

PATTERSON TOWN BOARD MEETING
PUBLIC HEARING
PATTERSON TOWN HALL
1142 ROUTE 311
PATTERSON, NY 12563

BAMBOO-LOCAL LAW NO. 2

November 19, 2014

MINUTES

PRESENT: MICHAEL GRIFFIN, SUPERVISOR
KEVIN BURNS, COUNCILMAN
CHARLES W. COOK, DEPUTY SUPERVISOR
PETER DANDREANO, COUNCILMAN
SHAWN ROGAN, COUNCILMAN
ANTOINETTE KOPECK, TOWN CLERK
DONALD M. ROSSI, TOWN COUNSEL

Salute to the Flag and Roll Call.

Supervisor Griffin called the Public Hearing to order at 7:00 p.m. with 3 in attendance.

Mr. Burns, Town Counsel, read the following legal notice:

Mr. Burns stated has anyone heard any bad stories about bamboo. I can't say I am enthused about this law but let's give it a try.

Mr. Griffin stated the way I see it is, how do you deal with enforcement.

Mr. Burns stated yes enforcement is definitely (inaudible).

Mr. Griffin stated if you read the law, basically it says the Town has no authority, obligation or ability to solve private property problems.

Mr. Rogan stated Rich have you heard from the municipalities who have already enacted the bamboo legislation in terms of enforcement issues.

Mr. Williams stated yes. The Town Attorney did other research and at the last Town Board meeting we spoke about changing the law. You have the latest version which takes out the Town doing anything with the law.

Mr. Rogan stated ok.

Mr. Williams stated so, we will not go on anyone's property and take the bamboo away.

Mr. Burns stated we would just issue a violation stating that they had to take action, but we would never get to the point where we would have to go on to remove it.

Mr. Williams stated we are doing what we always do, (inaudible).

Mr. Rogan stated so, the idea is that if the Town gives a violation to a property owner who has bamboo growing, they say, "ok, now you have "X" number of days to correct this situation, my concern always has been, what is the corrective action and how difficult is it to remove. I know you gave us some background on it, digging a trench, putting a three foot barrier, but that is to enclose the bamboo, but actually removing the bamboo, it seems like you would have to bring a machine onto your property to remove it.

Mr. Williams stated it will be a daunting task for anyone.

Mr. Rogan stated my concern is creating a law that then dumps into the hands of our Code Enforcement Officer, going out and violating people and it not being something simple to fix. Not that it being simple to fix is the sole reason we should create something, but I want to make sure we understand, because the day we pass this we know we already have a couple of problems. So, we can assume we are going to have violations within a couple of months of approving this. I would like to be able to look down the road and solve the problems before they come up.

Mr. Williams stated we will have to take it on a case by case basis like we do with everyone and try to solve the problem. That is why laws are fluid, so we can adjust them.

Mr. Rogan stated given that we know of three locations in the Town, can we look at those three cases and extrapolate what the course of action would be on those three.

Mr. Burns stated to me, I think the incentive in the end game becomes the potential imposition of civil liability for bamboo on your property. If you have bamboo on your property and you don't remove it and it creates damage to your neighbor's deck or ruins the backyard and that person sued, you then have an underlying code where you can say the Town violated them, they didn't comply, there is a statutory violation, which I think bolsters their case in civil litigation, where there would be potential damages for trespass and nuisance and the like.

Mr. Williams stated you also have to remember all we are going to do is issue a violation. It's then up to the property owner to get (inaudible).

Mr. Dandreano stated it is also going to prevent future plantings.

Mr. Rogan stated it doesn't prevent future plantings, it lets people know that if they do plant they have to contain the appropriate barriers. I spoke to a co-worker who had quite a bit of information about this and she said "if you plant it, you have to put a three foot barrier around it." This is down in White Plains.

Mr. Robert Odell stated what is your plan going to be when the bamboo is not on the Town property and crosses over onto your property.

Mr. Cook stated the Town has to take care of it.

Mr. Burns stated then that becomes our bamboo problem.

Mr. Odell stated you have some problem.

Mr. Burns stated potentially.

Mr. Odell stated all along Lake Shore Drive it's on the park land and it's moving onto private property. I think the root structure is moving onto people's property.

Mr. Cook stated they would report it and we would have to take care of it.

Mr. Odell stated if they have to get a summons for having it on their property.....ok, as long as you are going to do something, that's fine. Thank you.

Mr. Griffin stated Bob brings up a really good point. What happens if you have this in six or seven locations. Are you going to go out there and excavate an acre or two feet deep to eliminate this problem. What do you do to get rid of it. That is the whole thing. You have to excavate the three feet and then you have to put in some kind of impenetrable barrier that this thing can't cross. If you have many locations where this is a problem, the only good news is, I think our Town Planner wrote into our code that we are exempt from our code.

Mr. Odell stated I hope not.

Mr. Griffin stated I think Bob makes a good point. What happens if it is on Town property and it starts to invade private property.

Mr. Williams stated the Local Law provides that generally we are not going to plant it, so someone else has planted it and it has come onto our property and they will be responsible for getting rid of it. I'll follow up with Bob and take a look.

Mr. Cook made a **motion** to close the Public Hearing at 7:10 p.m.

Seconded by Mr. Burns. All In Favor: Aye. Carried.

Respectfully Submitted,

ANTOINETTE KOPECK, Town Clerk