

The Regular meeting of the Gardiner Town Board was held this evening at 7 PM at the Gardiner Town Hall. Present were Supervisor Katz, Councilmen Wiegand & Finger, Councilwoman Lemmon and Councilperson Kern. There were approximately 9± audience members.

ANNOUNCEMENTS

September 12 – Gardiner Day

October 17 – Gardiner Association of Business Art in Gardiner -. Details are on the website.

PUBLIC HEARING CONTINUATION SIDEWALK MAINTENANCE LAW

Supervisor Katz contacted attorney Paul Kellar about the question Councilman Wiegand had regarding owner vs. occupant in the law. Mr. Kellar advised to leave the law as it is written.

Supervisor Katz reminded all that this law, if adopted, will not take effect until the town has constructed the sidewalks.

CLOSE PUBLIC HEARING

On motion of Councilperson Kern, seconded by Councilman Finger and carried, the public hearings for the sidewalk maintenance laws were closed.

ADOPTION OF LOCAL LAW # 6-2009 – SIDEWALK MAINTENANCE

On motion of Councilwoman Lemmon, seconded by Councilperson Kern and carried, Local Law # 6-09 is adopted as written.

§184-54 DEFINITIONS As used in this article, the following terms shall have the meanings indicated:

OCCUPANT Any person who has lawfully entered upon and is in the possession of real property as a tenant, manager or person having charge of any building or lot of ground or any use thereof or who has an interest in the land which he possesses.

OWNER Any person having a legal interest in real property.

PEDESTRIAN Any person making use of a sidewalk for foot passage.

PERSON An individual, partnership, association, corporation, executor, administrator, trustee, guardian, receiver or other person having a legal interest in real property.

SIDEWALK A walkway along the margin of a street or highway designed and prepared for the use of pedestrians, to the exclusion of motor vehicles.

§184-55 DUTY OF OWNER OR OCCUPANT: SNOW AND ICE

A. The owner or occupant of any real property, whether vacant or improved by any buildings, abutting any sidewalk in the Town of Gardiner shall keep such sidewalk free and clear of snow and ice at all times.

B. Within 24 hours after cessation of every snowfall or within 24 hours of the formation of any ice on the sidewalk abutting the premises, the owner or occupant shall remove or cause the same to be removed or cleared entirely from said sidewalk. If the snow or ice shall be frozen so hard that it cannot practicably be removed, the owner or occupant shall, within the time specified, cause the sidewalk to be covered and strewn with ashes, sand or other materials providing traction or with salt or other substances which dissolve or disintegrate ice and snow and shall, as soon thereafter as the weather will permit, thoroughly clean the sidewalk and remove the ice and snow therefrom. If the ice and snow is not removed within 24 hours the town may provide for the removal and charge the cost to the owner or occupant of the abutting premises.

C. Where a sidewalk has not been constructed or established along the margin of a street or highway adjoining that portion of business or commercial premises used for vehicular access and parking, including but not limited to individual stores, shopping centers and gasoline service stations, the owner or occupant shall clear a path at

least four feet in width throughout the length of the premises free from snow and ice for use by pedestrians as a walkway in compliance with the provisions of Subsections A and B of this section.

D. The owner or occupant of any real property, whether vacant or improved by any buildings, located at an intersection of two streets shall clear a path at the intersection at least 30 inches in width through any piles or accumulation of snow or ice on the sidewalk or street so as to enable pedestrian access from the sidewalk at corner to the cleared portion of the roadway.

§184-56 DUTY OF OWNER OR OCCUPANT: OTHER OBSTRUCTIONS

A. The owner or occupant of any real property, whether vacant or improved by any buildings, abutting any sidewalk in the Town shall keep such abutting sidewalk free and clear of debris, rubbish or any other obstruction at all times.

B. Within 24 hours after the accumulation of any debris, rubbish, or other obstruction on the sidewalk, the owner or occupant shall remove or cause the same to be removed or cleared entirely from the said sidewalk.

C. If debris, rubbish and other obstruction shall remain on a sidewalk for more than 24 hours, the Town may provide for the removal thereof at the expense of the owner or occupant of the abutting premises. The charge to be collected for the removal of debris, rubbish or other obstructions, shall be at the rate of \$50 (administrative fee) on each such occasion plus the actual costs associated with the removal and disposal of said debris, rubbish or obstruction. The Town Building Inspector shall send a statement to the owner or occupant of the premises abutting the sidewalk from which the debris, rubbish, or other obstruction shall have been removed for all appropriate fees, costs and charges. If the charges, as invoiced by the Building Inspector, are not paid within 45 days from the date of the invoice, said charges shall become a lien upon the premises abutting the sidewalk and shall be collected by the Town as an assessment upon said premises on the real property tax statements issued on the tax collection date next following as provided by law. The collection of this charge shall not preclude the Town from pursuing any other civil or criminal remedies which may be available to enforce the violation of this section.

D. No person shall alter or damage any sidewalk installed in the Town of Gardiner. Trees and landscaping installed by the Town shall not be removed or damaged. Any person engaging in such conduct will be liable for the cost of repair, and/or replacement that results from such removal alteration or damage.

E. No person shall post signs, banners, or other materials on the sidewalk light poles unless authorized by the Town Board.

§184-57 DUTY OF TOWN

Except for those conditions regarding snow, ice, rubbish, debris and obstructions on sidewalks all of which are the obligations of the owner to remove and address, upon reasonable prior written notice to the Town of any substantial defect(s) in the condition of the sidewalk, the Town shall investigate same and shall take reasonable steps to repair any defects that the Town determines exist.

§184-58 ENFORCEMENT

The Building Inspector and Code Enforcement Officer of the Town of Gardiner is authorized to enforce this article by issuing an appearance ticket for any violation of any provision of this article, and an answer to such appearance ticket shall be made to the Town Court of the Town of Gardiner on the return date at the time specified in said appearance ticket.

§184-59 PENALTIES FOR OFFENSES

A. Upon conviction for a violation of this article, a person shall be guilty of a violation as defined in Article 10, §10.00, Subdivision 3, of the Penal Law of the State of New York, which shall be punishable by a fine not to exceed \$250.

B. For purposes of this section, each sidewalk abutting lands of an owner or occupant not cleared pursuant to this article shall constitute a separate violation. Each day upon which such prohibited activity occurs shall be deemed a separate violation.

C. In addition to the penalties above provided, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article.

This law shall take effect upon the later of:

- A. Filing same with the office of the Secretary of State of the State of New York.
- B. The completion of sidewalks in the Hamlet of Gardiner as defined by the final construction inspection certificate.

ADOPTION OF LOCAL LAW # 7-2009 – DEFECTIVE CONDITION

On motion of Councilman Wiegand, seconded by Councilperson Kern and carried, Local Law # -09 is adopted as written.

§184-3 WRITTEN NOTICE OF DEFECTIVE CONDITION

No civil action shall be maintained against the Town of Gardiner or the Town Superintendent of Highways of the Town of Gardiner or against any improvement district in the Town of Gardiner for damages or injuries to person or property sustained by reason of any highway, bridge, culvert, or sidewalk constructed or owned by the Town of Gardiner, or by any such property owned by any improvement district, being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, or sidewalk was actually given to the Town Clerk of the Town of Gardiner or the Town Superintendent of Highways of the Town of Gardiner, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Town of Gardiner, or any property owned by any improvement district in the Town of Gardiner, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town of Gardiner or the Town Superintendent of Highways of the Town of Gardiner and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice. With respect to the existence of snow and ice upon any sidewalk owned by the Town of Gardiner, the Town has no liability for said conditions which are solely the responsibility of the owners and occupants of lands adjoining said sidewalks pursuant to Article IV of this Chapter.

This law shall take effect immediately upon filing same in the office of the Secretary of State of the State of New York.

ADOPTION OF LOCAL LAW # 8-2009 – ENFORCEMENT

On motion of Councilwoman Lemmon, seconded by Councilman Finger and carried, Local Law # -09 is adopted as written.

A Local Law to amend Section 5-4A of the Code of the Town of Gardiner to read as follows:
Highway Superintendent for removal of vehicles for snow removal; Dog Control Officer for violation of Chapter 80, Animals, Article I, Dog Control; Building Inspector and Code Enforcement Officer for violation of Chapter 92, Building Construction, Chapter 220, Zoning, Chapter 96, Unsafe Buildings; and Chapter 184, Article IV Sidewalks; Superintendent of Sewage for violation of Chapter 172, Sewer Use; Fire Marshall for violations of Fire Prevention Code. Fire Inspectors shall be authorized to enforce all legislation relating to fire prevention and safety, as well as related parking restrictions enacted for fire safety purposes. [Amended 8-12-2003 by L.L. No. 3-2003]

This law shall take effect immediately upon filing same in the office of the Secretary of State of the State of New York.

PUBLIC HEARING ETHICS LAW

The Town Clerk read the legal notice for the public hearing on the Ethics Law. Supervisor Katz explained the few items that he was concerned with – the language on gifts, Section 26.6 (d) No Member of the Board of Ethics shall be an officer of a political party and any person in the Town of Gardiner can make a complaint to the Ethics Board. This is very different from any other law and he feels it should be changed.

Supervisor Katz opened the meeting to the public for questions and/or comments.

Matt Aube – what about monetary tips to employees, such as coffee money.

Marion Kells – feels the law is implying that a member cannot be in a political position. Town Board members now and in the past have been appointed to this and other Boards based on their politics. Believes 26.6 (d) is discriminatory and doesn't apply to the Town of Gardiner.

Councilman Finger – stated that this section of the law allows for the Ethics Board to avoid the appearance of bias.

Councilman Wiegand – should exclude political officers from all boards and committees.

John Habersberger – partisan members of a board or committee are usually not political heads.

Mrs. Rinaldo – who drew up the law? If the Ethics board feels this is needed, Town Board members should not be questioning it.

Pam O'Dell – this law is written like no other. No other boards or committees excludes political officers.

David Straus – suggested equal representation from each political party.

Councilman Finger – stated that there is no provision in the law for the ability of an officer or employee to get an advisory opinion.

Scott Mosher – stated that he was taught by his father, if you have to ask if it's not the right thing, it probably isn't.

Matt Aube – questioned why the law was being re-written in the first place.

Scott Bittner – stated that the law, with respect to gifts, should be specific to the building inspector and code enforcement officer, not allowing anything to be given to him/her.

Board members voted on two (2) changes. On motion of Councilman Finger, seconded by Councilwoman Lemmon and carried, Section 26.6(c) the removal of the words "or termination". Secondly, on motion of Councilwoman Lemmon, seconded by Councilperson Kern and carried by a third aye vote of Councilman Finger, Section 26.6(d) will remain in the law. Councilman Wiegand and Supervisor Katz voted nay.

PASQUALE'S RESTAURANT LIQUOR LICENSE

Board members are in receipt of a letter of renewal for a liquor license for Pasquales' Restaurant. All members stated they are not opposed to this renewal and authorized the Town Clerk to send a letter to the liquor commission waiving the 30 day waiting period.

TOWN BOARD ACTION PLAN

Councilmen Wiegand and Finger along with Councilwoman Lemmon have been working together on an action plan for projects in the Town. A listing was given to each member outlining projects for 2009 and which Town Board members have been assigned as sponsors of the project. Four (4) projects to date do not have sponsors. Tonight the Board decided on who will take them on. Energy conservation will be Supervisor Katz and Councilperson Kern, Elder Plan is Councilperson Kern, Consolidating Digital Maps will be Supervisor Katz and Hamlet Water is Councilman Wiegand. Supervisor Katz will be the liaison to the Open Space Committee.

PLANNING BOARD & ULSTER COUNTY PLANNING BOARD VACANCY

The Town Board will meet next month to interview for a Planning Board vacancy. The Ulster County Planning Board will have an opening for the Town of Gardiner representative at the end of the year.

NYS SOLAR FARM

An application was received a few months back for a solar farm to be located on Route 44/55. Supervisor Katz has been interviewing for a consultant to assist the Town Board with this application and the issuance of a Special Permit. He has interviewed several people and has decided on a professional engineer from Ellenville, John Calhoun, who has 22 years experience in the solar field. An escrow account has been set up by the applicant to pay for the engineers fees. Councilman Wiegand suggested that criteria be established for the engineering company to follow.

SUPERVISOR'S REPORT

On motion of Councilwoman Lemmon, seconded by Councilman Wiegand and carried, the Supervisor Report for the month of August was accepted as presented.

CLAIMS

Claims for August were approved for payment on motion of Councilwoman Lemmon, seconded by Councilman Wiegand and carried. They are listed on Abstract #8 as follows: General Fund voucher #429-486 \$42,168.59; Highway Fund voucher #194-210 \$40,635.53; Sewer District #1 voucher #39-44 \$6,549.73; Capital Transfer Station voucher # 9-10 \$68,240.87; Library Fund voucher #123-141 \$8,384.08.

BUDGET TRANSFERS AND SUPPLEMENTAL APPROPRIATIONS

Resolution No. 116 – Supplemental Appropriation General Fund – Offered by Councilwoman Lemmon Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, General Fund, is hereby amended to provide for supplemental appropriations in the amount of \$8,850.24 in Acct No. 00.01.1440.463 Engineer/Sidewalks, \$93.61 in Acct. No. 00.06.7110.412 CE Electric Park and \$165.97 in Acct No. 00.07.7110.413 CE Park Repair.

Further Resolved, said monies to be taken from the Unexpended Balance in the General Fund. Seconded by Councilman Wiegand and carried.

Resolution No. 117 – Transfer within General Fund – Offered by Councilwoman Lemmon Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, General Fund, is hereby amended to provide for transfers in the amount of \$216.14 from Acct No. 00.06.7310.410 CE Summer Rec. Buses to Acct No. 00.06.7310.433 CE Summer Rec. Supplies & Administration, \$9.32 from Acct No. 00.06.7310.420 CE Arts & Crafts to Acct No. 00.06.7310.434 CE Rec. Phone, \$6.65 from Acct No. 00.06.7310.432 CE Parks & Rec. Flyers to Acct No. 00.06.7310.434 Rec. Phone, \$43.35 from Acct No. 00.06.7310.432 CE Parks & Rec. Flyers to Acct No. 00.06.7310.430 CE Supplies, \$36.86 from Acct No. 00.06.7310.420 CE Arts & Crafts to Acct No. 00.06.7310.433 Supplies & Administration, \$ 878.16 from Acct no. 00.07.8020.403 PB Education to Acct No. 00.07.8020.404 Engineer, \$95.67 from Acct No. 00.07.8020.403 PB Education to Acct No. 00.07.8020.421 PB Supplies, \$69.42 00.01.1420.460 Attorney Service to Acct No. 00.01.1420.468 Cell Tower, \$605.98 from Acct No. 00.07.8020.439 PB Reimbursement to Acct No. 00.07.8020.404 PB Engineer, \$28.81 from Acct No. 00.06.7310.420 CE Arts & Crafts to Acct No. 00.06.7310.430 CE Supplies and \$95.00 from Acct No. 00.02.3120.401 CE Misc Expense to Acct No. 00.02.3120.101 PS Public Safety.

Seconded by Councilman Wiegand and carried.

Resolution No. 118 – Supplemental Appropriation Sewer Fund – Offered by Councilwoman Lemmon

Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, Sewer Fund, is hereby amended to provide for a supplemental appropriation in the amount of \$3,067.97 in Acct No. 03.07.8110.468 CE Repairs.

Further Resolved, said monies to be taken from the Unexpended Balance in the General Fund.

Seconded by Councilman Wiegand and carried

Resolution No. 119 – Transfer within Library Fund – Offered by Councilwoman Lemmon

Resolved, pursuant to Section 112, Town Law, the 2009 Annual Budget, Library Fund, is hereby amended to provide for a transfer in the amount of \$886.15 from Acct No. 19.04.7410.452 Building Repairs to Acct No. 19.04.7410.430 Office Supplies.

Seconded by Councilman Wiegand and carried.

2010 BUDGET

The tentative budget will be available sometime next week. Budget meetings will take place the first meeting in October. At that time the Supervisor would like to discuss and prepare the preliminary budget for public hearing.

WALKWAY OVER THE HUDSON

Councilperson Kern has been in touch with Meadow, who is the organizer for the Town of Gardiner participation in the Walkway Over the Hudson Celebration scheduled for October 3. She has obtained prices for a 25-40 passenger bus. Ms Kern is requesting \$200 to help subsidize for Gardiner residents and the Girl Scouts to attend. On motion of Councilperson Kern, seconded by Councilman Wiegand and carried, Ms Kern was authorized to expend no more than \$200 for this event.

PRIVILEGE OF THE FLOOR

Pam O'Dell – suggested contacting UCAT for a bus.

John Habersberger – asked the status of the old Library building. Supervisor Katz told him the interior walls will be removed for an analysis. Secondly, asked the status of the cell tower lawsuit. Supervisor Katz stated that the Town has still heard nothing.

Rich Koenig – proposed setting up the electronic speed sign that the Town has at various locations throughout the Town.

Marion Kells – why is the Town taking on so many projects.

ADJOURNMENT

On motion of Councilperson Kern, seconded by Councilman Wiegand and carried, the meeting was adjourned at 9:10 PM.

Respectfully submitted,

Michelle L. Mosher
Town Clerk