TOWN OF NEW HARTFORD REGULAR PLANNING BOARD MEETING MINUTES OF MONDAY, JANUARY 11, 2010
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NEW HARTFORD, NEW YORK

The pledge of allegiance was recited at 5:30 P.M. Jerome Donovan stated that the Planning Board would have to appoint a temporary chairman to conduct this meeting pursuant to Town Law 271. This law provides the Planning Board to appoint a temporary meeting chair in the absence of a Chairman. The Town Board did not appoint a Chairman for 2010 at its reorganization meeting on January 6. Motion was made by Board Member Peggy Rotton to have Jerome Donovan chair the meeting; seconded by Brymer Humphreys. All in favor.

The Regular Meeting was called to order by Temporary Chairman Jerome Donovan at 5:30 P.M. Board Members present were Bob Wood, Julius Fuks, Peggy Rotton, Brymer Humphreys, and Elisabetta DeGironimo. Also in attendance was Town Planner Kurt L. Schwenzfeier, AICP; Town Engineer John Meagher; Codes Officer Joseph Booth. Highway Superintendent Rick Sherman, Councilman David Reynolds, Councilman Richard Woodland, Supervisor Patrick Tyksinski, Deputy Supervisor Matthew Bohn, Town Attorney Herb Cully and Secretary Dory Shaw.

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Board Members received a copy of the draft minutes of the regular meeting held on December 14, 2009. Motion was made by Board Member Peggy Rotton to approve these minutes as written; seconded by Board Member Bob Wood. All in favor.

At approximately 5:37 P.M., Board Member Ellen Rayhill arrived to the meeting.

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1) Annual Reorganization Matters: Temporary Chairman Donovan stated that in April of last year the Planning Board adopted for the first time a set of Administrative Rules and Procedures. These call for the appointment of a Vice-chairman at our reorganization meeting, which is tonight. Due to the fact we don't have a permanent chairman, he would like to postpone this until the next meeting. All members agreed.

2) Introduction of Town Supervisor and Town Attorney, et al: at this time, Temporary Chairman Donovan introduced the new Town Supervisor Patrick Tyksinski, Deputy Supervisor Matthew Bohn and Town Attorney Herbert Cully. Attorney Cully will be attending the Planning Board meetings in the future. Attorney Cully has experience on both the Town Planning Board and Town Zoning Board of Appeals, and has served in the past as Assistant Town Counsel.

Town Attorney Cully noted that he, Town Supervisor Tyksinski and Mr. Bohn are here this evening by invitation. It is not their intent to interfere with the Planning Board meeting. They are here as observers.

Board Member Rotton addressed the Board stating that she and Lis DeGironimo attended the last Town Board meeting with conversation about the Town Planning Board, etc. She would like to recognize Town Planner Kurt Schwenzfeier because he wrote a letter after that meeting and sent it to the people who came to the Town Board meeting. Temporary Chairman Donovan stated that this was regarding some concerns that citizens had about the recently approved Southern Area GEIS.

Temporary Chairman Donovan stated for the new members of the Town Board that he put together a brief year end update in terms of Planning Board activities in 2009 and outstanding issues that are before both the Planning Board and Town Board. He shared this with the Town Supervisor and other Town Board members. He would like to have this as part of the record because they are important issues, i.e. to name a few, Subdivision Regulations, Business Park, access to Route 840, etc. (This year end update is available through the Planning Board Secretary). He stated this Board looks forward to working with the Town Board.

Temporary Chairman Donovan also referred to the Farm Land Protection Grant and gave an update. The State Department of Agriculture and Markets did not approved the grant in the last funding review, but may be addressed at the next review. We will be advised accordingly.

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Rome Gas, Inc., 8516 Seneca Turnpike, New Hartford. Tax Map #328.012-1-56; Zoning: RB1. Proposed LED signage to replace existing signs at the Sunoco Easy Mart at 8516 Seneca Turnpike & Oakdale Avenue. Mr. John Tal appeared before the Board as well as Codes Officer Joseph Booth.

Temporary Chairman Donovan stated this is a Special use Permit under the Code.

Codes Officer Booth stated the Town adopted a new Sign Ordinance and one of the major features in this Ordinance is LED signs (the Ordinance was intended to address much louder visual images). This application is for a minor change to a sign. All the prices will be in red LED and changed from within the store. He felt that as a Planning Board we should be looking at the brightness – he will make sure it complies with the Ordinance regarding nits, and direction it is facing regarding traffic. Mr. Booth recommends approval.

Town Planner Schwenzfeier said the signage people provided the nits information and it is below what the Town requirements state.

Note: NYSDOT response was received and in the event any work is performed on a NYSDOT right-of-way, a highway work permit will be needed.

The Board Members reviewed a copy of the signage. Motion was made by Board Member Peggy Rotton to approve this Special Use Permit for Rome Gas, Inc. for the proposed LED sign as presented; seconded by Board Member Brymer Humphreys. Vote taken:

Temporary Chairman Jerome Donovan – yes
Board Member Peggy Rotton – yes
Board Member Bob Wood – yes
Board Member Ellen Rayhill - yes

Board Member Julius Fuks – yes
Board Member Brymer Humphreys - yes
Board Member Elisabetta DeGironimo – yes

Motion was **approved** by a vote of 7 – 0.

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Temporary Chairman Donovan stated that a Public Hearing had been scheduled this evening for Jewel Ridge Development, Higby Road, Phase II, Major 11-lot Subdivision. Tax Map #340.000-2-1.1; Lot Size: 8.144 acres; Zoning: Low Density Residential. However, due to unfortunate circumstances, the applicant's engineering firm was not able to submit changes as requested at the last meeting for presentation at the Public Hearing.

Temporary Chairman Donovan asked the Town Planner and Town Engineer for their input. Town Planner Schwenzfeier said the applicant advised him he would agree to postponing the hearing until the February meeting. Town Engineer Meagher said we should have some revisions to the plans this week.

Further, Temporary Chairman Donovan said a Public Notice was sent out and adjacent property owners were notified. In order for us to avoid the requirement of republishing the Legal Notice, he is asking for a motion to reschedule this Public Hearing for Jewel Ridge, Phase II for the next Planning Board meeting, which is February 8, 2010.

Motion was made by board Member Bob Wood to reschedule the Public Hearing for Jewel Ridge, Phase II, for February 8, 2010 to commence at 6:00 P.M. and adjacent property owners notified; seconded by Board Member Peggy Rotton. Vote taken:

Temporary Chairman Jerome Donovan – yes
Board Member Peggy Rotton – yes
Board Member Bob Wood – yes
Board Member Ellen Rayhill - yes
Board Member Julius Fuks – yes
Board Member Brymer Humphreys - yes
Board Member Elisabetta DeGironimo – yes

Motion was **approved** by a vote of 7 – 0. *(see note at end of Page 6)

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Other Business: Temporary Chairman Donovan, for the record, asked that his following prepared statement be included in tonight's Planning Board minutes which refers to an item on the Town Board agenda for Wednesday, January 13, 2010. As follows:

"I want to bring to the attention of the Planning Board an item agenda on Wednesday's Town Board meeting agenda by Councilman Backman – GEIS, set date for Board to discuss, proposed modifications/elimination of the 5-acre agricultural minimum.

It is important for the Planning Board and the Town Board to understand that the town board doesn't have the authority to modify or eliminate this recommendation contained in the FGEIS.

The GEIS and SEQRA process is now closed. There is nothing for the Town Board to approve or disapprove as the GEIS is an advisory document.

The Town Board may enact recommendations called for in the study, but any modifications to the Study itself would I believe an entire new SEQRA process and a new study.

The Town Board can't undue a Positive Declaration of adverse environmental impacts declared by a lead agency, in this instance the Planning Board. I strongly recommend that Councilman Backman and his colleagues seek legal counsel before making any misstep that might be taken in hasten.

Their role is to consider for enactment "zoning changes" recommended in the Study and authorize additional studies that might be required to carry out various other recommendations in the GEIS.

The Agricultural Preservation Strategy doesn't change lot sizes or zoning. In fact the final document was amended in this respect to address the concerns of some landowners who objected to 5 acre lots. The final study does not recommend 5-acre lots. Planning Board project review will continue under existing zoning. However, in light of the Positive Dec, the Planning Board will have to give additional consideration to the study's findings when reviewing project for adverse environmental impacts, especially the impact of storm water runoff.

As part of this overall process, the Town Board's authority lies with accepting or rejecting any subsequent Statement of Findings which might be approved by the Planning Board"

Jerome Donovan,. Member
Remarks Planning Board Meeting 1/11/2010

Temporary Chairman Donovan wanted to share this with the Board because of the new Town Board members and new Counsel.

Also noted for the record, he again referred to the Town Board agenda item mentioned above and a potential lawsuit against the Town for the adoption by the Planning Board of the recommendation of the Agricultural Preservation Strategy in the Southern Area GEIS. He would like the Town Attorney to discuss this with Councilman Backman as he feels there is a conflict of interest. He also referred to correspondence relating to this. He is bringing this to the Board's attention as a Planning Board member.

Board Member Rayhill asked that communication be better between the Town Board and Planning Board in regard to the GEIS document. She feels there has been a lot of work and review by the Planning Board members and hopes there will be an opportunity to discuss or explain how we got to this point. She feels there is a misunderstanding about the process on what the GEIS is and how we hope to use it. She would to meet with the people who are going to make a decision on how it is used in a zoning sense to explain why we feel it is important.

Temporary Chairman Donovan explained that this document has just been passed last month and there has been a change in administration. He feels this new administration and legal counsel will need time to review the documents, and at the appropriate time her suggestion should be considered. At that time, he also hopes the Planner could take lead on it and the study consultant could be available to the Town Board to address any questions they may have.

Councilman David Reynolds addressed the Board stating that he agrees with Board Member Rayhill for the Town Board to meet with Planning Board members. He attended all the Public Hearings on this GEIS, and it is a huge document.

Board Member Humphreys commented that there were quite a few changes in wording between the August Public Hearing and the final acceptance.

Councilman Richard Woodland will be involved with the Planning Board on this in the future.

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Temporary Chairman Donovan asked for a motion to go into Executive Session at approximately 6:00 P.M. for the purpose of addressing employment histories of the Planning Department and Planning Board personnel. Motion was made by Board Member Brymer Humphreys; seconded by Board Member Bob Wood. Vote taken:

Temporary Chairman Jerome Donovan – yes
Board Member Bob Wood – yes
Board Member Julius Fuks – yes
Board Member Elisabetta DeGironimo – yes
Board Member Peggy Rotton – yes
Board Member Ellen Rayhill - yes
Board Member Brymer Humphreys - yes

Motion was **approved** by a vote of 7 – 0.

Temporary Chairman Donovan invited Supervisor Patrick Tyksinski, Town Attorney Herb Cully, Deputy Supervisor Matthew Bohn, Councilmen David Reynolds and Richard Woodland to join the Board Members.

At this time, Town Attorney Cully stated for the record that there would be three (3) Councilmen in attendance which constitutes a legal meeting, which was not noticed, and which would violate the Open Meetings Law.

Temporary Chairman Donovan stated that the Town Board is not conducting any business and felt it is not a violation as he had checked into this.

At 6:15 P.M., the Town Supervisor and Deputy Supervisor excused themselves from the Executive Session. At 6:38 P.M., motion was made by Board Member Peggy Rotton to come out of Executive Session; seconded by Board Member Brymer Humphreys. All in favor.

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There being no further business, the meeting adjourned at 6:38 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Planning Board

dbs

*The Public Hearing for Jewel Ridge did not take place on February 8, 2010 reason being the necessary material was not submitted by the applicant.