

TOWN OF GOSHEN
TOWN BOARD MEETING

April 14, 2011
MINUTES

A regular meeting of the Town Board of the Town of Goshen was held on the 14th day of April, 2011 at the Town Hall located at 41 Webster Avenue, Village of Goshen, County of Orange, State of New York.

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

Also Present:	Dennis Caplicki	Attorney for the Town
	Priscilla Gersbeck	Deputy Town Clerk

A. CALL TO ORDER

The meeting was called to order by Supervisor Bloomfield at 7:31 pm, followed by the Pledge of Allegiance.

Newly elect Mayor of the Village Of Goshen, Kyle Roddey, addressed the Board. He is looking forward to working with the Town addressing the concerns and solving problems for the residents and businesses in Goshen.

B. AMENDMENT TO THE AGENDA

Attorney Caplicki requested two additions to the agenda; the Nelson Inc. (tree cutters) contract and the Time Warner Franchise contract.

C. PRIVILEGE OF THE FLOOR (agenda items only)

None at this time.

Councilman Newbold commented on an article published in the Times Herald Record on April 13, 2011.

The article: *3 families are living with MTBE nightmare, misquoted Supervisor Bloomfield*. Councilman Newbold called it an "out-right lie". Apologies were conveyed to the County Executive for any misunderstanding which may have occurred.

D. OLD BUSINESS:

[The following three agenda items are combined into one Resolution. The telephone service contract, the new elevator contract and the new copier contract were reviewed at the Monday night (4/11/2011) Board Work Session. On all three contracts we will be receiving the same service for lesser fees.]

1. **Authorize The Supervisor To Sign A Telephone Service Contract With Time Warner Cable For An Annual Savings Of \$5,508.00**
2. **Authorize The Supervisor To Sign A New Elevator Maintenance Contract With Thyssenkrupp Elevator Corporation For An Annual Savings Of \$1,409.76.**
3. **Authorize The Supervisor To Sign A New Copier Contract With The Xerox Corporation For An Annual Savings Of \$3,337.08.**

**TOWN OF GOSHEN
RESOLUTION**

Authorizing the Supervisor, Town of Goshen, to Sign Agreements with Time Warner Cable with Respect to Telephone Service/Equipment to the Town; Thyssenkrupp Elevator Corporation with Respect to Elevator Service/Repair to the Town; Xerox Corporation with Respect to Copier/Printer Service/Equipment to the Town

INTRODUCED BY: Councilman Kenneth Newbold

SECONDED BY: Councilman Philip Canterino

DATED: April 14, 2011

At a meeting of the Town Board of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 14th day of April, 2011;

WHEREAS, the Town of Goshen presently contracts with outside agencies and/or individuals and institutions with respect to telephone service/equipment; elevator maintenance service/repair; and copier/printer service/equipment to the Town of Goshen for use in Town Hall; and

WHEREAS, the Town Board in an effort to control costs and reduce municipal expenditures for said aforementioned service/equipment items has contracted and negotiated with existing vendors supplying the aforementioned services/equipment to the Town and/or potential vendors who would be willing to supply the aforementioned services/equipment to the Town; and

WHEREAS, the Town of Goshen has been successful in reducing its costs for telephone service/equipment; elevator service/repair and copier/printer service/equipment as a result of negotiations had with miscellaneous vendors,

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Goshen does hereby authorize the Supervisor of the Town of Goshen to execute said agreement(s) as annexed and any other documents necessary to effectuate the terms of this Resolution; the effect of which will result in annual savings to the Town of Goshen as follows:

1. Telephone Service/Equipment with Time Warner Cable as per annexed proposal; savings to the Town of Goshen: \$5,508 per year
2. Elevator Service/Repair with Thyssenkrupp Elevator as per annexed Maintenance Agreement; savings to the Town of Goshen: \$1,409.76 per year
3. Copier/Printer Service/Equipment with Xerox Corporation as per annexed agreement; savings to the Town of Goshen: \$3,337.08 per year

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>AYE</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 5 to 0.

4. Approval Of Minutes: Work Sessions Of March 7th And March 21st Of 2011 And Regular Meetings Of February 24th, March 10th And March 24th of 2011

Councilman Newbold made the motion to approve the work session minutes of March 7th and March 21st of 2011 And Regular Meetings Of February 24th, March 10th And March 24th of 2011. Councilman Canterino seconded the motion.

Discussion: The question was called to have the Clerk recheck the contents on page 2 of the March 24th minutes. It was decided to vote on the minutes separately, for Councilmen were absent at different meetings. The March 24th minutes are pulled until the next meeting. Accordingly, Councilman Newbold withdrew his motion. Councilman Canterino withdrew his second.

Councilman Newbold made the motion to approve the work session minutes of March 7, 2011. Councilman Cappella seconded the motion.

On a Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

Councilman Newbold made the motion to approve the work session minutes of March 21, 2011. Councilman Canterino seconded the motion.

On a Voice Vote, the motion passed: 4 AYES Bloomfield, Canterino, Lyons, Newbold
0 NAYS
1 ABSTAIN Cappella

Councilman Newbold made the motion to approve the regular meeting minutes of February 24, 2011. Councilman Cappella seconded the motion.

On a Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

Councilman Newbold made the motion to approve the regular meeting minutes of March 10, 2011. Councilman Cappella seconded the motion.

On a Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

5. Nelson Inc. Tree Service Contract

Attorney Caplicki explained that a request has been made by the Nelson Inc. tree trimming company that contracts with Orange and Rockland. They will be operating within the Town of Goshen in the next three to five weeks trimming the O & R right-of-way lines. Nelson Inc. has requested to park their vehicles at the Town Highway garage. Our insurance carrier has requested a contract between the Town and Nelson Inc. stipulating the Town as additionally insured and to protect the interests of the Town. Not holding us liable for any activity directly or indirectly as a result of parking or any activity related to the work contracted for.

Councilman Cappella made the motion to authorize the Town to contract with Nelson Inc. providing they name the Town additionally insured entity on their general liability policy and include an indemnification agreement, with a hold harmless clause and waiver of subrogation. Councilman Newbold seconded the motion.

On a Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

6. Resolution With Respect To Town Of Goshen With Time Warner; Construction Fund

Attorney Caplicki: A Resolution needs to be proposed and adopted authorizing the Supervisor to sign any and all documents on behalf of the Town of Goshen with Time Warner with respect to the existing construction fund presently held by Time Warner. The Resolution would settle the division of the construction fund monies presently held by Time Warner pursuant to its franchise agreement with the Town. The terms of the Resolution are that Time Warner will retain from the construction fund \$120,000 for purposes for extending service to unserved areas located within the Town of Goshen or subsequently divide it between the Town and Time Warner upon such other terms as the parties may agree. Secondly, sixty percent (60%) of the remaining balance of the aforementioned construction fund will be paid by Time Warner to the Town of Goshen to utilize at its sole discretion. Time Warner will retain and utilize at its sole discretion the remaining forty percent (40%) of the balance of the fund. By authorizing the Supervisor to sign the pertinent document(s), we will have a \$120,000 construction fund still available to extend service to unserved areas in the Town and also will be receiving the sum of approximately \$120,000 - \$180,000 as a disbursement to the Town to be used for general purposes.

Councilman Lyons made the motion to approve.
Motion seconded by Councilman Cappella.

Discussion:

Attorney Caplicki stated that he cannot give us an absolute definitive number for the monies we will receive from the construction fund because it is a percentage of the existing balance and interest still being earned. Councilman Lyons, for the benefit of the public, stated that this money was accruing for the past twelve (12) years and it's really an odd ball thing. He called Brenda Park of Time Warner on several occasions and it was determined that there was no other municipality which had such a construction fund or set aside amount pursuant to its cable franchise. This is a total unique thing and it took quite a long time to resolve but it is nice to hear that we will be getting sort of a windfall.

Supervisor Bloomfield stated that twelve (12) years ago when this contract was initially put together it was worded and put together for the long term benefit of the Town of Goshen and that benefit is here today.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>AYE</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 5 to 0.

7. Resolution To Authorize Extension Of Time Warner Franchise Agreement

Attorney Caplicki stated that the second Resolution involving Time Warner was with respect to the extension of their existing franchise agreement. Under the terms of the franchise agreement, the Town of Goshen will be receiving five percent (5%) of the gross revenues earned by Time Warner within the Town of Goshen area and the franchise agreement has been purposefully held up so as to secure and finalize the distribution of the construction fund monies from Time Warner. Now that that construction fund division has been approved, it is requested that the Town Board authorize the Supervisor to sign any and all documents on behalf of the Town of Goshen so as to extend the franchise agreement and process same accordingly subsequent to Dennis P. Caplicki, Esq. having received confirmation of the construction fund division and the correction of any typographical errors in the franchise agreement..

Councilman Canterino made the motion to approve.

Motion seconded by Councilman Lyons.

Discussion: Councilman Lyons stated that once this franchise agreement is signed it has to be forwarded to the NYS Cable Commission and the lag time is approximately three (3) months. Then the commission will pass it back to us and then we'll be able to institute any new portions of the agreement.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>AYE</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 5 to 0.

E. NEW BUSINESS:

1. Set Date For An Informational Meeting For A "Joint Economic Development Initiative" Workshop To Be Held Wednesday, May 4, 2011 At 7:00P.M. At Town Hall

Supervisor Bloomfield explained that this will be the first of a series of periodic informational meetings among Town and Village government and business leaders to explore ways to promote business and job creation and retention in the Town and Village. The Joint Economic Development Initiative (JEDI) will also explore ways to partner with county, regional, state and federal officials to help support and promote economic development in the Town and Village.

Councilman Canterino made the motion to set May 4, 2011 at 7:00PM for the Joint Economic Development Initiative informational meeting to be held in the Town Hall, Goshen NY on 41 Webster Avenue. Councilman Newbold seconded the motion.

On a Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

2. Review And Approve A Resolution To Settle A Tax Certiorari With Interstate Waste, Inc.

Attorney Caplicki noted the following Resolution is the settlement to reduce the *assessment* for the years 2009-2010 and 2010-2011.

**TOWN OF GOSHEN
RESOLUTION**

**Settling of Tax Certiorari Claim; IWS Transfer System of NY, Inc. v. The Assessor of the of
Town of Goshen and the Board of Assessment Review of the Town of Goshen,
Orange County, New York**

INTRODUCED BY: Councilman Kenneth Newbold

SECONDED BY: Councilman George Lyons

DATED: April 14, 2011

At a meeting of the Town Board of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 14th day of April, 2011;

WHEREAS, IWS Transfer Systems of NY, Inc. has previously initiated against the Assessor of the Town of Goshen and the Board of Assessment Review of the Town of Goshen a tax certiorari proceeding for assessment years 2009-2010 and 2010-2011 under Index Nos. 2009-8123 and 2010-8327, and

WHEREAS, it appears from the recommendation of the Town Assessor, the Town's Appraiser, and Dennis P. Caplicki, Esq., Counsel for the Town of Goshen in the aforesaid proceeding, subsequent to a thorough investigation of the claims that further proceedings and litigation would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth in the annexed proposed Consent Order is reasonable and in the best interests of the Town, and

WHEREAS, petitioner, IWS Transfer Systems of NY, Inc., is willing to settle these proceedings without interest, cost or disbursement, in the manner as set forth in the annexed Consent Order,

NOW, THEREFORE, BE IT RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to Section 68 of the Town Law and it is further;

RESOLVED, that JoAnn Soules, Assessor of the Town of Goshen, and Dennis P. Caplicki, Esq., be and they hereby are designated to sign or execute any and all documents necessary to effectuate this resolution.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>AYE</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 5 to 0

3. Review and Approve A Resolution To Settle A Tax Certiorari With Orange County Golf Club, Inc.

Attorney Caplicki explained that the Town portion consists of nine holes on vacant land. The reduction covers five years, 2006 to 2011, which is approximately \$75,000 per year of the assessed value.

**TOWN OF GOSHEN
RESOLUTION**

Settling of Tax Certiorari Claim; Orange County Golf Club v. Assessor and the Board of Assessment Review of the Town of Goshen, Orange County, New York

INTRODUCED BY: Councilman Philip Canterino

SECONDED BY: Councilman George Lyons

DATED: April 14, 2011

At a meeting of the Town Board of the Town of Goshen, County of Orange, State of New York, held at Town Hall in said Town on the 14th day of April, 2011;

WHEREAS, Orange County Golf Club has previously initiated against the Assessor and the Board of Assessment Review of the Town of Goshen a tax certiorari proceeding with respect to parcel numbers Section 10 Block 1 Lot 1. Lot 2 and Lot 3 for assessment years 2006-07 through 2010-11, and

WHEREAS, it appears from the recommendation of the Town Assessor, the Town's Appraiser, and Dennis P. Caplicki, Esq., Counsel for the Town of Goshen in the aforesaid proceeding, subsequent to a thorough investigation of the claims that further proceedings and litigation would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth in the annexed proposed Stipulation of Settlement is reasonable and in the best interests of the Town, and

WHEREAS, petitioner, Orange County Golf Club, is willing to settle these proceedings without interest, cost or disbursement, in the manner as set forth in the annexed Stipulation of Settlement,

NOW, THEREFORE, BE IT RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to Section 68 of the Town Law and it is further;

RESOLVED, that JoAnn Soules, Assessor of the Town of Goshen, and Dennis P. Caplicki, Esq., be and they hereby are designated to sign or execute any and all documents necessary to effectuate this resolution.

Upon Roll Call Vote:

Supervisor, Douglas Bloomfield	<u>AYE</u>	Councilperson, Philip Canterino	<u>AYE</u>
Councilperson, Louis Cappella	<u>AYE</u>	Councilperson, Kenneth Newbold	<u>AYE</u>
Councilperson, George Lyons	<u>AYE</u>		

Vote: Resolution carried by a vote of 5 to 0.

4. Appoint Diana E. Lupinski And Kenneth W. Sincerbox To The Town Of Goshen Environmental Review Board Effective April 18, 2011.

Councilman Lyons made the motion to appoint Diana E. Lupinski and Kenneth W. Sincerbox to the Town of Goshen Environmental Review Board effective April 18, 2011. Councilman Newbold seconded the motion.

On a Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

F. FINANCE:

Councilman Newbold the motion to authorize the Supervisor to pay accounts payable check run of 04/14/2011 amounting to \$111,438.58. Councilman Lyons seconded the motion.

On a Voice Vote, the motion passed: 5 AYES Bloomfield, Canterino, Cappella, Lyons, Newbold
0 NAYS

G. PRIVILEGE OF THE FLOOR:

Mr. Stack owns the newly renovated brick building along Route 17M close to Cravings Bar & Restaurant. He is asking the Board Members to assist him in the *process* of installing a digital sign (Clear Channel) 50X40X14 on this property. He compared this sign to existing signs along Route 17M, such as Capitol Storage and Maaco. "Who do I approach to get my sign approved?" "It's zoned commercial; just think in your mind, this is your 211." Response: Is to submit a proper application to the Planning Board. If the determination is denied as a non-permitted use, he could apply to the Zoning Board of Appeals. It was recommended to Mr. Stack to contact Mr. Halloran, Building Inspector.

Jerry Boss asked about the Carter/Hauler permits. He noticed a hauler traveling without a permit sticker. The carter/hauler license with a vehicle sticker is valid from January 1 to December 31. Mr. Boss also asked if any citations have been issued to haulers going to the IWS transfer station. Attorney Caplicki responded yes, he is currently prosecuting some of them. On a later note: He mentioned the importance of a meeting at the Gilman Center in Middletown. [The County Water Authority and its consultants are holding seminars to present the findings of its latest water study and gather input from municipal officials and other interested groups. One notable finding: A steep plunge in the water-quality rating for a section of the Wallkill River in the Town of Montgomery, near the Ulster County line. It was judged to be "severely impacted" and scored the lowest of the 20 samples taken from 17 Orange County streams and rivers. Whether that was a testing anomaly or a sign of increased pollution remains unclear. That's one reason the authority wants public input on the findings. Times Herald Record, April 14, 2011]

Joel Markowitz Referenced the news article about the MTBE spill and is concerned with the underground migration of polluted water. Contaminants draining into the plume, including the wetlands, might affect the Town's water supply. Response: the Town has been pro-active and continues to do so. The DEC is the lead agency which has the expertise for monitoring the situation. On to another topic: a supermarket for Goshen. "I feel very strongly that it is not the job of any municipal entity to provide a supermarket. It is however the job of a municipal government to provide the environment in which an investor can reasonably expect to have a reasonable return on an investment. In other words, to provide the environment in which a supermarket might be successful." The fact that Goshen has no supermarket concerns him, for how it portrays Goshen - which no one wants to be here.

H. EXECUTIVE SESSION:

Councilman Newbold made the motion to enter into Executive Session to discuss the following;

1. Discuss And Finalize Tentative Agreement With New York Farms (AKA Heritage Estates) For Development Of Water And Sewer Districts
2. Update Status For Village/Town Sewer Dispute Arbitration
3. Update Tax Certiorari Status-Turi and Botti
4. Update Status of North Jersey Trailer & Truck Drainage Easements
5. Update Status of Cannon Inn Road

with the intent not to return. The motion was seconded by Councilman Canterino. Motion Carried

ADJOURNMENT: 8:34 PM

Priscilla Gersbeck, Deputy Town Clerk

