

PATTERSON TOWN BOARD MEETING
PATTERSON TOWN HALL
1142 ROUTE 311
PATTERSON, NEW YORK 12563
December 17, 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 Patterson Town Board meeting to order at 7:00 p.m. with 30 in attendance.

AUDIT OF BILLS

Mr. Cook made a **motion** to accept Abstract No. 23 as written:

General Fund \$324,428.58, Highway Fund \$188,893.37, Waste Water Treatment Plant \$848.52, Capital Fund \$69.57, Putnam Lake Light District \$589.76, Patterson Light District \$729.91, Putnam Lake Refuse District No. 1 \$20,454.55, Patterson Refuse District #2 \$97,843.71, Patterson Park District \$1,231.49, Putnam Lake Park District \$935.27, Alpine Water District \$248.67, Dorset Hollow Water District \$520.00, Grand Total Abstract \$636,793.40.

Seconded by Mr. Burns. Roll Call Vote: Mr. Burns, yes; Mr. Cook, yes; Mr. Dandreaano, yes; Mr. McCarthy, yes; Mr. Griffin, yes.

MICHAEL GRIFFIN

2015 ANNUAL POST-CLOSURE MONITORING PROPOSAL

Mr. Griffin stated **Resolution Accepting Proposal of Sterling Environmental Engineering, P.C. to Perform the 2015 Annual Post-Closure Monitoring for the Town Landfill:**

R-1214-05

.0WHEREAS, Sterling Environmental Engineering, P.C. has submitted the attached estimate of cost dated December 5, 2014 to conduct the annual Post-Closure Monitoring (“PCM”) for 2015 in accordance with the Post-Closure Monitoring and Maintenance Manual (“PCMMM”) for the Town of Patterson Landfill (the “Landfill”), a copy of which is annexed hereto and incorporated herein by reference (the “Proposal”); and

WHEREAS, the Proposal sets forth an estimate of \$5,855.00 to perform the required PCM at the Landfill for 2015; and

WHEREAS, pursuant to the Town’s Procurement Policy, the Town Board is authorized to accept the Proposal without competitive bidding or offering a request for proposal because the procurement contemplates a professional service contract under \$20,000.00; and

WHEREAS, the Town Board of the Town of Patterson wishes to accept the Proposal submitted by Sterling Environmental Engineering, P.C.;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Patterson hereby accepts the Proposal of Sterling Environmental Engineering, P.C. to perform the PCM for 2015 in accordance with the PCMMM for the Landfill; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Patterson hereby authorizes and directs the Town Supervisor to execute any and all documents necessary to give effect to this Resolution, consistent with the terms hereof, all in form satisfactory to the Supervisor and the Town Attorney.

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

TOWN HALL HOLIDAY SCHEDULE

Mr. Griffin stated the Town Hall will be closing December 24, 2014 at 1:00 p.m. and will be reopening on Monday, December 29, 2014 at 9:00 a.m. The Town Hall will also be closed on January 1, 2015.

2014 YEAR END RESOLUTION

Mr. Griffin introduced the following **YEAR END RESOLUTION**:

R-1214-06

BE IT RESOLVED that all bills audited by the Town Board of the Town of Patterson be paid and authorization be given for bills and encumbrances that might arise through December 31, 2014, and

BE IT FURTHER RESOLVED that all transfers be automatically approved by the Town Board subject to their review at the new Town Board Meeting. Budget transfers as of December 31, 2014 are to be attached in the Minute book.

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

KEVIN BURNS

PLPAB REQUEST – FENCE EXTENSION

Mr. Burns stated I have a request from the PLPAB with regards to installing an extension of existing fencing at Jackson Beach.

Mr. Burns made a **motion** to approve and award the purchase from Duke Fence to install 120' of 6 foot galvanized chain link fence at a cost not to exceed \$2,900.00. These funds are available in their 2014 budget.

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

Mr. Burns made a **motion** to add two items to his agenda.

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

Mr. Burns made a **motion** to approve the rental of Veterans Memorial Field for practices to the Black Dragon Rugby team with Peter Voloris in an amount of \$40.00 to \$50.00 per hour.

Mr. Griffin stated the only caveat was the Attorney's issue of having us named as additionally insured on their insurance.

Mr. Dandreano stated they will take responsibility for any damage that occurs.

Mr. Don Rossi, Town Attorney stated one of the thoughts that we had was that perhaps it would be appropriate for the individual members of the club to sign releases in connection with this.

Mr. Burns stated subject to the Town being named as additionally insured on their policy we will approve this request.

Mr. Burns stated at the last meeting we had a request from Tim Curtiss to hire an auditor regarding certain financials of Clover Lake. I did follow up on that and I received an email back and distributed to the Board. I will read the response I received:

You are correct. In Article 7 proceedings, there is a caselaw that the Court can dismiss the petitions for failure of the Petitioner providing income and expense statements in commercial cases. Here, Petitioner has provided what they called "an executive summary", which was their income and expense statement. I objected to it since it was not complete and the court agreed with us and provided for the audit, so that the additional information can be obtained by the accountant. At the end of the day, I will be making an application for the Town to be reimbursed for the audit expenses and anticipate that Judge Grossman will grant that application.

Mr. Griffin stated I spoke to Tim and he was supposed to get us a proposal or an estimate from the Forensic Auditor, because apparently there are only a few Forensic Auditors that do that type of facility. There is a meeting Friday with the Assessor and Attorney and Auditor, so he can come up with a proposal.

BUDGET TRANSFER(S)

Mr. Burns made a **motion** to approve Budget Transfer No. 54 to 59:

Budget Transfer No. 54

From:	RP.9060.800	Hospital & Medical Insurance	\$(500.00)
To:	RP.9070.800	Union Welfare Benefits	\$ 500.00
	Expense Accounts		

Budget Transfer No. 55

From:	A.8020.450	Planner Training	\$(600.00)
To:	A.8020.400	Planner Contractual	\$ 600.00
	Expense Accounts		

Budget Transfer No. 56

From:	A.1315.450	Accounting Training	\$(500.00)
To:	A.1315.400	Accounting Contractual	\$ 500.00

Budget Transfer No. 57

From:	A.7550.400	Celebrations Contractual	\$(250.00)
To:	A.7450.400	Museum Contractual	\$ 250.00

Budget Transfer No. 58

From:	A.3510.100	Dog Control Personal Services	\$(2,250.00)
	A.1623.100	Rec Center Bldg Personal Services	\$(1,300.00)
To:	A.3620.110	CEO in Lieu of Medical	\$ 2,250.00
	A.7140.100	Rec Center Personal Services	\$ 1,300.00

Budget Transfer No. 59

Increase:	RP.2680	Insurance Recoveries	\$ 4,150.00
	Revenue Accounts		

Increase:	RP.8160.100	Sanitation Personal Services	\$ 3,800.00
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RP.9030.800	Employee Benefits: Social Security	\$	250.00
RP.9035.800	Employee Benefits: Medicare	\$	80.00
RP.1980.400	MTA Taxes Contractual	\$	20.00
Expense Accounts			

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

PETER DANDREANO

SANITATION REQUEST – RECYCLING UPDATE

Mr. Dandreano stated there is a lot going on in the recycling department. Frank Farrell sent me an email that the DEC inspected the Recycling Center and found no violations. The 2015 recycling permits are on sale at the Town Clerk's office, \$8.00 for one car and \$10.00 for two. There will be no garbage or recyclables collected on Christmas Day, December 25, 2014 and will be collected on Friday, December 26, 2014 or New Year's Day, January 1, 2015 and will be picked up on Friday, January 2, 2015. The Recycling Center is kicking off a recycling campaign that they are calling "75/25" to make sure everyone is recycling properly.

Mr. Bruce Major stated I just had a chance to review this memo. Could you tell us what is the current ratio being collected in the Town.

Mr. Griffin stated it is probably just the opposite of that.

Mr. Major stated ok. Over one year ago, we spoke about sending our enforcers out to try to identify the homes that weren't doing any recycling. How successful was that and how many letters were given out. The only positive thing on this letter is not going to make Charlie upset, because they didn't evaluate the condominiums one, two, three and four.

Mr. Griffin stated as of right now, no one has been sited. The Sanitation Department is still handing out letters and notices and as soon as Frank thinks he has exhausted every opportunity to get people to recycle, then when he directs the Director of Codes to go out is when it will start.

Mr. Major stated the other thing is, Garbage District No. 1, I believe their contract comes up at the end of next year. Clearly, the 75/25 is an indication of savings, have you determined from the contractor of Garbage District No. 1 what the ratio is within Garbage District No. 1 and shouldn't you be doing the same thing, because that may benefit when you put out to bid the contract for Garbage District No. 1.

Mr. Dandreano stated Frank is also handing out flyers on the routes and the Town Clerk's office will be handing them out as well.

Mr. Dandreano read another memo from Frank Farrell regarding two packers; one 2002 and one 2010. The 2002 Sterling is no longer manufactured and requires more repairs due to its age. It would be better if we purchased a new truck rather than put more money into repairs. Total cost of a new chassis is \$100,000.00 and the body by Loadmaster is \$77,000.00. In 2015, the bond expires. If the Board does not feel we need a backup packer, we can sell the 2002 sterling to recoup some of the costs of the new vehicle. This is something we might want to discuss.

Mr. Cook stated these are major expenses. The sooner we work on RFP's the better off we will be.

Mr. Rogan stated the letter states the packer is a backup.

Mr. Griffin stated I think they use the 2002 on a regular basis.

Mr. Rogan stated so we will use the 2002 as a backup if we purchase a new one, if not, we sell it.

Mr. Griffin stated right.

Mr. Griffin stated at some point we should seriously look at what the options are, because I think Charlie's point is well taken. You can only borrow packers for a five year period, so that's a pretty hefty payback. You also have the expenses of bond counsel, etc. It's approximately \$185,000.00 for a vehicle. How often do you want to replace these things. We just spent \$80,000.00 to \$100,000.00 on the switch over of the body. It's a very expensive business to be in.

Mr. Burns stated we don't have them on a replacement schedule.

Mr. Griffin stated no, not the Sanitation Garage.

RECREATION REQUEST

Mr. Dandreano made a **motion** to hire Christina Cioppa as a Cheerleading Coach at \$9.00 per hour. Also, approve Christina Verde as a Recreation Assistant at a rate of \$7.50 per hour (for 2014 and \$8.00 for 2015)

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

PUTNAM COUNTY AGRICULTURAL DISTRICT PETITIONS

Mr. Dandreano stated we have a letter from the Putnam County Agriculture & Farmland Protection Board:

Dear Supervisor Griffin:

The Putnam County Agricultural & Farmland Protection Board is in receipt of a petition from a Patterson landowner and would like to know if you have any concerns or comments regarding the possible inclusion of the following tax parcels into the Putnam County Agricultural District. We also need to know if there are any violations currently on these parcels.

Robert S. Mancini, tax parcel on McManus Road, and two on Bullet Hole Road.

Mr. Griffin stated the concerns the Town has is that in the past the number of people that have applied for agricultural exemptions had already been denied by the Town. Some of the things they wanted to do was have cattle and horses in the wetlands. Another person wanted to use the land for a business that wasn't applicable to agriculture. We said we didn't think it should go in. They put it in and (inaudible).

Mr. Cook stated when someone applies for this at the County, do they have to specify their reason they want to be in the Agriculture District.

Mr. Griffin stated not in any real detail.

Mr. Cook stated does the County ever come back and check.

Mr. Griffin stated not that I am aware of. I don't know if they ever inspected any property they put in the Agricultural District. They take an application and look at it and they let them in. We suggested that 80% of the property that have applied for application in Patterson be denied and 10% have been turned down. The rest of the time they rubber stamp it and let it go through.

Mr. Dandreano read the letter Mr. Williams wrote to Ms. Taylor regarding her petition to join the Putnam County Agricultural District.

Mr. Griffin stated when someone comes to the Town and they are told no, they think if they go to the Agricultural Board you can get around the zoning and the other controls. I will sign the letter and send it off to Ms. Taylor if you all agree.

Board members stated they agree.

LETTER OF RESIGNATION

Mr. Cook made a **motion** to accept the letter of resignation from Cheyanne Alberti as President from the Golden Age Seniors of Patterson.

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

WINDWARD HOLDINGS CORP. - REQUEST

Mr. Cook stated Windward Holding Corp. sent us a letter asking the Town Board to override the Planning Board's decision regarding their proposal for a zoning change at 361 Route 311, 16.5 acre site. If he wants to pursue this further, he should do an Article 78.

Mr. Griffin stated I'm sure his attorneys have communicated his options. He wanted to put a doctor's office there. The Planning Board didn't feel it was appropriate.

Mr. Burns stated we should send back a letter stating we respectfully decline your offer to sell the property and that we stand by the decision of the Planning Board.

Mr. Rogan stated if I remember correctly, we never declined. We never took any action. We discussed it. The Planning Board never said no, it said you need to prove that you can make it safe and the options weren't there. I agree with Kevin, we should send a letter.

Mr. Cook stated the issue was the turning lane that the Planning Board wanted.

Mr. Rogan stated yes.

Mr. Griffin stated ok, I will send them a letter.

SHAWN ROGAN

ALPINE RESTAURANT – SET PERFORMANCE BOND & INSPECTION FEE

Mr. Rogan introduced the following **Resolution for the Establishment of A Performance Bond for the Rentoulis Site Plan (Thunder Ridge):**

R-1214-07

WHEREAS, Dino Rentoulis made application to the Patterson Planning Board requesting approval of a site plan for the construction of a parking lot to be located on Tax Map Parcel No. 14.-1-47 (hereinafter the Rentoulis Site Plan), and

WHEREAS, a resolution was made and carried by the Patterson Planning Board at its December 4, 2014 meeting recommending that the Town Board of the Town of Patterson establish a performance bond as security for the performance of necessary site improvements for the above-mentioned project in the amount of \$5,000.00, along with an inspection fee of \$3,229.00, and

WHEREAS, the Town Board of the Town of Patterson having reviewed the amount of the bond and other relevant documents, wishes to follow the recommendation made by the Patterson Planning Board;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Patterson hereby establishes the amount of the performance bond to be posted with the Town Clerk as a guarantee for completion of the improvements for the Rentoulis Site Plan, pursuant to §154-84 of the Town Code of the Town of Patterson as \$5,000.00, along with an inspection fee of \$3,229.00, and

BE IT FURTHER RESOLVED, that the bond posted for the project be subject to prior approval by the Town Attorneys, HOGAN & ROSSI, as to sufficiency and form.

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

THUNDER RIDGE PUMP STATION – UPDATE

Mr. Rogan stated Mr. Williams will you update the Board.

Mr. Williams stated everyone knows that Thunder Ridge is part of the New York City DEP program. They need to find an alternate method for providing waste water at the site. We have been wrestling with a number of options. None came to fruition, so the Town was approached about tying Thunder Ridge into our waste water treatment plant at the DEP's expense. I was approached by the design engineer on the project and they are at 65% design and anticipate being at 100% design by December 31st. They were pressing us on our end to review the plans and work up the legal agreements. I'm here to get your acknowledgment to use the Town Attorney and Town Engineer to get through the process. Right after the first of the year, we will have to start a legal proceeding before the Board to extend the sewer district. There are plans here if anyone wants to take a look at them after the meeting.

Conversation ensued.

Mr. Williams stated it wouldn't be a big deal to increase the line to three inches. The problem is all this is approved by the DEP and they won't keep it to the absolute minimum to avoid the lot being used for increasing development in the area and having the ability to do any sort of expansion. We went above that and we wouldn't need any more than a four inch. You can push a lot of sewage through a four inch main. The reason the DEP is paying for this is in 1997 (inaudible) that was reached between all the municipalities and the city obligated the New York City DEP to upgrade every facility that had a SPEDE'S permit and Thunder Ridge even though it doesn't have a waste water treatment plant, it has a sand filter that operates under SPEDE'S permit. This is the last SPEDE'S permit in that program.

OTHER BUSINESS

Mr. Dandreano stated I would like to address the Fire Department. Could we just give them an update on where we are with the sign and what we spoke about at last meeting and what has to be done next.

Mr. Don Rossi, Town Attorney stated the sign situation is a bit of a rock and a hard spot. There have been discussions about merging the lots to eliminate the need for a use variance. We have had some discussions about possibly leasing the lot on which the sign has been proposed to the Town, but I haven't had any direct discussions with the Fire Department or it's Counsel on this. These are matters that have come after the matter was before the Planning Board. The basic mechanism to permit this from a zoning perspective has to be arrived at. Basically, a merger of the lots would permit the Town to deal with an area variance as opposed to both in area variance and a use variance. The sign could not be permitted on the lot for which it is proposed, because it is considered an accessory and there is no principle use on that lot. If that lot sits as it is now, and the sign is proposed for it, a use variance has to be granted for it and the factors that have to be proven and approved by the Zoning Board of Appeals for a use variance, in all likelihood, would not be able to be proved. A merger of those lots would eliminate that and let the ZBA deal with the much more simple matter of an area variance to permit the sign as it's currently designed to be utilized.

Mr. Dandreano stated what has to be approved for a use variance.

Mr. Rossi stated in order for a use variance to be granted, the ZBA has to find, and there are three or four factors, the key one is that the applicant would have to show that the property could not be used for a use that would yield a reasonable return on the investment in the property for any use permitted in the district. Each use would have to be looked at and determined that it was not feasible for the property in order for that to be granted. There are some other factors, one is that the hardship that was alleged would have to be unique to the property and not shared by other properties in the district. Another is that it would have to be shown that the use variance would not change the essential character of the neighborhood, but the reasonable return on investment is the one that, under the circumstances would be difficult to prove and the Zoning Board would be making a determination without any real basis. I want to emphasize that I have not spoken to any of the Fire Department Officials or their Counsel, but another one would be the possibility of trying to fashion this in a way that

would amount to a governmental use. In order to do that, we believe there would have to be a lease of property, potentially to the Town, because the Fire Department does not constitute a governmental body that we could have fashioned an exemption from zoning. If the Town was leased property, and the Town, in effect, was the operator of the sign or we worked out an agreement with the Fire Department with regard to its use, that would still be allowed to be considered governmental type use.

Ms. Eleanora Smith, President, Patterson Fire Department stated this is a discussion that has been started two years ago, and it seems right now we are having the same discussion two years later. The last thing that I proposed was to have a zoning amendment to exempt the Fire Department from that stipulation that you just mentioned. That was proposed, given to the Town Board for discussion and to bring to you.

Mr. Burns stated I know we had discussion about it, but I don't think we were inclined to exempt the Fire Department from zoning.

Audience member stated that would be the simplest thing to do.

Mr. Burns stated a simpler thing to do would be to merge the lots.

Ms. Smith stated but you are saying that it is not so simple.....

Mr. Rossi stated the way you go for a zoning amendment is you apply to the Town Board, it is referred to the Planning Board for an opinion and then it comes back to the Town Board to vote on. I don't think there has been any formal petitions submitted to the Town. The Town is not hiding to discuss this. There is a viable alternative and that is to merge the lots and I think there is no question, although the ZBA has to weigh in on it and grant the variance, that the area variance is the variances that will be needed for the design of the sign and it would not be difficult to obtain. To say to the Town you have to adopt a zoning change or treat the Fire Department differently.....

Ms. Smith stated we are a non-for-profit organization.

Mr. Rossi stated understood and all appreciated. I'll tell you this, this is the first time you and I have had any discourse on it, the merging of the lot has its pro's and con's from where the Fire Department sits they would be reluctant to merge a lot because it eliminates that as a separate lot that could be used to sell down the line, it has value as it is. Realistically, I don't know what the future plans of the Fire Department are that would involve them selling or marketing the lot for some other uses. The lot, to my understanding, is of sufficient size and configuration that in the event that it was merged and then there was a desire to sell it off down the line, it would not be very difficult to meet the subdivision requirements to re-subdivide it or return it to its original state, so I think it is a matter of being realistic about all the different influences. I don't think it is a major matter for the Fire Department to undertake, it's not a major procedural matter in the sense that it is very expensive to accomplish that and I don't spend money lightly, but a lot line change to merge the two lots is nothing like a site plan approval or a subdivision approval, it's very simple.

Conversation ensued.

Mr. Griffin stated the process is being pursued. We are trying to find out the most practical way to solve this. We suggested and asked you before to take us to court, the judge will order this and we will sign off on it. The Town is not going to contest it and I told you all of this four years ago. We completely agree this should be settled. There are only two ways to amend the plan, one is by referendum and one is by court order. Court order is the simplest way to go.

Mr. Bob Johnson stated you also sat here with two attorneys and you said we can work it out and it went nowhere.

Mr. Griffin stated I don't know what the conversation was between the attorneys or where it went. The process is very simple. Go to the County Court House and file the paperwork.

Mr. Bob Johnson stated they said you didn't have to do that.

Mr. Griffin stated right now taking us in front of the EEOC is not the best way to go, in my opinion. Go to the court and have the judge sign off on it.

Ms. Eileen Smyth stated I have a question regarding the LOSAP, there are two issues going on here, I'm not sure if everyone is aware of that. You have the overage 65, which was the amendment to the contract and you also have errors in the plan where people got dropped and they are still entitled to their LOSAP. I have been entitled to LOSAP for a couple of years now. Not as an over 65 applicant, but just my regular eligibility and I haven't heard anything on that. It's been in all the conversations, but it's a separate issue from amending the contract for those over 65 that are still active. This is just for regular LOSAP. I don't know if that has been brought up.

Mr. Griffin stated we had this conversation with VFIS on several occasions.

Ms. Smyth stated I saw that there was a letter sent to you saying how much I was entitled to. We went through all the ambulance calls to see how many years I had in to show everyone proof to validate my entitlement for it and the letter went off to you signed by Eleanor and I haven't heard anything back on that.

Ms. Smith stated I think there was a breach in communication when Marshall Sterling was the middleman between the LOSAP, the Fire Department and the Town. The Town is the Administrator of the policy, so the Town needs to inform members when you get the paperwork for them to fill it out. I think that was a breach that wasn't followed through and members never received their paperwork to fill out and start the process of getting their benefit.

Ms. Smyth stated I have been owed it for three years and there are a couple of other people that are owed. We need that paperwork. That should be easier than amending the contract.

Mr. Griffin stated in your case it was in excess of \$35,000.00. Once the Fire Department stopped telling us that you were an active member, we stopped contributing towards your LOSAP. To get you caught up for the years that are now being claimed.....

Ms. Smith stated what she is saying is that even in her years that you have down, she received nothing.

Mr. Griffin stated I will ask VFIS what is happening.

Ms. Smith stated thank you.

PUBLIC RECOGNITION

Ms. Dede Lifgren stated I would like to comment on a memo that was sent to the Town Board from the Town Planner regarding the restaurants and changes to the code. I thought it was really good that in it would be a trigger for the Planning Department to act on any significant changes on use or emissions. That is important for anyone living near a commercial zone. I applaud that. I have three suggestions that I hope you might consider. With the wording that was suggested in the memo referring to any changes in hours of operation. The term "hours of operation" is often interpreted as the hours that a business is open to the public. If that is interpreted that way, then that wouldn't cover any after hour activities when a facility is closed.

Mr. Rogan stated it would be more appropriate to say "hours of activity" or something along those lines.

Ms. Lifgren stated normally all restaurants close down at night, but in the odd event that a restaurant has some unique process that requires its operation to run through the night, I think a separate approval should be required. As our present problem has shown, the code provides no directives or any regulations for after hours operation, even if they are objectionable or close by, I think that might be a good addition. Comparing it to issues that we went through, I believe the Town should have some way to mitigate the impacts after approvals are given and likewise, there should be some avenue for residents to resolve grievances if they do occur after approvals are given. Under the code, restaurants have this change freedom to impact neighbors where other zones and businesses cannot. Residential

neighbors cannot burn a fire all day or night or cause noise while others are asleep. Nor could a retail business in this same district do so. Restaurants should not be given impunity, I don't think. Prohibiting processes that are offensive, obnoxious, detrimental to the neighborhood by reason of vibration, dust, smoke, fumes, noise, odor or obnoxious waste should also apply to restaurants. I think there should be some kind of setback limits or property size requirements for restaurants known to cause noise, smoke or odor activity. Emissions should at least have some space to dissipate. When not even the minimum lot requirements are met, there is simply no chance for discharges to dissipate. Anyone living near the Districts will appreciate these code changes. Clean air, night time activity, property rights is everyone's concerns. Even these codes changes will affect us differently. Since changes would be measured from existing uses and existing operations, our bad situation will be written into the existing starting point. All the activities and impacts we already find objectionable will be established as a baseline. It still doesn't compute that the rest of Patterson gets quiet hours at night and we don't. As a report from the Town Planner has indicated, this location was incorrectly approved for a restaurant and a zoning district. I would like to know if this could ever revert back to its intended permitted use.

Mr. Rogan stated do you mean if it has the potential to.

Ms. Lifgren stated yes. Since the zone is not supposed to have any restaurants, is there any way to go back to that point.

Mr. Rogan stated if a new buyer came, you are saying.

Ms. Lifgren stated if the tenant leaves.

Mr. Griffin stated it depends on how we structure the code change.

Mr. Rogan stated I have a question for Counsel. Using Dede's third point about changing the code to allow mitigation of impacts after approvals, building that into the code change, couldn't we craft a code that says "upon observation of impact", that we do have the ability, whether it is an existing place or not. That is part of making a community safer.

Mr. Griffin stated if I am going to make a substantial investment in a restaurant and then someone says you don't like the smell of garlic....

Mr. Rogan stated no, but that is subjective, it needs to be something more than that.

Mr. Griffin stated it all depends on who is doing the enforcement as well.

Mr. Rogan stated I think the standard for saying that there is a problem needs to be something scientific not, "I don't like the smell". It needs to be something quantifiable.

Mr. Don Rossi stated as a general concept, projects that are subjected to site plan approval have that mechanism already built in. You have a site plan, you impose conditions on the use, so the standards are already effective.

Ms. Lifgren stated if there is a site plan.

Mr. Rossi stated yes. If there is not, then the operation is governed simply by common law concept of what is the use. Because there isn't a site plan and again, I am not familiar with all history of this site, because we have been precluded from acting on it, but if you have a pre-existing non-conforming use, and it's simply a factual determination as to the extent of that use. If there is a change or expansion or alteration, then you rely on the zoning code provisions that deal with non-conforming uses to determine if the use is now exceeding what would otherwise be permitted. That is a mechanism that is built in for non-conforming uses. Also, as a general rule, and regardless of whether a use is permitted in a district or not, you can have a non-conforming use that is permitted in a district, but it would be deemed non-conforming if it never received site plan approval.

Conversation ensued.

Ms. Lifgren stated the BBQ is only open two and a half days a week and although this doesn't seem very typical for a principle activity, still somehow night time smoking is not

necessary for these times. The small building and lot size make this property ill equipped to handle restaurants in the first place. When one considers its capacity of only four tables, any accessory use by portion should be limited. The volume and the impact we experience shows this cannot be the case. Since catering is not an approved use in this district, I would like an actual assessment during high season times and that would be the only way to determine what the actual operation is and what is going on there. I would appreciate it if you would consider that.

ADJOURNMENT

There being no further business, Mr. Cook made a **motion** to adjourn the Town Board meeting at 8:25 p.m.

Seconded by Mr. Burns. All in favor: Aye. Carried.

Respectfully Submitted,

Antoinette Kopeck, Town Clerk