

MINUTES
REGULAR MEETING and PUBLIC HEARING
GORHAM TOWN BOARD
SEPTEMBER 14, 2016

The Gorham Town Board held a Regular Meeting and Public Hearing on Wednesday September 14, 2016 at 7:00 PM at the Gorham Town Hall. Present were Supervisor Lightfoote, Councilmembers; Glitch, Case, Malcolm and Chard. Chief Operator Water/Wastewater Plants Coston, Code Enforcement/Zoning Officer Freida, Assessor Mineo and Town Clerk Perrotte. Other guests in attendance; Tom Zimmerman, Robert and Kathy Baxter, Linda Roche, William Pellicano. Terry Principe, James Weller, Melody Burri, Wade Lippman and Tracy Snyder.

1. Call to Order/Pledge to the Flag

2. Privilege of the Floor – Mrs. Linda Roche asked “I wonder if you could explain the criteria that the Board uses in determining whether a change in the zoning of a parcel of land should be made.”

Supervisor Lightfoote said when someone comes in with a request for re-zoning we send it to the Town Planning Board for comment. The purpose is for the Planning Board to look at it to determine if it is possible to be able to be re-zoned. Every parcel is unique and different. For instance if someone wants to put an amusement park on a parcel surrounded by a sheet metal plant there is no sense in going through the process, and putting the applicant through the process, if there is no chance they are going to be able to do anything in the end. With Pelican Point’s application the Planning Board sent it back to the Town Board with a recommendation to go ahead with our process to determine whether it makes sense to go through with the re-zoning. What this Board does it look at the re-zoning, not any of the conditions that may be placed upon them once and if it is re-zoned. We most certainly consider public comment that is part of the process. We work through the comments we receive and apply them to the specific project and see how they fit into the grand scheme of things. The Board looks at the Town’s Comprehensive Plan and the Zoning Rules and Regulations for that district.

3. Public Hearing: Re-Zone Pelican Point LLC –Application T-01-2016

Supervisor Lightfoote explained that the Town Board did not have the proposed local law in hand and available for the public to look at during the public hearing that opened on August 10, 2016 in Crystal Beach. The re-zoning has to be done by Local Law procedure. Local Laws are adopted pursuant to Municipal Home Rule powers that are derived from the IX of the New York State Constitution. Constitutional home rule powers are codified in the Municipal Home Rule Law and the Statute of Local Governments.

Supervisor Lightfoote apologized to the applicant's for dragging this out longer but because of the procedural error the Town Board will hold another public hearing on September 28, 2016 at 7:00pm at the Gorham Town Hall. Supervisor Lightfoote said the Board will consider comments from both public hearings.

At 7:07pm Supervisor Lightfoote re-opened the public hearing that was adjourned on August 10, 2016.

Ms. Melody Burri asked where the minutes are from the August 10th 2016 Board meeting. Town Clerk Perrotte said she has the minutes completed but does not post them until they are approved by the Board. Typically the Board makes corrections, if needed, and then approves the meeting minutes at the following meeting. Miss Perrotte then posts them on the Town website and they are made available to the public for review any time at the Town Clerk's office.

Mr. James Weller said "I live at 4800 East Lake Road (County Rd 11) which is the Sun Aqua Condominiums. Just a little touch of history about two years ago last July a dark cloud settled over our part of Gorham accompanied by a very heavy rainstorm. There was not a flood of the Noah proportions but we had a significant flood in that area. It started up on the next route above us and it rained for four hours, very hard, very heavy and the result was all that water had to go someplace and it came down this little tributary called Gage Creek. As a result there was a foot of water all throughout the marina covering County Road 11. A foot of water all throughout Sun Aqua at our common grounds. A foot of water at all of the bottom units and in the basement of the Sun Aqua apartment building, Sun Aqua Condominiums. We suffered at least one hundred thousand dollars worth of documented insurable damage. We were out of commission for literally weeks, the rest of the summer was shot, we were beat up by that flood. What does this have to do with tonight's public hearing? Well what it has to do with is the adequacy of whatever environmental impact statement you are going to require the developer to submit and prepare for this re-zone. Why is that? Well the parcel abutting Gage Creek where this water came through is a parcel we're talking about. We need to understand, or you folks need to understand what we think is important. Is that we need you to very distinctly and completely review the impact of any disturbance to the subject lot and to any abutting or upstream lots occasioned by this re-zone. In other words what's going to happen on this lot? What's going to happen upstream that could impact the runoff downstream where we live? Will there be an increase in pervious surfaces? Are they going to pave? Are they going to put in a road? Are they going to put in sewer lines? We don't know. But this all should be part of your environmental review. Right now, along the Creek, there is a quantity of debris, it's not tremendous but there is enough debris there if we had another good storm that the culvert under County Road 11 would do the same thing it did under our flood. It would be obstructed, the water would not be able to follow its natural course to the lake and it would take the next lowest spot which is my front yard and my living room. Depending on the use of the lot we don't know if the culvert will be adequate for what they develop, for what the marina has planned. It's fine right now, pretty much, so,

with just grass and weeds but, if they're going to put something on there that's hard or paved or build on it's not going to be adequate. That's a County culvert, it's not a Town culvert so the Town can always recommend to the County what to do about it but simultaneously they can also say my goodness this culvert under its current configuration is not adequate for what your plans are. You'll have to make arrangements with the County to get that repaired before we can move forward. So we're not opposed to a re-zone of this property so please make that clear, it's been used for vehicle and boat parking, storage and trailer storage for years. It has been used with, I would say, a degree of peace with the neighbors for years. I'm sure some people think it's not appropriate but using a vacant lot to park a boat on next to a lake is an appropriate use in this community but, we do have what amounts to a self-imposed hardship. The Marina bought the land knowing it was zoned for residential, and residential purposes only, and then started to use it for commercial purposes and then said oops, hey guys fix our problem for it lets call a self-imposed hardship. It may be appropriate that you do fix the hardship because no one would want to build a house on that lot. That's pretty obvious but, simultaneously that hardship should not be transferred to us if something profound is going to happen on that lot. So all's we're asking you to do is take a good close look at how the lot is going to be used. A good hard look at how that lot's going to be used, today, tomorrow. How the lots upstream are going to be used today and tomorrow. Do a good environmental review so we can all say to ourselves OK we've looked at this, it's an appropriate, reasonable use and it's documented that we can move forward, and I'm done."

Mrs. Linda Roche said "I live at 4785 County Road 11. My husband Mike and I would like to re-affirm our strong opposition to this re-zoning request. Several individuals at the last Board meeting spoke highly of Terry and how the marina is currently run. Please do not equate our opposition to this re-zoning request to our opinions of Terry. If we were to be asked we would echo those positive comments about him. But that is not the question before this Board. The question tonight is whether to change the zoning on two parcels currently zoned R-1 to General Business. You heard last month year round homeowners who would be directly impacted by such a change speak against it, myself included. Our concerns focus on safety issues, environmental concerns, the potential negative impact on our quality of life and the potential negative impact on the value of properties not only now but in the future as well. If I am correct the marina was turned down by the Town a number of years ago in their request to expand by increasing the number of slips. If my memory serves they were told that the marina is a small marina and would need to continue as such. It appears to me that in their effort to increase their business they have increased the number of boats that are dry docked there during the season resulting in a lessening of parking areas for cars. Re-zoning these parcels is an easy fix for this self-made problem. I question how much effort has gone into investigating an alternative, including the possibility of expanding east behind their current buildings. While it may not be as easy it would not require a change in the zoning for two residential properties nor would it be likely to have a negative impact on most of the surrounding homeowners. At the last meeting Mr. Baxter presented

the Board with information regarding other marinas in the area and their off-site storage and compared that to Pelican Point's current off-site land. Again, while offsite trailer storage may not be their preferred, easier way of operating it is certainly do-able and it seems to be a pretty common way for marinas on Canandaigua Lake to operate. While I understand their desire to have these two parcels re-zoned I again have to go back to my statement from last month, it benefits no one except the marina and while their expansion plans may seem relatively small now, business plans change. Owners change and we homeowners will still be here having to live with the zoning change. We again ask that you deny the re-zoning request."

Mr. Wade Lippman said "I live at 4890 County Road 11. I only know what I read in the newspaper. They certainly need more parking than they have at the moment I won't dispute that. I'm just concerned that what are they going to do with the parcels two years from now? Five years from now? What are they going to do with the entire marina? If it's just a matter of increasing parking and it's going to be like that for twenty years I personally would have no objection to it. I'm just concerned what a larger commercial parcel is going to have happen to it in the future. If that can be taken into account, that would be wonderful. If there was some way that they could make the zoning change contingent on the use remaining constant I don't know if that's possible or not. Without that I would be opposed to it too."

Mr. Tracy Snyder said "My family and I have been a customer of Pelican Point Marina for three years and I just wanted to come and voice our support for Pelican Point Marina as they look to expand their footprint. Being the only marina on this side of the lake the services that they provide the community, their customers, is fantastic top notch service. The quality of service has been great the years that my family's been there we've been there three, four times a week during the season. We're frequent flyers there and we've been treated nothing but fantastically and anything we see them do as far as expanding, anything, the way they plan, the way they park the boats it's a pretty well thought out process and it's pretty effective. In terms of getting the boats in and out of the lake I'm confident as they expand their footprint and look to the future they'll do things the right way. They've never done our family wrong or anyone else we know so we speak highly of them to everyone that we see and just hope that you take that in to consideration as well."

Mr. James Weller said "let me chime in one more thing, follow it up with Mr. Snyder, I too have been a customer of the marina for twenty five years under various ownerships. The current regime is the best by far but that's not what we're here to talk about. We're talking about a re-zone and one of the things that is typically used in re-zone is when the applicant comes to you folks and says we'd like to change the zoning from residential to commercial we're prepared to offer the Town, offer the community, offer the area something to go along with this deal. It's called incentive zoning. I'm sure you've heard of the term. I'm sure you've used it for other parcels. This would be an ideal place where you could utilize incentive zoning. Let's talk about one of the things that everyone's concerned about, pedestrian traffic around the marina. Why is there pedestrian

traffic concerns? because there are no sidewalks. Sidewalks and incentive zoning go hand in hand throughout this area. It can go from the marina up to Jones Road it can go beyond, it can go shorter. Sidewalks are a typical example. Again another traffic concern is the boats on the trailers and tractors stopping and then backing down into the launch ramp that could be obviated to some extent by the removal of that old cottage that sits there and rearranging the traffic pattern so the tractors would not have to back across and down into, across the County Road 11, and down into the slot. Another example of where incentive zoning could be put to use. The existing break wall that faces the lake is in sad repair, it's in disrepair. It doesn't directly impact the marina but the stability of the land there is in question so the break wall is a condition of re-zoning, could be repaired or required to be repaired. The other thing and it's probably more of a Planning Board meeting than yours but, there could be a condition that all of the adjacent residences be shielded. By fencing, by planting, by berms from the hustle and bustle of the marina. Again all part of the incentive zoning. We don't know if you're thinking about that."

Supervisor Lightfoote said "just so you understand these are concerns that when they come in for site plan review, which I assume they would if indeed it is re-zoned, they would then have to adhere to any of the conditions that the Planning Board decide to put in place, which would be that type of thing."

Mr. Weller said "except for the sidewalks and except for the traffic control." Supervisor Lightfoote said "when you were getting into buffers and things of that sort they would most certainly be looking at that with those types of things."

Mr. Weller said "once again I'd like you to think about, if you're going down this road, talk about addressing some of the upfront problems. The traffic and the pedestrians with sidewalks and traffic control by removing that old house and resetting that launch pad area so they don't have to back across the road with boats. That's a good way to make the process work, Thank you."

Mr. Bill Pellicano, said "Linda Roche made a comment, not sure of where it's coming from but just as a matter of clarity, we requested for expansion of slips and were denied. I'm not sure what that even means."

Mrs. Linda Roche said "I in my memory banks can remember reading something on that. Whether it was you or prior to you, I honestly don't remember. I just remember reading at some point that that request was made, it was turned down. It could easily have been the prior owners. I don't know."

Mr. Pellicano said "I know it wasn't us. As a matter of clarity the State runs the docks and we've done actually the opposite. We are allowed more slips in the water than we currently have so by rights we can actually have more boats in the water and we back off of that. So I think the comments have been made relative to the effects of traffic and cars and so forth we are doing the opposite when it comes to the slips in the water. I don't have the exact number off the top of my head but I know we have less than what we are allotted for under the State of New York."

Mr. Jon Lewis said "the last two meetings that I've been at I've expressed I have no concerns about the marina expanding or getting a re-zoning because of their past and the way that they are but that's not what I wanted to talk about tonight."

I've gone on record that I already approve of that and it's not really going to bother me from my stand point but back in the eighties when I believe it was Jay Smith that owned the marina a lot of people here maybe weren't here or don't remember how it used to be but it was a mess on County Road 11, East Lake Road. They had no parking. Terry since then, the marina and Bill Pellicano, has expanded the parking there taken houses down and done a lot of work to make sure that everything is taken off the road and there's safety concerns. I'm afraid that if you don't let him take care of the additional parking that he has for boats and for people and for cars and things like that it's going to end up like it was before. I'd get up in the morning and I'd find that there were cars and trailers and everything parked right in front of my place I couldn't even get out my driveway. People were going out on the lake and they'd park right in my slip, right in my spots. All up and down the road for a couple hundred yards it was that way going both ways. If you want to see a fiasco, see a real, real mess just imagine what some of the other marinas are like on the lake and going up and down. I've never seen Pelican Point leave anything to chance or leave anything there to be dangerous or anything like that, they're always concerned about that and I don't think you should hog tie them and stop them so that they can't take the flow of traffic and take it off the road where it belongs. They own all that land back in there they can certainly channel off the road so it wouldn't bother anybody around them and there's a lot of things that could be done. I just don't want to see you have it go back to the way it was in the nineteen eighties and that was a pure mess."

Supervisor Lightfoote thanked everyone for their comments. With no further comment Supervisor Lightfoote closed the public hearing at 7:33pm. He will open another public hearing on September 28, 2016 at 7:00pm at the Gorham Town Hall.

4 Privilege of the Floor- none requested

5. Approval of Minutes 8/10/16 meeting- On the motion by Councilmember Glitch, seconded by Councilmember Malcolm, the 8/10/16 meeting minutes were approved as submitted. Motion carried unanimously. (5-0)

064-2016

6. Audit of Bills:

Abstract #9

A	233-257	\$65,789.06
B	236-252	844.42
SL	239-245	637.04
DB	141-153	57,974.38
SW1	149-170	11,306.36
SS	55-62	1,696.83

On the motion by Councilmember Malcolm, seconded by Councilmember Case, the bills were approved for payment. Motion carried unanimously. (5-0)

7. Reports of Town Officials-

a. Water/Wastewater Plants - written report on file. Chief Operator Coston said they had a main lift pump go down. The pumps are critical for the Sewer Plant to operate. Mr. Coston has prices from two companies for the pump.

On the motion by Councilmember Malcolm, seconded by Councilmember Glitch to approve the expenditure for a replacement pump at the Sewer Plant not to exceed \$8,500.00. Motion carried unanimously. (5-0)

066-2016

b. Highway Department – written report on file. Councilmember Malcolm said he is concerned that the Town is not collecting enough fees to cover the cost of electronic and refrigerant waste at the Transfer Station. Supervisor Lightfoote said he will provide some analysis at the next regular meeting.

Councilmember Chard asked how long the sign at the intersection of Depew Road and Yautzy Road has been down. He said “I noticed there are a couple pieces of wood there with it looks like crayon on it. Do you know anything about that?” Supervisor Lightfoote said he didn’t know how long it has been down but we have several intersections that have no sign. I know of two other intersections that have homemade signs that residents have put up. Councilmember Chard asked what it would take to get those replaced. Supervisor Lightfoote said that falls into an issue we have to talk about in executive session, he can answer the question then.

- c. Zoning – written report on file.
- d. Assessor – no report on file.
- e. Town Clerk – written report on file.
- f. Supervisor – no report on file.

On the motion by Councilmember Glitch, seconded by Councilmember Chard, the reports of Town Officials were approved. Motion carried unanimously. (5-0)

067-2016

8. Business:

a. Re-zone Pelican Point –Supervisor Lightfoote said we will postpone the proposed re-zoning of Pelican Point until September 28, 2016 at the Gorham Town Hall at 7:00pm. Supervisor Lightfoote asked the Board if they understood the situation or if they had any questions regarding the postponement. Councilmember Malcom said “I understand. I don’t think we articulated it very well. I don’t think we made it clear for people to understand that all we are doing is considering the re-zoning but it is not the final step in the process.”

Zoning Officer Freida asked if he could comment. He said “I think what is fueling this whole negativism is that basically no matter what anyone says we have to follow the law. We are doing things right It’s an unlisted action by NY State SEQR

for re-zoning. We cannot set conditions and dictate what is an allowed use in the general business district regardless of what could happen two years, five years, ten years down the road. What an applicant applies for is a re-zoning of property with a review that you sent to the Planning Board and recommendations as far as buffering, as far as screening that type stuff, that type stuff is not addressed by you guys. As you explained that stuff is addressed by the Planning Board in coordination with our comprehensive plan and our zoning. This whole thing with the environment, this and that, that's all addressed by SEQRA (NY State Environmental Assessment Review) it's already been to the SHIPO (NYS Parks Recreation and Historic Preservation) it's already been to State environmental, it's been all over there. We can't predict what comes down from a thousand acres up above."

Supervisor Lightfoote read an excerpt from the Town of Gorham Comprehensive Plan. He read page 28, under Lake Access, 'existing levels of surface were judged to be sufficient although the traffic pattern for launching at Walden marine was an area of concern. The Planning Board added the recommendation that the Town should work with the County to limit on-street parking in that area. And they should work with the landowner to develop solutions to present and future traffic issues at this site.'

Zoning Officer Freida said "that was in the 1998 Comprehensive Plan and it's also in the 2008 Comprehensive Plan. Right now all they have asked to do is re-zone it, and gone to the Planning Board upon your recommendation. All we (the marina) want to use this for, in our present time is parking, get people off County Road 11."

On the motion by Councilmember Glitch, seconded by Councilmember Case, to table the re-zoning of Pelican Point until the next Town Board meeting, September 28, 2016. Motion carried unanimously. (5-0)

068-2016

b. Appoint Thomas Zimmerman to the Town Planning Board - Mr. Zimmerman said he is familiar with the process and procedures and looks forward to serving on the Town's Planning Board. The Board and Mr. Zimmerman discussed his background, interests and desire to sit on the Board. All agreed he would be a commodity to our Town Planning Board.

On the motion by Councilmember seconded by Councilmember to appoint Thomas Zimmerman to the Town of Gorham Planning Board 9/14/16 through 12/31/22. Motion carried unanimously. (5-0)

069-2016

c. Draft Septic Law – due to finalization of paperwork at the lawyer's office Supervisor Lightfoote said he will table the Draft Septic Law until the next meeting.

d. Zoning Changes - due to finalization of paperwork at the lawyer's office this item is tabled until the next regular meeting.

e. Solar Exemption Opt-Out this item also tabled to the next meeting.
f. Fuel Pumps – Supervisor Lightfoote did not hear back from the companies that said they would provide quotes for the electrical code work that needs to be addressed before installing the new pump system at the highway department. He will send the project out for bids.

g. Cripps Property – Permissive Referendum

On the motion by Councilmember Malcolm, seconded by Councilmember Case, authorizing the transfer of \$55,000.00 from the Town Wide Building Reserve Fund to the General Fixed Asset Fund for purchase of the Cripps property, subject to permissive referendum. Motion carried. (4-1) (Ayes- 4 Lightfoote, Case, and Malcolm and Chard. Nays-1 Glitch)

9. Executive Session – On the motion by Councilmember Glitch, seconded by Councilmember Chard, the Board entered into executive session at 8:47pm to discuss matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

No action was taken in executive session.

On the motion by Councilmember Glitch, seconded by Councilmember Case, the Board returned to regular session at 9:10pm.

070-2016

10. Set Next Meeting Date – The next Town Board meeting will be a Budget Workshop and Public Hearing. To be held on September 28, 2016 at 7:00pm at the Gorham Town Hall.

The next Regular Town Board meeting will be October 12, 2016 at 7:00pm at the Gorham Town Hall.

11. Adjournment - With no further business, on the motion by Councilmember Malcolm, seconded by Councilmember Glitch, the meeting was adjourned at 9:14pm.

Respectfully submitted,

Darby Perrotte
Town Clerk