

Town Board Meeting held August 14, 2017 at 6:00 P.M. at the Town Hall in Schroon Lake N.Y.

Present:

Town Supervisor: Michael Marnell

Councilpersons: Don Sage, Clara Phibbs, Roger Friedman and Meg Wood

Town Clerk: Patricia Savarie

Highway Superintendent: Dana Shaughnessy

Town Attorney: Mark Schachner

Also Present: Emily and David Snook, Lori Messing, David and Jane Jenks, Albert

May, Fran and Skip Mahler, Steven Cass, Steven Kinley Glen and Sue Repko, Wally and Shelley

Thomas, Paul Ceresnak, Stefanie Bitter, Marlene and Johnnie Whitehead, David Harder, Joan

Cunningham, Cathie Mick, Lisa Hess-Marks, Stephen Jabaut, Lance Miller, Al and Dottie Schwarz,

Larry Graziano

Supervisor Marnell called the meeting to order at 6:45 P.M. with a salute to the Flag.

Resolution #144 Approve Minutes

Councilman Friedman moved a resolution to accept the minutes for July 10, 2017 for the Public Hearing at 5:00 P.M., Regular Town Board Meeting at 6:00 P.M. with changes and Special Town Board meeting held July 24, 2017 at 12:00 P.M. and at 1:00 P.M., seconded by Councilwoman Wood; carried.

Resolution #145 Pay Vouchers

Councilwoman Phibbs moved a resolution to pay the bills as reviewed, seconded by Councilwoman Sage; carried.

General Fund \$77,587.11 Sewer \$8,538.19 Highway \$27,798.33 Water \$4,486.25

Town Hall Project \$124,071.60 CDBG-RLF \$742.63

Resolution #146 Approve Samantha Grey to Library

Councilwoman Phibbs moved a resolution to approve Samantha Grey to the Library at the rate of \$11.08 an hour, seconded by Councilman Sage; carried.

Resolution #147 Accept Anita Drozdyk Resignation from Zoning Board of Appeals

Councilwoman Phibbs moved a resolution with regret to accept Anita Drozdyk's resignation from the ZBA, unanimously seconded; carried.

Resolution#148 Advertise for ZBA Member

Councilwoman Phibbs moved a resolution to advertise for a ZBA Member, seconded by Councilman Sage ; carried.

The Town of Schroon

is seeking a volunteer to serve on the
Zoning Board of Appeals
anyone interested in the position
please send a letter of interest to
Michael Marnell,
Town of Schroon, PO Box 578,
Schroon Lake, NY 12870

Part 2 of SEORA for Stewart's Project

Short Environmental Assessment Form Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? NO
2. Will the proposed action result in a change in the use or intensity of use of land? NO
3. Will the proposed action impair the character or quality of the existing community? NO
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? NO
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? NO
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? NO
7. Will the proposed action impact existing:
 - a. public / private water supplies? NO
 - b. public / private wastewater treatment utilities? NO
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? NO
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? NO
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? NO
11. Will the proposed action create a hazard to environmental resources or human health? NO

Resolution #149 Adopt SEORA Negative Declaration

Councilwoman Phibbs moved a resolution to adopt the SEORA Declaration , seconded by Councilman Sage; carried. Councilman Friedman – opposed

Discussion on Local Law #1 of 2017

Councilwoman Wood stated she would like to see Stewart's succeed and having a building help the Town, however one of the biggest thing I hear is a request for facts. There has not been any facts. I had asked a couple of times for a traffic study, nothing has been done. I personally don't believe that the nature of Route 9 and Dock Street that anything will be worse or better, its a bad mess no matter what. I would like to, as a Town, go beyond the minimum that needs to be done before we make such a big decision. I think we should go as far as we possibly can , to satisfy everybody. We need to go step by

step and evaluate facts and I don't feel we have enough facts.

Councilman Friedman stated, first of all I would like to see a new Stewart's Shop. Stewart's is an asset to our community, they have supported the community monetarily and with the use of their facility and I expect this relationship will continue for many years. However the topic is not about what Stewart's has given to the community, Stewart's has requested that the Town Board change the zoning from B-2A to B-1 in order to allow retail on the site where they would like to build the new store.

Stewart's have opted not to go through normal zoning procedures -- Planning Board & Zoning Board of Appeals. Instead they chose to come directly to the Town Board, which according to our zoning rules and regulations, is permissible. A zoning use change to accommodate a business is considered a major change -- especially when it is requested after a project has already been proposed.

Several of the neighbors to this project, who purchased their properties with the understanding that retail was not permitted on the property where the proposed new store is to be built, have stated that they are prepared to sue the Town if the zoning is changed and a complaint has been served.

At the first meeting with Stewart's representative Steve Kinley I asked if there had been discussions with the neighbors concerning the proposal -- the answer was no.

I also asked if there could be a configuration where the retail portion of the store could be placed on the B-1 land and the food service component be placed on the B-2A land. The answer was no since during the 6+/- week construction phase Stewart's would like to keep the existing store operating and only torn down when the new store is completed. Stewart's should definitely have the planning capabilities to reconfigure a site plan that could resolve this hot button issue.

The current Town of Schroon Zoning Ordinance was crafted with the intent of not having retail along or encroaching on the waterfront. The intent of the B-2A zone was to keep the residential character of the waterfront but recognized the desirability of having accommodations and restaurants in this area.

Thus the zoning change request appears to negate the Town's plan for future development.

The B-1 zone, the commercial district, for the most part is the Rt. 9 corridor.

The Town Planning Board that worked on the Comprehensive Plan of 1977 that we passed at our last meeting consisted of local residents: Joe Gregoire, Andy Possehl, Paul Provoncha, Jerry Smith and Bob Kugler. In the Comprehensive Plan for the mixed residential - commercial zone it states "these are areas that because of the unique character of the community are suited generally for residential purposes. Some commercial uses, especially for tourist accommodations, are desirable as long as they do not detract from the residential characteristics of the area and, if close to the lake, will not affect the visual qualities of the lake." This reinforces the current Town zoning plan.

This Board needs to take into account the legitimate concerns of the neighbors -- isn't this what Schroon Lakers do? It has been my opinion and the opinion of many Schroon Lake residents that the responsibility for a successful outcome has to be between Stewart's and the neighbors, that compromise is possible and we should allow that process to continue.

In addition, the Town of Schroon's taxpayers would be responsible for defending the law suit.

The last plan presented to the Town had a number of changes which is a move in the right direction.

Removed access to Taylor St., Removed lights on rear of shop, Added quiet (quite) HVAC & condensing units, Changed dumpster enclosure to vinyl fencing, Added aluminum fence on retaining wall, Removed soffit lights from rear of the shop and Adjusted grade & moved dry well to the north I believe that these negotiations should continue or if this is not successful then for Stewart's to come up with a new plan. I am confident that there is a way to compromise.

In reviewing the plan for the new store there are several issues that I think need review and/or revision.

First, the location of gas pumps which will have vehicles being perpendicular to the new store could result with vehicles stranded in Rt. 9. Just imagine 2 trucks with boats which together span about 90' one in back of another. Do the 3 bays of pumps eliminate potential problems?

Furthermore, I don't understand how the proposed curbing works with the gas pump configuration.

Although the current arrangement is dangerous, the new configuration may not remedy the situation.

We need to see an objective study showing that this works. This also illustrates the need for site plan review for commercial buildings that was recommended in the 1977 Comp. Plan.

The location of the dumpster appears to still be too close to the neighbor.

I would suggest there be a vegetative buffer between Taylor St. & the proposed site be created.

On a personal note as someone who has worked in the real estate profession for over 30 years, Stewart's by far owns the most premium site in Schroon Lake with a view of Schroon Lake and the Park and since the new store is across from our Town Park I don't understand why their plan doesn't call for making the east side of the store more park-like with more picnic tables. This has been expressed to Mr. Kinley.

Resolution #150 Adopt Local Law #1 of 2017

Councilwoman Phibbs moved a resolution to adopt Local Law #1 of 2017, seconded by Councilman Sage; motion does not carry on a roll call vote. Four Ayes were needed to pass this resolution.

**A LOCAL LAW AMENDING
TOWN OF SCHROON ZONING ORDINANCE AND MAP TO
REZONE 7 DOCK STREET FROM B-2A ZONE TO B-1 ZONE**

BE IT ENACTED BY THE SCHROON TOWN BOARD AS FOLLOWS:

SECTION 1. Section 202 of the Town of Schroon Zoning Ordinance is hereby amended by revising the official Town Zoning Map to change the zone for 7 Dock Street, Tax Map Parcel number 147.54-2-30.000, from Resort Business (B-2A) to General Business (B-1).

SECTION 2. The official Zoning Map of the Town of Schroon with such appropriate notation and reference as deemed necessary to reflect this amendment is hereby adopted as the official Zoning Map of the Town of Schroon.

SECTION 3. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

SECTION 4. All Local Laws or ordinances or parts of Local Laws or ordinances in conflict with any part of this Local Law are hereby repealed.

SECTION 5. This Local Law shall take effect immediately upon filing by the Office of the New York Secretary of State as provided in New York Municipal Home Rule Law §27.

Roll Call Vote:

Supervisor Marnell	Aye
Councilman Sage	Aye
Councilwoman Phibbs	Aye
Councilwoman Wood	Nay
Councilman Friedman	Abstain

Mark Schachner, the Town Attorney, stated to understand how this works, a group of neighbors represented by Miss Bitter have filed a Zoning Protest Petition and it appears that there is a NY Law where by a sufficient ownership of an area proposed for re-zoning and objects to the re-zoning, then by operation of law it imposes a super majority voting requirement on a Town Board. What that means is, a majority plus one of a sitting Town Board would have to approve a Zoning amendment if a valid Protest Petition imposing a super majority requirement has been filed, it looks to us as to what has happened here. Its our belief by operation of law, even though the motion was approved by three affirmative votes, the re-zoning is not approved, because the Protest Petition caused the requirement for

four affirmative votes to carry the re-zoning. This is a very little known provision of the law and pretty complicated. It is not inconceivable there maybe some questioning or challenges of the protest petition by Stewarts or anybody else, but our view is it looks like it meets the requirements of the protest petition. It is pretty complicated, the math is complicated in this situation, because of the unusual configuration of the road. I dont think it is up to the Town to make a determination weather they meet the threshold our not. If somebody wants to contest that, Stewarts or anybody else they can try to convince us that it does not meet the 20% or they can try to convince a court that the petition does not meet the 20%. The legal requirements do not include much formality. I think a complicated excersice could be undertaken possibly requiring a survey to figure out if it is 20% or not. We felt it was not something the Town would want to spend legal fees on. It is an issue for the neighbors to prove or Stewarts to disapprove.

Resolution #151 Approve New Water Tap for Golf Course

Councilwoman Phibbs moved a resolution to approve a new water tap at the Schroon Lake Golf Course, seconded by Councilman Friedman; carried.

Resolution #152 Appropriate Fund for PLA Eurasian Milfoil

Councilman Sage moved a resolution to appropriate funds in the amount of \$4,500.00 for the Paradox Lake Association Eurasian Milfoil for 2017, seconded by Councilman Friedman; carried.

Board Discussion on Wages for Water Superintendent

Supervisor Marnell tabled the discussion until Budget time, seconded by Councilman Friedman;carried.

Resolution #153 Advertise To Go Out to Bid for Fuel

Councilwoman Wood moved a resolution to advertise to go out to bid for fuel, seconded by Councilman Friedman; carried.

TOWN OF SCHROON

NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN, that the undersigned , on behalf of the Town Board of Schroon Lake, will accept sealed bids for the purchase and delivery of all of its requirement of No-Lead Gasoline 87% Octane plus or minus, Fuel Oil No.2 for building heating oil, Low Sulfur Diesel Fuel and Kerosene from September 1, 2017 through August 31, 2018.

Sealed bids will be received until 1:00 P.M. Monday , September 11, 2017, at which time bids will be publicly opened and read aloud.

Specification are available by contacting the Town Clerks Office , Patricia Savarie, Town Hall , PO

Box 578, Schroon Lake, NY 12870., by calling 532-7737 XT 12.

All bids submitted in response to this notice shall be marked sealed bid clearly on the outside of the envelope. All bids shall be submitted on the bid sheets included in the package, and no other forms shall be accepted.

In addition to bid sheets, the bidder shall submit executed non-collusion bid certificates signed by the bidder or one of its officers as required by the General Municipal Law Se. 103d. The Bidder shall also submit an executed certificate of compliance with the Iran Divestment Act signed by the bidder or one of its officers as required by General Municipal Law Sec. 103g.

Town of Schroon reserves the right to reject any and all bids not considered to be in the best interest of the Town, and to waive any technical or formal defect in the bids which is considered by the Town of Schroon to be merely irregular, immaterial, or unsubstantial.

PLEASE TAKE FURTHER NOTICE that the Town of Schroon affirmatively states that in regards to any contract entered into pursuant to this notice, without regard to race, color, sex, religion, age, national origin, disability, sexual preference or Vietnam Era veteran status, disadvantaged and minority or women owned business enterprises will be afforded equal opportunity to submit bids in response hereto.

Resolution #154 to Approve Lamercie Chaves for Lifeguard

Councilman Sage moved a resolution to hire Lamercie Chaves as a Lifeguard at the rate of \$11.08 an hour, seconded by Councilman Friedman; carried.

Set Budget Workshop Dates for 2018 Budget

Councilwoman Phibbs made a motion to set 2018 Budget Workshop dates, seconded by Councilman Sage; carried.

BUDGET WORK SHOP DATES;

- SEPTEMBER 28, 2017 (2-4) (THURSDAY)
- OCTOBER 5, 2017 (2-4) (THURSDAY)
- OCTOBER 12, 2017 (2-4) (THURSDAY)
- OCTOBER 16, 2017 (4-6) (MONDAY)
- OCTOBER 24, 2017 (2-4) (TUESDAY)
- OCTOBER 31, 2017 (2-4) (TUESDAY) IF NEEDED

Resolution #155 to Increase Revenues and Appropriation for Boat Wash Station in the

Amount of \$24,000.00

Councilwoman Wood moved a resolution to Increase Revenues and Appropriation for Boat Wash Station in the amount of \$24,000.00, seconded by Councilman Sage; carried.

Resolution #156 Hire Boat Wash Station Attendant

Councilwoman Wood moved a resolution to hire a Boat Wash Station Attendant for \$11.08 an hour when the station is ready to open, seconded by Councilman Friedman; carried.

Resolution #157 Declare State of Emergency for Forced Main Project under Rodgers Brook Bridge

Councilwoman Phibbs moved a resolution to declare a Sate of Emergency for a forced Main Project under Rodgers Brook Bridge, seconded by Councilman Sage; carried.

Thank You to Larry Shiells

Supervisor Marnell stated that he would like to Thank Larry Shiells for donating his time and equipment for the Town Hall Project in the amount of \$2,960.00

Resolution #158 Water Tap for 125 Horseshoe Pond Road

Councilman Sage moved a resolution to put in a water tap at 125 Horseshoe Pond Road tax map #146.4-1-25.200, seconded by Councilwoman Phibbs; carried.

Board Comments

Don Sage stated he did not agree with the protest petition adding up to 20%, it is very incomplete. Stewart's can contest that. Only five complaints and no detail in this, it does not say what percentage these property's are affected. I don't think this is acceptable.

Councilman Sage made a motion to adjourn at 7:34 P.M., seconded by Councilwoman Phibbs; carried.

I, Patricia J. Savarie, do hereby certify the foregoing to be a true and correct transcript from the minutes now on file in my office and of the whole such original minutes.

Dated: August 29, 2017 _____
Town Clerk