

A regular Meeting of the Town Board of Guilderland was held at the Town Hall, Route 20 McCormick's Corners, Guilderland, NY, on the above date at 7:30 pm. The meeting was opened with the Pledge of Allegiance to the flag. Roll call by Rosemary Centi, Town Clerk, showed the following to be present:

- Councilman Redlich
- Councilwoman Slavick
- Councilman Pastore
- Councilman Grimm
- Supervisor Runion

ALSO PRESENT: Richard Sherwood, Town Attorney

Supervisor Runion welcomed everyone to the evening's meeting and asked for a motion accepting the minutes of the November 16th, 2010 Town Board meeting.

MOTION #192 Councilman Pastore moved to **ACCEPT THE MINUTES OF THE NOVEMBER 16TH, 2010 TOWN BOARD MEETING.** Councilwoman Slavick seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Abstained
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

Public Comment Period : No public comment

Guests in attendance:

Troop 33 of Albany

Alex Selsley -

Eli Kochman

Ari Rosenblum

Pack 18

Shalom Kochman

Zachary Selsley

Eli Wildman

Adult Leaders

Andrew Gelbman

Shmuel Selsley

Adam Selsley

Julie Selsley

Working their Citizenship and Merit Badges

PUBLIC HEARINGS:

7:30 PM – Amendments to the Zoning Law: Mixed use Development and Customary Home Occupations.

Supervisor Runion stated that this is a second public hearing on the local law based on revisions submitted by the Zoning Review Committee and comment as submitted by the Albany County Planning Board.

Chuck Klaer, Meadowdale Road, stated,

Proper Notice:

I want to thank the Town Clerk Rosemary Centi for including the amendments to the shopping center definitions to the most recent Public Notice for this Public Hearing

As discussed at the last Public Hearing, consideration may given to the communities of Mckownville, Westmere, Guilderland Hamlet, Guilderland Center, and Fort Hunter to influence aspects of the Town's Zoning as applied to their respective unique characteristics as recommended by the Comprehensive Plan and some of the corridor and Neighborhood Master Plans.

I had the pleasure of attending a meeting of the McKownville Association where Zoning Board of Appeals Chairman explained how some Towns have addressed "Hamlet" zoning issues. If Guilderland chooses to incorporate some version of "Hamlet" zoning in its code, can it be assumed that "Hamlets" may have an opportunity to influence the way, for example the Mixed Use or Home Occupation being proposed apply to the unique characteristics of a particular Hamlet?

Home Occupation:

Has any consideration been given to notifying the neighbors of an applicant for a Minor Home Occupation of such application and the conditions to which the applicant has certified to abide and a process to bring a failure to abide by the conditions required of a Minor Home Occupation to the attention of the Town?

Shopping Centers:

Since the definitions for the various shopping center designations have changed over time, would someone please repeat for me and the listening public at home what definitions are being considered for final acceptance this evening?

Supervisor Runion stated that the definition is in the local law and had not been changed. The only change was removing the cap on the Super Regional Mall.

I understand that the Town Board has decided not to accept the recommendation of the Zoning and Land Use Review Committee to cap the size of Crossgates to comply with the recommendation of the Comprehensive Plan to avoid further expansion of Crossgates, because the Town Board believes current zoning law restrictions are sufficient to limit any further expansion of Crossgates.

Can you or perhaps Mr. Barber as chair of the Zoning Board of Appeals specifically reference the current zoning restrictions on Crossgates that would preclude any further expansion, thus precluding the necessity to cap the size of Crossgates to comply with the recommendations of the Comprehensive Plan?

Supervisor Runion stated that the site plan for Crossgates designates areas for green space, the parking is maxed out under the Zone Code, and there is no allowance for additional height and number of parking slots. There are a number of restrictions that have maxed out land area.

He further stated that it does not mean that they could not add an additional four or five thousand square feet such as was done for the reconfiguration of the Lord and Taylor building.

Mr. Klaer stated that it should be noted that the Town has the authority to cap the size of Crossgates, particularly if further expansion of Crossgates would not be in compliance with the Comprehensive Plan.

Mr. Klaer further stated that I understand that one of the reasons posed for not formally capping the size of Crossgates is to avoid giving Pyramid Crossgates Company the ability to claim that a size cap reduces the value of Crossgates and therefore Pyramid Crossgates might use such claim to support a claim to reduce its assessed value.

Due to the fact that the multiple efforts by Pyramid Crossgates to have its assessed value reduced for the tax years 1993-1994, 1994-1995, 1995-1996, 1996-1997, and 1997-1998 were dismissed because Pyramid Crossgates was unwilling to provide the Supreme Court and the Court of Appeals the financial information required by law to challenge an assessment, if Crossgates wasn't willing to disclose the requisite financial information, to support previous attempts to have its assessed value reduced, why does the Town Board believe it will in the future?

(Note: Based on the Supervisor's comments the dismissal of the 1993-1994, 1994-1995, 1995-1996 consolidated suit may have been for different reasons: see below)

Petitioner Pyramid Crossgates Company (hereafter PCC) owns a retail shopping mall (hereinafter Crossgates Mall) located in the Town of Guilderland, Albany County. Petitioner Montalba Square Associates, Inc. (hereinafter MSA) formerly owned a single tax lot which is part of the mall property. Pursuant to [RPTL article 7](#), PCC--by notices of petition dated July 29, 1996 and July 10, 1997, respectively--commenced tax certiorari proceedings alleging that respondents overassessed the mall property for the tax years 1996-1997 (hereinafter proceeding No. 1) and 1997-1998 (hereinafter [*2] proceeding No. 2). * By notice of petition dated July 10, 1997, MSA commenced a similar proceeding to challenge its assessment for the 1997-1998 tax year (hereinafter proceeding No. 3). On January 15, 2002, respondents moved to dismiss proceeding Nos. 2 and 3 on the ground that PCC and MSA failed to timely file notes of issue pursuant to [RPTL 718 \(2\) \(d\)](#). Two days later, respondents moved to dismiss proceeding No. 1 on the ground that, inter alia, PCC failed to file a statement of income and expenses pursuant to [22 NYCRR 202.59 \(b\)](#) and [\(d\)](#). Supreme Court agreed with respondents and dismissed all three proceedings. Petitioners appeal and we now affirm.

- - - - - Footnotes - - - - - *

PCC previously commenced individual tax certiorari proceedings challenging assessments for the 1993-1994, 1994-1995 and 1995-1996 tax years. On October 10, 1995, for purposes of judicial economy, Supreme Court consolidated these proceedings. Although these other proceedings are not the subject of this appeal, the October 1995 consolidation order is relevant to one of petitioners' arguments on this appeal, discussed *infra*.

- - - - - End Footnotes- - - - -

[*3] A petitioner is obligated to file a note of issue within four years of commencement of a tax certiorari proceeding or else "the proceeding shall be deemed to have been abandoned and an order dismissing the petition shall be entered ... except where the parties otherwise stipulate or a court or judge otherwise orders on good cause shown within such four-year period" ([RPTL 718 \[2\] \[d\]](#)). The Court of Appeals has rigidly interpreted this provision, stating that, based on its mandatory wording and legislative intent, it must be "'applied irrespective of any and all circumstances'" ([Matter of Waldbaum's No. 122 v Board of Assessors of City of Mt. Vernon, 58 N.Y.2d 818, 820, 445 N.E.2d 646, 459 N.Y.S.2d 263](#), quoting [Marco v Sachs, 10 N.Y.2d 542, 550, 226 N.Y.S.2d 353, 181 N.E.2d 392](#); see [Matter of Sullivan LaFarge v Town of Mamakating, 94 N.Y.2d 802, 804, 701 N.Y.S.2d 308, 723 N.E.2d 57](#)).

Councilman Redlich stated that it is not a cap on Crossgates but a cap on Super Regional Malls. The cap could have led us to litigation.
We regulate certain types of properties not property owners.

SHOPPING CENTER Two or more retail businesses or service uses on a single lot in a single structure or as a group of buildings with common access and parking facilities.

SHOPPING CENTER, LOCAL A shopping center where the combined total of all such business and service uses has a gross floor area of not more than 45,000 square feet.

Shopping Center, Regional

SHOPPING CENTER, Super Regional A shopping center where the combined total of all such business and service uses has a gross floor area exceeding (45,000?) square feet but not more than one million square feet.

DESIGNED LOCAL SHOPPING CENTER

The use of a designed shopping center by itself, or combined with any other use or accessory use permitted in the applicable zone which would serve to complement the designed shopping center, where the combined total of all such uses shall have a gross aggregate floor area of not less than 150,000 square feet nor more than 400,000 square feet.

[Amended 2-2-1999 by L.L. No. 1-1999]

DESIGNED NEIGHBORHOOD SHOPPING CENTER

The use of a designed shopping center by itself, or combined with any other use or accessory use permitted in the applicable zone which would serve to complement the designed shopping center, where the combined total of all such uses shall have a gross aggregate floor area of less than 150,000 square feet.

[Amended 2-2-1999 by L.L. No. 1-1999]

DESIGNED REGIONAL SHOPPING CENTER

The use of a designed shopping center by itself, or combined with any other use or accessory use permitted in the applicable zone which would serve to complement the designed shopping center, where the combined total of all such uses shall have a gross aggregate floor area of not less than 400,000 square feet nor more than one million square feet.

[Amended 2-2-1999 by L.L. No. 1-1999]

DESIGNED SHOPPING CENTER

The use of a division of a single structure or the grouping of buildings which will constitute a convenient shopping center designed as a planned and harmonious unit.
[Amended 2-2-1999 by L.L. No. 1-1999]

Alex Selsley, West Highland Drive, stated that he failed to see the need for the cap on the size of Crossgates.

Councilman Redlich responded that there is no cap on the size.

Supervisor Runion explained that the restrictions are not targeted to Crossgates Mall but are part of the Town's Zone Code for the concern of the residents.

Dr. Donald Reed, Norwood Street, stated that he felt that the proposal, particularly the Mixed Use issue, would not have an impact on the Mckownville area.

MOTION #193 Councilman Redlich moved to **CLOSE THE PUBLIC HEARING ON THE AMENDMENTS TO THE ZONING LAW**. Councilman Slavick seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

MOTION #194 Councilwoman Slavick moved that **BASED ON THE FULL ENVIRONMENTAL ASSESSMENT FORM AND THE AMENDMENTS WHICH REFLECT THE CURRENT SHOPPING CENTER DESCRIPTIONS, THE ADOPTION OF THIS LOCAL LAW WOULD NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT**. Councilman Redlich seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

MOTION #195 Councilwoman Slavick moved to **ADOPT LOCAL LAW #3 OF 2010 AMENDING THE ZONING LAW CHAPTER 280 REGARDING MIXED USE DEVELOPMENT, DEFINITION OF SHOPPING CENTERS AND CUSTOMARY HOME OCCUPATIONS**. Councilman Redlich seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye – Thanked the Zoning
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Law Review Committee for their work. He said, "I am particularly pleased that people in Town that have home businesses, now, are free from a permit requirement, or a fee requirement as long as their business meets the standards for the lowest classification of home business. I think that is a real improvement for a lot of people in Town who may have been placed in fear of unnecessary regulation or harassment from the Town and now they don't have to fear that. I think it is a step forward. I think the mixed use change is good, I think the other changes are good and again, I want to thank the Zoning Review Committee for their work."

Councilwoman Slavick	Aye – "I would like to thank the Zoning Committee, who spent a lot of time on this, I believe it has been over a year and also the input from a lot of the residents. I am very happy with the law."
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Councilman Pastore Aye – “I, too, am in favor of the motion. I think this is a classic example of several individuals coming together. The town board had recommended several individuals to serve on the Zoning Law Review Committee. Those individuals hail from various political parties, and are business men and women in the Town and brought with them a great deal of experience, along with members of our own Zoning Board and Planning Board. They have done a tremendous amount of work. That is not to say that there weren't certain modifications and changes that were necessary. We also followed the guidelines of the Albany County Planning Board and with all of the recommendations and suggested changes, all of the deliberations and discussions, I think this has been a worthwhile experience and I am in favor.”

Councilman Grimm Aye – “I want to thank the Committee. They were flexible. This is not exactly how I would have written the code. I do think this is a compromise that I think is suitable. It does cut red tape that is badly needed for home businesses. We should be doing all we can to help home businesses succeed. They are a tremendous economic engine. They are where the entrepreneurs of America live. I think this is a positive step forward so I vote in favor.”

Supervisor Runion Aye – “I am going to vote in favor as well. I want to thank the Zoning Review Committee because they went through quite a bit of, quite a number of public meetings as well as work sessions to arrive at the local law that is before us and is being passed this evening. I think they did a good job of flushing out some of the issues we had with Customary Home Occupation. This creates two levels of Home Occupation. It makes sure that people who work from their home, but are not operating a business necessarily, just working from their home, as part of their normal, daily, work activity, are not subject to the Home Occupation regulations. Then it also allows those people who have home occupations, where they are not really inviting members of the public to their homes, they are not hourly advertising their home occupation, to fill out a simple form, file it with the Town, and get a permit to operate their Home Occupation. Home Occupations, which do have some potential to impact the other residential homes in the neighborhood, have to go through a more elaborate procedure. They would have to appear before the Zoning Board of Appeals. Those would be Home Occupations where they advertise their business, invite people to come to their homes to visit their business. I think they did a good job in getting the various levels and imposing the appropriate regulation with respect to each type of Home Occupation.

The Mixed - Use Development is a spin -off of what we have seen develop on the State level called smart growth, where housing is clustered, where there is a variety of businesses and residential units in a village or hamlet type configuration, where people do not have to rely as much on their automobile, where they have the ability to work close to their home but to be able to walk to work, walk to shopping, walk to other types of needs that they may have with respect to their quality of life in the community. They have done a good job with that. We have asked them to look at creating definitions of hamlets because there are areas in Town that are more developed than others, that may require different regulations or different zoning regulations and this would allow the Town Board to look at those unique requirements within the hamlet and to give some relief to those residents that live within that hamlet structure. The third portion of the law dealt with the definitions of shopping centers. The Zoning Review Committee created three levels of Shopping Centers under the Zoning Code. They took out a provision that had been declared unlawful by a Judge with respect to a former administration, back in the late ‘90’s, that had basically tried to use the Zoning Code as a tool to limit the expansion of the Crossgates Mall area. I think they did a great job. I want to thank all of them. Their work is not complete so they will be working on other legislation and other amendments to our Zoning Code. So, we look forward to receiving those in the future. I vote in favor.

Public Hearing - 8:00 PM – Animal Control Law of the Town of Guilderland

Supervisor Runion explained that the State has turned over the licensing of dogs to municipal control.

Town Clerk, Rosemary Centi, read the legal notice.

Supervisor Runion explained that all local municipalities would be licensing dogs. A lot of it has to do with insuring that dogs have their rabies shots.

Town Clerk, Rosemary Centi, further explained that it also allowed for keeping track of dangerous dogs and a method for returning dogs to their owners, if lost.

Councilman Redlich read the purpose of the law.

Supervisor Runion further stated that 99% of the law is on the Town’s Code.

Town Clerk, Rosemary Centi, explained the process for licensing the dog.

Alex Selsley asked about older animals not being able to receive shots.

Town Clerk, Rosemary Centi, explained that there are exemptions for dogs.

Councilman Pastore asked why individuals need to get a yearly license.

Town Clerk, Rosemary Centi explained the dogs move, die or may become dangerous. This allows for tracking.

Councilman Grimm expressed his concern that this is an unnecessary fee.

Town Attorney, Richard Sherwood, stated that this is very consistent with other municipalities.

Councilman Pastore questioned why licenses could not be given for more that one year. Discussion was held regarding the issue.

Alex Selsley asked about photos for dogs.

Town Clerk, Rosemary Centi, stated that it would be difficult for the Town.

Councilman Redlich stated that it would be more paperwork to keep track of.

Councilwoman Slavick asked about enumeration.

MOTION #196 Councilwoman Slavick moved to CLOSE THE PUBLIC HEARING REGARDING ANIMAL CONTROL ON THE TOWN OF GUILDERLAND.

Councilman Pastore seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

MOTION #197 Councilwoman Slavick moved to ADOPT LOCAL LAW #4 OF 2010 ENTITLED ANIMAL CONTROL ON THE TOWN OF GUILDERLAND. Councilman

Pastore seconded the motion and it was carried by the following roll call

Councilman Redlich Opposed – “I think from

the previous Town Board meeting it was apparent that the licensing law is observed sometimes not observed by others. I don’t think it is very effective. To the extent that there

was a serious problem with uncontrolled dogs in the past, I am not aware of any significant problem with it despite the fact that half the dogs in town, roughly, are not licensed. I think this is unnecessary bureaucracy. I think I would like to save Rosemary's office the hassle of dealing with it. It is work that we have to pay people to do. We may be able to save some money by not doing it and it doesn't seem like it is accomplishing a lot. It is an unnecessary law and we are unnecessarily burdening dog owners in the Town. I just want to add that it is a classic example of what is known as an unfunded mandate where the State says you guys do it, you guys eat it. I think we ought to tell the State no. I am tired of pushing stuff down on the Counties and Towns like they do."

Councilwoman Slavick Aye – "I am in favor. I do think we do need to follow what the State says since we are a municipality. But, I would be in favor of looking, in the future, maybe to increase the years for the license, instead of one year maybe two or three years to make it less burdensome for you."

Councilman Pastore Aye – "I am going to vote in favor but I am going to once again, state my uncertainty of why, if the dog owner has provided the necessary paperwork to establish that the dog or dogs have been properly and timely vaccinated, why they have to be licensed every year. There may be reasons, maybe I am missing something that we discussed this evening. I am not sure why they can't be licensed beyond one year. Perhaps if it is a puppy and there are vaccinations that are necessary in the first three or six months or twelve months of a puppy's life, beyond that period, if a dog is six years old, why it has to be licensed every year. I am in favor of the law because it certainly advances the health, safety and well being of individuals in Town regarding the licensure of dogs. I am not sure why they have to be licensed every year. I am in favor."

Councilman Grimm Opposed – "I am in favor of the original registration where you have to have a rabies certificate for purposes of public safety. It is great to see that they have a rabies certificate that is a good idea and maybe the next year another shot that insures public safety. But for the Town to require someone to pay a fee every year for a dog's life, and some dogs live until they are fifteen, I think it is too much red tape, too much red tape to require a license every year and also a fee every year. It is just another bill that is landing on your mailbox. Even though I favor the registration, I don't favor the yearly fee or the license. Therefore, I vote no."

Supervisor Runion Aye - "I am probably the only one up here that owns dogs and I own two dogs both licensed and with current shots.. The licensing is not an over burdensome requirement. You receive notification in the mail. Probably, we could work something so that we could mail the licensing requirements into the Town Clerk's office, if need be. It is not an over burdensome process. Dog owners are aware of it. It protects the dog owners as well. If their dogs do get away and are lost, it makes the recovery of the dogs much easier. We do get a number of lost dogs weekly and monthly in Town and we take great pride in getting the dogs returned back to their true owners and the licensing helps the Town to do that. I am in favor of the law."

Agenda items:

Item #1 concerned the request of the Guilderland Public Library to relocate an existing sanitary sewer.

William West, Superintendent of Water and Wastewater Management, explained that the Library had received a grant in conformance of plans to possibly construct an addition, of

\$140,000.00 to be used for the expenditure. The relocation of the sewer is in anticipation of the proposed Library expansion.

All cost associated with the relocation of the sewer are to be paid by the Library.

Delaware engineering will be reviewing the process.

MOTION #198 Councilman Redlich moved to **APPROVE THE REQUEST OF THE GUILDERLAND PUBLIC LIBRARY TO RELOCATE AN EXISTING SANITARY SEWER.** Councilwoman Slavick seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

MOTION #199 Councilman Pastore moved to **WAIVE THE BUILDING PERMIT FEES FOR PREMISES LOCATED AT 3853 CARMAN ROAD THAT SUSTAINED DAMAGE FROM A VEHICLE HITTING THE RESIDENCE.** Councilwoman Slavick seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

MOTION #200 Councilwoman Slavick moved to **AUTHORIZE THE SUPERVISOR TO SIGN A COLLECTOR'S WARRANT IN THE AMOUNT OF \$505,721.44 FOR THE GUILDERLAND WATER DISTRICT.** Councilman Redlich seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

MOTION #201 Councilwoman Slavick moved to **ENTER INTO EXECUTIVE SESSION AT 8:52 TO DISCUSS:**

a. CSEA unit A (Tele-communicators) contract negotiations

b. UPSEU (Paramedics) contract negotiations

Councilman Pastore seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

MOTION #202 Councilman Pastore moved to **APPROVE CSEA UNIT A (Tele-Communicators) CONTRACT.** Councilwoman Slavick seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Opposed
Councilwoman Slavick	Aye

Councilman Pastore	Aye
Councilman Grimm	Opposed
Supervisor Runion	Aye

MOTION #203 Councilman Pastore moved to **APPROVE UPSEU (Paramedics) CONTRACT**. Councilwoman Slavick seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Opposed
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Opposed
Supervisor Runion	Aye

MOTION #204 Councilman Pastore moved to **EXIT EXECUTIVE SESSION AT 9:29 PM**. Councilman Redlich seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

MOTION #205 Councilman Redlich moved to **ADJOURN THE DECEMBER 7TH, 2010 TOWN BOARD MEETING AT 9:30 PM**. Councilman Pastore seconded the motion and it was carried by the following roll call vote:

Councilman Redlich	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Grimm	Aye
Supervisor Runion	Aye

Respectfully submitted,

**Rosemary Centi
Town Clerk**