

**MINUTES OF A COMMITTEE OF THE WHOLE MEETING
HELD ON AUGUST 13, 2014 AT 7:00 PM AT TOWN HALL,
ONE OVEROCKER ROAD, POUGHKEEPSIE, NEW YORK**

PRESENT: Supervisor Tancredi
Councilman Baisley
Councilman Carlos
Councilman Conte
Councilman Cifone
Councilman Krakower
Councilman Shershin
Town Attorney Nelson
Town Clerk Salvatore

- **NOTE:** Attachments pertaining to a particular Town Board Meeting will be Found after the final minutes of that meeting, which are kept in the official minute books, held in the Town Clerk's Office.

{ } designates corrections or amendments to

7:00 PM

CALL TO ORDER

SALUTE THE FLAG

08:13-COW 01 DISCUSSION

Tree Protection Law

Supervisor Tancredi: The first discussion item is Tree Protection Law and I was really hoping the Board could discuss this. One thing that has irritated me and I think has irritated some of you over the past is when we've had commercial properties clear cut and my thought would be –we only want to deal with the commercial properties at this point, I think delving into residential might be too much to handle, but to put something in place, I don't care if it's a half an acre, you can't come in and cut all the trees on it until you have a plan in place with the Town – a plan before the Planning Board. We've seen it happen, we can all point at two, three or four spots, primarily along Route 9 where for no apparent reason, someone comes in and cuts all the trees and that's the way the property sits, sometimes stumps showing and sometimes not, but that's the way it sits for years. Not only is it less attractive, but, you talk about erosion and run off and all those kinds of issues, I think it creates problems and so that is the discussion item. Mr. Wilson has made some changes to our Ordinance here.

Neil Wilson: I haven't handed out the draft yet. I prepared a draft and talked to Todd about it and I was kind of looking for some direction from the Board. The issue here is there is a gap in our code, whereas if someone were to come in and obtain a site plan approval, they don't get to go and do site work, move trees, move dirt and whatever until the chairman has signed the drawings and they have completed all of the conditions of approval. Most recently, actually, late last year, I

was approached by Stanley Porco who has the piece of property on the corner of Sheafe Road and Route 9. He said to me he wanted a “clear cut” and I said “You can’t just clear cut” and I told him that he needed to give us an erosion control plan and a plan for clearing the property. We just did it. We don’t really have the authority to prevent him from cutting trees down, we do have authority to prevent him from removing dirt. We have a land contour permitting process, but that wasn’t what he was doing.

Supervisor Tancredi: But, just to make it clear, he came in and talked to the Town, usually what happens is, one of us drives down Route 9 and sees a piece of land that has been cleared, calls in and say “What’s going on on such and such a parcel” and no one knows because they haven’t been to the Town and that’s what we are really trying to fix.

Neil Wilson: That’s an incident where someone came and asked a question and we asked him to prepare a plan, he implemented it, he did it properly, in fact, somewhere I think during the early part of the year. While he was clearing, an ENCON officer also stopped by and asked what was going on and found out that the Town had issued him an approval. He had an approved erosion control plan for that purpose and so he was fine. But, somewhere, I think it was back in the early part of the year there is a piece of property near Evergreen Drive on Route 9. Redl owns a commercial Trustco Bank on the corner there. He went and took the trees down on that adjoining piece. He didn’t stump it, the stumps are still there. It’s unattractive, the trees that were there weren’t that terrific in terms of species or habitat, but they were forming part of the shed, but again, we don’t have anything in our code to prevent commercial property owners from doing that. There seems to be this bent, and we’ve seen it on a couple of occasions, the commercial owners are looking to sell or looking to lease their property seem to have this idea that people can’t see the property because there is a tree in the way, that it’s not going to sell or lease.

Councilman Krakower: I do think it’s a problem and it is bizarre that the developers feel you can’t see the whole property if there is a tree in the way, it is amazing how they just cut everything down as if that’s going to make the property more marketable all of a sudden or more attractive and it’s just a bad idea environmentally and esthetically a bad idea. I’m completely in favor with commercial because there has to be some control in the front end and there should be an effort to save some of these mature trees within the development and when the first thing they do is cut them all down, then you have a development where they put It all together and plant these little saplings or more insulting they truck in these big trees to put back up where they cut down big trees and it makes no sense. I would also want to expand it to not residential where there is existing homes because I think we get into too much of a problem kind of a quagmire but I think residential property that is undeveloped or being developed for two or more or five or more houses or units. I think we should include that because to me I think that kind of

crosses over to where it's not just a guy trying to put a house on a lot and trying to figure out what to do, it's someone trying to developing it for sale.

Neil Wilson: So, a vacant residential property, something that could be developed.

Councilman Krakower: I would include residential and two or more or five or more lots, because what you have lots of times because you could have a piece of residential, residential is the biggest kind of violator for that kind of rule. They come and clear cut everything and you see these new developments where there is not a tree in sight and it just looks ridiculous. If somebody saved the trees on the front end, I would imagine that the houses are more marketable with a nice big oak tree in the front yard and a nice brand new house. So, I think the residential should be included somehow. We want to exempt out people who just have just a little piece of world because it will create a quagmire.

Neil Wilson: Ok, let me kick that around a little bit and I will make a proposal to the Board. I do have a draft. I didn't give it to you tonight, I'm still working on it. One of the things I wanted to include and I found another code that I think will work, is a requirement where someone comes in and takes down trees, that they've got to put trees back in.

Councilman Krakower: The penalty should be replace the trees at equal size and etc.

Neil Wilson: Yes, that's what I was working on and I was focused very much on commercial properties but if you would like to see some language including vacant or larger parcels, residential.

Councilman Krakower: I would say two or more or whatever you want to do with it.

Councilman Carlos: If I'm a developer and I want to build five houses in a small cul-de-sac. I have to go before Planning and submit a plan, this is where the houses are going to be, this is the drainage, is there anything in that process about the trees? Or the natural vegetation that is part of drainage protection.

Councilman Krakower: Yes. We do things very differently today than we did ten years ago. Effectively what we require them to do is to give them a "housing fit study". In other words if you have five lots and you are putting a road in or just putting in driveways off an existing road, you've got to deal with the drainage and we need to know how you are going to deal with the drainage as part of the approved plan. So, we require that they give us a grading plan for each of those lots. Now, what happens very often. Unless the subdivider, the builder, the shape of the house may change between the time of final approval and the time they come in for a building permit and so what we always do is when that Building Permit comes in, we go back and check it against the approved plan and see where the changes to

the grading plan may have occurred and require revisions to make sure it all works as originally proposed and approved.

Councilman Carlos: How do we do the enforcement for that, that's one of the Building Inspectors?

Neil Wilson: Yes, when the Building Permit comes in, the Building Department circulates the application to all the other departments, Water, Sewer, Zoning, Engineering, and all of those departments take a look at the application and Engineering in particular, they compare it against the approved grading plan, if there are deviations, they will require changes to the proposed grading plan for that house or they may require changes to the larger drainage plan for whatever the subdivision is.

Councilman Carlos: So we get very specific. Thirty years from now, people aren't dealing with our mistakes. (Right) So, it's enforced through the building process? (Right) and up to the final CO and there are always field changes that occur. Hopefully minor in nature. But, where there are changes to the grading plan, maybe they hit rock, they may need to move the house, something like that, those are looked at as well by all the Departments.

Councilman Carlos: Do we require them to put up a bond for the performance, whether it is the cutting of the trees, etc.

Neil Wilson: Not for purely private improvements, (not for the five houses) no, if they are putting up—building a road or something like that, the Town certainly requires a bond.

Councilman Krakower: With the field changes that are circulated, that's after the Planning Board made its determination and then—(right) is it possible to post that on the web site so people know. Like the Planning Board made it's determination on the field changes and so you kind of connect the dots. Sometimes it makes a difference and some times it doesn't. There is a little strip mall near my neighborhood where they changed the color of the slats in the fencing and the neighbors got bent out of shape and it seemed innocuous, but at the end of the day, it really wasn't to the neighbors and so I think if we do those field changes, it might be helpful to put it up on the website. The other question I had is, if I have a buildable lot which is correctly zoned and everything else and I don't need a rezoning and I'm building one house, can I just pull a building permit or do you have to go to Planning?

Neil Wilson: You can pull a building permit.

Councilman Krakower: What if I have a buildable lot that is big enough for two houses, can I still pull a permit for two houses or do I then have to go to Planning?

Neil Wilson: You would need to sub-divide the lots. We only allow one single family dwelling per lot.

Councilman Krakower: So, my thought would almost be, with the tree ordinance, if you can just pull a building permit then we don't make you with residential be part of the tree ordinance, but if you have to do anything more than that, then the tree ordinance would apply? If a guy has a lot and he wants to cut down a tree to put his house – My neighbor cut down a big old tree, which I thought was crazy to cut down, but he put a pool in and if he didn't cut the tree down, there would be no where to put the pool and the reality is I don't think the Town and everybody should get involved with every little decision anybody makes and so my thought is, if you can just pull a Building Permit for something, if you have to go through Planning, that's where the tree ordinance should kick in, because then it coordinates everything.

Neil Wilson: I think, kind of getting back to regulating vacant residential property, it is not the number of lots, it the number of potential lots. So, if you are in an R-20 Zone and have a ten acre piece, theoretically, it gets somewhere in 8 to 10 lots, it's those kinds of parcels that tend to be subject for someone to come and start clear cutting and we've also had instances where someone goes in prior to pulling a building permit on an existing lot and all they are going to do is put up a single house and then they start clear cutting.

Supervisor Tancredi: We talked about this year's ago and that's why I was thinking just commercial because it gets more difficult. But, if you can figure out a way, I'm all for it.

Councilman Krakower: Maybe do it if it's over an acre or more.

Neil Wilson: Well, that became the question. I think it was in 2007 I had drafted a tree ordinance about the time that we adopted the Code and that's where the discussion sort of bogged down and how big or how small a lot do you regulate and then the question of how many trees and---

Supervisor Tancredi: If you are a homeowner and you have an acre and a half and you want a clear cut to put your house up, do you want the Town--

Councilman Krakower: But, an acre is a big lot, and potentially a lot of trees and the reality would be a big impact, we don't want to rope everyone in. If you have two, three, four, or five acres and want to put a house up, I don't think it unreasonable to say you have to come through the Town to make sure we take a look at the plan.

Supervisor Tancredi: Well, maybe we should think of just larger parcels.

Neil Wilson: Yes, I'm thinking of larger parcels and again, I'm thinking of just the residential vacant properties. Someone has a three acre piece with a house in the middle of it, that would fall out from the regular. If he wants to take trees down—

Supervisor Tancredi: Yes, I would say stick to what we know we can get through, we could always come back for larger pieces.

Councilman Krakower: What about five acres? Because the larger lot size is four – We could do four and five acres, that would basically exempt out everything throughout the Town for at least one lot and probably more than that in most areas of the Town. Four acre zoning is not really in too many spots where a lot of things are going to be built. So if we do Four acres or above it applies. Leaving small residential out.

Neil Wilson: Ok, so we just draw a white line – Five Acres. That's fine. Let me draft it up for you and you guys can then kick it around.

Councilman Baisley: Do we have any kind of safety net to stop what happened next to Bone Fish, he goes, get's approval and he wipes the whole hill out and then waits and puts it back up for sale. You start to wonder. Not saying that's what he did, some of these people go and get a minor approval for land then put it up for sale. It's not the first time I've seen it happen. Did his permit expire? (No, he has some time on the site plan, but he's not pursuing it.) How long before the site plan expires?

Neil Wilson: It's a year with two 90 day extensions according to our Code. He may be have even expired by now, I would have to check on that.

Supervisor Tancredi: My thought has been always, you drive down the street and all of a sudden, one day there is 15 trees on a lot and the next day there is nothing. No plan, no communication or nothing from the owner and that's what I really want to try to avoid. It's ridiculous.

Councilwoman Shershin: Yes, and he cut right up to the fence exposing the neighbors back yard, at least he could have left a buffer and allowed them to keep their privacy.

A few more incidents were brought out and then Neil Wilson stated:

Neil Wilson: So, I'll work on the drafts and get back to you.

08:13-COW 02

Noise Control Law

Supervisor Tancredi: Ok, let's move to discussion #2: Noise Control Law and basically this has come up with the Wegman project on the corner of Spackenkill and Boardman Road. They've been working like gang busters, but our Ordinance

under BV and I is heavy equipment and basically our Code says that “Heavy equipment can be operated on Weekdays and Saturday from 7 AM and until 8 PM and not through any fault of their own, the contractor was working Saturday mornings and he was out there 7:10 or 7:15 with some type of a rock cutter banging away and my question to the Board is, Sunday’s he can’t do it according to Code until 10 AM and so I’m wondering if we should make it Saturday’s---

Neil Wilson: It’s not allowed at all on Sunday. The regular construction, outside of the heavy equipment under B is allowed between 7 AM up to 10 PM and no Sunday restriction.

Supervisor Tancredi: But, heavy equipment is what I was focusing on because of the Boardman Road Site. It was loud and I heard it from my house. The people across the street certainly hear it. I thought 7:15 on a Saturday morning---through no fault of the contractor, they were working hard and putting in extra time, but, my question to the Board is, “Do we want to take a look at this and require heavy equipment to not begin work until 10 AM on a Saturday or only by special permit until 10 AM”. One Saturday I think they wanted to get in several more hours and so they worked from 7AM to Noon. By one, I didn’t hear a thing, they were out of there and that is really why I wanted it on the agenda to discuss and see what everyone thought.

Neil Wilson: Yes, the week ends and the holidays are really the question here. There may be others home on a Monday through Friday in a normal week, but the contractors are out there early and quite often knocked off at noon in this case, but even during the week day they very often are off the site by 2 and 3 o’clock.

Supervisor Tancredi: My problem is, I don’t think we want to be so restrictive that we don’t allow construction in the Town of Poughkeepsie. I think we have to be careful with that, that’s why I’m just focusing on Saturdays.

Councilman Krakower: I would probably say Section I would make sense. But, general building construction, you don’t want to prevent them from getting up in the morning and doing their project, but the heavy equipment stuff, they shouldn’t be doing that bright and early Saturday morning.

Councilman Carlos: Could we do it by special permit?

Supervisor Tancredi: Well, that was my thought, we could just restrict until 10 AM or make it 10 AM other than by Special Permit. Say you have a piece of property not near anything and not inconveniencing anyone, no harm, no foul.

Neil Wilson: We have the Special Permit in Section B that could be rolled over and carried into I if that’s what you want to do.

Councilman Krakower: The Building Inspector is the one that gives that? Yes

Neil Wilson mentioned a house on 179 Cedar Avenue that had the same thing, they hit rock and was pounding away and we were getting complaints.

Supervisor Tancredi: I got a number of calls from neighbors particularly related to Saturday, I think they understood week day, but Saturday 7:10 or 7:15 was loud barging and they were disturbed by it. So, my question to the Board, should we make it –

Councilman Baisley: Saturday it should be 10 to 6 – that’s an 8 hour day, people have a right to sleep on Saturday and 6 o’clock is late enough.

Council seemed to agree on the 10-6 span.

Councilman Baisley recommended that Section A be taken out. Consensus was it could be included in Section D. Neil Wilson will make the change.

Supervisor Tancredi: Ok, that’s the end of our discussion period, I would like to make a motion to allow public comments on Town issues: Seconded by Councilman Conte

CARRIED: 7-0

**CHAPTER 139.NOISE –Section 139-4.Unlawful noises
ATTACHED TO FINAL BOOK COPY**

Doreen Tignanelli: I have a question, is that just Saturday or does that apply to Sunday also.

Supervisor Tancredi: It’s not allowed on Sundays.

Doreen Tignanelli: Ok, because in two places, one was under unlawful noises and it looked like one specifically said Weekdays and Saturdays, well I took that to mean it was not allowed on Sunday, but without it explicitly saying that, could someone miss read it?

Supervisor Tancredi: We’ll have the legal team take a look at it.

Doreen Tignanelli: I think you do really need to be explicit because people do tend to “Push the envelope” and actually we can hear that noise at our house with the windows closed. There was one night about 9 PM they were working one week and I didn’t hear it myself, but a neighbor said you could hear it. Again, you are across from a residential neighborhood and like you say, “People need to make a living but also people also have a right to peace and quiet in their own homes”. As long as it is explicit for what days, that would be best. I would also like to comment on the tree protection. Yes, this was discussed back in 2007 and the Conservation Advisory Commission had done a lot of work on a tree ordinance to also include residential

and that didn't go anywhere and Mr. Wilson's outline here sounds really good, but, you know, I agree with Todd, especially the parcel next to the bank, is that four or five acres?

Supervisor Tancredi: No, that's a commercial property so it would be restricted.

Doreen Tignanelli: NO, what I'm saying, if was the limit going to be ---so that wouldn't be covered, so if you say if you have a commercial property that is 4 or 5 acres---

Supervisor Tancredi: No, the intent is commercials, you're not doing it, and residential are 5—

Doreen Tignenelli: Oh, so those are two different—Ok

Doreen Tignenelli: Ok, so part of the problem is too, you talk about the Tuscan Square site, again, that was also at the urging of a Planning Board Member that that site was clear cut right away, which I didn't agree with. I think the Planning Board needs to take a little more care about some of the large trees on these project sites and Mr. Wilson said that they have to give us a plan. TGI Friday's on Route 9, they were told repeatedly by the Planning Board, don't let any of those large trees in the front, they are beautiful trees, don't let anything happened to them. Two of those trees were taken down. If you look, there is one sickly looking little tree that was replaced several years ago and no where near what they took down. There is something in the Town Code that says, "If you take down a tree that you are not supposed to, you are supposed to pay a fine and you are supposed to replace it with a specific size." I don't think that is enforced and so you can sit here and say how it's going to be handled. But—

Supervisor Tancredi: I can give a better example than that, Chestnut Plaza. They ran over the Chestnut Tree.

Doreen Tignanelli: That's what prompted the legislation to – if you had a property and it was before the Planning Board or the Town, you couldn't cut down any trees until you had all of your approval. So, people just constantly try to game the system and see what they can get away with. Again, even if you don't care about the environmental aspects, do you care about flooding and how much it's going to cost for storms, so something really needs to be done. Again, as far as enforcement of site plans, yes, well, there well there were inspections for the Poughkeepsie Day School Site. They had the addendum to their storm water plan, it wasn't planted since our last meeting I filed a FOIL request for records showing who authorized that change, that they didn't have to agree to the sign, stamped plan. No records found. So, what does that mean, the Poughkeepsie Day School just decided on their own that they aren't going to plant and the Town's not going to enforce it. Now I see it's falling off of the inspection sheet, the latest inspection report and so now they have the notice of termination and they didn't file. I also looked at the last two

inspection reports, we the Town Taxpayers pay more to the Morris Associates to go each month to inspect these construction sites to make sure they are in compliance with all the laws, well there are several things on here from July, one of them for Marist. Morris Associates is recommending that the applicant be cited for non-compliance. Well, the next month, the same recommendation and now they have yet another issue there, recommending they should be cited for non-compliance. So, what good are these inspections we are paying for, if people are going around and not adhering to what they are supposed to be. So, how is this being in compliance? What enforcement? Is it selective enforcement? I don't know.

Councilman Krakower: The Inspections, doesn't the developer pay for those through the escrow accounts? So, it's not coming from the Town Taxpayer. It doesn't make a big difference, but it's not coming from the taxpayer.

Doreen Tignanelli: Ok, I take it back then, but what is the point of having them even pay for inspections that show violations and yet nothing happens? Are you paying for the inspection so they can look the other way? Then about the tree cutting. New York State does have erosion and sediment control laws and I don't know in particular if that would apply to the Porco Site off of Sheafe Road Route 9, but there are still New York State erosion and sediment control laws that need to be followed and you're not just off the hook just because its here might not be a specific Town Law, it's still a New York State Law and that's probably why that environmental conservation officer from DEC stopped to see, so, people just can't assume they can do what they want. Lack of enforcement is an issue and I would like to know why this has been two months in a row and Stratford Farms, there has been problems with them for years and their compliance. They also had an issue in July regarding erosion and the same issue in August.

Councilman Krakower: For things like that, are there fines imposed if they don't comply or do they just have to get into compliance?

Town Attorney Nelson: I think there are fines, yes.

Doreen Tignanelli: Ok, I will list some of these and I will send an e-mail to the Town Board and then maybe someone can –again these are environmental issues and we don't seem to get just gentle rains any more, we get a lot of heavy rain which causes flooding and erosions that are a problem.

Victor Gennodi: Home watching television and I hear about the trees on Sheafe Road and down by the TD North Bank or whatever. I hope we don't go and handcuff the taxpayers with another law. Where you can't cut your tree, it's leaning over the house or neighbors property, you can't touch it without jumping through hoops and replacing it with trees the same size. It doesn't happen. We have to be real here. I'm an excavating contractor and a builder, sometimes the grade is not there. You can't keep that tree that is 10 feet high on the side of the parking lot, it's got to ----

Supervisor Tancredi: What we are talking about is the Basis is Commercial property that has no plan and not developed. So, basically, a vacant piece of land, clear cutting. The only residential we are considering discussing is a residential parcel that is five acres or greater, we're not touching anything else.

Councilman Krakower: We are leaving all of the homeowners out of it and we are not telling you if you have an existing business and a tree hanging by your building you can't cut it.

Supervisor Tancredi: Particularly vacant properties and residential lots five acres and above that are vacant as well.

Victor Gennodi: Ok, that property down there by TD North on the corner of Vassar Road, that property used to be the old stainless steel diner there and that was their back parking lot there in then they put the Shell Gas Station and then we put the Arthur Treachers Fish and Chips and I did the gas station and Fish and Chips and tore down the diner and that was an open field that grew up and I was in there once before and chopped it all down and it grew back and so the guy cleaned it again..(He named several areas of the Town that had trees and unstable soil issues.

Supervisor Tancredi: All we are asking that if you want to cut a piece of land, clear cut, at least have a plan in process for the Town. Don't just cut it and leave it vacant for the next five years. That's kind of what we are looking at.

Victor Gennodi: Arrived late for the meeting and wanted the gist of the Noise Control law and Supervisor Tancredi explained it to him. Supervisor explained the other items discussed before he came in. Mr. Gennodi thanked the Board for addressing the noise problem.

Joe Armstrong: cited numerous examples of clear cutting that he has seen with bad outcomes. He encouraged the Board to rewrite the laws and enforce them.

Motion made to resume the rules: Supervisor Tancredi/Councilman Conte

CARRIED: 7-0

COMMITTEE REPORTS

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|---------------------------------|---|
| 1. FINANCE | Councilman Krakower: No Report |
| 2. FIRE ADVISORY | Councilman Conte: No Report |
| 3. GOVERNMENT OPERATIONS | Councilwoman Shershin: No Report |

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| 4. LAND USE & PLANNING | Councilman Krakower: No Report |
| 5. PERSONNEL | Councilman Cifone: No Report |
| 6. RECREATION | Councilman Baisley: No Report |
| 7. SENIOR CITIZENS | Councilman Baisley: They had their picnic last week and I hear Todd had a great time.
Supervisor Tancredi: They actually had two picnics. The picnic for the Senior Center was the Pirate Canoe Club with about 180 seniors there and really well received and then Bowdoin Park one which was a County Picnic with about 300 to 400 seniors. |
| 8. TECHNOLOGY & EQUIPMENT | Councilman Carlos: No Report |
| 9. WATER, SEWER, HIGHWAY | Councilman Carlos: No Report |

Motion made to Close the Meeting: Supervisor Tancredi/W. Carlos

CARRIED: 7-0

TOWN BOARD MEETING CLOSED AT 7:47 PM

Lkm:FS