

**Town of Charlton  
Saratoga County  
Town Board Meeting**

**February 9, 2015**

The Regular Meeting of the Town Board of the Town of Charlton, Saratoga County, New York was held at the Charlton Town Hall, 758 Charlton Rd, Charlton, NY and called to order by Supervisor Grattidge at 7:32 p.m.

Supervisor Grattidge led the pledge of Allegiance.

Present: Councilman Grasso, Councilman Lippiello, Supervisor Grattidge, Town Clerk Brenda Mills, Attorney Van Vranken.

Excused: Councilman Hodgkins, Councilman Verola

**RESOLUTION #67**

**Approval of Minutes**

Motion by Councilman Grasso

Seconded by Councilman Lippiello

BE IT RESOLVED that the Town Board has approved the Agenda Meeting minutes from January 26, 2105.

Vote: All Ayes, No Nays. **CARRIED**

**PRIVILEGE OF THE FLOOR FOR AGENDA ITEMS**

No one chose to speak.

**RESOLUTION #68**

**Abstract of Claims**

Motion by Councilman Lippiello

Seconded by Councilman Grasso

BE IT RESOLVED that the Town Board has approved the payment of bills as presented in Abstract No. 102, voucher numbers 61 – 111 in the amount of \$528,786.47.

Vote: All Ayes, No Nays. **CARRIED**

**TOWN CLERK'S REPORT**

The Town Clerk's office took in \$916.50 for the month of January. \$718.52 was paid to the Supervisor, and \$197.98 was paid to other Governmental agencies.

**RESOLUTION #69**

**Acceptance of the Town Clerk's Report**

Motion by Councilman Grasso

Seconded by Councilman Lippiello

BE IT RESOLVED that the Town Board has accepted the Town Clerk's report as read.

Vote: All Ayes, No Nays. **CARRIED**

## **SUPERVISORS REPORT**

For the month of January, I attended 5 Town meetings and 8 County meetings. Some of the highlights of the month:

- Attended normal Town and County meetings
- Attended the County Organizational Meeting for 2015
- Presided over the Town's Organizational Meeting for 2015
- Attended the annual meeting of the Business Group with 2 other Town Supervisors
- Attended the County Planning Conference in Saratoga Springs

The Supervisor said that he received the Town's summary report of insurance for 2015, and has given copies to the Board to review. He said that fortunately the premium has gone down for 2015, and the Town will also receive a refund of approximately \$800. He also asked the Highway Superintendent to update the inventory list. Councilman Lippiello said that he was surprised by the low replacement cost valuation of the Highway Garage. Supervisor Grattidge said that he will have NYMIR look into that.

## **ANNOUNCEMENTS**

The Town offices will be closed February 16th in observance of President's Day. The Planning Board will still meet in the evening.

## **COMMUNICATIONS**

The Greater Galway Community Service Organization which runs the Galway Food Pantry thanked the Board for the Town's support for 2014 and continued support. The Pantry is available for any Charlton residents who meet the income qualifications.

## **DEPARTMENT & COMMITTEE REPORTS**

Supervisor Grattidge said that the Board received an annual report from the Building and Zoning Office.

Constables – for the month of January, there were 30 patrols, 20 complaints, 7 911 calls, 1,773 miles traveled, 40 tickets issued, 2 accident calls and 1 EMT call responded to

Party in the Park – Councilman Lippiello said that there is a planning meeting on February 11 at 7:00 p.m.

Parks – Councilman Lippiello said that the Committee wants to begin working on ordering the new gazebo for Gideon Hawley Park. They will ask the Highway Department to remove the old gazebo.

Highway – The Highway Superintendent submitted in the following report:

### **General Operations**

- Cut Brush on Cook Rd.
- Plow, Sand and Salt Roads
- Clean shop, wash floors.
- Haul Ice control sand

### **Equipment Repair**

- Replace cutting edges on wing plows
- Replace hose on backhoe

### **Miscellaneous Items**

- The new truck is at Tracy in Albany. Was told I should see it Friday if they don't find any problems.

Planning Board – Chairman Jay Wilkinson reported that the Board met on January 19, and approved the Marsh application and the Hensel application. There will be a Public Hearing on February 16<sup>th</sup> regarding the Desmond subdivision application.

Easement for Deer Run – Attorney Van Vranken gave the Board a copy of a proposed deed of permanent easement for the Board to review and get back to him within a month. He wants them to confirm that the language in the easement is what they wanted. It will be an easement over a 15 acre parcel and will provide access to that parcel. It will allow some limited construction, such as a parking area.

## **MOTIONS, RESOLUTIONS, AND AUTHORIZATIONS**

### **RESOLUTION #70**

#### **Authorize the seasonal use of the Volley Ball courts at Elmer Smith Park**

Motion by Councilman Lippiello

Seconded by Councilman Grasso

BE IT RESOLVED that Town Board has approved the application from the Old Timers to use the volleyball courts at Elmer Smith Park on Thursday nights from June 18<sup>th</sup> until September 10th from 6:00 p.m. until dark.

Vote: All Ayes, No Nays. **CARRIED.**

## **COUNCILMAN REPORTS**

Councilman Lippiello said that the Town's contract with Time Warner is renewing this year. He is attempting to contact Time Warner to begin negotiations for the new contract.

Zoning Ordinance Update – Councilman Grasso read the following introduction before opening the floor:

- *There continues to be substantial dialogue regarding the progression of the proposed zoning amendments*
- *The Town Board has encouraged residents to attend tonight's meeting as a way to foster open dialogue. The Town Board works hard to be open and transparent and still comply with Open meetings law requirements, and maintain accurate file for the record*
- *Tonight there will be Privilege of the Floor, not a Public Hearing, but a Public Hearing may be considered at a future meeting date*
- *I'd like to acknowledge the public in attendance and those having provided written comments and e-mail comments. All comments are considered equally. The Board thanks you for your comments, and will consider all comments submitted. They do not have to be made at a Public Hearing.*

*The Purpose of the Re-Zoning Process:*

- *Make zoning consistent with the Town's Comprehensive Plan and Farmland Protection Plan*
- *Improve Consistency with State Regulations for Septic Systems*
- *Build into the code, regulations regarding siting of cell towers and solar arrays*
- *Make zoning more user friendly to both applicants as well as the reviewing Boards*
- *Address previous inconsistencies and things that were seen as unclear that the Board and Building Inspector have noticed over the past few years.*

*Where we are in the Zoning Amendment Process:*

- *Last Spring we gathered final recommendations from ZORC who had completed years of work in 2013*
- *Last Spring we also gathered former drafts of the Cell Tower Law and Solar Array Law*
- *Last Summer the Town Board incorporated suggested modifications into a first draft of new zoning*
- *The Town Board then held a workshop to openly discuss the possible amendments*
- *In August the Town Board created a new draft of the amendments that the Board felt was suitable for distribution*
- *Last Fall the Town Board initiated SEQR review so that the environmental impacts of the changes could be evaluated*

- *Last Fall we posted draft amendments on the Town's website and distributed draft to Planning Board, ZBA, ECC, County Planning, Adjoining municipalities, both Town Counsels, the Town Engineer and the Zoning Officer*
- *In October the Town Board set a Public Hearing to be held on December 1, 2014*
- *On December 1<sup>st</sup> the Public Hearing was held, with extensive discussion about the proposed amendments. The TB decided to extend public comment period for two weeks past the Hearing date.*
- *On December 8<sup>th</sup> there was a Town Board meeting that included a discussion on the status of the zoning. The Board decided to set a workshop to discuss the comments and possible additional amendments for December 29<sup>th</sup>.*
- *On December 29<sup>th</sup> the Town Board held another workshop on changes to the zoning amendments. The Board decided to make the following changes:*
  - *Changes to farm stand requirements*
  - *Changes to solar array requirements including elimination of site plan review requirement; permitting an increase in the maximum system size and reducing screening requirements*
  - *Reduced percolation testing requirements for septic systems*
  - *Deleted references to wetlands needing to be subtracted from minimum lot size requirements*
  - *Agreed to not require buffers from stream, wetlands and ponds and defer to State regulation, allow discretion by PB and ZBA*
  - *Changed pond setback requirements to 20'*
  - *Added special requirements for the keeping of chickens, and to permit keeping of chickens in R/A and A district on lots as small as 2 acres*
- *On January 2, 2015 the Town Board issued a new draft of the proposed zoning amendments as well as a summary of the latest changes*
- *On January 13, 2015 the Town Board decided to put the new draft and a summary on the Town's website for public review. These documents were posted on January 14<sup>th</sup>.*
- *Since January 14<sup>th</sup> the Town Board has collected various comments from the public on the most recent changes. No less than 8 written or e-mailed comments have been received, and it is likely that all Town Board members have received feedback from many residents.*

*Speaking personally as an individual Town Board member I'd like to give my own thoughts on some of the comments received:*

- *Up to today, most of the people I speak to are very much in favor of the regulations. There has not been one current proposal that has not had positive feedback given to me.*
- *Regarding including or not including all of the zoning changes recommended by the ZORC, all of the ZORC recommendations were considered with much deliberation, and none were flatly dismissed. Most made it into the first draft, and most still remain in the current draft.*
- *Exclusion of wetlands from the minimum required lot area and buffers to wetlands and streams were extensively considered but there was not consensus amongst the Town Board for inclusion in the current draft. It's not to say that they won't be considered at some point in the future. If they are considered, there would need to be much more specificity in terms of the requirements than what had been considered.*
- *There were comments that the solar and cell tower additions should have been handled separately from the other zoning amendments. I disagree and believe there is a lot of benefit to handling these together in the current draft. My current Town Board term is only for another three years and I would really like to see these done within that time period. The legal process alone is exhaustive and it's not fair to the Town Board or the public to have to go through significant zoning amendments continually. To say that there hasn't been exhaustive review of each and every proposed amendment is just not accurate.*
- *There are still concerns that the solar array ordinance is overly regulatory. I suggest a thorough re-reading of the current draft and do not believe it to be overly restrictive or overly bureaucratic.*
- *There have been comments that solar arrays should be treated the same as accessory structures. From my perspective, Charlton has a very unique current context, and I've seen many solar installations across the country that are inconsistent with that context. Although I personally like the look of most solar arrays, I am very comfortable with the siting requirements that are currently proposed.*

- *Regarding pond setbacks, I can't say that the current 40' requirement is best, or that the previously proposed 10' requirement is best, but I believe the current proposal to make it 20' is a rational distance. 20' should easily allow typical maintenance of the fringe area around the pond by most pieces of maintenance equipment.*
- *Regarding the chicken regulations and why we are considering those additions, it's important to note that they were not included in ZORC's original recommendations, but there did seem to be many examples from the past where there was considerable confusion over where they were permitted and how they were to be controlled.*
- *Although I've only been on the Board for a year, I personally have heard complaints about the keeping of chickens from a noise and a trespass perspective.*
- *The intent of the new regulation is to clarify that chickens are permitted within the R/A and A zones on lots as small as 2 acres, which is the existing minimum lot size in those zones unless waived by clustering or variance.*
- *The current proposed changes if adopted would allow anyone that currently had chickens to be grandfathered.*
- *There have been criticisms of the Town Board for not having experience with chickens but I do not believe that to be the case. I raised chickens as a teen for years and had up to 17 chickens on a ¾ acre lot, with written permission from my neighbors as long as I didn't have roosters. In talking with my fellow board members I think they have a pretty good handle on the chicken raising issues.*
- *Due to concerns about chickens needing to be fenced in, the purpose was to keep chickens off public roads and out of neighbor's yards. The current proposal states "chickens shall be fenced or otherwise contained..." This was intended to permit free range chickens but also allow enforcement if someone's chickens continue to occupy neighbor's yards and roost in their trees, which have been reported to happen.*
- *Picking 20 as the maximum number of chickens on lots less than five acres was to establish some level of control so that we did not have hundreds of chickens on lots as small as two acres. Perhaps a higher number such as 25 or 50 is more appropriate.*
- *The restriction on keeping of roosters on lots less than five acres was to address concerns expressed over crowing of roosters near adjoining residences. Again, perhaps we can add a special clause that permits roosters on smaller lots if there are no neighboring residences within a certain distance. I personally like the sound of roosters but I personally would not want them crowing constantly if they were fifty feet from my house.*
- *Questions have come up about ducks and geese and other fowl. Right now it is only written for chickens because that seems to be the most popular fowl in Town but I do see the potential to add different species in the future. We did discuss adding other animal types amongst the TB but not having reached any consensus thought we should at least try to get consensus with chickens first.*
- *There have been comments made about the current proposed changes not in keeping with trying to retain Charlton as a rural and agriculturally friendly Town. From my perspective, keeping Charlton rural and agriculturally friendly is one of this Board's most important initiatives.*
- *There have been comments about some of the regulations seeming arbitrary. I disagree with this notion and believe it is important that zoning regulations be as specific as possible and it is very difficult in trying to decide what the most appropriate size, setback or number of anything is. All of the proposed regulations have had considerable debate amongst all of the Town Board members with discussions held during an open forum.*
- *There have been comments about the current definition of livestock farm as only covering farms as a principal use, and that the recreational keeping of not only chickens but all animals is currently permitted anywhere in Town. I agree with the comment that now is a good time to clarify what is permitted and where. From the feedback I've gotten there appears to be more support for allowing recreational keeping of animals on all lots in all zones rather than limiting them to certain minimum lot sizes and in certain zones. That said, in order for the changes to move forward they need to reflect something that the TB can reach consensus on.*
- *There have been questions as to if chicken owners were consulted when the regulations were drafted. I would say no, but there have been many discussions with chicken owners and non-chicken owners*

*before the zoning process and the purpose of meetings like this is to make sure we allow feedback from all members of the community.*

- *There have been comments regarding the inconsistency between the current proposals and the Town's "Right to Farm" legislation and Ag and Market's laws. I have researched both extensively and have not found any of the proposals to be inconsistent with either of these. I have also researched chicken regulations in various municipalities and believe the current proposals are more fair and reasonable than the few that I have seen.*

*Looking ahead, there are some things we need to decide as a Board as to how we should move forward:*

- *Decide if an additional public hearing is required*
- *Decide if additional changes to the Zoning Amendments are required*
- *Decide if more public review is required*
- *Complete SEQR process*
- *Adopt Amended Zoning legislation, codify changes and publish the new book*

*In summary:*

- *I know there are a number of people that would like to share their thoughts about the current proposals and I encourage them to share them tonight.*
- *I would also encourage all of the Town Board to share their views on the current zoning proposals.*

## **PRIVILEGE OF THE FLOOR**

Jay Wilkinson, resident and Planning Board Chairman – He said that the Planning Board has given written feedback to the Board already about the proposed Zoning changes. They would like to see all of their comments incorporated, but there are 3 items in particular that they would like to see incorporated:

- 1) Language added that only non-wetland be included as acreage in a building lot.
- 2) Want to see pond setback to 40 feet, but have compromised to 20 feet. He asked why the Board is changing that now. There has only been one problem that he is aware of.
- 3) Wants to see 100 foot buffer for wetlands. Believes that we should protect our wetlands.
- 4) Chickens – he believes that the regulation is a step in a positive direction. Would like to see restrictions on roosters to commercial operations only.

Brad Howe, resident – He said he agreed with Mr. Wilkinson on the wetlands, but not the chickens. He said he has lived in Charlton since 2007, and picked Charlton because Charlton promotes farming and agriculture. He has read the Town's Right to Farm Law and encouraged the Board to read it. He read excerpts from the Farmland Protection Plan. He does not feel that the Zoning changes are less restrictive than other Towns. He does not agree with the regulations and restrictions about chickens. He also questioned the following:

- 1) Does not understand why 5 acres is necessary for keeping of horses.
- 2) Why do we require a manure management plan for horses?
- 3) He noted the increase of the penalties for violations and the name change of the Code Enforcement Officer.
- 4) He feels that the setbacks for ground mounted solar is too restrictive.
- 5) He believes that wetlands should not be considered in minimum lot size.
- 6) He noted the sentence in the book that reads "Any activity not listed as a permitted land use in this Ordinance is prohibited"

Mr. Howe said that he believes that the changes are being made because of 2 or 3 complaints. He said that the ZORC has worked on the changes since 2004, and the changes were made by debate and consensus. He asked the Board to hold additional meetings for public input before the changes are made.

Gail Roscioli, resident – She stated that she lives in the Agricultural District and has chickens. She pointed out that Charlton is a Right to Farm Town. People have the right to have roosters. Perhaps there should be a noise ordinance or Animal Control Officer to handle complaints.

Suzanne Careker Voigt, resident – She wants to see rural community preserved, and appreciates the effort that ZORC put in since 2004. She believes that the Ordinance needs to respect the Town Comprehensive Plan. She said that minimum acreage for keeping animals is not a big concern around the country now, but rather the health, safety and welfare of the animals. Horse management is done by individual owners. Minimum acreage

has nothing to do with the welfare of the animals. She asked the Board to abandon minimum acreage for horses, chickens or whatever animals people want to have on their property.

Kathy Arnold, resident - She said she is strictly against the chicken regulations and does not feel that roosters are a public health problem. She sighted the Right to Farm Law and NYS Ag and Markets which says New York local governments shall not unreasonably restrict or regulate farm operations within agricultural districts unless public health or safety is threatened. Ag and Markets Law section 305A says that local governments while exercising their powers to enact and administer comprehensive plans, local laws, ordinances, rules or regulations, shall exercise these powers in such a manner as may realize the policy and goals as set forth in this article (Article 25AA) and shall not unreasonably restrict or regulate farm operations within agricultural districts unless it can be shown that the public health or safety is threatened. It also states that municipalities are encouraged to contact Ag and Markets in advance of enacting a local law or ordinance that would restrict farming within an agricultural district.

Peter O'Brien, resident – He said that growing up, his family kept over 150 chickens in Charlton. Chickens can make more noise than a rooster. He feels that the chicken law is overregulation.

Laurie Kruppenbacher, resident – She said that she raises chickens on over 60 acres. She informed the Board that when you order chickens from reputable mail order hatcheries, you must purchase a minimum of 25 chickens. She feels that the regulation is too restrictive.

Jim Sevinsky, resident – He said he has 9 chickens and does not agree with restricting people from having chickens. He does not have a problem with roosters and does not feel that they should be banned. He thanked the Board for the progress that they have made on reworking the solar regulations. He feels that it is okay to go further with allowances for clean renewable energy.

Andy La Patra, resident – He said he has no problem with free-range any kind of animal. He just believes that they should be kept off of a neighbor's property. He said his neighbor has chickens and he has noticed a large increase in the coyote population near his property.

Michael Hancox, resident – He said that he feels that the ordinance is arbitrary as far as the number of chickens a person can have and the acreage needed for chickens. He does not feel that the regulation is consistent with the Comprehensive Plan or the Right to Farm Law. He also does not understand why the setbacks are different for solar arrays than they are for other things. He is in agreement with the buffer for wetlands.

Joe DeMartino, resident - He has many chickens and 7 roosters. He believes that preserving Charlton's heritage is very important. He said that 2 of his children have lyme disease and he got chickens for tick control, and to protect his family. He does not feel that chickens should be regulated in Charlton.

Bruce Gardner, resident - He asked the Board to reconsider the setbacks on wetlands. He said science and research has shown that wetlands are very important and need to be protected.

Dave Schweizer, resident and Treasurer of West Charlton Fire District – He asked why it takes so long to get the check for the tax levy, and why does the Board need to approve it. He said in the past the Treasurer has sent him the check. He asked the Board to consider speeding up the process. Supervisor Grattidge said that the Tax Collector collects the money and the Town cuts the check. It was approved on tonight's abstract, and the check will be cut tomorrow.

Suzanne Careker Voigt, resident – She said that the Charlton Fire District's check has gone to Ginny DeCapria this year and for the past three years. Supervisor Grattidge said that this is not true, as this year's check has not been cut yet, and the fire departments are required to pick up their checks.

Eileen Stone, resident - She said she would like to see more notification for the public of ongoing changes. She would like to see another Public Hearing that is well publicized. She would like to see the ZORC recommendations and the process. She does not want to see rural regulated out of Charlton. She does not agree with regulating chickens. She would like to see them be allowed in the residential areas. She also encouraged the Board to keep the 100 foot buffer for wetlands, and would like wetlands to be included in the 2 acre minimum lot calculation.

Councilman Grasso said that he appreciated everyone's comments. He said that the Board will consider all of the comments before they move forward with the Zoning changes.

Councilman Lippiello said that the Board is in session twice a month and he encouraged everyone to come to the meetings to hear what is happening. Feedback from people helps the Board to run the Town.

Supervisor Grattidge said that the feedback is good. The Board is trying to look at what makes sense for Charlton. He realizes that they cannot make everybody happy, but they are trying to strike a balance. He said that there are current setbacks for wetlands. You cannot build a septic system within 100 feet of a wetland. What was proposed was overlaying a whole new setback just for the Town. He said it is a taking of property to say to someone that if they have 2 acres and 5% of it is wetlands, you need a bigger lot to build on. The Planning Board has discretion, and if they do not feel that someone can site a house and septic system with the current setbacks, then they are perfectly within their rights to deny them. But, to make a lot even bigger for a single family resident is putting a huge burden on someone that wants to subdivide their property. That is a taking of property and this is why he does not support adding that extra regulation.

The Town Clerk reminded the audience that there will not be any more mailed newsletters, so she encouraged them to check the Town website for information and to E-subscribe to receive emails and notifications.

Meeting adjourned at 9:25 p.m.

Respectfully submitted,

Brenda Mills  
Town Clerk