

Public Hearing and Planning Board Meeting were held Monday, October 6, 2008 at 7:00 pm in the Tannersville Village Hall.

Present: Lee McGunnigle, Mayor
Linda Kline, Trustee
Gregory Landers, Trustee
Anthony Lucido, Trustee (absent)
Mary Sue Timpson, Trustee
Mark Hyer, Planning Administrator
Catherine Palmieri, Deputy Clerk

Also present: Howard Bates, Mary Beth Bianconi, Mary Ellen Cariseo, Carl Giangrande, Sandra Governor, Scott Lane, Tom Munaute, Roger Murman, Ed Nihill, Irene Paton, Bob Pugliese, Dede Terns-Thorpe, Daniel Weston

The Mayor opened the **Public Hearing on Water Rates** with the Pledge of Allegiance. (See separate minutes prepared by Village Clerk.)

S. Prince Lot Line Adjustments in a Subdivision. As the applicant failed to file the previous Approval for Lot Line Adjustments within the allotted 62 days, it is necessary for it to come before the Board again. Nothing has changed. The Mayor asked if there was any public comment. There was none. The Mayor made a motion to close the Public Hearing on the Shirley Prince Subdivision Lot Line Adjustment. Trustee Landers seconded the motion. All in favor, motion carried.

The Mayor said for the record that it is an Unlisted Action under SEQR and he made a motion for a Negative Declaration. Trustee Kline seconded the motion. All in favor, motion carried. The Mayor made a motion to approve the Prince Lot Line Adjustment in a Subdivision. Trustee Landers seconded the motion. All in favor, motion carried.

Dede Terns-Thorpe on Plants in Village: Ms. DedeTerns-Thorpe recommended for the 2009 season that *Roxanne*, a perennial geranium, be used in the whiskey barrels (2 plants in each). They come back each year and would lower the cost as plants are \$9.95 each. She also suggested that instead of the 3 barrels at each end of the Village as at present, consider using 6 barrels at each end as it is very effective in a mass grouping.

For the stone village signs at the entrances, she suggests *Ageratum*, tall yellow annuals that need little water. Although they are an annual, for about \$90 they could be put at both signs and would last into the fall.

Ms. Terns-Thorpe suggested for next year that the Village may want to consider *Ivy Geraniums*, a plant that is more drought tolerant and which would reduce the need for watering. Haines Falls is going to these next year. Ms. Terns-Thorpe said she would offer one day to help with the planting of the hanging baskets, which she would do at Kerns Nursery. The Village would have to either pick them up or pay Kerns about \$75 which she believes would be the delivery cost. Ms. Terns-Thorpe stated that Haines Falls is going with very few mums next year due to their cost and limited blooming time.

Dede Terns-Thorpe mentioned that after she and a helper planted mums in the barrels at each end of the Village, they were subsequently moved. They did not put the mums

along Main Street because, she said, they would never have withstood the wind and the rain being in the little pots they were in. She said if she volunteers to do the planting next year she would like to be considered before plants get moved.

Trustee Landers asked if there was any way that the petunias could be started earlier. Ms. Terns-Thorpe replied that by June they were blooming nicely. Maybe, she answered, they could up the date by a month. She wanted to thank Ray Ethier and Bobby Parslow for their help with the watering in Haines Falls.

The Mayor thanked Dede Terns-Thorpe for helping the Village with the flowers. He added that he looks forward to getting together with her right after New Years so they can arrive at a good line item for the plantings.

Informational Session on Zoning Document – Roger Murman of Fraser &

Associates. The Mayor introduced Mr. Murman who gave some background. The process was started several years ago with the development by Fraser of an ‘Economic Revitalization of Strategic Action Plan’ which looked at a number of documents which had been done for the Village, consolidated them all and developed a strategy on how to move forward. The next step was a recommendation to do an up to date ‘Master Plan’ for the Village of Tannersville. A grant was obtained and the Master Plan was prepared in 2004. A good deal of public input went into its preparation. The next step was the implementation of the Master Plan which was called the ‘Build Out Analysis’ completed in 2006. Public input was solicited and the conclusion identified a preferred scenario that would allow a reasonable amount of growth in the Village which would be sustainable in terms of revenue vs. expenses.

The next step recommended in the Build Out Analysis, Mr. Murman continued, was to develop a ‘Land Use Ordinance’ which has taken the form of a Zoning Law to actually codify that preferred scenario. That is basically what has been done. Over the past year or so we have worked to develop a ‘Draft Zoning Law’ which has been available for review here for about three weeks. It will continue to be available for further review and comment by the public. We will then take the comments, review them with our steering committee and put together a final draft which will go before the Village Board.

We have divided the Village into a number of zoning districts: 3 residential and a couple of business districts. It would take too much time for me to go through every requirement for each district. There is a lot of information here pertinent to how the Village will grow. The idea behind tonight is to allow people to voice their ideas and concerns about the draft document.

Mr. Murman displayed a map illustrating where the various districts would be located. There is provision for the Village Board to be able to adopt a Planned Development District, a flexible tool that can be used to allow for development at an increased density. Mr. Murman said he would encourage all interested parties to look the draft over for themselves as it is available in the Village Hall.

The Mayor asked if Mr. Murman could give an overview of the proposed districts. Mr. Murman introduced his associate, Sandra Governor, who along with himself has worked closely with the committee on the Zoning Document. Mr. Murman pointed out the planned districts as follows: R1, R2, R3 (residential) and described them. He then

indicated the Central Business District and the General Business District on the map. Mr. Murman fielded some questions.

The Mayor asked that everyone keep in mind that this is the first presentation of the document. He said that tonight's meeting has been set up for the presentation and to let the public know that the document is available for viewing. People can come in, view the information and the map and give their comments. This is another piece in a lot of research that has gone into the possible Build Out of this community with a view to preserving its character, determining what is sustainable for its infrastructure, the effects on taxpayers, etc. The Mayor said please tell your neighbors and friends that this document exists, that it is available for viewing and that there will be a public hearing or multiple public hearings for people to get into the specifics of it.

Questions arose as to how developments would be handled which were already 'in the works.' The Mayor replied these would be individual legal questions. Ms. Governor added that there is a specific section on 'legal nonconforming uses.'

Howard Bates asked if Mr. Murman would be able to return with a more detailed presentation before a public hearing takes place. The Mayor asked that everyone please look at the document and come up with their specific questions. You can email your questions to the clerk so that your concerns can be addressed and we can get some answers prior to the public hearing in the event that there is not another informational meeting.

Sandra Governor added that the Build Out Analysis is available for public viewing as well as any of the other previous background documents.

Mr. Hyer asked if the Public Hearing should be set this evening. Mr. Murman said the way they had worked it out was that when the public comment period ends, in about a week from now, they would incorporate the comments received into a final draft and submit it to the Village Board and have it be the subject of a Public Hearing.

Mr. Prince asked if the public comment period could be extended. The Mayor replied that the next regular Board Meeting is in two weeks and he recommended that any comments be submitted before that time. The Mayor thanked Mr. Murman and Ms. Governor for presenting the information this evening.

CCLots Update: The Mayor introduced Mary Beth Bianconi of Delaware Engineering of Albany. Ms. Bianconi explained that Delaware Engineering was asked by the Village Board to review the application submitted by CCLots for a residential subdivision. The project has a lengthy history and has undergone a number of changes in response to comments by the Village Board, the community and the regulatory agencies. Ms. Bianconi said there comes a point in the process of reviewing a project where some determinations have to be made about how the process is going to move forward from the review standpoint. We had to determine whether there was enough material to decide what needs to be done in the review of the project. Was there enough potential impact...water, sewer, traffic, visual impact to decide what type of review is needed. This project certainly has enough of a record to make that type of determination. We are also looking at the potential impact on the local school system and the impact on the Village Board which has a budget to provide services to the community. We have written

a letter to the Board, 6 or 8 pages long, dealing with the potential impacts. Ms. Bianconi's recommendation is to engage in the SEQR process as it provides the structure and framework to move forward. It also provides a kind of checklist. One of the first things we would do if a Positive Declaration is issued, Ms. Bianconi continued, is we would come up with a Scoping Document. You can think of that as a very elaborate table of contents. It would list the things which need to be evaluated for this Board and the community to understand the potential environmental impact and what can be done to mitigate those impacts. The Scoping Document is very important to the community and the developer because it gives a checklist, a structure, a time frame. The first step would be for the Board to adopt a resolution of a Positive Declaration. There is a notice process that Delaware Engineering will take care of and will work on with the Clerk. They will also notice the involved agencies: DEC, DEP and DOH.

Once the Scoping Document is adopted by the Board and complete, then it all goes back to the applicant to put together the DEIS (Draft Environmental Impact Statement). All comments received will be grouped together into categories...traffic, water, sewer, etc. The Draft Document would come back and we would assist the Board in reviewing it. We would make sure that everything listed in the table of contents is there. Once the DEIS is all together and is adopted, it goes out for public notice. CD's and paper copies will be available. Another public review process will take place. When that review time is concluded, all the comments will be grouped into categories to be addressed.

The FEIS (Final Environmental Statement) will embody everything done before. The comments are addressed. The last thing that happens in the process is the Signing Statement. The Signing Statement is a document that says we have reviewed the project, looked at all the different aspects, have identified the potential impact of it and we want to move forward to the next step. Ms. Bianconi said she likes to give people the whole picture of where they are going and the preceding is kind of an overview of the process.

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Ms. Bianconi said the Board is now at the point where you have enough material to make a determination as to a Positive or Negative Declaration.

The Mayor recognized Ms. Mary Ann Cariseo of DEP and asked if she wanted to make a comment. Ms. Cariseo replied that Ms. Bianconi brought up the pertinent points and made note of the fact that there are still a lot of unresolved issues and that there have not been approvals received from DEP and DEC as yet.

Mr. Jeff Prince asked whether the Scoping Document would be prepared by Delaware Engineering. Ms. Bianconi said traditionally it is prepared by the applicant but they can work with him. Ms. Bianconi stated that the SEQR process has time frames within it. The Village has 60 days to review the Scoping Document and that really is sufficient time to do so. Ms. Bianconi reviewed the paperwork page by page, after which Trustee Timpson made a motion for a Positive Declaration on the proposed Catskill Mountain Camp and Cottages Development. Trustee Kline seconded the motion. All in favor, motion carried 4-0. Ms. Bianconi said she would coordinate with the Clerk and send notices out to the involved agencies.

Last Chance Antiques – Lot Line Adjustment/Site Plan Review: Scott Lane came forward representing Loren Kashman. Trustee Landers recused himself from the discussion due to a conflict of interest. Mr. Lane said they want to bridge the two buildings together: the old liquor store and the Cheese Shop, but first they need approval to combine the lots into one. The proposed change will provide a handicapped entrance from the sidewalk and will allow an additional occupancy of 80 more patrons.

In response to Trustee Timpson's question, Mr. Lane explained that there will still be a main wall on the Cheese Shop side and it will be opened up only when there is a need...busy weekends, holidays.

Trustee Timpson questioned the available parking. Mr. Lane responded that there is the municipal parking lot in the rear which has a total of approximately 76 spaces. There is also existing street parking in front for 4 vehicles and parking across the street from the municipal parking.

Mr. Hyer added that there are several pending reviews: one is a 239 Greene County Planning Review for which the application has been sent in. No approval has come in as yet. Also requested is New York State Dept of Transportation approval as they want a coordinated review of anything on 23A whether it gets a cut or not. We are also waiting for DEP to approve the upgraded sewer hook up. But we can do the Lot Line tonight.

Mr. Lane pointed out two areas of recessed lighting and said they are ADA (American Disability Act) compliant as it is a new use.

The Mayor asked if there was a motion for approval of the Lot Line adjustment or any more comment. Trustee Kline made a motion to approve the Lot Line Adjustment. The Mayor seconded the motion. All in favor, motion carried 3-0 (Trustee Landers abstained). For the record, the Mayor said it was an Unlisted Action under SEQR. Was there a motion for a Negative Declaration? Trustee Kline made a motion for a Negative Declaration. The Mayor seconded the motion. All in favor, motion carried 3-0 (Trustee Landers abstained).

Nihill/Fairway Commons: Mr. Hyer asked if Howard Bates and Ed Nihill would bring the Board up to date with an overview of the project and what permits they have. Mr. Bates began by saying they are just starting out on the Site Plan Review Process and he would call this the Sketch Plan Conference. As far as the permits needed for the site, the only permit he believes they need is DEP's sewer connection and, for this, they have submitted a drawing to Mary Ellen Cariseo of DEP. He brought along several copies of the proposed Site Plan to go over with the Board.

Mr. Nihill said originally he had been given permission by DEP for 24 two bedroom townhouses but it has been scaled back a great deal.

Ms. Cariseo said DEP was involved in the project up until recently. She continued that Mr. Nihill did get approval for the flow for the 24 units from Todd West when he was Deputy Chief. There were subsequent letters from Todd saying that he would have to submit a design for the connection, etc. Nothing really happened with that. That was in 2004 as Ms. Cariseo recalls. After the building started to go up, DEP got reinterested in it and that it is when they realized that Mr. Nihill was originally going to do 3 buildings.

Mr. Bates asked '3 buildings or one building with 3 units?' Mr. Nihill replied one building with 3 units. Ms. Cariseo said 'that's what is already constructed. Then there are an additional two more with 3 units...two buildings total with drainage. Mr. Bates said one is already partially built, one building is constructed but does not have a C of O and _____ (inaudible).

Mr. Hyer asked what do you have built so far? Mr. Bates replied, pointing to the map, these are the 3 buildings that are built, these are the 3 foundations. Trustee Timpson asked where are the garages? Mr. Bates said 'there are no garages.' Mr. Nihill explained that originally there were going to be garages but he scaled it down. He said he will have to compromise regarding those foundations and go to a different plan. Mr. Nihill said he wants to build townhouses on the foundations he has now. Mr. Bates said he can review it and give the Board a letter on that.

Mr. Hyer asked of Ms. Cariseo 'what is Mr. Nihill's application in for right now?' She replied that the application that is in right now is not correct in that the owner on the application lists just Mr. Nihill and he has a partner. And either the tax map number or the number of bedrooms is wrong. Ms. Cariseo continued that the approval Mr. Nihill got from Todd West was for 48 bedrooms and Mr. Nihill had asked to connect to a main that was at the rear of the property near the old Klondike building. Todd gave him the approval to use the main back there but Mr. Nihill needed to submit plans. Since that approval Mr. Nihill no longer owns the property where that main is located. Ms. Cariseo said all Mr. Nihill has to do is submit the proper application.

Mr. Hyer asked Mr. Bates if he has worked out the amount of parking needed according to the number of bedrooms proposed. Mr. Bates said he has no guidance on how many spaces are needed but he has set it up as two parking spaces per unit (one per bedroom), plus a couple of extra around the site for guests. Mr. Hyer said to the Board that they need to have Mr. Bates allow for generous parking (giving the example of New Years' Eve parties) and not just for the occupants of the units. Mr. Hyer asked whether the project has to be American Disabilities Act compliant as it will then require handicapped parking. Mr. Bates will check on this. Another issue is whether there is a turn-around for fire and rescue. If the parking lot is full will there be access for fire and rescue trucks? Trustee Timpson said that should not be a problem as it is only twenty feet off Spruce Street. Mr. Bates added that there is a hydrant right in front of the site.

Mr. Hyer reviewed the approval process: if an applicant starts work without a building permit, the Code Enforcement Officer is supposed to issue a 'Stop Work Order' and if the applicant does not stop, he receives a fine according to the Site Plan or Subdivision Law. That is the way it is supposed to work. The question here is did the applicant, at any point in time, get a building permit and the answer is 'yes.' Mr. Hyer continued, I don't know about the townhouses but he got them for the two garage foundations. Mr. Nihill added 'and I got them for the townhouses.' Mr. Hyer said the Code Enforcement Officer issued building permits. Then the question is 'did Mr. Nihill have Site Plan Approval to build?' If he did not, the Code Enforcement Officer should never have issued a building permit. If Mr. Nihill came in and asked for a building permit and the Code Enforcement Officer did not know the Site Plan Law or honor it, then it is not the applicant's fault. It is our fault, it is the fault of the man holding the position of Code Enforcement Officer at the time. Now it is up to us to review what the applicant is proposing.

The Mayor asked Trustee Timpson if she thought she should recuse herself from the vote as she lives across the street from Fairway Commons. Mr. Hyer explained the ethics of the situation as follows: it is the board member's call, in this case Trustee Timpson's, whether or not she feels that her proximity to the project would affect her ability to be impartial in her consideration of the project. Trustee Timpson stated that she felt she could be impartial and therefore does not need to recuse herself. Mr. Hyer said that is an acceptable answer and it is now considered a closed issue.

Trustee Landers asked if the Fairway Commons project is to be considered as a new or existing application. Mr. Hyer replied that regardless of the built condition, it should be treated as though it is new. Trustee Landers said he thought perhaps we should talk to the Village attorney about whether any decisions should be made at this time with the Zoning Document pending. Mr. Hyer said that it would not be fair to any applicant to hold up their review until we see where we are going with zoning. We have to continue with the review process. The applicant is looking for concrete recommendations on how to proceed with the Site Plan.

The Mayor reviewed some of the recommendations arrived at this evening:

- more parking,
- provision for handling of dumpster site,
- mitigate viewshed problems with trees, plantings. Give specific recommendations of kind, height, number as requested
- ingress and egress for emergency vehicles,
- inclusion of down lighting,
- all future maps to have appropriate ownership,
- include sign location on map.

Mary Ellen Cariseo asked that Mr. Bates call Mr. Damrath of DEP regarding storm water. She will give him the pre-application but suggests that Mr. Bates give him a call.

The Mayor asked that a note be given to the Code Enforcement Officer, Dominick Caropreso, to make sure that there is Site Plan Approval before any Building Permits are issued.

Levinstim Site Plan Review: Carl Giangrande, Mr. Donovan's engineer, did not stay for the Revised Site Plan Review due to a previous commitment.

Update by Mayor of Town of Hunter Board Meeting held last Thursday. The meeting dealt with a three year litigation brought by the City of New York on the assessment of their Waste Water Treatment Plant in Tannersville which has been on the tax roll for almost four years. They used their counsel and attorneys to sue for a change in the assessment of that property. In response, the Town of Hunter and the Village of Tannersville joined together with attorneys which were subsidized by the Catskill Watershed Corporation. This litigation has already gone over the span of three tax years.

The Town Board has now approved a settlement. The Mayor recommended that anyone interested should obtain a copy of the settlement from the Town. The Village

Board attended the meeting to hear an informational presentation by the attorneys on how this was litigated and resolved. The Village was given a preliminary outline which needs to be acted on in the near future before a trial date of November 2, 2008 if we want to continue to argue our assessments of the past.

We will put this on the agenda for the next Village Board Meeting. The preliminary numbers are significant but not catastrophic and, hopefully, they will remain what they are. The Village would owe in real money, for the last three years that the treatment plant was overassessed, an amount of approximately \$22,000 a year. The final numbers have not yet come in, but the plan is that the Village would have the opportunity to repay that amount over a three year period. In numbers, this would equal out to be an approximate 8% increase in taxes if spending in the Village of Tannersville remains the same. In round numbers, we have a seventy two-seventy three million dollar assessment for the total community in the Village of Tannersville. The treatment plant was assessed at twenty seven million; it could be reduced by about nine million. That is about an 8-10% change in next year's budget. Whether this Board sits here, or another Board, it doesn't matter. Unless this Board would deem it necessary to continue to argue these facts...and that would be up to the Board...these are the conditions that apply. At this point, you can spend \$22,000 a year on attorneys' fees faster than you could ever make it up. The Board will consider this at the next regular Board meeting and give their opinions and comments.

The Mayor opened up **Privilege of the Floor** for Comments: Ms. Irene Paton said she felt that the Town did not publicize the meeting sufficiently. She stated that a lot of people will be blind sided by this coming tax increase.

The Mayor stated that the current Board was not present when the increased assessment hit the tax rolls in 2005. It is his feeling that the sitting board at that time went back into what he considers duplication of services. They bought trucks, they went back into assessing and garbage pick-up and none of the additional spending was felt by the taxpayers because of the newly found revenue stream of \$200,000 which was coming in via the City's increased assessment for the water treatment plant. But the City did not agree with the increase, they litigated it and, at this point, there will be a settlement in favor of the City. Unfortunately, the \$200,000 a year that was raised by the City taxes did not go into the infrastructure to repair your failing water system. The Mayor said he would have been thankful if the money went into the infrastructure and repaired the drinking water system. What happened is we were elected and we still had a dilapidated infrastructure. In our opinion, the \$400,000 was spent in other areas which were not as necessary.

The Mayor said that is a quick review of history. As far as what can be done now, there is nothing that an individual taxpayer can do unless they want to come up with a check to pay more attorneys to continue to litigate this. Other than that, it is just a burden. Trustee Landers suggested that it might help to understand the situation if people obtained the minutes from the meeting held at the Town of Hunter. We certainly will review how this Village existed prior to having this new revenue stream and we are going to have to dial back the clock so that, maybe, the 8% increase can be lessened by cuts in spending by the Board. Spending would have to be slashed in order to make up that 8%...where and how

would have to be looked at. The Mayor said he hoped that answered some of the questions.

September Minutes: Trustee Timpson asked for two changes, one on page 2 under **Trailhead Village:** change "...**we** should go back to DEP and request" to "**Trailhead** should go back to DEP and request...".

Trustee Timpson also requested that additional discussion be added to **Other Business-Retiree Insurance** on page 4 as follows:

In the 2nd paragraph, after the sentence: "There might have been a compelling reason why the person was given the insurance." Add: "The Mayor stated the retiree was called and informed that this was on the agenda for this evening and that it had been brought up at a previous meeting which the Mayor did not attend. The retiree was told they could attend tonight's meeting but has not done so."

The Mayor made a motion to adjourn the meeting. Trustee Landers seconded the motion. All in favor, motion carried.

Executive Session: The Board reviewed the insurance status of Edward VanValkenburg. It was agreed that he will stay at 'status quo' until December 2008.

Minutes submitted by Catherine Palmieri, Deputy Clerk

