

A Regular Meeting of the Town Board of the Town of Goshen was held on the 28th Day of July, 2005 at 7:30 p.m. in the Town Hall located at 41 Webster Avenue, Village of Goshen, County of Orange, State of New York.

Present:

Honey Bernstein	Supervisor	Douglas Bloomfield	Councilman
Richard Roberts	Councilman	Louis Cappella	Councilman
Kenneth Newbold	Councilman		

Also Present: Jayne Daly, Town Attorney, Ron Gainer, Engineer

A. CALL TO ORDER: Supervisor Bernstein recognized Assemblyperson Anne Rabbitt and asked her to lead the Pledge.

B. AMMENDMENT TO THE AGENDA: None

C. PRIVILEGE OF THE FLOOR (agenda items only)

Robert Lawrence stood to speak about Affordable Housing, however since the proposed Affordable Housing Law is having a Public Hearing at 7:30 p.m., Supervisor asked him to wait and speak then.

Susan Fast, Trustee for the Village of Goshen asked if Assemblyperson Anne Rabbitt could speak before the Public Hearings. Supervisor Bernstein replied of course. Assemblyperson Rabbitt said she was here this evening to present the Board with a resolution regarding the Hudson River Greenway Visions in Planning awarded previously to the Town. Assembly person Rabbitt said the Town was recognized for it's achievement by the State for winning the second annual Greenway Visions in Planning Award. This award was given for the Town's exemplary work in developing a Comprehensive Plan and Zoning Code. She said she wanted to recognize the Town too. Ms. Rabbitt presented the Resolution to the Board and the Supervisor and the Board thanked Assembly Rabbitt for being here this evening and for the Resolution.

D. PUBLIC HEARING

1. AFFORDABLE HOUSING

Supervisor Bernstein announced that tonight's Public Hearing, is being continued from the July 28th Town Board Meeting, and called for public comments.

Robert Lawrence addressed the Board saying he owned a Real Estate Office in Goshen. He said he is concerned about the Board switching their responsibility of paying their employees properly so they can afford a house in the district. He said he has spoken to some of the Policemen in the Town who have informed him that the new contract that was just signed with the Town of Goshen, which they waited a year and a half for, forced them into a non rate increase cost of living contract. He stated he sees a shift in responsibility to the taxpayer as they will be picking up the slack due to the exemptions and partial exemptions in the Affordable Housing Law, this really feeds a welfare system. He said he did not feel the Policemen of this Town want to be part of a welfare system. He said the Board should revoke the new contract with the Police and give them the 20% to 30% raise so that they could afford to purchase a home in Goshen.

Supervisor Bernstein said that at our last meeting a representative from the Builders Association of the Hudson Valley commended us for our Affordable Housing Law, our foresight and innovativeness.

Supervisor Bernstein stated that in 2002 this Board realized the Police were close to the bottom of the County. She said this Board had decided to bring them up to at least the average in the County. She said the Police contract was settled some time ago. She said this Board has not heard of any dissatisfaction from that Police Department, as a matter of fact she received a thank you note from one of the Police Officers. Supervisor Bernstein said the Board certainly did not force the Police into a contract. The Supervisor stated also there were two police officers on the Affordable Housing Committee.

Mr. Lawrence complained that the land that is being saved for open space is not available to the public. He said the land is posted and some have signs saying no trespassing. He said he thought the purpose of open space was that it would be used by the public. He said the school taxes are rising due to these exemptions.

Jayne Daly, Attorney for the Town replied to Mr. Lawrence saying to correlate the school budget with open space is a misrepresentation. She said open space, whether or not it has public access is a whole other situation, open space is not being developed. She said if this property was sold it would be developed and that is when school budgets go up. It has been proven that open space contributes dramatically to the positive tax base of the Town.

Ms. Daly said as far as public access to this type of property there is liability. She said if you are hunting, walking, etc. on anyone else's property you are creating a liability. Mr. Lawrence said that this should be addressed at the beginning. Supervisor Bernstein replied that the Town has not granted any exemptions.

Mr. Bruno asked who would maintain the Affordable Housing homes. Ms. Daly replied the homeowners. He asked who would own it if some one left a home in disrepair. Ms. Daly replied if a renter, they would have to pay, if an owner a lien on the property would be put in place.

Supervisor Bernstein asked for more comments. Since there were none she said for the record she would like to indicate that pursuant to state law the Affordable Housing Law was referred to the County Planning Department and our Planning Board. She asked Ms. Daly to read the letter from the County.

Ms. Daly read: The County Planning Department strongly supports the Town's efforts in advancing a program for the development of moderate and affordable housing as both important to Goshen and as a valuable model for implementation of similar efforts in other municipalities. Measures to help provide affordable housing are critically important in Goshen and Orange County. The provision of such housing is a key area of concern, consistent with the County Comprehensive Plan. We offer the following minor, advisory comments:

1. Section E. 1 &2 : While it is inferred, neither of these statements indicate if these members need to be from the Town of Goshen
2. Section E7: One point should be awarded for each member over 65 years of age or disabled.
3. Section H2: In an effort to promote fairness, the County recommends each recipient submit proof of their annual income to the Town. The County cautions the Town with assuming the responsibility to locate market rate rental units should a recipient's income increase.

Mr. Lawrence went back to the subject of the Town of Goshen Police salaries being the lowest in the County. Supervisor Bernstein stated they are now in the middle. Councilman Newbold said the Board negotiated in good faith with all the employees unions and they have qualified negotiators representing them. He said the Board always has met them in the middle and many times go further in the negotiations.

Miriam Munzer stated the Federal Government and the State of New York provide affordable housing in many ways. One of these is if you are a Policeman working and living in the city you are allowed to buy a house that needs to be revitalized for a buck. As long as you revitalize this home there are other compensations too. There are other compensations given to teachers. She said as a realtor she sees our young people unable to buy in Goshen and she would like to see an affordable housing program move forward.

With no further comment Councilman Newbold made a Motion to close the Public Hearing on Affordable Housing. The Motion was seconded by Councilman Bloomfield. Motion carried unanimously.

Attorney Jayne Daly read from the EAF form that has been prepared: in furtherance of the Comprehensive Plan and in furtherance of a prior determination this was a negative declaration, the determination of no significance.

The Motion was made by Councilman Newbold to accept the EAF, the Motion was seconded by Councilman Bloomfield. Motion carried unanimously.

2. MISCELLANEOUS REVISIONS TO TOWN OF GOSHEN ZONING LOCAL LAW

Supervisor Bernstein asked for public comments. There were none. Councilman Louis Cappella made the Motion to close the Public Hearing. The Motion was seconded by Councilman Bloomfield. Motion carried unanimously.

Attorney Daly reported the County Planning Department determination of this is a local determination with no comment.

The Motion was made by Councilman Newbold to accept the EAF, the Motion was seconded by Councilman Bloomfield. Motion carried unanimously.

3. AMMENDMENT TO THE PEDDLING AND SOLITICTING LAW

Supervisor Bernstein asked for comments. Mr. Lawrence stated he was in favor of this law. With no further comments Councilman Cappella made the Motion to close the Public Hearing. The Motion was seconded by Councilman Bloomfield. Motion carried unanimously.

4. ESTABLISHMENT OF PROCEDURES FOR PAYMENT IN LIEU OF TDR

Attorney Daly stated there was a short final assessment form done and again it was a clarification of a preexisting law and the determination of no significance. Councilman Newbold made the Motion to accept the EAF. The Motion was seconded by Councilman Cappella. Motion carried unanimously.

Supervisor Bernstein opened the floor to the public.

Mr. Lawrence said the tax breaks, etc. given to the farmers originated from the Clean Water, Clean Air Act. He said that as a realtor he has to disclose to a person who is planning to buy next to a farm that there are risks for contamination “as it is a well known fact that farms contaminate our environment” far more than developments. He stated the farmers should go somewhat organic and not use pesticides.

Ms. Munzer asked if the farmer was selling the development rights to the Town or is the Town going to negotiate with the developer to buy the development rights?

Supervisor Bernstein explained there were two ways to do it. She said the Town can and is now negotiating directly with the farmer. The rights can be purchased using the \$5,000,000.00 open space fund and matching funds from the County.

Supervisor Bernstein said there is another way. She said developers who come to Goshen from out of town or out of State do not know the farmers nor the real estate. They can come to the Planning Board and buy development rights and the money will go into the Town’s Land and Development Rights Acquisition Fund where the money can only be used to purchase open space. The Supervisor went on to explain many of the details.

Ms. Munzer asked if the price of the land purchased would be bought at market value? Ms. Daly explained that an appraiser would go out and decide a price based on the developing value and if farmland it’s development rights. She explained how a farmer can remain on the farm and receive monies for development rights.

There was extensive discussion on the way TDR will work. A complete copy of the law is available in the Town Clerk’s office.

Mr. Lawrence asked if the Town were buying property, is this not land banking? Ms. Daly explained that the money is going into a land acquisition account. Supervisor Bernstein explained that the money goes into a trust account that can only be used for one purpose to buy development rights.

Susan Fast, Village Trustee, asked if the properties purchased would be reassessed at a lower rate for taxes. Ms. Daley replied most are farms and already have a lower agricultural exemption.

Ms. Daley read the Orange County Department of Planning comments.

The County Planning Department supports the Town’s efforts in advancing a

TDR program as both important to Goshen and as a valuable model for implementation of smart growth policies as advocated in both the Town and the County comprehensive plans. This modest amendment of the zoning law furthers the practical advancement of a TDR program by providing an important additional option for property owners with one or more qualified “receiving parcels”. This option is also important in facilitating TDR transactions in the absence of a willing seller or owner of a sending parcel with transferable rights – a situation that can be common.

As advisory comments – we strongly recommend the maintenance of a list of owners that have indicated their interest in selling some or all of the development rights on their land. We also recommend as a proactive approach that the Town should continue to pay attention to protecting unfragmented larger parcels or groups of parcels that would provide connectivity or resource links. Lastly, we caution that municipal TDR programs have struggled with the challenges of property owner interest in participation. If and when such “Land and Development Rights Acquisition Fund” grows through such “contribution in lieu of...”; the Town must be confident that suitable development rights are or will be for sale in the marketplace.

Ms. Daly stated the SEQRA review: This is part of the single review with the other two laws that were in furtherance of the Comprehensive Plan, included in the original review of the Comprehensive Plan and it was determined there is no environmental impact.

Councilman Bloomfield made a Motion to accept the SEQRA review. The Motion was seconded by Councilman Roberts. Motion carried unanimously.

Councilman Cappella made the Motion to close the Public Hearing. Motion was seconded by Councilman Newbold and carried unanimously.

E. MONTHLY REPORTS:

Councilman Bloomfield reported that Tawnya Grace has resigned from the Recreation Commission. He said she has done a nice job working with the Commission and will be sorely missed. He reported the Commission is putting the finishing touches to their budget and will be reviewing it with the Town Board in August. He reported the summer programs are going well and are serving over 400 children.

Councilman Roberts said the Town Hall painting has been finished after a year of planning. He felt they did a great job and Supervisor Bernstein said the painters were in and out during working hours with no disruption at all. She said Councilman Roberts is the Building and Grounds person for Town Hall and he found the painters. The Supervisor thanked Councilman Roberts for his good work.

Councilman Roberts said he has another report for Executive Session since it involves personnel.

Councilman Newold reported the Police Department is doing fine and has it's new SUV. He reported the Humane Society is doing fine also. He said he would like to congratulate the Goshen in Bloom Committee for doing a fine job again this year. He reported the Goshen Restoration Lawn Party was a great success. He also thanked Susan Cleaver for her work on the triangle of Route 207 and Craigville Park planting shrubs and flowers. He stated it is hard to find volunteers and Susan did a great job.

Councilman Cappella reported he is the liaison to the Highway Department. He said Celery Avenue will be finished next week after it is oiled and chipped. He said Highway will then go on to do the other roads that are on the Road Program. These roads are Smith, Owen, Coleman, Ridge and Hasbrouck. Councilman Cappella said he reported last week, but the Supervisor was not present, that he had met with a member of the State DOT and in September they will begin construction to fix the drainage problem on Quarry Road. He said while they are doing this they will also be making a left hand turn off of 17A going onto Reservoir Road.

Councilman Cappella reported he had met with the Police Department and Highway and the speed limit on Owens Road is now reduced to 35 MPR. He said both departments would like to see the other four roads left with 40 MPR be reduced also. These roads are Conklintown, Arcadia, Reservoir and Houston Road.

Councilman Cappella reported everything going fine with the Senior Center.

Supervisor Bernstein reported she had been invited by the Citizens Foundation of Orange County to speak with them about our Affordable Housing. She said they are looking to use it as a model for other municipalities and counties. She also reported that after a lengthy selection process four parcels have been chosen to be sent to the County for development rights. The County will be making it's selection on August 2nd. She said tonight the Board would be appointing an appraiser to appraise several other parcels the Board is interested in.

Supervisor Bernstein said the Metropolitan Conservation Alliance, a program of the Bronx Zoo, undertook a biodiversity study of Goshen, Chester and Warwick. Anyone interested can obtain or view a copy in the Town Clerk's office.

Supervisor Bernstein reported she was invited to participate in the ecumenical church service at the Presbyterian Church on the Great American Weekend and she also attended the Orange County Vegetable Association luncheon in Pine Island.

Supervisor Bernstein also reported the following:

The Goshen Central School and the Florida School District met with her to look over the many new subdivisions being built and proposed before the Planning Board to examine the impact on their schools.

She thanked the Goshen in Bloom Committee and the Village for the lovely lawn party.

She is still meeting with the Water Committee from the various Water Districts. These meetings are held to discuss the various problems and concerns in the water districts.

Thanked Councilman Roberts for serving as Deputy Supervisor for the last six months and welcomed Councilman Cappella as the new Deputy to fill out the year.

One of the goals for the Board in January 2002 was to bring Northern Recycling into compliance. They not only are in compliance, but have exceeded what was requested.

Met with the Fire Department who wanted to look at the various new developments to be sure the road and cul de sacs were in compliance.

Senator Larkin obtained a grant for us for \$30,000.00 and will be used for the infrastructure in Hambletonian Park. Also Annie Rabbitt obtained an \$8,000.00 Grant which will be used for our water/sewer districts. About a year ago the Village and Town applied for a New York State Park Recreation and Preservation and we have received a grant of \$250,000.00 for Salesian Acquisition. This money will be deposited in a special account and will be used to pay off the debt borrowed to purchase Salesian.

The Johnson lawsuit, mentioned in newspapers, filed against the Town in reference to the Comprehension Plan, was decided by the court in favor of the Town. The Town won the decision and Supervisor Bernstein quoted a section of the decision. "The simultaneous adoption of a municipality's first comprehensive plan under Town Law §272-a, together with a new and consistent zoning law, makes perfect sense. Such a process permits an overall consideration of the problems and needs of the community as a whole, and ascertains that the newly adopted comprehensive plan and zoning law create "a uniform result".

In reference to the second part of the law suit she read: "A cursory review of the record would certainly leave one with the impression that the requisite "hard look" was taken. It is clear that, from the beginning, the Town was attempting to balance the countervailing needs of growth and preservation, especially in light of the expressed need to protect potable ground water supplies. The Johnson's criticism of the lengthy process is without merit and the Town can

not be accused of ignoring the plight of farmers, whether these property owners enunciated pro-development or anti-development concerns”

Supervisor Bernstein said this was the only lawsuit against the Comprehensive Plan and she was happy to see it decided in the Town’s favor.

Councilman Newbold said, in reference to Northern Recycling, that he had also worked on bringing them into compliance. He said he would like to thank Susan Cleaver, Neal Halloron, Building Inspector, the attorney and himself for working on this for the last two years.

F. OLD BUSINESS

1. Approval of Minutes

Councilman Cappella made a Motion to approve the Work Sessions of 4/25, 5/9/05, 6/6/05 and Regular Meetings of 5/12/05, 5/26/05 and 6/9/05. The Motion was seconded by Councilman Bloomfield.

Councilman Cappella made a Motion to approve the 6/23/05 meeting. The Motion was seconded by Councilman Bloomfield. Motion carried 3 to 2 abstentions by Supervisor Bernstein and Councilman Newbold due to absence from meeting.

2. Reduction of Sunset Ridge Performance Bond

TOWN OF GOSHEN County of Orange, State of New York

RESOLUTION AUTHORIZING REDUCTION IN SUNSET RIDGE’S SUBDIVIAION PERFORMANCE BOND

Introduced by: Councilman Douglas Bloomfield

Seconded by: Councilman Kenneth Newbold

Date of Adoption: July 28, 2005

WHEREAS, the developer, Town Engineer and Highway Superintendent inspected the road work for bond reduction purposes in accordance with Town of Goshen Code Section 83-11 and recommend a reduction of the security to \$95,000.00 based upon their inspection and the said reduction.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to Town Code 83-11, the Town Board hereby consents to the reduction of the outstanding Performance Bond in the amount of \$450,000.00 to the approved amount of \$95,000.00, subject to approval of the reduced amount by the Planning Board

Upon Roll Call Vote:

Supervisor Bernstein	AYE	Councilman Newbold	AYE
Councilman Roberts	AYE	Councilman Bloomfield	AYE
Councilman Cappella	AYE		

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

2. Resolution: "Parade of Horses"

TOWN OF GOSHEN
County of Orange, State of New York

RESOLUTION
AUTHORIZING THE ORANGE COUNTY
ARTS FEDERATION AND GOSHEN
TRAIL COMMITTEE TO UTILIZE TOWN
LAND FOR THE 2006 HORSES ON
PARADE EXHIBITION

Introduced by: Councilman Kenneth Newbold
Seconded by: Councilman Richard Roberts
Date of Adoption: July 28, 2005

WHEREAS, the Goshen Trail Committee and Orange County Arts Federation have approached the Town of Goshen and Village of Goshen to discuss a joint effort to be known as "Horses on Parade," which proposes the installation and exhibition of 10-20 life size fiberglass horses in designated locations in the Town and Village; and

WHEREAS, the Orange County arts Federation ("OCAF") and Goshen trail Committee ("GTC") will solicit sponsors for the horses which will include a fee to cover the costs of the horse, installation of the horse and stipend to the artist who will paint and/or decorate said horses; and

WHEREAS, the locations discussed for exhibition of the horses within the Town or on land owned by the Town will include but not be limited to Town Hall, Salesian Park, Knoll Road Trail Head, and Town of Goshen Police Department; and

WHEREAS, the final proposed locations for the horses will be presented to the Town Board for approval at the time of OCAT and GTC have determined the number of horses that will be purchased and displayed; and

WHEREAS, the purpose and goal of the “Horses on Parade” is to promote the fine arts in a natural environment for the enjoyment of the public who live and visit the Town and Village of Goshen.

WHEREAS, the charge to the sponsors will be to cover cost of the horse, installation and stipend for the artist. It is not anticipated in the short term that there will be any profits from this exhibition; and

WHEREAS, In the event there are any profits in the future through marketing of the images of the horses or other means, it is agreed in concept that 40% of such profits would go to the OCAF, 20% of the profits would be earmarked in a fund to be utilized for joint ventures between OCAF and the Town and Village to promote the art in the Town and Village of Goshen and 40% would be set aside for promotion, design and/or installation of trails within Goshen; and

WHEREAS, the Town Board has determined that it is in the best interest of the Town to support and encourage and participate in the 2006 “Horses on Parade” Exhibit.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. That the Town of Goshen Town Board hereby grants permission to the OCAF and GTC to promote and implement the 2006 “Horses on Parade” program to include the purchase, design and installation of 10-20 life size fiberglass horse within the Town of Goshen subject to the following conditions:
 - A. Prior to actual installation of the horses, the final proposed locations that are within the Town will be presented to the Town Board for final approval.
 - B. The horses will be purchased, decorated and installed by OCAF and GTC utilizing sponsor money at no cost to the Town of Goshen.
 - C. The Supervisor, with assistance from the Town Attorney, be authorized to work with OCAF and the Village of Goshen to finalize an agreement as to future distribution of any profit as per the percentages cited above. However, the finalization and execution of this agreement shall not be a condition precedent to the advertising and soliciting for sponsors for the 2006 horses on Parade since it is agreed that the cost to be charged to the sponsors for such purchase, installation and stipend to the artist will not result in any cognizable profit to the parties involved.

Upon Roll Call Vote:

Supervisor Bernstein	AYE	Councilman Newbold	AYE
Councilman Roberts	AYE	Councilman Bloomfield	AYE
Councilman Cappella	AYE		

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

Supervisor Bernstein and the Board thanked Susan Cleaver and the Trail Committee who have been working on this.

G. NEW BUSINESS

1. Amendment to the Agenda
Approval of Local Laws

**TOWN OF GOSHEN
County of Orange**

RESOLUTION OF ADOPTION

**MODERATE INCOME/AFFORDABLE HOUSING
LOCAL LAW**

Introduced by: Councilman Douglas Bloomfield

Seconded by: Councilman Richard Roberts

Date of Adoption: July 28, 2005

WHEREAS, an introductory Local Law entitled “Moderate Income/Affordable Housing Local Law” be and it was hereby introduced before the Town Board of the Town of Goshen on June 9, 2005, and upon notice duly published and posted, a hearing was held on July 13, 2005 before the Town Board; and

WHEREAS, the public discussion was heard at such hearing concerning the merits and environmental significance of said introductory local law;

NOW, THEREFORE, BE IT RESOLED, that the adoption of the introductory Local Law entitled “Moderate Income/Affordable Housing Local Law” is hereby determined not to have a significant effect on the environment.

BE IT FURTHER RESOLVED, that the introductory Local Law entitled “Moderate Income/Affordable Housing Local Law” of the Town of Goshen be and hereby is adopted as Local Law of the Town of Goshen on July 28, 2005.

Upon Roll Call Vote:

Supervisor Bernstein	AYE	Councilman Roberts	AYE
Councilman Newbold	AYE	Councilman Bloomfield	AYE
Councilman Cappella	AYE		

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

Attorney Daly stated that this law is passed with the recommendation and clarification of the Planning Board.

TOWN OF GOSHEN
County of Orange, State of New York

Resolution of Adoption

MISCELLANEOUS REVISIONS TO TOWN OF GOSHEN
ZONING LOCAL LAW

Introduced by: Councilman Louis Cappella
Seconded by: Councilman Kenneth Newbold
Date of Adoption: July 28, 2005

WHEREAS, an introductory Local Law entitled “Miscellaneous Revisions to Town of Goshen Zoning Local Law” be and it was hereby introduced before the Town Board of the Town of Goshen on June 9, 2005 and upon notice duly published and posted, a hearing was held on July 14, 2005 before the Town Board; and

WHEREAS, public discussion was heard at such hearing concerning the merits and environmental significance of said introductory local law;

NOW, THEREFORE, BE IT RESOLVED, that the adoption of the introductory Local Law entitled “Miscellaneous Revisions to Town of Goshen Zoning Local Law” is hereby determined not to have a significant effect on the environment.

BE IT FURTHER RESOLVED, that the introductory Local Law entitled “Miscellaneous Revisions to Town of Goshen Zoning Local Law” of the Town of

Goshen be and hereby is adopted as Local Law of the Town of Goshen on July 28, 2005.

Upon Roll Call Vote:

Supervisor Bernstein	AYE	Councilman Roberts	AYE
Councilman Newbold	AYE	Councilman Bloomfield	AYE
Councilman Cappella	AYE		

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

TOWN OF GOSHEN
County of Orange, State of New York

Resolution of Adoption

AMENDMENT TO PEDDLING AND SOLICITING LAW

Introduced by: Councilman Richard Roberts
Seconded by: Councilman Louis Cappella
Date of Adoption: July 28, 2005

WHEREAS, an introductory Local Law entitled “Amendment to Peddling and Soliciting” be and it was hereby introduced before the Town board of the Town of Goshen on June 9, 2005, and upon notice duly published and posted, a hearing was held on July 14, 2005 before the Town Board: and

WHEREAS, public discussion was heard at such hearing concerning the merits and environmental significance of said introductory local law;

NOW, THEREFORE, BE IT RESOLVED, that the adoption of the introductory Local Law entitled “Amendment to Peddling and Soliciting” is hereby determined not to have a significant effect on the environment.

BE IT FURTHER RESOLVED, that the introductory Local Law entitled “Amendment to Peddling and Soliciting” of the Town of Goshen be and hereby is adopted as Local Law of the Town of Goshen on July 28, 2005

Upon Roll Call Vote:

Supervisor Bernstein	AYE	Councilman Roberts	AYE
Councilman Newbold	AYE	Councilman Bloomfield	AYE
Councilman Cappella	AYE		

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

TOWN OF GOSHEN
County of Orange, State of New York

Resolution of Adoption

**ESTABLISHMENT OF PROCEDURES
FOR PAYMENT IN LIEU OF TDR**

Introduced by: Councilman Kenneth Newbold
Seconded by: Councilman Douglas Bloomfield
Date of Adoption: July 28, 2005

WHEREAS, an introductory Local Law entitled “ Establishment of Procedures for Payment in Lieu of TDR” be and it was hereby introduced before the Town Board of the Town of Goshen on June 9, 2005, and upon notice duly published and posted, a hearing was held on July 14, 2005 before the Town Board; and

WHEREAS, public discussion was heard at such hearing concerning the merits and environmental significance of said introductory local law;

NOW, THEREFORE, BE IT RESOLVED, that the adoption of the introductory Local Law entitled “Establishment of Procedures for Payment in Lieu of TDR” is hereby determined not to have a significant effect on the environment.

BE IT FURTHER RESOLVED, that the introductory Local Law entitled “Establishment of Procedures for Payment in Lieu of TDR” of the Town of Goshen be and hereby is adopted as Local Law of the Town of Goshen on July 28, 2005.

Upon Roll Call Vote:

Supervisor Bernstein	AYE	Councilman Roberts	AYE
Councilman Newbold	AYE	Councilman Bloomfield	AYE
Councilman Cappella	AYE		

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

2. Public Hearing: Lead Agency Upper Reservoir Road Drainage & Improvements & Maintenance

Supervisor Bernstein explained that this is a Public Hearing for Lead Agency to repair a section of Reservoir Road. Attorney Daly explained this is for public comment, an opportunity for people to express their feelings. The Town Board will listen and take these comments into consideration. Supervisor Bernstein asked for comments.

Mr. Richard Leland, an Attorney from the law firm of Kramer Levin Naftalis & Frankel, addressed the Board saying he represents Dr. Olivia Serdarevic, the property owner. He said there is still an ongoing dispute between his client and the Town. He said it is their position that they disagree with the contention that there is a drainage problem. He said the puddling occurred only when the road was in disrepair and a result of poor maintenance. He said current photos show there are no drainage or flooding problems at this time. He said since the record does not show there is a real problem it would be an inappropriate and a rather extreme act of going on private property and doing this work. Mr. Leland went on to make the following comments: The solutions being proposed are incorrect. He questioned the ripping out of two drainage pipes. Even if, however, the Town were legally entitled to undertake the proposed work, a point which he did not concede, it is clear from the EAF and limited documentation made available to us, the Town has obviously not considered any of the environmental consequences of the proposed work, which will occur as close as 50 feet from the Village of Goshen Reservoir. As was directed by the Appellate Division, Second Department, it would have determined that the proposed work may have significant environmental impacts and would require preparation of an environmental impact statement. Given the lack of evidence, the Town has not taken the "hard look" at the environmental impacts of the proposed work as required by SEQRA. There is a need for more environmental review. The EAF that is being provided fails to note that a significant portion of the proposed work, the replacement and addition of catch basins as well as the replacement of pipes, will be immediately adjacent to three 100+ year old maple trees. This will surely compromise their health profoundly.

Mr. Leland said he would like to hand out a seven page preliminary statement to the Supervisor and Board members and was very glad the Board would not be making a decision this evening. The closing sentence on the preliminary statement says: "As we have stated above, we do not believe that the proposed work is necessary and we hope that the Town Board will decide to abandon its plan to undertake such work upon the completion of a proper drainage analysis. (A complete copy of the statement is available in the Town Clerk's Office)

Mr. Fleming, an engineer, representing the Serdarevics, addressed the Board, stating he had examined the site and reviewed the records. He questioned how it was determined to replace pipes that are in existence and replacing them with larger pipes? He said much must be examined before determining a plan such as how much drainage is coming off that land, where it is going and how it flows. He did not feel the Town had done this and felt the pipes that are there seem to be working. He stated these things had to be calculated. He was concerned, as an environmental aspect, when he looked at the site at the high point at the top of the property there is a strip approximately ten feet wide. The

water comes off the top of the hill and due to vegetation stops and has an opportunity to drain closer to the ground rather than run off. He said he understood that some work has been done on this. He said the State of New York has spent an enormous amount of effort examining storm water, sources of storm water, area water and have come out with a guidance document for best management factors for storm water districts. He said the plans he has seen do not incorporate these best management practices. He said at one point along the road there is a wetland area, a wide ditch just before the driveway. That wetland area has been impounding water, allowing that water to infiltrate into the ground, slowing it down, this area must be cleared, as an engineer does, clearing these pads out and allowing the water to flow quickly. Mr. Fleming said a detailed plan is needed and the Town should look at the best management practices.

Supervisor Bernstein asked the Town Engineer, Ron Gainer to address the public and explain the work planned. He stated that the Town has been, for some period, attempting to do routine maintenance of the roadway system that lies along upper Reservoir Road. He proceeded to show, using a map what work was planned by the Town Highway Superintendent. He said up on the upper side of the road typically a swale is provided to convey water off the roadway limits and along the edge of the road to a natural outlet. Over the years these swales need to be replaced or reshaped. It is a routine nature for the highway department to reshape those swales to permit flow to be conveyed to a natural outlet. He said there are a few cross pipes underneath upper Reservoir Road that are being replaced and some limited drainage piping in front of the Serdarevic residence that's due to be replaced, two catch bases that exist presently that will be rebuilt. The rough part in the road exists somewhere to the south of the currant draining system, it is the intent of the Highway Superintendent to extend a short piece of pipe and install another small catch basin at the low section to pick up that water that ponds on the edge of the road and convey it to an outlet that already exists.

He said typically maintenance along a roadway section is considered a type II action pursuant to SEQRA. Type II actions are recognized as not significant to the environment. Mr. Gainer stated that all plans have been submitted to the County Highway Department and the Village of Goshen. Supervisor Bernstein read a letter from the Village dated July 28, 2005.

Dear Supervisor Bernstein:

The Village of Goshen has reviewed the plans and documentation provided regarding the Upper Reservoir Road drainage improvements and maintenance work.

Based upon our review we currently offer the following comments:

We once again request that any and all activities initiated by the Town of Goshen and/or its sub-contractors within proximity to the Village of Goshen Reservoir adhere to necessary Best Management Practices. We would further like to establish a pre-construction meeting with the Town to once again review the proposed scope of work.

We will also look to meet during construction to verify that any and all necessary runoff control measures are in place. These items include hay bale protections and silt fencing.

After review the Village of Goshen concurs with the conclusions contained within Part 3 of the EAF. Specifically, that the improvements as proposed will not result in an increase in runoff volume, nor will they increase the current discharge rate.

On Behalf of the Village of Goshen I thank you for your time and consideration. Should you or your Board have any further questions please do not hesitate to contact me.

Scott G. Wohl
Mayor

Mr. Gainer said the town has an obligation to maintain the roads by allowing the foundation to drain freely. He said the increase in pipe size is to minimum standard for future maintenance. The present pipes are over 25 years old and have exceeded their useful life, the bigger pipe will not increase the amount of water passing through and the water velocity will be mitigated.

Mr. Lawrence asked why the Village was involved. Mr. Gainer replied because of it's proximity to the Village Reservoir.

Miriam Munzer spoke saying she lives about one half mile from the problem area. She said in her traveling up and down the road she has experienced and seen the flooding in front of that house. She has seen cars spin around, crash into barriers in the area, cars go into trees. She has seen the Highway workers and Police putting up barriers making it a one way, when the road floods. It is a very dangerous spot and she would be grateful if it were finally addressed.

Mr. Bruno, another resident of Reservoir Road, stated he has seen school buses having to stop because of the ice pooling on the road surface. He said he saw a school bus almost hit a motorcycle. He said life is more important than a tree.

Supervisor Bernstein stated that Mr. Newbold, the senior member of the Board has stated that Highway has not been able to maintain that stretch of road for at least seven years due to the property owner's placement of stones & fencing precluding Highway from accessing the easement area.

Charles Murphy stated he lived on Reservoir Road for thirty one years and has watched this section of the road deteriorate over the years. It floods out badly there, Highway puts up barriers, it is a very dangerous section.

Art Dross said he is a resident of the area for fifty years. He said the water does not pool in a very large area, but if you hit it going 35 MPH, especially in the winter, you are

going to ruin your car. My daughter was one of the people who had an accident there. It is a very dangerous spot.

Reynold Andrews asked the engineer to explain the ditching that will be done. Mr. Gainer did so.

With no further comment Supervisor Bernstein stated there would be no decision this evening.

3. Set Public Hearing: Subdivision Regulations

Councilman Cappella made a Motion to set the Public Hearing for the proposed Land Subdivision Law for August 25, 2005 at 7:30 p.m. The Motion was seconded by Councilman Newbold. Motion carried unanimously.

4. Appoint PDR appraiser: Certified Appraisal Service

**TOWN OF GOSHEN
County of Orange**

**RESOLUTION
AUTHORIZING SUPERVISOR TO
RETAIN APPRAISER FOR POTENTIAL
OPEN SPACE PARCELS**

Introduced by: Councilman Louis Cappella
Seconded by: Councilman Kenneth Newbold
Date of Adoption: July 28, 2005

WHEREAS, The Town Board solicited bids pursuant to its procurement policy for professional appraisal services to prepare restrictive appraisals to be utilized in determining the range of market value for property development rights associated with seven (7) parcels being considered by the Town for purchase with development rights; and

WHEREAS, the Town has determined that it is in the best interest of the Town to secure appraisals to determine the values of said properties,

NOW, THEREFORE, BE IT RESOLVED THAT, the Town Board hereby authorizes the Supervisor to enter into a contract with Certified Appraisal Service to prepare seven (7) restricted appraisals to determine the range of market value for property development rights associated with seven (7) separate parcels.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the total cost for seven (7) appraisals shall not exceed EIGHT THOUSAND FIVE HUNDRED (8,500.00) DOLLARS.

Upon Roll Call Vote:

Supervisor Bernstein	AYE	Councilman Newbold	AYE
Councilman Roberts	AYE	Councilman Bloomfield	AYE
Councilman Cappella	AYE		

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

H. FINANCE

Councilman Newbold made the Motion to authorize the Supervisor to pay Voucher #2005-1639 to Voucher #2005-1802 amounting to \$163,015.13. The Motion was seconded by Councilman Bloomfield. Motion carried unanimously.

I. PRIVILEGE OF THE FLOOR

Councilman Newbold reported that police officer Rick Walls just returned from a conference where school resource officers were discussed. He reported a lack of support for many Police Departments from their Town Boards toward the school resource officers. He said many towns and villages do not have any, but that our town has two school resource officers.. Officer Walls Chief Marsh would like to thank the Community and his Town Board for their support. Officer Walls thanks the Community and his Town Board for their support.

Supervisor Bernstein said she would like to wish the Highway Superintendent Stephen Andryshak, who is recovering from surgery, a speedy recovery.

J. ADJOURNMENT

Councilman Cappella made the Motion to adjourn to Executive Session to discuss pending litigation, CSEA negotiations and personnel. The Motion was seconded by Councilman Roberts. Motion carried unanimously. Time 8:35 p.m.

Valma Eisma, Town Clerk