

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 Forte
- Councilwoman Slavick
- Councilman Pastore
- Councilman Maikels
- 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 June 4th, 2013 Town Board meeting.

MOTION #133 Councilman Pastore moved to **ACCEPT THE MINUTES OF THE JUNE 4TH, 2013 TOWN BOARD MEETING.** Councilwoman Slavick seconded the motion and it was carried by the following roll call vote:

- | | |
|----------------------|-----|
| Councilman Forte | Aye |
| Councilwoman Slavick | Aye |
| Councilman Pastore | Aye |
| Councilman Maikels | Aye |
| Supervisor Runion | Aye |

PUBLIC COMMENT PERIOD-

Dr. Don Reeb, Norwood Street, asked the Board to look in to possibly lowering the speed limit on Fuller Road in the Town of Guilderland from 40 MPH to 30 MPH. Supervisor Runion stated that although it was a County road, he would look into the matter.

AGENDA ITEMS:

Item #1 on the agenda concerned adopting a resolution authorizing the Supervisor to sign a contract with New York State Department of Transportation in regard to Guilderland Center Sidewalk.

MOTION #134 Councilman Pastore moved to **ADOPT THE FOLLOWING RESOLUTION:**

A Resolution authorizing the implementation and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation Federal-aid project and appropriating funds therefore

WHEREAS, A Project: **GUILDERLAND CENTER PEDESTRIAN SAFETY, TOWN OF GUILDERLAND, CONSTRUCT SIDEWALKS ON NY 146 AND ENHANCE PEDESTRIAN SAFETY AT THE INTERSECTION WITH**

SCHOOL ROAD P.I.N. 1757.33 (the “Project”) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program To be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the Town of Guilderland desires to advance the Project by making a Commitment of 100% of the non-federal share of the costs of Design and Right of Way.

NOW, THEREFORE, the Town Board duly convened does hereby

RESOLVE, that the Town Board hereby approves the above-subject project; and it Is hereby further

RESOLVED, that the Town Board hereby authorizes the Town of Guilderland to pay In the first instance 100% of the federal and non-federal share of the cost of Design And Right of Way work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$182,000.00 is hereby appropriated from the town of Guilderland General Fund, part B, and made available to cover the cost of participation In the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriate above, the Town Board of the Town of Guilderland shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and it is further

RESOLVED, that the Town Supervisor of the Town of Guilderland be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marcheselli Aid on behalf of the Town of Guilderland with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality’s first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement In connection with the project; and it is further

RESOLVED, this Resolution shall take effect immediately

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

Councilman Forte	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Maikels	Aye
Supervisor Runion	Aye

MOTION #135 Councilman Pastore moved to **APPROVE A TAX CERTIORARI SETTLEMENT WITH MIRAC LLC IN REGARD TO 1600 WESTERN AVENUE (USA GAS STATION) AS RECOMMENDED BY THE TOWN ASSESSOR.**

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

Councilman Forte	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Maikels	Aye
Supervisor Runion	Aye

The cost to the Town would be \$1,217.67. Town Attorney, Richard Sherwood, stated that even if the Town were successful in litigation, it would cost more than this amount.

Item #3 on the agenda concerned the request of Stuyvesant Plaza for an amendment to an existing easement to relocate sewer line from roof of plaza to underground.

James R. Schultz, attorney representing Stuyvesant Plaza, explained that currently, sanitary sewage is disposed of by Stuyvesant Plaza through a series of above-ground pipes placed along the top of the Stuyvesant Plaza building adjacent to the area where the parking lot easement was created. The proposed amendment to the easement would allow for the construction of a below-ground system that would run along a portion of the parking lot easement.

This was also recommended by Delaware Engineering. Easement language had been submitted to the Town Attorney who has reviewed it.

Doug Smith, McKown Road, stated that there had been a long history of easements granted to Stuyvesant Plaza over the years. He felt that this was an unreasonable show of favoritism. He wanted no more easements on town land granted to Stuyvesant Plaza. He discussed the easement that had been recently granted resulting in a loss of green space in the park area. He asked if Stuyvesant would be willing to trade this easement for the new easement.

Supervisor Runion stated that this easement, environmentally, made sense.

Martha Harausz, Western Avenue, stated that sewer lines run in all kinds of places and that this was not necessarily the Town's concern. She spoke of her concern for the loss of green space in granting the original easement. She asked if this would require a Special Use Permit.

Supervisor Runion stated that it did not as it was going underground. There were no health concerns and the line would be going into the same designated space as the granted easement.

Dr. Donald Reeb stated that if the five parking spaces would be given up by Stuyvesant, the trees and green space would be saved. He asked if the parking spaces could be turned. He further commented that getting the park and the green space back should be something that Stuyvesant should do in order to get this easement for the sewer line.

Mr. Schultz stated that Stuyvesant would not be willing to give up the parking spaces.

Chuck Klaer, Meadowdale Road, questioned whether the Special Use Permit granted to Stuyvesant was different than what was being discussed tonight.

Mr. Schultz stated the sewer line being proposed would have no impact on the plan that was required for the Zoning Board of Appeals' process.

This is a modification of the status quo.

Mr. Klaer questioned this as an add on.

Supervisor Runion stated that Stuyvesant Plaza had requested the sewer line proposal a while back, but since it wasn't a major modification, he asked that they hold this until they were granted a Special Use Permit.

Mr. Schultz stated that this was not a part of the Special Use process but a special request to the Town.

Dr. Reeb asked if there would be any recourse should the sewer line fail. He further stated that if Stuyvesant would not give up the parking spaces it would be the Town's choice to not grant the amendment to the easement.

Martha Harausz asked about water run off from the parking lot to the park and whether the sewer line could be put in another area.

Mr. Schultz explained that while everything was dug up for the parking spaces, it made sense to drop the sewer line into the ground into the easement area that had already been granted.

Further discussion was held.

MOTION #136 Councilman Forte moved to **APPROVE THE REQUEST OF STUYVESANT PLAZA FOR AN AMENDMENT TO AN EXISTING EASEMENT AGREEMENT TO RELOCATE SEWER LINE FROM THE ROOF OF THE PLAZA TO UNDERGROUND.** Councilman Maikels seconded the motion and it was carried by the following roll call vote:

Councilman Forte	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Maikels	Aye
Supervisor Runion	Aye

Item #1 on the agenda concerned an interpretation of Local Law #3 of 2006.

Supervisor Runion stated that the local law granted a zoning change to the property formerly known as the Bavarian Chalet and is currently known as Mill Hollow Senior Project. The original local law had in the ninth condition a clause that indicated that the parcel shall revert to its original zoning classification if a building permit is not issued for a Senior Citizen Housing Facility unit within two years of the effective date of the local law. The local law was effective on June 20th, 2006, which means that the zoning classification would have sunset on June 20th, 2008. The local law did provide that the Town Board, can, by resolution, extend the sunset provision for one additional year, which would have taken the sunset provision to June 20th, 2009.

Supervisor Runion stated that once the local law was adopted, the zoning was changed; it went through the special use permit process. They also have a sunset provision that states that if a project does not commence within one year of the granting of the Special Use Permit then the Special Use Permit no longer exists.

On February 20th of 2009, the property owner received a permit from the building department for erosion and sediment control site work for the Mill Hollow subdivision and subsequently renewed that in February of 2010. There was also a one year extension granted of the Special Use Permit by the Zoning Board of Appeals which would have expired in March of 2009.

The Special Use Permit would have been tolled by the issuance of the permit issued for the erosion and sediment control permit in February so they met that condition.

An issue was raised as to the compliance of the project with zoning as it stands now.

The building department has issued a building permit and some units are under construction.

They were issued before the Town Board was made aware of the zoning issue.

He further stated that it is a project that the Town is in need of and that a number of residents had been inquiring as to when the project would be ready and units would be available for sale.

There is also a Senior Citizen Housing Facility that will be built by the developer.

Supervisor Runion stated that he felt that there were a number of options. One would be to go back in time and grant the one year extension. Then the Town Board would have to deal with the issuance of the permit.

He further stated that the Town Board could interpret that the permit that was granted in February 20th of 2009 for erosion and sediment control site work was sufficient to meet condition #9 of the local law and therefore the zoning classification would remain in effect under Local Law #3 Of 2006.

Councilman Forte asked that since he and Councilman Maikels were not on the Board at that time, could they vote.

Supervisor Runion stated that since it was a reasonable interpretation of what occurred at the time, they could vote. He further stated that a lot of the delay was not necessarily the cause of the developer but the economic state at the time.

Supervisor Runion stated that this would be a two step process. Approving the extension and then satisfying the sunset condition so that #9 of local law #3 of 2006 would be satisfied.

MOTION #137 Councilman Pastore moved to **APPROVE A ONE YEAR EXTENSION OF LOCAL LAW #3 OF 2006 TO JUNE 20, 2009.** Councilwoman Slavick seconded the motion and it was carried by the following roll call vote:

Councilman Forte	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Maikels	Aye
Supervisor Runion	Aye

Chuck Klaer stated his concern for projects that had been started and never completed. He stated that he hoped that this project would move forward. He further stated his concern that this did not set a precedent.

Supervisor Runion stated that this developer had installed a pumping station, sewer and water lines, four units already built and ready for sheet rocking.

The developer had already come in for a building permit for the Senior Citizen Facility.

Councilman Pastore stated that this Board was not surrendering discretion to review any future issues that come up with other projects. He further stated that he would not characterize their decision, so far, as an easy one but one that was well thought, well reasoned, and justified.

Supervisor Runion stated that the second part of this was that an application was received, and the building permit was issued for the project's erosion and site control.

MOTION #138 Councilman Pastore moved that **BASED ON A BUILDING PERMIT THAT WAS ISSUED ON FEBRUARY 20, 2009 FOR EROSION AND SEDIMENT CONTROL, THE SUNSET CONDITION OF #9 AS CONTAINED IN LOCAL LAW #3 OF 2006 IS SATISFIED.** Councilman Forte seconded the motion and it was carried by the following roll call vote:

Councilman Forte	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Maikels	Aye
Supervisor Runion	Aye

Supervisor Runion stated that because they were issued a building permit on February 9, 2009 and they had an extension to June 20, 2009, the zoning classification remains as outlined in Local Law #3 of 2006.

MOTION #139 Councilwoman Slavick moved to **ADJOURN THE JUNE 18th, 2013 TOWN BOARD MEETING AT 8:40 PM.** Councilman Maikels seconded the motion and it was carried by the following roll call vote:

Councilman Forte	Aye
Councilwoman Slavick	Aye
Councilman Pastore	Aye
Councilman Maikels	Aye
Supervisor Runion	Aye

Respectfully submitted,

**Rosemary Centi
Town Clerk**