

August 11, 2020 – Monthly Meeting

The August monthly meeting of the Gardiner Town Board was held this evening at 7 PM. This meeting was conducted on Microsoft Teams as a virtual meeting. Present were Supervisor Majestic, Councilmen Carucci, Dukler & Wiegand and Councilwoman Walls. There were approximately 23± audience members.

2020 US CENSUS

Supervisor Majestic reminded all to complete the US Census form.

NATURAL RESOURCES INVENTORY

Supervisor Majestic reminded the Town Board members to review the Natural Resources Inventory maps distributed at last month's meeting.

TOWN BOARD MEETING SCHEDULE

Beginning in September the Town Board will return to 2 meetings per month. They will be held the 1st and 2nd Tuesday of each month.

MOHONK PRESERVE

The Town of Gardiner is in receipt of the annual \$5,000 donation from Mohonk Preserve. They also made a donation of \$1,000 for the Gardiner Fire Dept.

GARDINER DAY PROPOSAL

At last month's meeting the Gardiner Day Committee presented a proposal to hold Music at the Town Hall ballfield and a "Movie in the Park" for September 11 and 12. The committee has decided to cancel the events citing social distancing and restrictions on number of attendees.

DANSKAMMER PROJECT

Supervisor Majestic invited representatives from both Danskammer and Scenic Hudson to make a presentation on the reasoning behind their support or lack of support for this project. Ms Majestic stated that each party will be limited to 10 minutes. First to speak was Hayley Carlock, attorney for Scenic Hudson. Her presentation addressed why a new plant is not needed. There are many solar and wind projects in the queue for the Hudson Valley and encouraged the Town Board to adopt the resolution opposing the construction of the plant. Next to speak was Michelle Hook a representative of the Danskammer project. Ms Hook explained the reason behind the construction of the new plant and how it will benefit the communities. She encouraged the Town Board to support the plant. There was a discussion on the union and jobs to the area.

Each Board member stated their opinion:

Councilman Wiegand stated there are relevant arguments on both sides, but he does not believe this is a role for the Gardiner Town Board to decide and the Town's resolution will not make a difference in the decision. Opposed to adopting the resolution.

Councilman Carucci disagrees. This is a very expensive project. He feels that monies should be used to improve solar and wind power. He thinks the negatives far out way the positives.

Councilman Dukler stated he is always suspicious of presentations such as this. There is always a lot more to a project than presented. As a teacher he has been part of a union for many years. He doesn't always agree with what the union says or does. In any case he is opposed to the construction of the plant.

Councilwoman Walls agrees with most of what has been said. Her concern is with the health of the planet and of our citizens. She feels the plant goes against the current climate and is opposed to the plant.

Supervisor Majestic stated she is torn in making a decision. She finds it difficult to choose between the environment and jobs for the area. She commented that both her husband and son work for Local 17 Union. For this reason, she will abstain from voting.

Resolution No. 95 – Danskammer Power Plant Proposal – Offered by Councilwoman Walls
WHEREAS, Danskammer Energy, LLC ("Danskammer"), seeks a permit through the State's Article 10 power plant siting process to build and operate a new gas-fired power plant with a potential generating capacity of 525- 575 megawatts on the shores of the Hudson River in the Town of Newburgh, referred to as the Facility Repowering Project, and

WHEREAS, Danskammer has filed an application with the New York State Board on Electric Generation Siting and the Environment (the Siting Board), which includes a description of the proposed facility, potential environmental and health impacts, proposed studies to evaluate those impacts, proposed mitigation measures and reasonable alternatives to the project; and

WHEREAS, several communities in the Hudson Valley have already expressed support or opposition to the proposed plant, while other communities may have deferred taking a position, or have taken no position to date; and

WHEREAS, the Town Board of Gardiner received requests from residents and others to take a position on the proposed plant, and has received public comments from residents and other stakeholders; and

WHEREAS, gas-powered plants emit pollutants that harm local air quality and public health; the Hudson Valley has ongoing air quality issues, as evidenced, e. g., by Dutchess County's "D" ozone rating by the American Lung Association; and

WHEREAS, the existing power plant located at the site is an older facility, currently operating as a "peaker" facility that is used only during periods of peak electric demand less than 3% of the year); and

WHEREAS, the proposed new power plant would produce electricity at a lower environmental impact per kilowatt hour but is expected to operate year-round as a baseload facility and if built would have a decades-long lifespan; as a base load facility, the proposed power plant would emit significantly more pollutants than the current plant does as a peaker facility; and

WHEREAS, the 2018 Reliability Needs Assessment of the New York Independent System Operator (dated November 2018) found no statewide gap in power generation or transmission capacity in the next decade without a new Danskammer facility, notwithstanding the impending closing of the Indian Point nuclear power plants; and

WHEREAS, given the very large increase in proposed renewable energy projects, including offshore wind and utility-scale solar, recently proposed as a result of the adoption of the Climate Leadership and Community Protection Act (CLCPA), future electric generation needs as older fossil fuel plants retire are expected to be met by renewable resources supported by energy storage; and

WHEREAS, two new power plants in the Hudson Valley have recently been built, partly in response to federal incentives to provide capacity for the New York metropolitan region, as opposed to providing capacity to serve only the Hudson Valley; and

WHEREAS, New York State recently passed the CLCPA, which sets targets of 70% renewable electricity by 2030, 100% carbon-free electricity by 2040, and net zero carbon emissions economy-wide by 2050; and

WHEREAS, the proposed power plant if constructed could increase the levels of greenhouse gases emitted by over 4000%, and increase levels of other pollutants that threaten public health by 300 to 2500%, according to data from Danskammer’s Article 10 application;

WHEREAS permanent jobs at the proposed plant will remain approximately the same as the existing plant; and

WHEREAS, the property taxes and other financial payments from the proposed plant will not benefit Gardiner;

NOW THEREFORE, BE IT RESOLVED, the Town Board of Gardiner, opposes the construction of a new Danskammer power plant on the Hudson River; and

BE IT FURTHER RESOLVED, that the Town Board of Gardiner urges Governor Cuomo and the Siting Board convened under Article 10 of the State Public Service Law to consider the concerns and position stated herein when considering Danskammer's proposal to build and operate a new facility; and

BE IT FURTHER RESOLVED, that the Town Board of Gardiner urges Governor Cuomo and New York State to focus additional economic development resources into the Hudson Valley to provide prevailing wage jobs for the construction and operation of clean power generation, brownfield clean-up, or other appropriate economic development projects in the Hudson Valley; and

BE IT FURTHER RESOLVED, that the Town Board of Gardiner is directed to submit this statement to the Siting Board and to send a copy of this resolution to Governor Andrew Cuomo.

Seconded by Councilman Carucci and carried. Supervisor Majestic and Councilman Wiegand abstained

RESOLUTION – BLACK LIVES MATTER

Supervisor Majestic spoke about the Black Lives Matter march held here in Gardiner on August 3. It was a very successful march which started at the Town Hall and ended at Majestic Park. The Town Board received a resolution for Black Lives Matter from the Gardiner Democratic Committee on July 11 and they have asked the Town Board to adopt the resolution. Board members were asked to share their thoughts.

Councilwoman Walls read a piece she had written years ago that expresses her feelings both then and now about the state of our country. She has many ideas on what the Town of Gardiner can do to show that we are a welcoming community to all. Ms Walls suggested changing the resolution to include “the Town of Gardiner commits to the action necessary to create meaningful and measurable change”. All Board members were in agreement.

Councilman Dukler read the resolution as presented and stated that Black Lives Matter too! This statement makes the difference. By saying all lives matter negates the importance of black lives. Adopting this resolution is the first step towards showing what Gardiner can do.

Councilman Wiegand strongly supports the resolution especially in it relating specifically to Gardiner.

Councilman Carucci echoed what everyone has said and supports adopting the resolution.

Resolution No. 96 – Black Lives Matter -Offered by Councilwoman Walls

WHEREAS, Black Lives Matter, and

WHEREAS, the Gardiner Town Board denounces systemic racial discrimination and violence against people of color, and

WHEREAS, the Town of Gardiner strives to be a welcoming town, where all people can feel protected, included, respected and safe,

NOW, THEREFORE, BE IT RESOLVED: That the Board denounces systemic violence and racism, and affirms that Black Lives Matter, and the Town of Gardiner commits to the action necessary to create meaningful and measurable change.

Seconded by Supervisor Majestic and carried.

MAJESTIC PARK MURAL

Board members discussed the proposed mural for the handball court at the park. The sketch of it has been done. Board members discussed the signs that are a part of the mural. Councilwoman Walls and Councilman Dukler are fine with the mural content as presented. Councilman Wiegand is troubled by some of the wording and feels some of the signs state political positions not appropriate for the park. Supervisor Majestic has received a call from a resident saying the mural does not represent her Gardiner. Ms Majestic has issues with the wording on a few of the signs as well. Councilman Carucci is fine with the mural however he did state that a couple of the signs maybe be difficult for young children to understand. Mr. Carucci is in favor of keeping the mural as is. Councilwoman Walls suggested releasing the conversation to the students that created the mural. Supervisor Majestic asked art teacher Mr. Martin to bring the Town Board's concerns to the students to see if they would re-think the wording on the signs. The Town Board did give the okay for painting the figures this weekend.

COUNTY HIGHWAY AGREEMENT – SHARED SERVICES

The Town Board is in receipt of the 2020 Shared Services Agreement with Ulster County for plow service from the Town on 2 County roads - McKinstry Road and Sand Hill Road. The agreement is for a 3-year term and the Town Highway Dept. will be compensated for their service in the amount of \$26,543.00 annually. On motion of Councilman Wiegand, seconded by Councilman Dukler and carried, the Supervisor was authorized to sign the agreement with Ulster County for shared services from the Town during the winter months with plowing McKinstry Road and Sand Hill Road.

AMENDED 284 AGREEMENT FOR 2020

Superintendent of Highways Brian Stiscia presented an amended 284 Agreement for 2020. The agreement adds 2 additional roads for paving - Autumn Knoll and Elyse Drive. Mr. Stiscia stated that there will not be an increase to the 2020 budget with these additions. On motion of Councilman Wiegand, seconded by Councilwoman Walls and carried, the amended 2020 284 Agreement was accepted as presented.

RESOLUTION OF ACCEPTANCE OF CONSERVATION EASEMENT TEMPLATE

The Town Board has received a conservation easement template created by the Open Space Commission (OSC) months ago for their review. This template would be used by any developer who has created a conservation easement on the development property. There being no questions or comments on the template, a motion was made by Councilwoman Walls, seconded by Councilman Wiegand and carried, adopting the resolution to accept the template.

Resolution No. 97 –

Whereas, paragraph 165-11 of the Laws for the Town of Gardiner requires the Town Board to adopt a template for conservation easements for agricultural and nonfarm lands, and states that such template easements may be amended from time to time and are subject to negotiation; Whereas, the Town of Gardiner Open Space Commission has presented a proposed conservation easement template for nonfarm lands;

Whereas, the Town Board has considered input from the Open Space Commission, residents of the community and the Town of Gardiner Planning Board, and the Town Board finds that adoption of the template conservation easement is in the best interest of the Town of Gardiner; Now, Therefore, the Gardiner Town Board hereby resolves as follows:

1. The conservation easement template for nonfarm lands, which is attached as an exhibit to this resolution, is hereby approved and adopted.
2. The Town Board directs that conservation easements hereinafter acquired by the Town of Gardiner shall utilize the conservation easement template, which is subject to those revisions that are deemed necessary and appropriate by the Town Board.

Seconded by Councilman Wiegand and carried.

HEARTWOOD BASELINE REPORT UPDATE

Councilman Wiegand is proposing hiring a person to review the baseline documentation drafted for the conservation easements for Heartwood. He has been in contact with Kelly Dobbins a senior planner with Orange County Planning Dept. to prepare an independent review of the baseline documentation for Heartwood. Her review will include a site visit, meeting with town representatives and a final report. Her rate is \$50 per hour. Estimated cost for this review is \$800. On motion of Councilman Wiegand, seconded by Councilwoman Walls and carried, authorization was given to hire Kelly Dobbins to conduct a review of the baseline documents for Heartwood's conservation easements.

FOREST GLEN ROAD DECKING CHANGE ORDERS

The Town is in receipt of 3 change orders sent by Tom Harvey engineer from CPL, from Paul Moore of M&P Builders contractor for the project. The first change order, which is change order #3 of this project is to credit the Town for an unused allowance of \$800. Motion was made by Councilman Wiegand, seconded by Councilman Dukler and carried accepting this change order credit. The second change order, which is change order #4 is the cost for removing scaling and cleaning the bridge abutments. The cost for this is \$2,944.00. No motion was made to accept this change order therefore the Town will not move forward with the scaling and cleaning of the bridge abutments. The third and final change order, which is change order #5 is to install 4 gates at the rail crossing on Old Ford Road. The purposes of these gates are for traffic calming devices. Cost to install the gates is \$4,050.00 which includes an additional \$600 for concrete posts. A motion was made by Councilwoman Walls, seconded by Councilman Dukler and carried.

Supervisor Majestic and Councilwoman Walls walked the rail trail earlier today and noticed steep hills that she believes should have fencing for safety purposes. Councilman Dukler stated that fencing is not needed.

With these changes a balance of approximately \$7,400.00 remains on the grant received to cover funding of this project. Board members discussed using the remaining funds for tree trimming on the rail trail.

RESOLUTION RECORDS RETENTION & DISPOSITION SCHEDULE

The Town Clerk presented a resolution for the adoption of a new records retention and disposition schedule created by the state to guide towns on how and when to dispose of records no longer needed to be kept by the Town. This replace the schedule MU1 which has been in place for many years. It is now referred to as LGS-1 and takes effect August 1, 2020. The State requires Towns to adopt this schedule by the end of the year. A motion was made by

Councilman Wiegand, seconded by Councilman Dukler and carried, adopting the resolution. Councilwoman Walls voted nay.

Resolution No. 98 – Records Retention Schedule

RESOLVED, by the Town Board of the Town of Gardiner that Retention and Disposition Schedule for New York Local Government Records (LGS-1), issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed therein.

FURTHER RESOLVED, that in accordance with Article 57-A:

- (A) Only those records will be disposed of that are described in Retention and Disposition Schedule for New York Local Government Records (LGS-1), after they have met the minimum retention periods described therein;
- (B) Only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods.

CREDIT CARD PAYMENT OPTION

The Town Clerk has presented to the Town Board a proposal to allow for the use of credit cards for the payment of certain fees collected and/or recorded by the Town Clerk's office. Quotes were received by 3 companies and after research with other town's accepting credit cards the Town Clerk has recommended MUNICIPALPAY for this service. The software is provided by the company, but the Town will have to purchase card readers. Councilwoman Walls would like a credit card use policy before moving forward with the proposal. The Town Clerk will provide something at the next meeting.

RE-APPOINTMENT TO THE ZONING BOARD OF APPEALS (ZBA)

On motion of Councilman Dukler, seconded by Councilman Carucci and carried, Richard Cerruto was re-appointed to the ZBA for a 7-year term to expire July 2025.

APPOINTMENT TO THE ZONING BOARD OF APPEALS (ZBA) TO FILL A VACANCY

On motion of Councilman Wiegand, seconded by Councilman Dukler and carried, Gregory Boyd was appointed to the ZBA to fill the term of Joe Katz who recently resigned. His term will expire July 2023.

APPOINTMENT TO THE ZONING BOARD OF APPEALS (ZBA) AS AN ALTERNATE

On motion of Councilwoman Walls, seconded by Councilman Dukler and carried, Nicole Wistreich was appointed as an alternate member on the ZBA.

RE-APPOINTMENT TO THE BOARD OF ASSESSMENT REVIEW

On motion of Councilman Wiegand, seconded by Councilwoman Walls and carried, Jack Habersberger was re-appointed to the Board of Assessment Review for a 5-year term to expire in September 2025.

RE-APPOINTMENT TO THE OPEN SPACE COMMISSION

On motion of Councilman Wiegand, seconded by Councilman Dukler and carried, Laura Wong-Pan was re-appointed to the Open Space Commission for a 5-year term to expire April of 2025.

LAZY RIVER ESCROW AGREEMENT

The Town is in receipt of an revised Agreement for the Payment of Municipal Engineering and Legal Expenses between the Town of Gardiner and Lazy River Resort, LLC. This agreement has been reviewed by Allyson Phillips, attorney for the Town, and is acceptable as written. On motion of Councilman Wiegand, seconded by Councilman Dukler and carried, Supervisor Majestic was authorized to sign the agreement.

LAZY RIVER CAMPGROUND LICENSE APPLICATION

Attorney Allyson Phillips provided the Town Board members with a status on the distribution of the Lazy River Campground license application. To date the campground has provided supplements to their application to address discrepancies found on the application by the Code Enforcement Officer Andy Lewis. A pre-application meeting was held on July 30 and included Lazy River’s attorney and engineer, Supervisor Majestic, Andy Lewis our Town Attorney and Engineer Mark Millspaugh and the Planning Board Chairman Paul Colucci. The Campground Floating District application, Special Use Permit and Campground License Application were discussed. The Code Enforcement Officer is reviewing the Campground License Application and will provide written recommendations to the Town Board identifying what would and would not be covered by the license. The Campground Floating District application and the Special Permit application should be filed with the Town soon.

SHORT TERM RENTAL DISCUSSION

Councilman Wiegand spent time reviewing the process so far on the Short-Term Rental Law and came up with several items to be addressed by the Board. They are 1. Non-owner-occupied rentals, 2. Definition of primary residence, 3. Cap the number of permits issued, 4. Limit the number of rental days for owner occupied and 5. Allow rentals in the SP-2 and SP-3 zones. Supervisor Majestic would like to see a draft law that can be sent to attorney Allyson Phillips. She has been talking with Councilwoman Walls about amending the zoning law to include short term rentals rather than a stand-alone law. Ms Walls is hoping for a reply from our attorney by the end of September.

MINUTES

On motion of Councilman Carucci, seconded by Councilman Dukler and carried, the minutes of July 14, 2020 were approved a written. Supervisor Majestic abstained.

SUPERVISOR MONTHLY REPORT

On motion of Councilman Dukler, seconded by Councilman Carucci and carried, the July Supervisor’s Report was approved as presented.

CLAIMS

Claims for the month of July were approved for payment on motion of Councilman Wiegand, seconded by Councilman Dukler and carried. They are listed on Abstract # 7 as follows: General Fund voucher #241-306 \$29,633.66; Highway Fund Voucher # 95-111 \$154,872.53; Sewer Fund voucher #25-31 \$27,218.24.

BUDGET TRANSFERS AND SUPPLEMENTAL APPROPRIATIONS

Resolution 99 – Transfer in General Fund – Offered by Councilman Wiegand

Resolved, pursuant to Section 112, Town Law, the 2020 Annual Budget, General Fund is hereby amended to provide for the transfer of \$318.00 from Acct No. 00.01.1440.460 CE Outside Professional Service to Acct No. 00.01-1440.464 CE SAM Grant, 41,613.00 from Acct No. 00.02.3620.105 Inps. Noise Complaint to Acct No. 00.02.3620.463 CE Noise Complaint, \$ 33.00 from Acct No. 00.07.8010.401 CE Misc to Acct No. 00.07.8010.103 PS ZBA Clerk and \$365.00 from Acct No. 00.07.8160.460 CE Outside Professional Service to 00.07.8160.470 CE Repairs & Maintenance.

Seconded by Councilman Dukler and carried.

Resolution No. 100 – Supplemental Appropriation in General Fund – Offered by Councilman Wiegand

Resolved, pursuant to Section 122, Town Law, the 2020 Annual Budget, General Fund, is hereby amended to provide for a supplemental appropriation in the amount of \$14,816.00 in Acct No. 00.07.8020.404 CE Engineering/Outside Professional Service Planning Board .

Further resolved, said moneys to be taken from the unexpended balance in the General Fund.

Seconded by Councilman Dukler and carried.

Resolution No. 101– Transfer in Sewer Fund - Offered by Councilman Wiegand

Resolved, pursuant to Section 112, Town Law, the 2020 Annual Budget, Sewer Fund is hereby amended to provide for the transfer of \$1,450.00 from Acct No. 03.07.8110.470 CE Tank Replacement to Acct. No. 03.07.8110.468 CE Repairs.

Seconded by Councilwoman Walls and carried.

Resolution No. 102 – Transfer in Highway Fund - Offered by Councilman Wiegand

Resolved, pursuant to Section 112, Town Law, the 2020 Annual Budget, Highway Fund is hereby amended to provide for the transfer of \$489.20 from Acct No. 01.04.5112.387 CE Halcyon Road to Acct No. 01.04.5112.388 CE Halcyon Drive.

Seconded by Councilman Dukler and carried.

EXECUTIVE SESSION

On motion of Councilman Wiegand, seconded by Councilman Dukler and carried, the Board entered into executive session at 9:45 PM to discuss personnel and will return to regular session only to adjourn the meeting.

Respectfully Submitted,

Michelle L. Mosher
Town Clerk