

TOWN OF GOSHEN  
TOWN COUNCIL MEETING  
January 24, 2008

MINUTES

A regular meeting of the Town Council of the Town of Goshen was held on the 24<sup>th</sup> day of January, 2008 at 7:30pm at Town Hall located at 41 Webster Avenue, Village of Goshen, County of Orange, State of New York.

Present: Douglas Bloomfield Supervisor  
Philip Canterino Councilmember  
Louis Cappella Councilmember  
George Lyons Councilmember  
Kenneth Newbold Councilmember

Also Present: Dennis Caplicki Town Attorney  
Susan Maysels Deputy Town Clerk  
Edwin Garling Town Planner

**A. CALL TO ORDER**

The meeting was called to order by Supervisor Bloomfield at 7:30pm, followed by the Pledge of Allegiance.

**B. AMENDMENT TO THE AGENDA**

None.

**C. PRIVILEGE OF THE FLOOR**

None.

**D. OLD BUSINESS**

1. **Public Hearing on Proposed Local Law #1 of 2008 entitled "Local Law Instituting a Moratorium on Certain Residential Subdivision & Zoning Approvals in the Town of Goshen".**

Councilmember Cappella made a motion to open the public hearing. Councilmember Canterino seconded the motion.

On a voice vote, the motion to open the public hearing passed:

5 Ayes Bloomfield, Canterino, Cappella, Lyons, Newbold  
0 Nays

Supervisor Bloomfield requested that the following letters regarding proposed Local Law #1 of 2008 be entered into the meeting record:

- a) Thomas Murphy, 7 Good Time Court, Goshen, New York  
One-page letter dated January 24, 2008 in support of instituting the moratorium.
- b) Alan S. Lipman, Fabricant Lipman & Frishberg, PLLC, 1 Harriman Square, Goshen, New York  
Three-page letter dated January 24, 2008 on behalf of Hambletonian Group LLC regarding Section F of Hambletonian Park subdivision requesting that the lands of the Hambletonian Group LLC be excluded from this moratorium.
- c) James G. Sweeney PC, 1 Harriman Square, Goshen, New York

Five-page letter dated January 15, 2008 on behalf of several developers of proposed projects in the Town of Goshen containing comments and requesting that the Town Council reject the resolution to institute the moratorium.

Supervisor Bloomfield asked Attorney Caplicki to read into the record the following report from Orange County Department of Planning:

"Orange County Department of Planning 239 L, M or N Report

*This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and countywide considerations to the attention of the municipal agency having jurisdiction.*

Referred by: Town of Goshen      Applicant: Town of Goshen  
Reference/County ID No.: GOT34-07M  
Proposed Action: Building moratorium on residential development of 20 or more lots. Proposed Local Law #1 of 2008  
County Tax IDs: Town-wide      Date of Full Statement: December, 2007

*We have reviewed Local Law #1 in accordance with Section 239, Paragraphs l and m of the General Municipal Law and the Intergovernmental Agreement between the Town of Goshen and the County of Orange.*

*While we appreciate the development trends, and find that the text of the proposed Local Law #1 of 2008 provides excellent and adequate background on the need for such a moratorium, we caution you that moratoriums alone are at best short-term solutions allowing the Town time to research, analyze and implement real solutions. Moratoriums should be no longer in duration as necessary to bring about meaningful solutions to problems for which they have been enacted. What constitutes a reasonable length of time for a moratorium varies by circumstance. It is clear that the longer a moratorium is in effect, the greater the risk it will be challenged. Essentially, we recommend that you finalize the revisions to your land use and zoning regulation as soon as possible prior to the eight months cited as the expiration date of the proposed moratorium. The Planning Department is also prepared to provide any research or analysis assistance the Town of Goshen may need.*

County Recommendation: Local Determination  
Date: January 14, 2008      Signed: David Church, AICP,  
Commissioner of Planning"

Supervisor Bloomfield invited all comments on the proposed Local Law #1. The following members of the public spoke during the public hearing:

James G. Sweeney, attorney with offices in Goshen, referred Council to his letter entered into the record above, which fully addresses his clients' legal objections to the moratorium. Mr. Sweeney stated that his client, A & L Developers have received conditional final approval from the Town of Goshen Planning Board. The moratorium should not apply to developers who have received this level of approval because they have finished the planning process and need no further approvals from the Town. A & L only has to complete the list of conditions to be final. It is unfair to have the moratorium apply to developers at this stage in the process.

Floyd Makuen, 72 South Church Street, Goshen, owner of acreage on Route 17A in the Town of Goshen, under contract with Orlean Builders to develop a planned adult community (PAC). Mr. Makuen requested that his

petition with over fifty signatures and three letters in support of the PAC on Route 17A, be entered into the record of this public hearing. He and others believe this PAC project is needed because Goshen is losing seniors to neighboring states and towns.

Michael Zarin of Zarin & Steinmetz Attorneys at Law, 81 Main Street, White Plains, New York, representing Ginsburg Development Companies, LLC which is the contract vendee to develop 109 ± acres on Route 17A, known as Prospect Hill spoke against the moratorium. He registered protest to Local Law #1 on behalf of GDC who purchased the land in 2003, waited out the first moratorium, which was in place from 2002 to 2004, then received a notice from Supervisor Bloomfield in April 2006 that changes to the zoning code were likely and developers continued with their planning process at their own risk. Now another moratorium may be in place until the end of 2008. The result is a *de facto* moratorium from 2002 to 2009 which is unreasonable regardless of the merits of the Town's planning process. Mr. Zarin suggests that the Town seek other means of addressing its zoning concerns. Mr. Zarin entered into the record of the public hearing, his four-page letter dated January 24, 2008 which fully addresses his concerns and objections.

Jim Tarvin, 216 North Church Street, Goshen spoke on behalf of PACs. Mr. Tarvin noted that the Town & Village of Goshen have done great projects in past years including new sewer plant, new fire houses, new water line, etc all wonderful, long-overdue assets to the community. Of course they all raise taxes. The moratorium delays two PAC developments which would bring added tax revenue and no burden on the schools. He stated that they are positive additions to communities in that they bring human assets as well as financial. He hopes that the moratorium is a short term delay and does not prevent PACs.

Dan Matteo, 21 Knapp Terrace, Goshen stated that builders are needed for growth, but growth has to be done right and in moderation. The level of aggressiveness of developers has turned our town into one on steroids. The terms developers use are meant to deceive. Terms such as "smart growth", "lollipop theory", "open space", "sprawl", etc. manipulate. Fifty percent open space is a good thing, but just as important is what is built on the other half. Residents do not hear about cluster development, density, affordable housing, and multiple dwellings from developers because these are not characteristic of Goshen, but it's more financially acceptable to developers. This type of development will change Goshen forever. Raw land does not give a town character, what is built and how it is built, give a town character. Changing the rules on developers is not something to feel bad about because they have been unfair from the beginning in their attempt to manipulate. He commends the Town Council for their insightfulness and courage to initiate this moratorium to amend the Comprehensive Plan to maintain the charm, integrity and characteristics of Goshen. Mr. Matteo believes it's in the town's best interest for the Council and Planning Board to work together. But since there are three people on the Planning Board who worked on the Committee to develop the existing Comprehensive Plan, their vested interest in the Comprehensive Plan is counter to the direction Council wants to go in, so maybe change is needed.

Clara Leonard, Brookside Drive, Goshen urged Council to pass the moratorium and to look at all that will be affected. Her street will be surrounded by 400 new houses unless codes are changed. During the moratorium period, Council must examine the impact on wells, traffic, and waste disposal. This moratorium will allow Council the time it needs to find alternative plans for constituents. She begs Council to carefully consider those who live here at present, who built this township, not those who may come in the future. Developers should not be allowed to buy the community. Planning must be fiscally sound, ecologically minded and fore thinking. Ms. Leonard asks Council to plan in this manner.

With no more speakers, Councilmember Newbold made a motion to close the public hearing on Local Law #1 of 2008. Councilmember Canterino seconded the motion.

Motion passed:            5 ayes                    Bloomfield, Canterino, Cappella, Lyons, Newbold  
   0 nays

Councilmember Newbold made a motion to adopt Local Law #1 of 2008: A Local Law Instituting a Moratorium on Certain Residential Subdivision and Zoning Approvals in the Town of Goshen. Councilmember Lyons seconded the motion.

Supervisor Bloomfield asked Town Attorney Caplicki to read the statement accompanying the adoption of Local Law #1 of 2008. Attorney Caplicki noted that the following statement is a clarification statement, not an amendment to Local Law #1 of 2008.

STATEMENT ACCOMPANYING THE ADOPTION OF  
A Local Law Instituting a Moratorium on Certain Residential  
Subdivision and Zone Approvals in the Town of Goshen

As stated in the Purpose Section of the Local Law, the passage of this law is to maintain the *status quo* in the planning approval process as to large residential developments of twenty units or lots in order to give the Town Council sufficient time to analyze and determine potential changes to the Town's Comprehensive Plan and Zoning Code. To ensure that the *status quo* is indeed maintained, the Local Law, among other things, prohibits the Planning Board from granting final approval for any site plan, special permit, subdivision, etc. Because some developers have questioned the meaning of "final approval" in the Local Law we wish to clarify what is intended and what we believe is obvious from the clear language of the Local Law. "Final approval" is simply a final approval of any kind concerning an application, *i.e.*, a final approval with or without conditions, and as "final approvals" are defined, discussed, and conditioned in the current Zoning Code.

Supervisor Bloomfield asked Attorney Caplicki to summarize the content of Local Law #1. Attorney Caplicki stated that the moratorium applies to residential projects of twenty (20) or more lots or units only. Commercial properties are unaffected. The projected duration of the moratorium is eight (8) months.

Supervisor Bloomfield opened discussion on the motion. He informed the public that the Comprehensive Plan adopted in 2004 contained the statement that it was incumbent upon Council to review the Comprehensive Plan and Zoning Code every three years. Council undertook this review in 2007 and found some things they supported such as open space, but there were also some things that were problematic. To address these, Local Law #2 and #3 of 2007 were prepared. They were not all-inclusive but were meant to address the zoning code changes that were most important to act upon immediately. At the Public Hearings on these two Local Laws of 2007, developers and their attorneys advised Council of studies and tasks that needed to be done before new zoning laws could be enacted. Council accepted that information, consulted with professional planners on the cost and duration such studies would involve, which resulted in the estimated eight month time frame for the moratorium. Supervisor Bloomfield wants to impress upon the public and developers that professional consultants have been put on notice that this work is to be completed in eight months or less. Supervisor Bloomfield stated that Council is very well meaning in this. No one builder, developer, or land owner has been singled out; they are looking at the whole Town picture, at the entire Town's quality of life.

Councilmember Canterino said that once built, it is there forever. Council needs to stop and take a good look at what has developed over the past three years. He firmly believes that eight months is the maximum time frame for the moratorium. The primary purpose is to protect the citizens of Goshen.

Councilmember Lyons wanted to confirm that SEQR (State Environmental Quality Review) was taken care of for the Local Law #1. Attorney Caplicki confirmed that it was a Type Two SEQR and has been completed. Councilmember Lyons stated that in order to do the job right, time was needed. Therefore, he supports the eight month moratorium. He wanted to make it clear again that the moratorium applies to applicants holding a "conditional approval" or "final approval with conditions".

Councilmember Newbold would like to assure the public that the Council does not take this lightly. It has been very well considered and he thinks the right thing is being done.

Councilmember Cappella pointed out that Council has only one shot to get this right. The water problem has been an ongoing concern. He anticipates that the duration will be less than eight months because a large amount of work has already been done.

Supervisor Bloomfield wanted to clarify that during the moratorium, developers can continue with their planning. The bulk of the changes are those in proposed Local Laws #2 and #3 of 2007. There could be very little or no impact on projects beyond that. Council will be looking at water protocols and a couple of other things in addition, but a total redo of the code is not going to happen.

**RESOLUTION**

Local Law #1 of 2008

Local Law Instituting a Moratorium on Certain Residential  
Subdivision and Zoning Approvals in the Town of Goshen

INTRODUCED BY: Councilmember Newbold  
SECONDED BY: Councilmember Lyons  
DATED: January 24, 2008

At a meeting of the Town Council of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 24<sup>th</sup> day of January, 2008;

WHEREAS, on January 24, 2008 a Public hearing was held by the Town Council of the town of Goshen with respect to the adoption of Local Law #1 of 2008; and the Town Council of the Town of Goshen received public comment therein with respect to said Local Law,

NOW, THEREFORE BE IT RESOLVED, that Local Law #1 of 2008, a copy of which is on file with the Town Clerk of the Town of Goshen, be adopted.

ADOPTED by a ROLL CALL VOTE:

Supervisor Douglas Bloomfield	Aye
Councilmember Louis Cappella	Aye
Councilmember Philip Canterino	Aye
Councilmember George Lyons	Aye
Councilmember Kenneth Newbold	Aye

Vote: Resolution carried by a vote of 5 to 0

**2. Review & Approval of Minutes of the Following Meetings:**

January 7, 2008	Council Work Session
January 10, 2008	Council Meeting

Councilmember Newbold made a motion to approve the meeting minutes listed above. Councilmember Canterino seconded the motion.

On a voice vote, the motion PASSED: 4 Ayes Bloomfield, Canterino, Cappella, Newbold  
0 Nays  
1 Abstain Lyons

**E. NEW BUSINESS**

**1. RESOLUTION: Authorization to the Supervisor of the Town of Goshen to Sign a Proposal to hire the Law Firm of Donoghue, Thomas, Auslander & Drohan as Special Counsel to the Town**

**of Goshen with Respect to the Interest Arbitration Proceeding Between the Town of Goshen and the Town of Goshen Police Benevolent Association.**

INTRODUCED BY: Councilmember Cappella  
SECONDED BY: Councilmember Canterino  
DATED: January 24, 2008

At a meeting of the Town Council of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 24<sup>th</sup> day of January, 2008;

WHEREAS, the Town Council of the Town of Goshen is interested in hiring the Law Firm of Donoghue, Thomas, Auslander & Drohan of Hopewell Junction, New York as Special Counsel to the Town of Goshen in connection with the Interest Arbitration proceeding between the Town of Goshen and the Town of Goshen Police Benevolent Association, and

WHEREAS, said Law Firm has provided a proposal to the Town of Goshen wherein the Law Firm is willing to represent the Town in connection with the aforementioned Interest Arbitration proceeding based upon services rendered at an hourly rate of \$190 for attorney's time and \$85 per hour for paralegal services,

NOW, THEREFORE BE IT RESOLVED, that the Town of Goshen does hereby hire the Law Firm of Donoghue, Thomas, Auslander & Drohan to assist the Town of Goshen in connection with the Interest Arbitration proceeding between the Town of Goshen and the Town of Goshen Police Benevolent Association as per the proposal for legal services annexed and that the Supervisor of the Town of Goshen is hereby authorized to sign such proposal.

ADOPTED by a ROLL CALL VOTE:

Supervisor Douglas Bloomfield	Aye
Councilmember Louis Cappella	Aye
Councilmember Philip Canterino	Aye
Councilmember George Lyons	Aye
Councilmember Kenneth Newbold	Aye

Vote: Resolution carried by a vote of 5 to 0

**F. FINANCE**

Councilmember Newbold made a motion to authorize the Supervisor to pay the following:

A/P computer check run dated Dec. 28, 2007 amounting to \$68,368.31

A/P computer check run dated Jan. 24, 2008 amounting to \$71,356.66.

Councilmember Canterino seconded the motion.

Motion Passed: 5 Ayes Bloomfield, Canterino, Cappella, Lyons, Newbold  
0 Nays

**G. PRIVILEGE OF THE FLOOR**

Michael Wilson, part-time Town of Goshen and part-time Village of Goshen Police Officer and recent unsuccessful candidate for Town Councilmember, came to the podium and stated: "For the record, my name is Mike Wilson. I live at 11 Cara Court, Goshen. I'm here as a Goshen resident and taxpayer, and in that capacity only so there's no misunderstanding by the Board. What I want to talk about tonight, just for a very short period of time is to make some comments and a request of two Boardmembers in particular that I think have shown a great deal of arrogance and have squandered the public's trust based on their actions. First, I'll direct my comments to Supervisor Bloomfield, who on September 27<sup>th</sup>, October 22<sup>nd</sup> and November 9<sup>th</sup>, participated in a discussion, voted for, and requested to become the

contact person for the purchase of a PDR (property development rights) of his neighbor's property thereby enhancing the real value of his property, which obviously being his neighbor is in the same area. I also would like to go on the record as saying that also in terms of arrogance, that I sit here, I read the meeting minutes which are available on line and as you know I FOILED a large number of those. I hear over and over again about how Mr. Bloomfield is so concerned about the cost expenditures and what goes on the taxes, this all from a man who has accepted a 34% raise in two years. So I'd like that to be part of the record.

The second individual I'd like to address is Councilman Canterino, who on September 24<sup>th</sup> and October 22<sup>nd</sup> participated in a work session and then ultimately on October 22<sup>nd</sup> voted for a raise for his daughter. He had several procedural opportunities to back out of that, either recuse himself, or in the vote in particular, that could have been pulled out of the 2008 budget and voted on separately. That is clearly a conflict of interest as under Town of Goshen Ethics Law 14-1 sub A5 and is also a violation of New York State Penal Law 195 sub 1, as were the violation as alleged to Supervisor Bloomfield.

In addition to that I've been able to pull out of the meeting minutes, violations of the open meeting law, although the Supervisor assured me that didn't take place. On more than one occasion, items that are specifically not included in what can be discussed in an Executive Session were voted on by these Members to go into Executive Session. I assume that if you vote to go into Executive Session to discuss a topic that it is discussed in there. I just want you gentlemen to know that I think you both should resign. In fact, I'm publicly asking for your resignation tonight, and I want you to know that I have forwarded to the media, to the Attorney General's Office - Public Integrity Unit, and to the Orange County District Attorney's Office, copies of the meeting minutes, copies of the Ethics Law, the Penal Law, and my request for action. Thank you."

Supervisor Bloomfield asked: "Can I ask you the verbiage you put in your electronic mail to the news media? Can you read that to us?"

Michael Wilson responded: "I don't have a copy. What I said was that I was going to come here tonight. I was going to ask two members for their resignation for ethics violations and possible penal law violations."

Supervisor Bloomfield asked: "What word did you use for penal violations?"

Michael Wilson responded: "Couldn't tell you without going back to my notes at home."

Supervisor Bloomfield responded: "OK. Thank you."

Supervisor Bloomfield asked others present if they wished to have the floor. Councilmember Newbold announced that an outstanding citizen, Cliff Ashman passed away. He was a volunteer fireman for 67 years. His thoughts and prayers are with Mr. Ashman's family. Supervisor Bloomfield agreed that Mr. Ashman's passing was a great loss to Goshen.

**H. EXECUTIVE SESSION TO DISCUSS NEGOTIATIONS & LITIGATION ON THE FOLLOWING:**

1. Rienzo Family Request
2. PBA Negotiation Review
3. CSEA Negation Update

Councilmember Newbold made a motion to enter into Executive Session to discuss the foregoing, without intent to return to public meeting. Councilmember Cappella seconded the motion.

Motion PASSED:           5 Ayes                   Bloomfield, Canterino, Cappella, Lyons, Newbold  
                                  0 Nays

The public meeting concluded at 8:30pm.

Respectfully submitted by:

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Susan Maysels, Deputy Town Clerk