

Minutes of the Town Board Worksession held at Town Hall on February 3, 2014 at 7:30PM

Present: John Burke, Supervisor  
Timothy Arone, Robert Hunter, Frank Palermo and Marilyn Prestia, Councilpersons  
Absent: None  
Also Present: Al Fusco, Town Engineer

**1. Resolution – WP3 Easement:**

Supervisor Burke read in full the proposed resolution for consideration authorizing the Supervisor to execute a temporary construction easement in favor of WP3, LLC for the installation of a sewer line, and a permanent easement in favor of the Village of Woodbury with regards to the sewer line. He stressed the section of the resolution that states “no work in the Open Space shall begin until: (i) proof of the Construction Easement and the Permanent Easements having been recorded has been provided to the Town’s attorney; (ii) the Town’s attorney has reviewed said proof of recording provided; and (iii) the Town’s attorney has provided authorization to WP3, LLC in a writing that work may commence in the Open Space”. Engineer Fusco stated that, at the request of the Board, all mention of Pond #6 has been removed from the plans submitted. He has reviewed the Short Environmental Assessment Form that was submitted and finds it to be suitable and in compliance with the new regulations. He is ready and available to be on site to do inspections with at least 24 hours’ notice given by the developer, William Brodsky. Councilman Arone asked Mr. Brodsky when he thought the work would begin and was told that progress has slowed due to the weather but he hopes within the next two weeks Julien Court will be cleared out. They have already restored a rock wall that was damaged on the corner lot and will plant trees in the spring that were removed. He also has finished some drainage improvements for the County which they have stated they are happy with. Marvin Gess, attorney for Mr. Brodsky, asked what the procedure is that should be followed with regards to getting the easements signed and filed. Supervisor Burke stated Mr. Gess should speak to Attorney McKay.

Motion was then offered by Councilman Palermo, seconded by Councilman Arone, to adopt the following resolution authorizing the Supervisor to execute a temporary construction easement in favor of WP3, LLC for the installation of a sewer line, and a permanent easement in favor of the Village of Woodbury with regards to the sewer line:

**WHEREAS**, pursuant to a Developer’s Agreement between the Town of Woodbury (the “Town”) and Woodbury Suburban, LLC, certain areas were dedicated to the Town as Open Space (the “Open Space”); and

**WHEREAS**, the Open Space was to be and is managed by the Town pursuant to the Conservation Cluster Development Law; and

**WHEREAS**, the Conservation Cluster Development Law provides that the Town Board may on behalf of the Town authorize limited use of such Open Space in keeping with its environmentally sensitive features; and

**WHEREAS**, the above-mentioned limited uses may include public infrastructure improvements; and

**WHEREAS**, WP3, LLC (the “Developer”) having made a request of the Town of Woodbury Town Board that the following easements through the Open Space be granted: (i) an easement 25 feet wide and 10 feet long to the Developer (hereinafter known as the “Construction Easement”); and (ii) an easement 20 feet wide and 10 feet long to the Village of Woodbury (hereinafter known as the “Permanent Easement”); and

**WHEREAS**, the Town having determined that the easements requested by WP3, LLC are for public infrastructure improvements in keeping with requirements of the Conservation Cluster Development Law; and

**WHEREAS**, WP3, LLC having agreed to comply with all conditions precedent set forth by the Town Board prior to the granting of said easements; and

**WHEREAS**, the Town Board being satisfied that all such conditions precedent have been met; and

**WHEREAS**, the Town Board acting in its capacity as the lead agency with respect to the review of the granting of the easements mentioned herein in accord with the New York State Environmental Quality Review Act (“SEQRA”) and part 617 of the regulations implementing SEQRA (as there are no other agencies that have the authority to approve the easements), having classified the action as an unlisted action under SEQRA; and

**WHEREAS**, pursuant to SEQRA, the Town Board has reviewed the short environmental assessment form provided by WP3, LLC and has had the same reviewed by the attorneys for the town and the engineer for the town, and has determined that the proposed action will have no adverse environmental impacts; and

**WHEREAS**, the WP3, LLC has agreed that no work in the Open Space shall begin until: (i) proof of the Construction Easement and the Permanent Easements having been recorded has been provided to the Town’s attorney; (ii) the Town’s attorney has reviewed said proof of recording provided; and (iii) the Town’s attorney has provided authorization to WP3, LLC in a writing that work may commence in the Open Space;

**NOW, THEREFORE, LET IT BE HEREBY**

**RESOLVED**, that the Town Board hereby authorizes the Supervisor to execute easements and required related recording documents granting: (i) a 25 feet wide and 10 feet long Construction Easement in favor of WP3, LLC; and (ii) a 20 feet wide and 10 feet long Permanent Easement in favor of the Village of Woodbury; and let it further

**RESOLVED**, that in accordance with Part 617 of the regulations implementing SEQRA, the Town Board hereby issues a negative declaration with respect to the project and authorizes the Supervisor to execute the SEQRA short form and related documents; and let it be further

**RESOLVED**, that the Town Board authorizes and directs the Town’s Counsel, Joseph G. McKay, Esq., of Catania, Mahon, Milligram & Rider, PLLC of Newburgh, New York, to review the above-mentioned proof of recording and authorize the commencement of the work by WP3, LLC based on said approval; and let it be further

**RESOLVED**, that execution and delivery of the foregoing documents and authorization to perform the work is contingent upon WP3, LLC’s compliance with all of its obligations under its escrow agreement with the town, including the requirement to pay all of the town’s legal and engineering expenses in connection with project, and all other necessary costs, recording and related fees.

**ADOPTED BY ROLL CALL AS FOLLOWS:**

Supervisor Burke	AYES
Councilman Arone	AYES
Councilman Hunter	AYES
Councilman Palermo	AYES
Councilwoman Prestia	AYES

**2. Discussion – WP3, LLC Open Space Encroachment:**

Supervisor Burke stated that the damage that was done to open space owned by the Town has not been rectified and a “landscaping” plan to fix the damaged area as not been completed. He stressed that when work is being done in close proximity to Town open space fencing should be installed so the heavy equipment operators are aware of the areas that are prohibited to be accessed. He wants the plan to be approved by Engineer Fusco and Village Building Inspector Gary Thomasberger prior to any further approvals being entertained. Councilman Arone asked how much area was damaged and

Supervisor Burke stated not more than an acre. Councilman Palermo stated, based on the comments regarding the damage to the open space, that the Village's site inspector is not doing his job to protect the Town. Regarding the landscaping plan, Mr. Brodsky stated he was waiting for a field meeting to be scheduled to discuss it. Supervisor Burke stated both Engineer Fusco and Building Inspector Thomasberger have been authorized to meet with Mr. Brodsky to develop this plan. Mr. Brodsky then stated that he agrees the fencing should be erected when work is being done near the open space areas.

**3. Discussion – Home Rule Request for Hotel/Motel Tax:**

Clerk Potvin stated this legislation has been requested by the Town Board since 2001. Last legislative session was the first time that it passed in the Assembly (on June 17, 2013) but it did die in the Senate (January 8, 2014). Assemblyman Skoufis contacted her to see if the Board wished to pursue the legislation again this year. Although the Governor is against the formation of any new taxes, it was noted clearly that this legislation would mostly affect residents from other states and countries. The taxes collected will be used to offset the cost of the emergency communication network (CodeRed) that the Town has in place to notify residents of important information during emergency situations. Councilman Arone noted that last year he did speak with a representative from Senator Larkin's office and was told that the item was on the Senator's "wish list" but did not have a high priority. Councilman Palermo asked if the Village had contacted the Town about the consolidation effort and it was noted that they have not. The issue of the home rule request for the imposition of a hotel/motel tax will be added to the agenda of February 6 for consideration.

**8:10PM - Executive Session:**

Motion was offered by Councilman Palermo, seconded by Councilman Arone, to enter into an executive session pursuant to Article 7 of the Public Officers Law to discuss one item relating to employment of a Director of Senior Services.

**ADOPTED**      AYES    5            Burke, Arone, Hunter, Palermo, Prestia  
                     NOES    0

**Adjournment:**

With no further business to discuss, a motion was offered by Councilman Palermo, seconded by Councilman Hunter, to end the executive session and adjourn the meeting at 8:25PM.

**ADOPTED**      AYES    5            Burke, Arone, Hunter, Palermo, Prestia  
                     NOES    0

Desiree Potvin, Town Clerk