

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 Jean Cataldo, Town Clerk, showed the following to be present:

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

ALSO PRESENT: James Melita, Town Attorney

Supervisor Runion welcomed everyone to the evening's meeting and asked for a motion accepting the minutes of the December 2, 2014 Town Board meeting.

MOTION #191 Councilman Pastore moved to **APPROVE THE MINUTES OF THE NOVEMBER 6, 2014 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: No Public Comment

Public Hearing: Section 8 Housing Choice Voucher Program Presentation – Terri Ray, Program Director, presented information and left hand-outs for anyone interested.

MOTION #192 Councilwoman Slavick moved to **CLOSE THE PUBLIC HEARING ON THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM**. 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 |

MOTION #193 Councilman Forte moved to **AUTHORIZE THE SUPERVISOR TO SIGN A COLLECTOR'S WARRANT FOR THE GUILDERLAND WATER DISTRICT**. 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 |

MOTION #194 Councilwoman Slavick moved to **APPROVE TRANSFERS AS REQUESTED BY THE TOWN COMPTROLLER'S OFFICE**. 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 #195 Councilman Pastore moved to **APPROVE A PRIVATE LANE NAME REQUEST FOR SINGLE DRIVEWAY AT 4129 WESTERN TURNPIKE TO BE KNOWN AS HAYMAKER LANE**. 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

MOTION #196 Councilman Forte moved to **APPROVE THE 2013/2014 WATER RELEVY AMOUNTS, SUBMITTED BY THE RECEIVER OF TAXES**. 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

Agenda Item 5: Supervisor Runion reminded the Board that at the last meeting they talked about looking over the draft recommendations received from the Zoning Revision Committee. He suggested the first Public Hearing be set for the second Town Board meeting in January.

MOTION #197 Councilwoman Slavick moved to **SET A PUBLIC HEARING IN REGARD TO ZONING LAW REVIEW COMMITTEE RECOMMENDATIONS FOR JANUARY 20, 2015 AT 7:30PM**. 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

MOTION #198 Councilman Forte moved to **AUTHORIZE THE PURCHASE OF A REPLACEMENT 30KW GENERATOR AND TRANSFER SWITCH FOR GRIFFIN LAB LIFT STATION, REQUESTED BY THE SUPERINTENDENT OF WATER & WASTEWATER**. 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

Agenda Item 7: Supervisor Runion advised that the total Town refund on an approval for a certiorari settlement for 119 Dedham Post Drive would be \$183.50. The 2013 assessment on 119 Dedham Post Drive was \$650,500 and the new assessment would be \$575,000. In response to a question from the audience, Supervisor Runion explained that the word certiorari refers to a court proceeding to get a reduction on your tax assessment.

MOTION #199 Councilman Forte moved to **APPROVE A CERTIORARI SETTLEMENT FOR 119 DEDHAM POST DRIVE, AS REQUESTED BY 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

Agenda Item 8: Supervisor Runion advised this is a condominium project located on the former site of the Bavarian chalet. The Developer made a request that the Town take a Performance Bond in lieu of cash for completion of the sidewalk installation. Due to the way condominium laws are written, the Developer needs to sell a certain number of units prior to their being able to create the Homeowners Association. They cannot presently put the sidewalk in due to the winter weather. The Developer will be dedicating the Senior Center to the Town of Guilderland with a ribbon cutting this Thursday morning at 11:00am. Cindy Wadach, who is in the audience tonight, was involved with looking over the original plans and design for the Senior Center.

Normally, all of the amenities would have to be completed before issuing a Certificate of Occupancy. Between the cost of the Senior Center and that a certain number of units need to be sold before they can have their first actual closing, it's been requested that the Town accept the performance bond in lieu of the sidewalk installation.

Councilwoman Slavick asked for an explanation of the performance bond. Supervisor Runion explained the Performance Bond is issued by the insurance company that says if they don't complete the sidewalk construction, the Town can file a claim against the bond and get the \$92,000 through the bond instead of the cash in hand.

MOTION #200 Councilman Maikels moved to **APPROVE ACCEPTING A PERFORMANCE BOND FOR THE SIDEWALK INSTALLATION FOR MILL HOLLOW PROJECT**. 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

Agenda Item 9: Continuation of Cumberland Farms rezoning application: Stephanie Bitter on behalf of Cumberland Farms introduced herself and shared that Kevin Thatcher and Dave Cabbo (both from Clough Harbor Associates) and Tom Burke, the property owner of 2444 Western Avenue are present tonight. Stephanie presented an overview of the progress since the last Public Hearing on July 1, 2014.

Supervisor Runion read the November 25, 2014 memo from Town Planner, Jan Weston, addressed to the Town Board regarding the Cumberland Farms rezone. He asked Attorney Stephanie Bitter to address each item.

Per the memo, in Ms. Weston's opinion, both properties in the applicant's control should be rezoned and used for the proposed use. Ms. Bitter advised regarding the use of both parcels 2430 & 2444 Western Avenue for the Cumberland Farms store would not be financially feasible based on their studies. She continued, regarding the parking issue, she argued that the 20 shown and 12 at the pumps would be sufficient for the size of the store. They believe it is better to have less parking, less asphalt to maintain the use. Supervisor Runion added that the purpose of the zoning law and the parking requirement is to insure that there isn't an over-development of the parcel. If there is a different use in the future, there is still land available to accommodate the additional parking.

Mr. Burke interjected that the memo is simply an opinion, it cherry picks elements of the letter and highlights them in a negative way. He feels that the second parcel is not relevant and it should not influence the Board's opinion to develop this parcel. He pointed out that Stewart's received a number of variances on two or more occasions and he wishes to be treated in the same fashion as his neighbors have been.

Mr. Burke continued that the NYS Department of Transportation advised that they are prepared to allow, if the Town of Guilderland allows, the proposed access configuration of the driveway. Supervisor Runion added that NYS DOT still had a concern about the traffic and has required a two year after-evaluation to determine whether the applicant is required to implement any mitigation measures. Supervisor Runion inquired who is going to pay for the mitigation. Mr. Burke replied Cumberland Farms. Supervisor Runion asked if they made a commitment to pay. Mr. Burke said yes and Cumberland Farms is prepared to move forward. Ms. Bitter added that when DOT is issuing permits, they can issue conditions that they think are necessary at that point.

Councilwoman Slavick asked if there is a revised plan. She added that the latest one she had showed two driveways on Route 146. Supervisor Runion asked if anyone received a copy of the revised plan. Ms. Bitter added that it was part of the packet from the November 19 submission.

Mr. Burke shared that the 2430 Western Avenue site is being actively marketed. They are in discussion with two different users and the President of one of the institutions was on a site tour recently with Mr. Burke. Supervisor Runion asked if the potential businesses are local or general. Mr. Burke confirmed local. Supervisor Runion added that the only drive-thru permitted in a local business zone is for a bank.

Councilman Pastore asked Mr. Burke if the potential business was all right with shared use of the driveway. Mr. Burke confirmed that the prospective tenant has seen the proposed Cumberland Farms site plan.

Supervisor Runion asked if there was any reason why the curb cut isn't moved further to the east. Mr. Burke responded that they think it is optimally placed but will continue to have that discussion with the Planning Board. Councilwoman Slavick asked how far down the proposed driveway is. Mr. Burke said it passed muster with DOT.

Councilman Forte confirmed with Mr. Burke that it is his intention to clean-up the site of 2430 Western Avenue and to comply with the DOT two-year after study. Councilman Maikels added that he can't imagine that Cumberland Farms would want to look at that old building. Councilman Forte inquired if the two tenants would utilize each others parking lots. Mr. Burke advised that the two tenants would share the access, drive lanes and entrance.

John Haluska, 3135 Lone Pine Road, commented that we have three choices for this zoning application. We can deny it. It's been on-going since February. He continued that this denial choice is not acceptable, as he personally finds that this application has several merits. To deny this application at this time is wrong. He stated that the Town has a responsibility to its applicants as well as future applicants. He doesn't see this application as an over development. The second choice is to approve the application for 2444 Western Avenue without regard for the 2430 Western Avenue lot which has the derelict bank building. To approve the application without consideration of presence of the bank building is not acceptable. The existing eyesore has been ignored by the applicant for a decade. To provide bland representations that there will be future development is just not enough. He continued that Ms. Weston's concerns, as the Town Planner, regarding this particular property are well founded. The third choice is to approve the application for the new building and requiring that the bank building be either A. legally demolished at the time of the ground-breaking for the convenience store or B. Have a long-term lease in place for 2430 Western Avenue or maybe a sale. This last choice he thinks is the best choice. He is asking that the Town Board approve this application with a requirement that the bank building be either removed at the time of the ground-breaking for the convenience store or a positive indication of a solid long-term lease by a future tenant. Mr. Haluska thinks this is the most appropriate choice the Board can make.

Supervisor Runion stated that there will be a five-minute break.

Upon return from the break, Supervisor Runion stated that he had a discussion with the Town Attorney and he would like to have the opportunity to prepare some SEQRA findings. This matter will be adjourned to the next Board Meeting on December 16, 2014 so that he can present the Board with the SEQRA findings. A copy of the finding should be provided to the applicant's Counsel in advance. Supervisor Runion also requested that the Town Clerk put another Legal Notice in the newspaper this Thursday as there has been such a lag from June until the present. The Supervisor requested the continuance of the Public Hearing at 7:30pm on December 16, 2014 providing 10 days advance notice. The Town Board members were in agreement.

Supervisor Runion shared that in connection with the comments by Mr. Haluska, there is relevance in the timeliness of addressing the issue of 2430 Western Avenue.

Mr. Burke commented that he is out there every day trying to get a use for the spot at 2430 Western Avenue. He feels the development of this corner will allow others to see the value of this remainder piece. Once it happens it will make the job of convincing someone that it is a good location much easier. He will try to come up with something they think is reasonable and how and when they can commit to eliminating the blithe. He agrees it is a mess.

Supervisor Runion stated there are things that can be done to soften the blighted look of the property. Just cleaning up the landscape, trees touching the building, fascia falling down makes it look more derelict than it may be. Simple things can be done to clean up the sight so that it's much more presentable. Mr. Burke will come back with a plan for improvements. Supervisor Runion stated that the Board wouldn't be doing their job if they granted general business use on the adjoining sight if they didn't condition it on cleaning up the neighboring site. Mr. Burke committed to addressing the clean-up for the meeting on the 16th.

Supervisor Runion asked the Town Board to enter into Executive Session on a contractual matter. Also a discussion of a proposal for the PBA on their contract for a meeting he has with them on December 3.

MOTION #201 Councilwoman Slavick moved to **ENTER INTO EXECUTIVE SESSION FOR A CONTRACT MATTER**. 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 #202 Councilman Forte moved to **COME OUT OF EXECUTIVE SESSION**. 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

MOTION #203 Councilman Forte moved to **APPROVE THE SUPERVISOR TO ENTER INTO AN AGREEMENT WITH PENNA FOR WORKERS' COMPENSATION INSURANCE**. Councilman Pastore 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 #204 Councilwoman Slavick moved to **ADJOURN THE DECEMBER 2, 2014 TOWN BOARD MEETING AT 9:55PM**. 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

Respectfully submitted,

**Jean J. Cataldo
Town Clerk**