

**MINUTES OF REGULAR TOWN BOARD MEETING
HELD ON NOVEMBER 28, 2012 AT 7:00 PM AT TOWN HALL,
ONE OVEROCKER ROAD, POUGHKEEPSIE, NEW YORK**

PRESENT: Supervisor Tancredi
Councilman Baisley
Councilman Eagleton
Councilman Conte
Councilman Cifone
Councilman Krakower
Councilwoman Shershin
Town Attorney Nelson
Town Clerk Miller

- **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 Town Clerk's Office.**

Public comments made during a Board Meeting may be heard on the audiotape of that particular meeting, which is kept in the Town Clerk's Office.

{ } designates corrections or amendments to

7:00 PM

CALL TO ORDER

SALUTE THE FLAG

Motion made to suspend the rules for public speaking on agenda items: Supervisor Tancredi/J. Conte

CARRIED: 7-0

Doreen Tignanelli: This first item, Councilman Baisley, could you explain this item since it's in your Ward?

Councilman Baisley: It is, basically, to put a contractor's yard in where the bus garage was.

Doreen Tignanelli: Where Bottini's is?

Councilman Baisley: Where it was, yes.

Doreen Tignanelli: Ok, SC 6, the redaction of materials. Was that for a FOIL request? (Yes)

Supervisor Tancredi: Doreen, I want to apologize for the problems with the web-site this week. Mark is on vacation but, I've got to do a better job in getting a backup for him because when he is not here, we need someone. What happen, was last Thursday and

Friday Mark Fink was off and it ended up being an extended vacation because he is off this week and we didn't have a backup to get the information out there and I talked to a few people to see if we can get that squared away.

Doreen Tignanelli: I do appreciate that because the Town has been very good about posting the agenda items and packets that are supposed to be out there. Thank you.

Motion made to resume the rules: Supervisor Tancredi/J. Baisley

CARRIED: 7-0

11:28-01 SET DATE FOR
PUBLIC HEARING

Amendments to Town Code 210,
Entitled "Zoning", Specifically
Article VI, Section 210-37, "Office
Research (O-R) District" And Other
Articles

RESOLUTION

WHEREAS, the Town Board has received a communication from the Director of Municipal Development recommending amendments to Chapter 210, "Zoning", specifically Article II, Section 210-9, "Definitions", and Article VI, Section 210-37, "Office Research (O-R) District", and Article VIII, "Supplementary Regulations"; and

WHEREAS, the proposed amendments are attached hereto and incorporated herein and the Town Board does hereby waive a verbatim reading of said amendments and does direct that said amendments be spread across the record as if they, in fact, had been read verbatim; and

WHEREAS, the action to amend the Zoning Law is an Unlisted Action under the New York State Environmental Quality Review Act; and

WHEREAS, the Town Board has determined that the proposed amendments must be referred to the Dutchess County Department of Planning and Economic Development and to the Town Planning Board for review and recommendation; and

WHEREAS, the amendment requires a public hearing.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Town Board hereby states that because only the Town Board can consider and adopt changes to the Town code that it is the only involved agency, and the Board hereby declares that it is the Lead Agency for purposes of coordinating the environmental review of this matter pursuant to Article 8 of the Conservation Law; and

2. The Town Board hereby sets a public hearing on the proposed amendments for January 16, 2013, at 7:00 PM, or as soon thereafter as the matter may come to be heard, in the Town Hall, One Overocker Road, Poughkeepsie, New York; and
3. The Town Board refers this matter to the Dutchess County Department of Planning and Economic Development for a recommendation pursuant to GML 239-m; and
4. The Town Board refers this matter to the Planning Board for an advisory report pursuant to Town Code Sections 210-154.
5. The Town Board directs the Town Clerk to notify the Town Clerks of each of the surrounding municipalities of the public hearing pursuant to GML 239-nn.

SO MOVED: J. Baisley/S. Eagleton

Councilman Krakower: I have a question. Are contractor yards allowed in any other Zones in the Town?

Councilman Baisley: I would think Business-Highway would probably be one of them.

Town Attorney Nelson: Does Gleason have one?

Councilman Cifone: That's why he's doing it Town wide.

Councilman Krakower: Wouldn't it be simpler to just simply rezone the one piece of property into one that allows contractors yard and change the Zoning?

Supervisor Tancredi: Wouldn't that be Spot Zoning?

Councilman Baisley: The only thing with that would be, if you have Business-Highway and then you turn it into (inaudible) something that would be opening it up to a can of worms. This seems to keep it pretty regulated and keeps buses from going back there.

Councilman Krakower: Can we, rather than do the contractor's equipment storage yard as a permitted use, couldn't we allow an O-R Special Permit so that it would require going more hoops to jump through?

Town Attorney Nelson: I haven't talked to Neil Wilson about that, but I don't see any reason why not.

Councilman Krakower: My only concern is that the O-R is kind of miscellaneous. It's a Zone right now.

Councilman Cifone: It is sort of a step down zone, basically.

Councilman Krakower: Yes, and it's in a different part of Town and without looking at those, there is probably some places where a Contractor's Yard wouldn't make any sense and then there would be other places where it wouldn't make any difference at all because a lot of it is on the Route 9 Corridor or in commercial areas anyway. Maybe some are adjacent to residential areas where we wouldn't want to allow it. If we did it as a Special Use Permit within the Office-Research we would have an extra level of protection so we wouldn't be having people just coming in out of right.

Councilman Baisley: That way we would be able to change it back in the future.

Town Attorney Nelson: You could make a change on this right now to put a comma in the definition as "Special Permit," but the question is whether you would want to add a Special Permit Conditions back in the Code some place. So, maybe the thing to do is to amend it now to add that clause and then if Neil Wilson feels that you need substantive provisions, he could just re-notice the hearing and other than that it could go ahead.

Councilman Baisley: And, a Special Use still comes back to the Board, right? Not to Zoning Board?

Town Attorney Nelson: Special Use Permits go back to the Zoning Board of Appeals. Ok, so number 210-37B5 on the third page in your packet would be Contractor's Equipment Storage/Contractors Yard subject to Special Permit Approval.

SO MOVED: J. Conte/S. Eagleton

CARRIED: 7-0

ROLL CALL ON AMENDMENT: Ayes: Councilmen Baisley, Eagleton, Conte, Cifone, Krakower, Councilwoman Shershin and Supervisor Tancredi.
Nays: None

CARRIED: 7-0

ROLL CALL: Ayes: Councilmen Baisley, Eagleton, Conte, Cifone, Krakower, Councilwoman Shershin and Supervisor Tancredi
Nays: None

CARRIED: 7-0

PUBLIC HEARING TO BE HELD ON JANUARY 16, 2013
AT TOWN BOARD MEETING

AMENDMENTS ATTACHED TO FINAL BOOK COPY

11:28-02 APPROVE

Ostuni Hill Road As Town Road

RESOLUTION

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby approve, subject to owner's compliance with all Planning Board subdivision conditions, the road name, "Ostuni Hill Road" for the Mt. View Estates Subdivision, Grid Nos. 6262-01-130823 and 6262-01-195769; and

BE IT FURTHER RESOLVED, that upon adoption of this resolution and after compliance with all conditions, said resolution shall be sent to the 911 Facilities for Dutchess County by the Town Clerk of the Town of Poughkeepsie.

SO MOVED: S. Eagleton/J. Conte

ROLL CALL: Ayes: Councilmen Baisley, Eagleton, Conte, Cifone, Krakower,
Councilwoman Shershin and Supervisor Tancredi

Nays: None

CARRIED: 7-0

11:28-03 AUTHORIZE

SC 1, SC 2, SC 3, SC 4, SC 5, and
SC 6

RESOLUTION

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby grant Special Consent to the following items; to wit:

- | | |
|--------------------|--|
| SC 1. Retain | Van DeWater & Van DeWater-Leo v. Town |
| SC 2. Authorize | Settlement-Moffett v. Town of Poughkeepsie |
| SC 3. Approve | 2012 Vacation Rollover to 2013 for Sarah Hoch |
| SC 4. Notification | Liquor License-Safari African Restaurant |
| SC 5. Authorize | Liquor License Waiver – Cinnamon Indian Bistro |
| SC 6. Affirm | Determination by Zoning Administrator Davis |

AND BE IT FURTHER RESOLVED, that upon the objection of any member of the Town Board, an item may be removed from the list and voted on separately.

SO MOVED: J. Conte/S. Eagleton

ROLL CALL: Ayes: Councilmen Baisley, Eagleton, Conte, Cifone, Krakower,
Councilwoman Shershin and Supervisor Tancredi

Nays: None

CARRIED: 7-0

11:28-SC 1 RETAIN

Van DeWater & Van DeWater, LLP,
Attorneys to The Town, To
Represent The Town's Interest In An
Article 78 Proceeding Instituted By
Anthony Leo

RESOLUTION

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby retain Van DeWater & Van DeWater, LLP, attorneys to the Town, at the rate of \$165.00 per hour for partners, \$155.00 per hour for associates and \$80.00 per hour for paralegals, to represent the Town's interest in an Article 78 proceeding instituted by Anthony Leo.

SO MOVED: M. Cifone/J. Conte

ROLL CALL: Ayes: Councilmen Baisley, Eagleton, Conte, Cifone, Krakower,
Councilwoman Shershin and Supervisor Tancredi

Nays: None

CARRIED: 7-0

11:28-SC 2 AUTHORIZE

Assigned Counsel, David Posner, To
Offer Settlement In The Matter Of
Brian Moffett V. Town Of
Poughkeepsie

RESOLUTION

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby authorize assigned counsel, David Posner, to offer \$5,000 payable by Town of Poughkeepsie in the matter of *Brian Moffett v. Town of Poughkeepsie, et al*, towards a mediated settlement of this matter by the Town's insurance carrier.

SO MOVED: S. Krakower/J. Conte

Councilwoman Shershin: I thought, according to the e-mails I've been reading, that you planned on fighting this one.

Councilman Cifone: None of our Police personnel did anything wrong. This guy was combated with them and I don't believe we should reward him, even if it's going to cost us a few more dollars to fight it in court.

Councilman Krakower: We don't need to go into Executive Session on this, do we?

Town Attorney Nelson: If you would like, I would be happy to, but I did send an attorney/client memo I think to all of you about the background on it, but we can take 10 minutes if you want.

Councilman Krakower: With ongoing litigation, we shouldn't –

Supervisor Tancredi: I would be careful on what you say publicly. We have questions, we probably should go into Executive Session.

Councilwoman Shershin: My only question is, how much would it cost to further litigate on this?

Councilman Krakower and Town Attorney Nelson felt it best to go into Executive Session on this when any questions and answers were to follow.

TOWN BOARD RESERVED THIS ITEM TO GO INTO EXECUTIVE SESSION

11:28-SC 3 APPROVE

Rollover Of 40 Hours Of Unused
Vacation Time To 2013 For Sara
Hoch

RESOLUTION

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby approve the rollover of forty (40) hours of unused 2012 vacation time to 2013 for Sarah Hoch.

SO MOVED: A. Shershin/S. Krakower

Councilman Cifone: I just would like to say for the record that I'm opposed to this normally, and I know in the past other employees have brought it up, but the Judge did give a valid case as to why this was necessary, so I'm in favor of it.

ROLL CALL: Ayes: Councilmen Baisley, Eagleton, Conte, Cifone, Krakower,
Councilwoman Shershin and Supervisor Tancredi
Nays: None

CARRIED: 7-0

11:28-SC 4 NOTIFICATION

New Liquor License Notice Form
For Providing A 30-Day Advance
Notice To A Local Municipality For
Submission To The State Liquor
Authority for Safari African
Restaurant Located At 2600 South
Road

REVIEWED BY TOWN POLICE AND NOTED BY TOWN BOARD

11:28-SC 5 AUTHORIZE

Liquor License Waiver Of The 30
Day Review Period For A New
Liquor License Application For
Cinnamon Indian Bistro, Inc.
Located at 260 North Road

RESOLUTION

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby acknowledge receipt of a request from Margaret Edwards, on behalf of Cinnamon Indian Bistro, Inc., 260 North Road, Poughkeepsie, NY, for a waiver of the 30 day review period for a liquor license application; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby waive the (30) day review period and does authorize and direct the Town Clerk to forward a letter of waiver and consent, pursuant to the attached request.

SO MOVED: Supervisor Tancredi/M. Cifone

ROLL CALL: Ayes: Councilmen Baisley, Eagleton, Conte, Cifone, Krakower,
Councilwoman Shershin and Supervisor Tancredi
Nays: None

CARRIED: 7-0

REVIEWED BY TOWN POLICE

11:28-SC 6 AFFIRM

Determination by Zoning Administrator
Davis For Redacted Materials

RESOLUTION

WHEREAS, Mary Elizabeth Ennis has filed an Administrative Appeal from the Town Records Access Officer's determination to redact 4 lines of notes, out of 22 pages of materials which were otherwise given to the applicant, now therefore

BE IT RESOLVED, that the Zoning Administrator's determination is hereby affirmed because the redacted materials reflect the Zoning Administrator's non-final, deliberative, intra agency work product.

SO MOVED: J. Baisley/S. Eagleton

Councilwoman Shershin: What is this?

Town Attorney Nelson: A FOIL request came in and Susan asked Sarah Davis to review it because it is related her to her (inaudible) and Sarah produced 21 ³/₄ pages of materials. There were four lines of material, which under the FOIL statute, I believed, after talking to Sarah, were exempt. Sara redacted those four lines because they had to do with her thought process and so the Appeal was filed and the reason it is on by Special Consent because we have until Monday to respond to the Appeal and I apologize for putting it on just this afternoon.

ROLL CALL: Ayes: Councilmen Baisley, Eagleton, Conte, Cifone, Krakower,
Councilwoman Shershin and Supervisor Tancredi

Nays: None

CARRIED: 7-0

Motion made to suspend the rules for public comments: Supervisor Tancredi/S. Eagleton

CARRIED: 7-0

Jim Beretta: There is a lot of discussion here about the Arlington Fire District over the last few years and every year there is a Fire District Election and I would just like to inform you that the Election is Tuesday, December 11th from 6 to 9 PM. It's only three years and I've decided to run for Commissioner as a write-in candidate. I am asking all the residents in the District to vote for me. You simply have to go to the designation and write my name in. Voting locations for Wards 3, 4 & 6 ARE at the Arlington Fire District Headquarters on Barnett Road and for Wards 1, 2 and 5, it is Red Oaks Firehouse at 213 Vassar Road. I would also like to pass a complement on to the Highway Department because when they came through my neighborhood for the first time, there are piles out there again. I happen to be home that day and I watched them go down the street and they really made a total valid effort to clean up the edge of everyone's curb where they had the leaves. It was a very efficient job and I was impressed with what I saw. The other thing I also liked, years ago, I used to notice when they worked on the street they would have these like pick up work trucks that they would leave running at the end of the street for some times hours and that really annoyed me because fuel is expensive and no one was in the truck and I couldn't see why they just didn't shut it off. I did notice that they had a truck like that and it was at the end of the street and it was

turned off. I would just like to pass that on to the Highway Department and Mark Pfeifer and the boys.

Councilman Krakower: Who are the other candidates who are on the ballot?

Jim Beretta: There is just one other candidate and I don't feel that I want to mention him.

Doreen Tignanelli: There has been a couple of things over the last couple of meetings that I haven't heard brought back up so I would just like to know if there is a status on them. At the July 18th Meeting we discussed Sarah Davis having some help from the Building Inspectors and I went back and listened and Neil said he had hoped to be back at the August 8th meeting with proposed legislation for the Town Board to look at and vote on and that hasn't come back up yet and so I don't know if he is working on it yet, or what.

Supervisor Tancredi: Yes, it's still in the pipeline being worked on.

Doreen Tignanelli: The other was the Senior Center. Councilman Baisley, about a month ago, that Do Diligents is still being done on that.

Councilman Baisley: We are just about done, Doreen. It sits there and we are very close.

Doreen Tignanelli: Ok, then the last thing was Councilman Cifone, you had a Committee that was about noise associated with the student housing and the landlords, etc.

Councilman Cifone: We had a meeting and we looked at the fine structures we had in place and they are actually high enough right now and there is one more element we are going to add because there is no penalty for the Landlord and we are looking at that right now, but we talked to our attorney that prosecutes the cases in court, there was really no record, say if one or two students got repeated tickets, and so we are going to try and keep track of that better and if they come back for a second or third ticket there will be a higher fine close to \$1,000. So, we really don't need to change the structure, it is already in place, we are just tweaking it a bit and keeping some records.

Motion make to resume the rules: Supervisor Tancredi/S. Krakower

CARRIED: 7-0

RESOLUTION

BE IT RESOLVED, the Town Board of the Town of Poughkeepsie does hereby adjourn to Executive Session to consider the following matters, to wit:

1. Litigation: To discuss litigation strategy in a case known as Moffett vs. Town of Poughkeepsie

2. Confidential communication between attorney and his client/Town Board based on attorney/client privileges.

BE IT FURTHER RESOLVED, that there will be no action appropriating money.

SO MOVED: J. Baisley/S. Krakower

CARRIED: 7-0

KEITH BALLARD WAS ASKED TO JOIN IN EXECUTIVE SESSION

TOWN BOARD MEETING ADJOURNED AT 7:43 PM

TOWN BOARD ENTERED EXECUTIVE SESSION AT 7:44 PM

TOWN BOARD RETURNED FROM EXECUTIVE SESSION AT 8:52 PM

RESOLUTION

BE IT RESOLVED, THAT the Town Board of the Town of Poughkeepsie does hereby authorize assigned Counsel, David Posner, to offer \$5,000 payable by Town of Poughkeepsie in matter of Brian Moffett vs. Town of Poughkeepsie, et al, towards the mediateD settlement of this matter by the Town's insurance carrier.

SO MOVED: J. Baisley/J. Conte

ROLL CALL: Ayes: None

Nays: Councilmen Baisley, Eagleton, Conte, Cifone, Krakower,
Councilwoman Shershin and Supervisor Tancredi

FAILED: 0-7

Motion made to close the Meeting: Supervisor Tancredi/J. Conte

MEETING CLOSED AT 8:55 PM

SJM:ikm