman Polhemus. The motion carried unanimously.

Councilman Jessup moved to adopt the resolution for Local Law #5 (Furnaces), seconded by Councilman Polhemus.

The motion carried unanimously. (SEE ADDENDUM)

## **Correspondence**

Tyler Barden, caretaker at Freedom Park has tendered his resignation after more than five years of service.

Mr. Luna stated that he felt Mr. Barden had done a spectacular job. There were never any complaints and the Board accepted the resignation with regrets. A replacement is being sought.

Information regarding channel changes for Time Warner Cable and Cablevision will be in the Clerk's office for one week.

## **Agenda Items**

Hornet nests at the site of the Noxon Knolls Water Plant have been reported by a resident living near the site. The resident is requesting that the Town have them destroyed. The Board discussed the matter and decided unanimously that no action would be taken by the Town at this time. Mr. Luna added that the cold weather will automatically address the problem.

The Building Inspector is requesting Town Board's approval to accept a bond in the amount of \$10,000.00 to be posted in addition to the \$5,000.00 bond posted in 2005 for Gas Land, which is located at Noxon and Titusville Roads. The additional bond will ensure that the existing nonconforming ground sign will be removed within 6 months and that a new monument sign with LED lighting will be installed.

Councilman Beck moved to do so, seconded by Councilman Polhemus. The motion carried unanimously.

The Building Department followed the procedures set forth in the Property Maintenance Code in regard to property located at 42 Hillview Drive. An Order to Remedy had been issued by the Building Inspector. The Building Inspector is requesting authorization to have the lawn mowed by the Town and have a lien placed on the property.

The Board discussed the matter and Mr. Blass stated that the property could be mowed by the Town, but a lien would have to be placed after a 30 notice was issued to the owner for an opportunity to be heard.

Councilman Jessup moved to authorize the mowing, seconded by Councilman Polhemus. The motion carried unanimously.

Mr. Luna stated that the Town Board needs to discuss a draft ordinance to permit drive-thru facilities. He made a draft copy of a proposed resolution available to the Board and asked that they review it and provide comments for the next workshop meeting.

Deputy Supervisor Luna asked for a motion to authorize the Supervisor to sign an agreement with Peter and Elizabeth Dama regarding 36 Horseshoe Drive. (SEE ADDENDUM)

Councilman Beck moved to do so, seconded by Councilman Jessup. The motion carried unanimously.

St. Andrew's Episcopal Church is requesting Town Board's permission to display banners and yard signs to advertise their Car Show Fund Raiser event scheduled for Saturday, September 24, 2011 from 12 – 4pm.

Councilman Beck moved to approve the request, seconded by Councilman Polhemus. The motion carried unanimously.

Walgreens had contacted the Town regarding setting up a flu clinic for Town employees and residents at Town Hall. Insurance will be accepted and the fee for cash paying patients will be \$29.00.

A discussion ensued.

Mr. Blass advised that Walgreens be required to add the Town to its insurance and also enter into a license agreement with the Town. Walgreens would be responsible for all legal fees involving the license agreement.

The Clerk agreed to notify Walgreens about these requirements.

The Planning Board is requesting the Town Board's recommendation with respect to a 4<sup>th</sup> re-approval of final subdivision approval for the Lake Ridge Subdivision and Rolling Meadows Subdivision which will expire on September 21, 2011.

Councilman Jessup moved to recommend the re-approval, seconded by Councilman Polhemus. The motion carried.

Mr. Luna stated that the Board has been working on adopting a HAM RADIO policy. The matter was discussed earlier at the workshop.

## **Committee Reports**

### **Water and Sewer**

Steve Mance reported that there had been a water main break in the Overlook area due to a valve that had blown out. The valve was 4 or 5 years old, but he was uncertain as to why it failed. Only one house had lost water during the break. The break is now fixed.

A brief discussion followed.

## **Recreation**

Peter Huff reported that it had been a good summer.

## **Open Space**

No report

## **Highway**

No report

## **Town Attorney**

No comments

## **Administrator of Public Works**

No comments

## **Town Board Comments**

No comments

## **Public Comment**

Councilman Beck moved to open the Public Comment, seconded by Councilman Jessup. The motion was carried by all.

Ralph Rabasco addressed the Board. Mr. Rabasco asked why the Town had not contacted the bank on the foreclosure property that the Town plans to mow.

Councilman Beck and Councilman Jessup explained that the lien means that the Town will be paid for any lawn maintenance by the County since the amount will be added to the property's tax assessment.

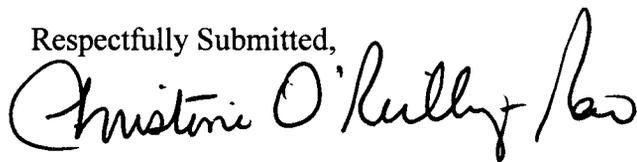
Councilman Jessup moved to close the Public Comment, seconded by Councilman Beck. The motion was carried by all.

Deputy Supervisor Luna asked for a motion to adjourn.

Councilman Jessup so moved, seconded by Councilman Polhemus. The motion was carried by all.

The meeting adjourned at 7:30 p.m.

Respectfully Submitted,

A handwritten signature in black ink, reading "Christine O'Reilly-Rao". The signature is written in a cursive style with a large initial 'C' and a long, sweeping tail.

Christine O'Reilly-Rao  
LaGrange Town Clerk

### **Addendum**

- Affidavit of Publication: Local Law #5
- Resolution of Adoption: Local Law #5 (FURNACES)
- Resolution: Agreement with Peter and Elizabeth Dama (36 Horseshoe Drive)

# Poughkeepsie Journal

Poughkeepsie, N.Y.

## AFFIDAVIT OF PUBLICATION

State of New York  
County of Dutchess  
City of Poughkeepsie

Rita Lombardi, \_\_\_\_\_ of the City of Poughkeepsie,  
Dutchess County, New York, being duly sworn, says  
that at the several times hereinafter mentioned he/she  
was and still is the Principle Clerk of the Poughkeepsie  
Newspapers Division of Gannett Satellite Information  
Network, Inc., publisher of the Poughkeepsie Journal, a  
newspaper published every day in the year 2011 in the  
city of Poughkeepsie, Dutchess County, New York, and  
that the annexed Notice was duly published in the said  
newspaper for one insertion  
successively, in each week, commencing on the 17th  
day of Aug. in the year of 2011 and  
on the following dates thereafter, namely on:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

And ending on the \_\_\_\_\_ day of \_\_\_\_\_ in  
the year of 2011, both days inclusive.

*Rita Lombardi*  
Subscribed and sworn to before me this 18 day  
of August in the year of 2011.

*Janice Katz*  
\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

8:30 a.m. and 3:30 p.m.,  
between the date of  
this notice and the date  
of the public hearing.  
TAKE FURTHER NO-  
TICE, that all persons  
interested and citizens  
shall have an opportu-  
nity to be heard on said  
proposal at the time  
and place aforesaid.  
DATED: LaGrangeville,  
New York  
August 10, 2011  
CHRISTINE O'REI-  
LLY RAO  
TOWN CLERK  
6152

NOTICE OF  
PUBLIC HEARING  
TAKE NOTICE, that the  
Town Board of the  
Town of LaGrange will  
hold a public hearing at  
the Town Hall, 120  
Stringham Road, La-  
Grangeville, New York  
on August 24, 2011 at  
7:00 o'clock, p.m., on  
Local Law No. 5 of the  
Year 2011, creating a  
new Chapter 35, "Fu-  
rnaces," dealing with  
outdoor furnaces and  
devices used to supply  
heat or energy to interi-  
or spaces.  
TAKE FURTHER NO-  
TICE, that copies of the  
aforesaid proposed lo-  
cal law will be available  
for examination at the  
office of the Clerk of the  
Town of LaGrange, at  
the Town Hall, 120  
Stringham Road, La-  
Grangeville, New York  
between the hours of  
8:30 a.m. and 4:00 p.m.  
on all business days,  
except Tuesdays when  
the hours are between

JANICE KATZ  
NOTARY PUBLIC, State of New York  
NO. 01KA6215075  
Qualified in Dutchess County  
Commission Expires December 21, 2013

**RESOLUTION**

Councilman Jessup offered the following resolution which was seconded by Councilman Polhemus, who moved its adoption:

WHEREAS, a local law was introduced entitled A LOCAL LAW OF THE TOWN OF LAGRANGE, DUTCHESS COUNTY, NEW YORK, AMENDING THE TOWN CODE TO ADD A NEW CHAPTER 35 ENTITLED "FURNACES."

WHEREAS, a public hearing in relation to said local law was held on August 24, 2011 at 7:00 p.m., prevailing time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of LaGrange for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:

Section 1. The LaGrange Town Code is amended to add the following new Chapter 35 entitled "Furnaces", and reading as follows:

**Chapter 35**

**FURNACES**

**ARTICLE I**

**Outdoor Furnaces and Devices for Providing  
Internal Heat or Energy**

**§ 35-1. Purpose and scope.**

A. Residents and commercial establishments situated within the Town of LaGrange are entitled to clear air and environmental circumstances free of emitted particulates, smoke, odors, gases, mists, and fumes which injure human, plant or animal life or property, or which unreasonably interfere with the comfortable enjoyment of life or property. Also, such residents

and establishments are entitled to an environment free of outdoor storage of wastes, debris and combustible fuels in close proximity.

B. This article shall provide standards and limitations for the installation and use of any outdoor furnace or furnace device, the purposes of which are to convert combustible fuel into a heat or energy for distribution to interior building spaces.

C. The purpose of this article is to supplement, rather than to supersede or replace, all relevant regulations of this state, and administered by its Department of Environmental Conservation, relating to outdoor furnaces and devices used to provide heat and energy to interiors. The Town shall have concurrent jurisdiction over such matters through this article, and it is the intent that the installation, use and maintenance standards identified in 6 NYCRR Parts 200 and 247 of the Regulations of the Department of Environmental Conservation shall apply and shall not be deemed superseded by this article unless the standards of this article are stricter than the state regulatory standards, it being the intent of this article to provide for concurrent local regulation and enforcement of the subject.

### **§ 35-2. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

EXTERIOR FURNACE – Any device, contrivance or apparatus, or any part thereof, which is installed, affixed or situated out-of-doors for the primary purpose of the combustion of fuel from which heat or energy is derived and intended to be directed by conduit or other mechanism into any interior building space for the supply of heat or energy.

FURNACE DEVICE, EXTERIOR – Any contrivance, apparatus or part thereof, including a boiler, fire box, exchanger, grate, fuel gun, fuel nozzle, chimney, smoke pipe, exhaust conduit or similar or like devices used in connection with an exterior furnace for the burning of combustible fuels for the creation of heat or energy, and the distribution of heat and energy into an interior building space.

COMMERCIAL SIZE OUTDOOR WOOD BOILER – A new outdoor wood boiler with a thermal output rating greater than 250,000 British thermal units per hour (Btu/h).

### **§ 35-3. Installation standards; fuel limitations.**

A. Standards for the installation of any exterior furnace or furnace device, exterior, in addition to meeting any and all manufacturer's recommended installation requirements, and the installation, use and maintenance standards established by state regulation, shall also comply with the following:

(1) Permanent installation upon a nominal six-inch thick permanent, reinforced cement pad in such dimensions so as to allow a minimum width of six inches of uncovered and exposed surface area extending inward from the perimeter of all sides of the pad.

(2) All exterior furnaces and furnace devices, including but not limited to smoke stacks, must comply with the 100 foot setback standards promulgated for outdoor wood boilers at 6 NYCRR 247.5(b) of the regulations of the Department of Environmental Conservation. Smoke Stack height shall meet the standards of 18 feet above ground level established in 6 NYCRR 247.5(c) of the regulations of the Department of Environmental Conservation.

(a) An exterior furnace or furnace device must comply with all standards and restrictions set forth within 6 NYCRR Parts 200 and 247 of the regulations of the Department of Environmental Conservation.

(3) Installation of any electrical or plumbing apparatus or device used in connection with the operation of an exterior furnace or furnace device shall conform to all applicable electrical and plumbing codes or, in the absence of such relevant code provision, then in conformity with the manufacturer's installation specifications.

(4) The installation and use of a commercial size outdoor wood boiler for a residence or dwelling is prohibited.

B. Fuels permitted for combustion in an exterior furnace or furnace device shall be limited those fuels which are identified within 6 NYCRR Section 247.4 of the regulations of the Department of Environmental Conservation.

C. Fuel substances prohibited for combustion in an exterior furnace installation shall include all fuels or substances prohibited within 6 NYCRR Section 247.3 of the regulations of the Department of Environmental Conservation, and including but not limited to industrial waste, rubber, plastic, used motor oil, toxic chemicals, contaminated waste, yard waste, household garbage, cardboard and wastepaper, animal waste

D. No exterior furnace or furnace device shall be utilized in any manner as a waste incinerator.

E. No exterior furnace or furnace device shall be operated between May 1<sup>st</sup> and November 1<sup>st</sup> for any purpose.

F. Any resident wishing to install and use an exterior furnace or furnace device must secure a permit from the Building Inspector of the Town of LaGrange. The permit, if issued will allow the permit holder to install and use an exterior furnace or furnace device in accordance with the requirements set forth in this article. The permit fees may be established from time to time by resolution by the Town Board, which fee shall not be less than \$250.00 per unit. No permit shall be issued unless all owners of the subject parcel provide the Town with a recordable covenant to allow the Town's Building Inspector, or other town code enforcement officer, to enter upon the parcel to inspect the installation, repair, operation or maintenance of an exterior furnace or furnace device in compliance with the standards identified in this article.

**§ 35-4. Requirements of installation and maintenance.**

The installation, maintenance and use of any exterior furnace or furnace device shall comply with any and all applicable standards established by federal, state or local laws or regulations, and shall be in conformance with the manufacturer's specifications.

**§ 35-5. Nonapplicability to interior systems.**

This article shall not apply to installation, operation or use of exterior chimneys, stove pipes or similar devices constituting any part of an interior furnace or stove system, or any system that provides for the exhaust of heat, smoke or similar substances from interior spaces exclusively.

**§ 35-6. Penalties for offenses.**

A. Any resident who has secured a permit to install and operate a device or apparatus regulated by this article, in doing so will also be agreeing to allow the Town Code Enforcement Officer or any other person designated by the Town to inspect the outdoor furnace if a complaint is filed in writing relative to a violation of this article.

(1) Any person who has secured a permit to install and operate a device or apparatus regulated by this article, and who is observed by the town code enforcement officer to operate said device or apparatus in violation of this article, shall be subject to the issuance of a stop order directing suspension of both the permit and the use pending disposition of violations which are issued by the enforcement officer.

B. Any person or entity installing, repairing, maintaining or operating an external furnace or furnace device in violation of any standard identified in this article, or violating a stop order issued under subsection A of this section, shall have committed an offense punishable by a fine not to exceed \$500.00, or imposition of a sentence of imprisonment not to exceed fifteen days, or both. Each day's continuing violation shall constitute a separate offense.

C. Violations of this article shall, in addition to any fine or imprisonment imposed, be enforceable by actions brought by the Town for injunctive relief, and any person or entity violating the provisions of this article shall be responsible to the Town for any costs of any civil proceedings that may be brought for injunctive relief, including actual disbursements and reasonable attorneys fees incurred by the Town.

Section 2. This local law shall take effect upon filing with the Secretary of State.

RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York, such certified copy to have attached thereto a certificate executed by the attorney

for the Town of LaGrange that it contains the correct text and that all proper proceedings have been had or taken for the enactment of this local law.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Wagner	ABSENT
Deputy Supervisor Luna	AYE
Councilman Beck	AYE
Councilman Jessup	AYE
Councilman Polhemus	AYE

DATED: LaGrangeville, New York  
August 24, 2011

  
CHRISTINE O'REILLY-RAO  
Town Clerk

## RESOLUTION

Councilman Beck offered the following resolution which was seconded by Councilman Jessup, who moved for its adoption:

WHEREAS, PETER PAUL DAMA and ELIZABETH M. DAMA (“Owner”) are the owners of certain improved real property located at 36 Horseshoe Drive in the Town of LaGrange; and

WHEREAS, the Town has negotiated an Agreement with the Owners, attached hereto as Exhibit “A”.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby approves and authorizes the Supervisor to execute the proposed Agreement between the Town and Owners, annexed hereto as Exhibit “A”, or any other agreement having substantially the same or similar provisions.

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Wagner	ABSENT
Deputy Supervisor Luna	AYE
Councilman Beck	AYE
Councilman Jessup	AYE
Councilman Polhemus	AYE

DATED: LaGrangeville, New York  
August 24, 2011

  
CHRISTINE O'REILLY-RAO  
Town Clerk

**AGREEMENT**

AGREEMENT made this \_\_\_\_\_ day of August, 2011, between the TOWN OF LAGRANGE, a municipal corporation with a principal office at Town Hall, 120 Stringham Road, LaGrangeville, New York, 12540 ("Town") and PETER PAUL DAMA and ELIZABETH M. DAMA, residing at 36 Horseshoe Drive, Poughkeepsie, New York, 12603 ("Owners").

WHEREAS, Owners have asserted a claim or potential claim against the Town related to restoration of a portion of an existing driveway located at their residential real property 36 Horseshoe Drive, Town of LaGrange, New York ("Premises"); and

WHEREAS, without admitting any liability or responsibility, the Town hereby resolves this claim or potential claim.

NOW, IT IS HEREBY AGREED by and between the parties, for mutual consideration, as follows:

1. The Town, through use of forces and labor of its Highway Department, shall restore and pave the portion of the Owners' paved driveway at the Premises which Owners were previously requested to remove, and removed, pursuant to the request of the Town.

2. The Town will perform this restorative work on the Owners' Premises before September 30, 2011.

3. Owners hereby waive and release any claims against the Town, or any of its public officers, employees, or agents concerning, or arising out of, the subject matter of this Agreement.

4. The Town shall forebear from enforcement of any issues pertaining to the existing driveway and contiguous paved parking pad which currently exists at the Premises.

5. Owners will apply to the Town, for review and approval under Chapter 199 of the Town Code, prior to any modifications of the existing dimensions and locations of paved driveway or parking pad currently existing on the Premises.

6. This constitutes the full and complete agreement between the parties in settlement of the claim or potential claim, and may not be modified except in writing signed by the parties hereto.

TOWN OF LAGRANGE

By: \_\_\_\_\_  
JON J. WAGNER, SUPERVISOR

\_\_\_\_\_  
PETER PAUL DAMA

\_\_\_\_\_  
ELIZABETH M. DAMA