

Minutes of the Town Board Worksession held at the Highway Garage on November 18, 2013 at 7:30PM

Present: John Burke, Supervisor
Timothy Arone, Frank Palermo and Marilyn Prestia, Councilpersons
Absent: None
Also Present: Al Fusco, Engineer for the Town; Eric Ossentjuk, Attorney for the Town; Maria Hunter,
Village Planning Board

Discussion – Woodbury Junction (WP3) Revised Sanitary Sewer Easement Request:

Travis Ewald, Engineer for the developer William Brodsky with the firm KC Engineering and Land Surveying, stated they are proposing several revisions to the existing approved sewer conveyance systems for the WP3 sewer system. Currently there is a pump station with a force main that goes out to Ninninger Road. They would like to convey the sewer by gravity above Pond #6 and through a small easement in the open space area. The gravity sewer will continue along easements on Julien Court to its intersection with Ninninger/Dunderberg Roads. They have been before the Village Planning Board several times with multiple revisions to the plan and every attempt has been made to address their comments. The plans have also been sent to Orange County DPW and they have approved the work to be done on the County roads. They have also received conditional approval from Village Planning Board for this proposal conditioned on obtaining several easements, revising some easements and performing a geotechnical analysis of Pond #6. The analysis has been done and submitted to the consultants of the Planning Board. He believes they are rapidly satisfying the conditions of approval. One of the easements required a 10' long by 20' wide easement on Open Space J that abuts a parcel on Julien Court and is owned by the Town. He feels the project has significant merit and benefits to the municipality. By eliminating the need for a pump station it could save the sewer area money, noting a gravity system is more favorable than a force main.

Jason Pitingaro, Vice President of KC Engineering and Land Surveying, stated he had appeared before the Board previously and the request has been revised based on the comments made at that last meeting. The alteration of the two ponds has been withdrawn and the only request now is for the easement to install the sewer line on open space.

Councilman Arone noted the Planning Board minutes state that Mr. Brodsky will be making access to the sewer line available to the parcels on Julien Court for future connection if their septic systems fail. Mr. Brodsky stated he listened to the comments made at the last meeting and some modifications to the plan were done to address them. His goal was to make the impact to the area as little as possible which is why the pond alterations have been eliminated. A force main is unable to be "tapped" into but you can do so to a gravity system. He raised the elevation of one of the roads which made everything flat causing less environmental impacts. He explained to all the residents of Julien Court (except Sigrid Barker who was unavailable) that when he runs the sewer line along Julien Court he will construct the laterals for them to connect if they are approved to do so by the Village Board. Another thing he would like to do is cut back the vegetation from the road, where he is told by the residents to do so. There is also a stream that runs under the road and he would like to improve its drainage since it currently clogs easy causing icy conditions in the winter. He would also like to pave the entire road. He noted that of the seven residents on Julien Court only three are actually paying for the maintenance of the private road. Councilman Arone asked if the Village approves connection to the sewer system how much would it cost to run the pipe and Mr. Brodsky stated between \$3000-\$5000 if they do it on their own and around \$1000 for him to do it for them. Mr. Pitingaro stated the goal is to have the drainage pipe completed this season and the paving done in the spring. Councilman Arone then added the Planning Board minutes address concerns about fill in the area. Mr. Pitingaro stated the issue raised by Village Engineer Dennis Lindsay was regarding the filling of some areas when the road was raised for better grading. The geotechnical review supported the work that was done and a copy of that report was sent to Mr. Lindsay. Councilwoman Prestia asked if Mr. Brodsky will also fill the septic tank for the residents on Julien Court if they were to connect to the system and he stated he would.

Attorney Ossentjuk stated he believes open space law prohibits the property from being disturbed. He feels that some guidance is needed from Mr. Brodsky on how to create an easement on an already dedicated piece of open space. Mr. Brodsky stated that when he gave the property to the Town it was supposed to be noted that if easements were ever needed during construction they would be permitted. He also noted that had there not been a moratorium at the time when the plan was originally devised then this would have been the plan proposed from the very beginning. Attorney Ossentjuk stated an easement cannot be granted without legal authority to do so. Mr. Brodsky stated he will have his attorney contact Attorney Ossentjuk to discuss.

Engineer Fusco stated he has reviewed the revised plans that were submitted at the end of October and has meet with Mr. Brodsky's consultants. They had explained to him that they want to construct a gravity sewer, which is always preferred. They also made the offer to allow residents to connect if the Village permits it. They had reduced the size of the easement down to 10' long and 20' wide but a construction easement of 25' is required. He also suggested that insurance certificates be obtained to protect the Towns liability if this request is approved. He understands that the Village has a site inspector that oversees the construction of the entire development but he suggests the Town also have one for this particular portion as well. He agrees that the sewer proposal will be a benefit to the community. Attorney Fusco noted that one item not yet mentioned this evening is the status of the punch-list supplied by the Village's Water/Sewer Department. He was assured by the developer's consultants that they have been working on the list and will have it completed in a timely manner. Supervisor Burke asked Engineer Fusco if he had seen the plans for the pipe that will be constructed on the property the easement is being requested for and he said he has not nor has he seen the geotechnical report mentioned this evening.

Supervisor Burke stated he is not in favor of making changes to a plan approved by a previous Town Board. He also feels it is the responsibility of the Town Board to protect the residents of Julien Court. He stressed that if anything were to go wrong it will be the Town Board that the issue would be brought before. He feels that a large amount of research and time was spent considering the issue and he is not surprised by the comment made by Attorney Ossentjuk this evening. In the Planning Board minutes Mr. Lindsay stated in a report of October 2 some concerns he had with the proposal. He stressed there are a lot of issues that need to be discussed before this can move forward, noting the Engineer Fusco must be supplied a copy of the geotechnical report to review. He then noted that the Planning Board's attorney, Richard Golden, also raised some legal concerns he had and it is unknown if they were addressed (regarding deeds on Julien Court). He stressed that the Town Board will make every effort to ensure that what they do is legal and proper. Supervisor Burke noted that in the past Mr. Brodsky's engineer inadvertently put a structure on Town property without obtaining permission first. The Board rectified the situation and was told that every precaution would be taken to avoid this from happening again. He conducted a site visit on Julien Court this morning and the work is being done on the County road as approved. However, there is a piece of open space on Julien Court not too far from where the piece being discussed this evening is and the whole area was encroached upon last week. He did not see any evidence of any precaution taken by any worker, consultant or Mr. Brodsky to prohibit this from occurring and he feels this is an indication of what the Board must deal with in terms of proper preparation. In early October there was a stop work order issued on the development due to encroachment as well. He stressed the Board needs to be 100% careful before it moves forward so all questions are answered and addressed and that due diligence is followed.

Mr. Pitingaro stated he agrees with all the comments made this evening and is completely confident the issue with the easements can be dealt with. Regarding the report, it has been completed since the last appearance before the Planning Board and they will provide a copy to Engineer Fusco. He also noted that they are addressing the safety issues raised by Mr. Lindsay.

Councilman Palermo thanked Supervisor Burke for bringing up good points. He also thanked Mr. Brodsky for addressing the points made at the last meeting and he is pleased to see that they were taken into consideration. He is also glad to see that all residents on Julien Court will now potentially benefit. He then stated that if Woodbury Common can receive permission to relocate wetlands ten miles away from its original location he feels the Board can probably approve this small easement. He is in complete favor of the

proposal made and agrees the Board should hire an inspector to oversee this entire project. Mr. Pitingaro stated the work on the open space will take approximately two days and the work on Julien Court could take one or two weeks. He stressed he is interested in making sure it is done right as well.

Councilwoman Prestia stated she agrees that the Board must do its due diligence and that more information is needed. She would like to see an updated report from the Village's Water/Sewer Department. She does want what is best for the residents but she is concerned with open space liability and following the law.

Mr. Brodsky stated Supervisor Burke is correct regarding the issues he has raised. He noted that he understands there is a letter written by the Water/Sewer Department updating the progress that has been completed. He will also speak with Engineer Fusco and be sure that the attorneys meet timely so the project does not stall. Supervisor Burke made it clear there are two legal issues that need to be addressed: 1) the requested easement and its impact to open space and 2) the issue raised by Planning Board Attorney Golden regarding the existing easements on Julien Court. Mr. Brodsky then stated that by rerouting the sewer line through Julien Court it will make it easier for the Village to access the system. One of the issues he had to rectify when this process started was who owns Julien Court. It has been determined that it is owned by Harriet Cornell and he will be acquiring it through one of his corporations. He has offered it to the residents but if they do not want it he will keep it and make it an entire easement.

Update – West Point Farms Street Lighting District Petition:

Attorney Ossentjuk stated he has reviewed the petition submitted by Kenneth Torsoe and believes there are two issues to be discussed. The first was that the proposed district is wholly within the Village of Woodbury and would require approval of the Village Board to be formed. The Village Board granted approval and support of the formation at its meeting held on November 14. The second issue is that the petition was only signed by the developer and the law requires that it be signed by at least 50% of the homeowners in the area. He spoke to the attorney for the developer and he expressed concerns about being able to get signatures. Attorney Ossentjuk told him he believes the residents are now in favor of the district being formed and stressed that the issue should be resolved quickly so the Board can move forward.

8:40PM - Executive Session:

Motion was offered by Councilman Arone, seconded by Councilman Palermo, to enter into an executive session pursuant to Article 7 of the Public Officers Law to discuss one item of personnel relating to conducting interviews for Police Chief.

ADOPTED AYES 4 Burke, Arone, Palermo, Prestia
 NOES 0

Adjournment:

With no further business to discuss, a motion was offered by Councilman Palermo, seconded by Councilman Arone, to end the executive session and adjourn the meeting at 10:35PM.

ADOPTED AYES 4 Burke, Arone, Palermo, Prestia
 NOES 0

Desiree Potvin, Town Clerk