

Regular meeting of the Town board of the Town of Chester was held **July 8th, 2008** at 7:30 p.m. in the Town Municipal Center, Chestertown, NY. Roll Call: Frederick Monroe, Stephen Durkish, Edna Wells and Karen DuRose. Mark Schachner ~ Attorney for the Town. Absent was Mike Packer.

Public Hearing:

Continuation from the June 10th meeting of Public hearing on Nature Conservancy lands and the proposed sale to the State.

Mr. Dirk Bryant, Director of Conservation Programs for the Nature Conservancy (TNC) was present, along with Tom (no last name noted) from DEC. Supervisor Monroe had met with both gentlemen the week prior to this meeting, during which concerns that had been expressed at the last meeting were discussed. A Draft Resolution has been drawn up regarding disposition of the Nature Conservancy's Finch Lands in the Town of Chester.

1. Public parking access to the Hudson River tract will not be via East Hudson River Drive (Campground Road) to avoid potential conflicts with property owners along that road. DEC will work with designated Town officials to identify an appropriate access point which would allow the public to recreate on the Hudson River tract while minimizing impact on nearby neighbors. It was stated that they have at least one other legal right of way that looks suitable, and there is also the potential for getting in through an adjoining piece of State land.

2. The conservation easement terms will specifically permit development of a public snowmobile trail on the Igera Tract on Henderson Mountain, should such a connection be feasible now or at some point in the future. There is also a 108 page document that elaborates on this easement. Basically, easement allows the continued use of lease programs, requires continued forest management to highest standards of Finch's use through the years, and provides public access use to several recreational areas.

3. Public support for snowmobiles and ATV's to Henderson Mountain, which is a proposed easement tract. Under the terms of the easement, an opportunity will be provided to create a snowmobile link, should the town want that. ATV access is under an easement that could be leased. Current (or future) lessees' are allowed to use ATV's to drag their deer out, etc. ATV use is permitted by lessees' only, public ATV trails are prohibited by the easement.

4. The Dillenburg case was explained by Tom. At this time, the State pays taxes on forest preserve lands, but not on wildlife management areas. The Dillenburg case is a lawsuit in progress trying to get the State to pay taxes on its wildlife management areas. DEC fully expects that the Dillenburg case will be resolved, either through the courts or through legislative action, and that the State will meet its obligations to pay local taxes in full on the Hudson River tract and its share of taxes on above lands protected under conservation easement.

Audience member Paul Little asked if the Town had taken any action on

the proposed sale of TNC land to the State. Supervisor Monroe stated that they had had 90 days which was up on July 6th. A letter had been written, stating that the Town objected to the sale based on the reasons presented, but they might change their minds pending resolution of those issues. Supervisor Monroe stated that he was concerned long term, should the State end up with 80-90% of the Adirondacks, wanting to do away with the small towns in the midst of them instead of paying taxes because they own almost all of it, anyway. Tom explained that most of their acquisitions were in conservation easements, although they do pay a portion of the taxes on private lands. The State pays 75 million dollars a year in taxes, which is huge, but compared to this years' State budget which is 127 billion dollars, 75 million is less than 1/10th of 1%. He does not foresee the State doing away with small towns. The State will be purchasing forest preserve land, and will not be buying public recreation rights. The access easement on Henderson Mountain is located through a private driveway, therefore the Conservancy will retain the Henderson Mountain rights, which may change if those easement issues are resolved.

Supervisor Monroe reviewed the overview of Conservation Easement terms, as provided with the draft resolution. The objective was to ensure sustainable forestry, conserve natural resources and protect environmental and scenic values, limit subdivision/project conversion, and provide opportunities for recreational use.

Resolution #106: ACCEPT DRAFT RESOLUTION REGARDING THE DISPOSITION OF NATURE CONSERVANCY'S FINCH LANDS IN THE TOWN OF CHESTER.

Introduced by Mr. Durkish, 2nd by Mrs. Wells, to accept the draft resolution, along the lines discussed and the terms proposed, regarding the disposition of the Nature Conservancy's Finch lands in the Town of Chester. Draft copy attached to minutes.

AYE 4 NO 0

Public Hearing regarding local law increasing the number of ZBA alternate members.

Currently under the existing local law, there are 2 alternate members allowed on both the Zoning Board of Appeals and the Planning Board. In order to avoid incidents of lack of a quorum, it is proposed to change the local law to allow 4 alternate members on each board.

Public hearings closed by Supervisor Monroe at 8:28 p.m.

Resolution #107: ADOPT LOCAL LAW #2 OF 2008 TO INCREASE NUMBER OF ALLOWABLE ALTERNATE MEMBERS ON ZBA AND PLANNING BOARD TO FOUR, EACH.

Introduced by Mrs. Wells, seconded by Mrs. DuRose, increase number of alternate members on both the Zoning Board of Appeals, and the Planning Board from two to four each. AYE 4 NO 0

Resolution #108: APPROVE MINUTES OF TOWN BOARD MEETING.

Introduced by Mrs. Wells, seconded by Mrs. DuRose to accept the Minutes of the June 10, 2008 town board meeting. AYE 4 NO 0

Privilege of the floor. no input from the public arena.

Old business:

Road off Perry Road. Status of public right of way.

Attorney for the Town, Mark Schachner, explained that according to documents of town records that they had reviewed, the road was "qualifiedly abandoned" by the Highway Superintendent in 1934. Qualifiedly abandoned means the town no longer has the obligation to maintain the road, but the public retains the right of way over the road. He stated that because the public does retain the right of way, gates are not prohibited, but locked gates are prohibited.

John Bradway explained that the gate has now been moved to the center of the road. He said that Mr. Perryman only owns one side of the road, and the Stadler's own on the other side. He wanted to know if the town was liable, or who was liable should an accident occur due to its' being placed there. Attorney for Mr. Bradway, Rob Simon, stated that the statute states that you must own both sides of the road in order to have a gate up, and then it would be an unlocked gate. Any accident would be at the liability of the property owner. The town has no liability because the road has been qualifiedly abandoned, which means there is an easement, giving the town the right to enforce the public right to use it, but not the obligation.

Resolution #109: SEND LETTER TO LANDOWNER ASKING TO REMOVE THE GATE TO ALLOW PUBLIC ACCESS.

Introduced by Mrs. DuRose, seconded by Mr. Durkish, send letter to landowner that gate be removed on the Ethan Road, that Town has determined that it is qualifiedly abandoned, meaning it has an easement to allow public access. AYE 4 NO 0

APA response to request for approval of zoning amendments.

Supervisor Monroe stated that the board had not agreed with the Agency's changes to proposed boundary line adjustments, and that Atty. Schachner had written them a letter. Mr. Schachner stated that they had replied to his letter. There are four proposed amendments, and APA has agreed and signed off on the ones for regulating junk, and the one to create the overlay district for the Friends Lake Watershed. On the Accessory Apartment issue, the APA has concerns over allowing accessory apartments outside of the hamlet, which, being in the hamlet would not require agency approval. The board wants to help all of its residents, and feels that this matter requires further discussion and study. The last proposed amendment for boundary line adjustment is still being reviewed by their staff.

Resolution #110: NOTIFY PARK AGENCY - PROVISION OF PROPOSED ALLOWANCE OF ACCESSORY APARTMENTS BE AVAILABLE TO ALL RESIDENTS.

Introduced by Mr. Monroe, seconded by Mrs. Wells - notify APA

that proposal for accessory apartments be made available to all residents of the Town of Chester, not just those living in the Hamlet.
AYE 4 NO 0

Joseph & Catherine Mannuci request for boundary line adjustment.

Mannuci's own property on Landon Hill Road that abuts town landfill property. Attorney Dan Smith is Attorney for the Mannuci's. Deed descriptions and maps show a gore between the two properties, and there is 33 feet that is attached to Mannuci property, but deed does not say "excepting and reserving the 33 feet" which was in prior deeds. What they propose is to quit claim the 33 feet to the town, and have the town quit claim the wetland area on the back line of about 58 feet to the Mannuci's, which is about 2/3 more land than the town will receive. Due to the power lines running through the Mannuci property, setbacks for any construction cannot be met without the additional property in the rear, which cannot be built on, but which will satisfy setback requirements. Despite discrepancy in deed descriptions, there are no inconsistencies in the surveys. The town line is shown at 13 rods, and the Mannuci line at 9 rods, which produces the gore in between. All of the wetlands, a third to a half of the total area to be conveyed by the town, has been clearly marked. Mannuci's propose to pay Jim Hughes to revise the map and show the proposed boundary line by agreement, and Attorney Smith would draft a boundary line agreement and have Mr. Schachner read it. Client would also be responsible for recording fees, so that there is no expense to the town. Mr. Schachner will review proposal for next meeting. **Tabled until August meeting.**

Bill Peper and Shirley Salerno - Schroon River flooding and erosion problem solution.

Both parties were present, explaining that they have had a major flooding and erosion problem on their property along the Schroon River, below the dam. There is a low section between the two properties, and water came in the year after the dam was built, it froze, and carried out a big chunk of their lawn when it moved out. Photo's were shown of the end result. Supervisor Monroe looked at the site, and wanted to know if the homeowner's belief that the damage was caused by the dam being built, could be proven or disproven. He had Warren County Soil & Water Conservation Service, Dave Wick, meet with him there. Mr. Wick had records of river flow, but he couldn't give an opinion as to whether the construction of the dam caused the problem or not. He does not have enough information. Both parties have owned their property for a number of years, Mr. Peper at 47 years, and this has never happened before. Mr. Peper stated that there are two spillways that spill too much water, and it can't get out under the Route 8 bridge. The old dam only had one spillway. He just wants property restored as before, with either fill or rocks brought in to raise the ground level so that the water can't wash it away. Any expense to the town would be Highway crew and equipment. APA & DEC permits will be needed.

Resolution #111: APPROVE SUPERVISOR MONROE CONTACT DAVE WICKS TO MAKE A PLAN FOR REPAIR TO PROPERTIES.

Introduced by Mrs. Wells, seconded by Mrs. DuRose, have Supervisor Monroe contact Dave Wicks and ask him to make a plan that Highway superintendent Gary Clark can review to see if it is feasible for the town to undertake, and if so, have Mr. Wicks help with the permit process. Tax map #'s 87.12-1-35 and 87.12-1-36.

AYE 4 NO 0

Loon Lake Bathhouse. Supervisor Monroe stated that the project for the Loon Lake Bathhouse was non-jurisdictional with the Park Agency. Warren County needed engineered plans in order to issue a permit. Bret Winchip was contacted to engineer plans for construction. Mr. Durkish stated that the bids submitted for materials were only good for a limited period of time. Due to rise in fuel prices, he was concerned over materials using petroleum products, such as felt paper and shingles, as costs on those items had risen. Supervisor Monroe wants Mr. Schachner to review the bids to check time limits for pricing. Plan is to begin construction in the fall, as the beach is now full of people.

Committee to recommend street lights for removal.

Discussion on relocating two street lights to Creative Stage Lighting, and removing two from another area. To be discussed at the next meeting.

Flood program. Warren County is still considering what they will do with the flood program. Supervisor Monroe had a meeting with DEC, and they agreed to provide the town with a list of all people in the town that have flood insurance now, and the Zoning Office is preparing a list of people that have built within the flood zone from 1987 up to 1996, currently. There are 12 more years to review to be up to date.

Trails Grant re-submission. Has been re-submitted.

All Phase Electric. Nothing has been heard from All-Phase Electric to date. Attorney Schachner suggested that the town send a letter indicating that if they do not respond by a certain date, the matter will be considered moot. Town has offered to pay the bill, but they do not respond.

Resolution #112: AUTHORIZE ATTORNEY SCHACHNER WRITE A LETTER TO ALL PHASE ELECTRIC.

Introduced by Mrs. Wells, seconded by Mrs. DuRose, have Attorney Schachner write a letter to All-Phase Electric requesting response from them within 30 days.

AYE 4 NO 0

New business:

Cold War Veteran Exemption. Warren County has taken action on this

issue, which allows a modest property tax exemption for those veterans honorably discharged who did not serve in wartime. (Non-combat exemption). The law is subject to local option. Warren County adopted by resolution that qualifying residential real property to Cold War Veterans' shall be exempt from taxation to the extent of 15% of the assessed value of such property but limited to \$12,000.00 based on the full value of the property. If the Town of Chester adopts this, it would be consistent with the County and other towns. The current law now looks at service at times of war.

Resolution #113: AUTHORIZE ATTORNEY SCHACHNER DRAFT LOCAL LAW FOR COLD WAR VETERAN EXEMPTION, AND ADVERTISE PUBLIC HEARING.

Introduced by Supervisor Monroe, seconded by Mrs. DuRose, authorize Attorney Schachner to draft a Local Law that the Town of Chester adopt for a Cold War Veteran Exemption, and advertise a public hearing for the August 12th meeting at 7:30 p.m.

AYE 4 NO 0

Authorize Supervisor to sign Hyper-Reach Intermunicipal agreement with Warren County. Warren County has purchased a hyper-reach system which will enable the County Sheriff's office to send land line telephone messages to all, or targeted groups of recipients within the County. This program would be an asset to the town in the event of an emergency, or problem with any municipal service, such as a water emergency, as residents would be alerted immediately. The County already has this system, and County Supervisor's would like to have this extended to the towns. Supervisor Monroe has an agreement from the County which they would like him to authorize. They pay a flat fee, and cost to the town would be \$0.20 per minute for use of the system. This service will not extend to cell phone systems or internet phone systems.

Resolution #114: APPROVE CONTRACT FOR HYPER-REACH INTERMUNICIPAL AGREEMENT WITH WARREN COUNTY.

Introduced by Supervisor Monroe, seconded by Mrs. Wells, approve signing of the Hyper-Reach Intermunicipal agreement with Warren County.

AYE 4 NO 0

Shelter for water districts' generator. The generator for the water districts' will be arriving Wednesday. Water Superintendent Jason Monroe had told Supervisor Monroe that a concrete pad has been poured at the Town garage and the highway crew are prepared to build a shelter for it once it arrives. The generator will be kept at the highway garage, but there will be transfer switches to both water districts so that it can be wheeled out, plugged in, and used for either district. It was suggested that a plug be installed at the garage so that the generator could be started up once a month and run, and it could also be used to power the garage. The generator will be 50,000 watt, 3-phase. The power also feeds from the garage to the transfer station.

Revise water district rates. Issue was raised due to increase in electric rates, and board may want to re-think revising the water district rates. Town Clerk, Bernice, had suggested rounding off, up or down, the rates that have odd change. Supervisor Monroe stated that town costs are going up, and the board may want to consider increasing the water district rates. He explained that the tax within the water district is supposed to be for capital improvements, and the water rents are supposed to be for operation and maintenance, and, in Chestertown it works, but it has never worked in Pottersville due to there being so few users. Even though the rates are higher in Pottersville, they are still not enough to cover the expenses, and should rates be increased to cover the costs to run the district. Mr. Monroe stated that he felt the rates and the taxes on the Pottersville water district were too high, but did the town want to keep subsidizing it with the taxes. Mrs. DuRose stated that perhaps the Glendale starting to build would help the district. Mr. Monroe said that no matter how high the rates, it just wasn't enough to operate the district without a tax, as towns operating expenses have increased substantially. Mrs. Wells thought that the unmetered people who choose to not to put a meter in should be paying a little more money. Decided that the board members look it over and make some notes of their own, and Supervisor Monroe would talk with the Town Clerk, and it could be discussed at the next meeting.

Authorize submission of Loon Lake Dam Emergency Action Plan to DEC. Supervisor Monroe stated that he only had one copy of the plan, but he could make it available to all of the board members. He did not think there was any emergency in approving the plan right away. He was asked to also provide copies to the Fire District, the School, the Emergency Squad, as well as the Loon Lake Park Association. He feels that these entities should review the plan before it is signed and sent to DEC. He added that DEC has always had requirements for emergency action plans, but now it is more detailed with greater requirements due to the Hadlock Pond dam failure, and other dam failures in New York State. This plan basically cites what would happen if the dam went out, and who would be flooded downstream. The current condition of the dam is also included in the plan. No resolution was asked for at this time.

Appointment of Chairs of Affordable Housing Advisory Committee and Cable TV Franchise Advisory Committee. Supervisor Monroe stated that the town has an agreement with the LA Group for the affordable housing Smart Growth grant, and part of it is to have an affordable housing advisory committee. He will make appointments, thought Atty. Frank DeSantis could be appointed as Chairman, and both Mrs. Wells and Mrs. DuRose were interested in serving, along with others.

Cable TV advisory committee. Mrs. DuRose had expressed interest, and Supervisor Monroe asked if she would be willing to chair, to which she

responded that she would, with his help. He will generate a list of those people interested in being a part. He thought that they should start meeting on the Cable TV franchise because it is up in January. Atty. Schachner will get copies of the regulations, and Supervisor Monroe will get maps of the service area from Time Warner, and have someone come up from the NYS Cable Commission, as well as make a list of any interested parties so that meetings can begin.

Word of Life Assessment litigation settlement. Attorney Schachner stated that it was very close to being settled.

Other discussion:

Gazebo. Councilman Durkish would get some pricing information.

Roof over back door entry. Will ask Jim Hutchins for a possible plan.

Rabies clinic. Discussed dog enumeration and possible additional \$5.00 fee for dogs not licensed prior to being counted. Fee set by Ags & Markets.

Resolution #115: APPROVE SUPERVISOR REQUEST ACO PERFORM DOG ENUMERATION AND AUTHORIZE EXTRA FEE IF ALLOWABLE AND AUTHORIZE DEPUTY TOWN CLERK SELL LICENSES AT RABIES CLINICS.

Introduced by Supervisor Monroe, seconded by Mrs. DuRose to contact Animal Control Officer requesting dog enumeration be completed by the end of the year, and charge additional \$5.00 fee for dogs not licensed at that time, if allowable, and to authorize Deputy Town Clerk to sell licenses at the Rabies clinics. AYE 4 NO 0

Resolution #116: AUTHORIZE PAYMENT OF ABSTRACT.

Introduced by Mrs. Wells, seconded by Mrs. DuRose, authorizing payment of abstract and approve claims paid prior to audit.

General fund	\$ 45,433.90	(281-338)
Highway fund	45,092.23	(124-142)
Chtwn water	1,578.53	(39- 46)
P'ville water	960.82	(30- 36)
Library	1,168.64	(26- 30)
Loon Lk Pk	618.09	(13- 15)

AYE 4 NO 0

Board acknowledge receipt of audit report for the Court and the bookkeeper dated July 7th, 2008.

Motion by Supervisor Monroe, meeting was adjourned at 10:00 p.m.

Deputy Town Clerk