

**TOWN OF BRUNSWICK  
REGULAR TOWN BOARD MEETING  
APRIL 8, 2010, 7:00 P.M.  
TOWN HALL**

**Board Members Present:** Supervisor Herrington, Councilman Poletto, Councilman Salvi, Councilman Casale and Councilman Sullivan.

**Board Members Absent:** None.

**Also Present:** Town Attorney, Thomas Cioffi, and Town Clerk, Susan Quest-Sherman.

Supervisor Herrington called the meeting to order at 7:10 p.m.

All joined in with the salute to the flag.

**VISITORS WHO WISH TO SPEAK:**

Mr. Bobby Hatman, Film Ave., was concerned about the condition of the area around Cooper's Pond. He wants to know what is being done to secure the area and clean it up.

Supervisor Herrington explained that there was a request from residents to clean up the area.

Mr. Hatman stated that residents in the area were not consulted.

Councilman Poletto explained that the Town is looking into putting up signage and Jersey Barriers.

Supervisor Herrington will visit the area to look at it.

Councilman Casale has been down to the area.

Mrs. Alma Birnboim, 13 Lisa Lane, was concerned with the extent of the cutting. There is water run off and cars will have problems in the winter.

Supervisor Herrington explained that the tax payers own and are supporting the pond.

Mrs. Birnboim is concerned that people are coming onto her property and littering. She is concerned that the neighbors were not consulted.

Councilman Salvi explained that the Town cleans Town Property without asking neighbors. The Town is just trying to maintain Town Property.

Mrs. Birnboim complained that the Town has not plowed all the way down the road. She is upset that no one asked the residents and now there is a security concern.

Supervisor Herrington noticed that there were many residents in attendance with questions about the Gallivan PDD application so he asked Mr. Gilchrist to give an update,

Mr. Gilchrist gave an overview of the process of the Oakwood Properties PDD application. The applicant needs to do additional field review. Noise will be looked at as well odor generation. There is a proposed Resolution before the Board tonight to schedule a Public Hearing. Mr. Gilchrist felt that the applicant will need to time to perform the studies.

Supervisor Herrington is concerned with the amount of time the applicant has taken so far.

Mr. Gilchrist further explained that the applicant has retained an engineer for technical review, and archeology firm for the archeological assessment, and an expert for the noise assessment. The City of Troy is being consulted as part of the property is within the City Limits.

Supervisor Herrington understands that the neighbors are concerned with the noise issue and asked Mr. Kreiger about any restriction which were placed on the applicant with their previous site plan approval.

Mr. Kreiger explained that a condition of the prior approval only concerned the use of a tub grinder. The hours of operation for the grinder were 7:00 a.m. – 7:00 p.m. The prior approval did state that if noise becomes a problem the applicant was to come back before the Planning Board.

Supervisor Herrington will speak to the applicant about the noise and hours of operation.

Councilman Poletto asked if the Town has the right to alter the 5 acres which are already approved.

Mr. Gilchrist is of the opinion that the PDD application is covering the entire operation even though there is the prior approval on the original site plan.

Councilman Casale asked if the Town Board is allowed to examine the Site.

Mr. Gilchrist did not believe the applicant would have any objections.

Councilman Salvi asked how the odor issue can be addressed.

Mr. Gilchrist doesn't believe that there is any kind of objective standard or test for odor. There can be an analysis of the materials in the piles and what physical changes are occurring in the piles. The Town is speaking to the DEC Region 4 and Regulator Affairs about issued permits.

Mr. Mike Shongar mentioned that during the last three years there seems to have been a change in the operation which has increased noise and odor. He is retired and cannot enjoy his deck and is being awoken by truck noise at 6:00 a.m.

Councilman Poletto mentioned that with a PDD there can be restrictions on hours of operation.

Mr. Shongar believes that sewage is being mixed into the mulch.

Mr. Tom Meyer, Northstar Dr., is concerned that the Applicant has already proven that he shouldn't have this application approved. The applicant has shown that he cannot be trusted to follow the rules. He believes that the application should be dismissed out of hand.

Councilman Poletto explained that a process must be followed.

Mr. Cioffi explained that the application was accepted and the applicant has expended a considerable amount of funds.

Mr. Gilchrist as an attorney explained that he is representing the Town in litigation dealing with land use issues. If an application is dismissed out of hand it could be seen as arbitrary. Any decision must be based on a defensible record.

Mr. Meyer believes that the applicant will not abide with conditions.

Mr. Ron Brosnihan, 14 Northstar Dr., explained that the site stinks and there is a lot of noise and believes that there is sewage on the site. He would like to know what the criteria are for the Board to deny the operation.

Supervisor Herrington explained that the Applicant has retained counsel.

Mr. Gilchrist explained that the Board must comply with the Zoning Code, which means that the project is to be reviewed on a case by case basis based on the evidence presented and then it is up to the Board's Discretion. The evidence can come from the applicant, residents and concerned Agencies.

Mrs. Kim Meyer, Lindsay Dr., objects to the odor and if the Town could review what is happening on the site on a day by day basis.

Councilman Sullivan asked if there was any log of resident's complaints.

Ms. Maureen Sullivan, 18 Northstar Dr., has many complaints. She has a problem with the odor almost every day. She cannot use her Jacuzzi or deck. She would like to know what is in the mulch and the safety of it. She is also concerned about the hours of operation. The property was cemetery property when she moved into her house. The operation has diminished the value and quality of her home. She wants to know why they weren't shut down when the operation expanded.

Mr. Gilchrist explained that DEC has been to the site and have done inspections and have found no violations.

Supervisor Herrington stated that the applicant has purchased additional land and expanded their business and that is what is being addressed now. The site is an industrial zone.

Councilman Poletto explained that the residents will have the opportunity to voice all their concerns at the Public Hearing. The applicant then must address the concerns.

Mr. Gilchrist explained the process of the Public Hearing and the PDD process.

Supervisor Herrington asked that if the Public asks at the Hearing if there is anything in the mulch does the applicant need to answer.

Mr. Gilchrist stated that would have to be answered and they must describe accurately what is happening at the site. They must be factually correct.

Supervisor Herrington repeated that the Public Hearing is May 18<sup>th</sup>. There will be a stenographer at the hearing.

Mrs. Joanne Vadney, Northstar Dr., explained that the previous day the odor was especially bad. She asked if the Town could ask for a soil test and an air quality test.

Mr. Kestner explained that there is a particulate test which can be preformed.

Mrs. Vadney asked if methane could be tested for and checked to see if there is manure in the piles.

Mr. Gilchrist explained that these should be reviewed with the Town's consultants and should be raised at the Public Hearing.

**BUSINESS MEETING:**

**MINUTES OF THE PREVIOUS MEETING:**

Councilman Salvi made a motion to accept the Minutes of the previous meeting, seconded by Councilman Sullivan. Approved.

**REPORTS:**

*Town Clerk:* Susan Quest-Sherman

The Town Clerk submitted a written report for the month of March. A check for \$5,574.00 will be remitted to the Supervisor's Office. The Town Clerk's Office will be closed for a few hours on April 26<sup>th</sup> as there is a Town Clerk's Association Meeting in Saratoga where the proposed changes in dog licensing will be addressed. The importance of the issue necessitates that both the Town Clerk and Bill Lewis, Deputy Clerk, should attend. All dog licensing issues will be handled at the Town level after January 1<sup>st</sup>. A motion to accept the Town Clerk's Report was made by Councilman Poletto, seconded by Councilman Sullivan. Approved. A copy of the report is on file in the Town Clerk's Office.

Highway Report & Water & Sewer Report: Doug Eddy

Mr. Eddy was absent but had submitted written reports for the month of March.

Town Historian: Sharon Zankel

Mrs. Zankel was absent but had submitted a written report.

Family Community Center: Bill DeFilippis

Mr. DeFilippis submitted a written report.

Councilman Poletto made a motion to accept the written reports as submitted seconded by Supervisor Herrington. Approved. Copies of the written reports are on file in the Town Clerk's Office.

Superintendent of Utilities & Inspection: John Krieger

Mr. Krieger presented his report for the month of March \$8,542.77 will be remitted to the Supervisor's Office. Motion to accept Mr. Krieger's report was made by Councilman Poletto, seconded by Councilman Salvi. Approved. A copy of the report is on file in the Town Clerk's Office.

Town Attorney: Thomas Cioffi

Mr. Cioffi gave his report for the month of March. Aside from routine matters Mr. Cioffi has continued to work with other Town Officials on the turnover of the Wal-Mart Pump Station. He has also been working on the water supply contract, Road dedications and some tax assessment issues. Motion to accept Mr. Cioffi's report was made by Councilman Salvi, seconded by Councilman Casale. Approved.

Recycling Coordinator: Thomas Engster

Mr. Engster presented his report for the month of March. Motion to accept Mr. Engster's report was made by Councilman Poletto, seconded by Councilman Casale. Approved. A copy of the report is on file in the Town Clerk's Office.

Youth Commissioner: Councilman Salvi

Councilman Salvi thanked Dan and the Highway guys for getting the fields up and running. Opening Days are April 17 for Babe Ruth, Little League is April 25<sup>th</sup>, Softball is April 24<sup>th</sup> and on April 15<sup>th</sup> the Valley Cats will be at the Little League field to fix up the field. A motion was made by Councilman Sullivan seconded by Councilman Poletto to accept the report. Approved.

Brunswick Community Library: Julie Zelman

Ms. Zelman presented the Library report for the month of March. A motion to accept the Library's report was made by Councilman Casale, seconded by Councilman Salvi. Approved. A copy of the report is on file in the Town Clerk's Office.

**RESOLUTIONS:**

**Resolution No. 34** Resolution Accepting Proposal for Architectural Services. The foregoing Resolution offered by Supervisor Herrington and seconded by Councilman Sullivan was duly put to a roll call vote as follows: Councilman Salvi, Voting Aye; Councilman Casale, Voting Aye; Councilman Sullivan, Voting Aye; Councilman Poletto, Voting Aye; Supervisor Herrington, Voting Aye. The foregoing Resolution was thereupon declared duly adopted.

**Resolution No. 35** Resolution Declaring Items to be Surplus Property. The foregoing Resolution offered by Councilman Salvi and seconded by Councilman Casale was duly put to a roll call vote as follows: Councilman Salvi, Voting Aye; Councilman Casale, Voting Aye; Councilman Sullivan, Voting Aye; Councilman Poletto, Voting Aye; Supervisor Herrington, Voting Aye. The foregoing Resolution was thereupon declared duly adopted.

**Resolution No. 36** Resolution Appointing and Fixing Compensation of Temporary Town Employee. The foregoing Resolution offered by Supervisor Herrington and seconded by Councilman Salvi was duly put to a roll call vote as follows: Councilman Salvi, Voting Aye; Councilman Poletto, Voting Aye; Councilman Sullivan, Voting Aye; Councilman Poletto, Abstaining; Supervisor Herrington, Voting Aye. The foregoing Resolution was thereupon declared duly adopted.

**Resolution No. 37** Resolution Setting Public Hearing for Oakwood Property Management, LLC Planned Development District. The foregoing Resolution offered by Councilman Poletto, and seconded by Councilman Casale was put to a roll call vote as follows: Councilman Salvi, Voting Aye; Councilman Casale, Voting Aye; Councilman Sullivan, Voting Aye; Councilman Poletto, Voting Aye; Supervisor Herrington, Voting Aye. The foregoing Resolution was thereupon declared duly adopted.

*The Public Hearing was set for Tuesday May 18<sup>th</sup>, 2010 at 6:30 p.m. at the Town Hall.*

Mr. Gilchrist reviewed the proposed amendment to the Brunswick West Apartments. The project has received positive recommendations from the Planning Board and the Zoning Board. Comments have been received from interested agencies. A Public Hearing was held with only one comment received. The application has been deemed complete.

Mr. Kestner reviewed the Part 2 – Project Impacts and their Magnitude and the Analysis of Potential Environmental Impacts under SEQRA (Supplement to FEAF Part II). These documents will be annexed to the minutes.

**Resolution No. 38** Resolution Approving Adoption of Negative Declaration Pursuant to State Environmental Quality Review Act for Brunswick West Apartments Application to the Town of Brunswick. The foregoing Resolution offered by Councilman Poletto and seconded by Councilman Salvi was duly put to a roll call vote as follows: Councilman Salvi, Voting Aye; Councilman Casale, Voting Aye; Councilman Sullivan, Voting Aye; Councilman Poletto Voting Aye; Supervisor Herrington, Voting Aye. The foregoing Resolution was thereupon declared duly adopted.

Mr. Gilchrist explained that the application process was now complete and could be acted upon.

**Resolution No. 39** Resolution Approving the Brunswick West Apartments Planned Development District Amendment. The foregoing Resolution offered by Councilman Salvi and seconded by Councilman Casale was duly put to a roll call vote as follows: Councilman Salvi, Voting Aye; Councilman Casale, Voting Aye; Councilman Sullivan, Voting Aye;

Councilman Poletto, Voting Aye; Supervisor Herrington, Voting Aye. The foregoing Resolution was thereupon declared duly adopted.

**CORRESPONDENCE:**

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

Councilman Salvi informed the Board that the Town Has received a grant for \$250,000 from NYSERTA to put solar panels on the Town Office.

**WARRANTS:** Warrants No. 3191001 through 3191013, No. 100326 through 100360, No. 4021001 through 4021012 and No. 100361 through 100454 were presented. Councilman Poletto made a motion to approve the warrants seconded by Councilman Sullivan. Approved.

**FURTHER COMMENTS BY VISITORS:**

None.

At 9:08 p.m. Supervisor Herrington made a motion to go into executive session to discuss the Water Transportation Agreement with the Town of Poestenkill, seconded by Councilman Poletto.

At 9:40 p.m. Councilman Salvi made a motion to return to Regular Session seconded by Councilman Poletto. No action was taken in Executive Session.

**ADJOURNMENT:**

Councilman Poletto made a motion to adjourn the meeting, seconded by Councilman Salvi. Approved. The meeting adjourned at 9:42 p.m.

Respectfully submitted,

Susan Quest-Sherman  
Town Clerk

Note: An audio compact disc of this meeting is available in the Town Clerk's Office.