

MINUTES of the Regular Meeting/Public Hearing of the Pembroke Town Board held on December 11, 2013 at the Pembroke Town Hall, 1145 Main Road, Corfu, NY.

PRESENT: Edward G. Arnold, Jr., Deputy Supervisor
Gary L. DeWind, Councilman
Peter G. Sformo, Councilman
John J. Worth, Councilman

ABSENT: Edwin F. Mileham Jr., Supervisor

OTHERS PRESENT: Nicole M. Begin, Town Clerk; Stephen Stocking, Highway Superintendent; Deborah Conti, Assessor; Tom Schneider, Planning Board Chairman; Shellye Dale-Hall, Zoning & Codes Administrator; Nathan Witkowski, ZBA Chairman; Richard Kutter, Planning Board; Richard Doktor, ZBA.

The meeting was called to order at 7:05 P.M.

Deborah Conti gave the invocation and Deputy Supervisor Arnold led the Pledge to the Flag.

On **MOTION** of Councilman Arnold, seconded by Councilman DeWind, to open the Public Hearing at 7:06 P.M.

ALL AYES - MOTION CARRIED

The **Public Hearing** for Local Law #2 of 2013, a Local Law to amend local law #1 of 1991, was called to order at 7:06 P.M. Deputy Supervisor Arnold said that the Town Board of the Town of Pembroke hereby establishes itself as Lead Agency for the purpose adopting Local Law #2 of 2013. Deputy Supervisor Arnold reported that the Notice of Public Hearing was printed in the Daily News as well as the Affidavit of Posting posted on the Town's bulletin board.

**PUBLIC HEARING
LOCAL LAW #2 OF 2013 - LOCAL LAW TO AMEND LOCAL LAW # 1 OF 1991
ZONING LAW TEXT AND MAP CHANGES**

Deputy Supervisor Arnold read the local law in full. Planning Board Chairman Schneider explained the benefits of the zoning changes being proposed in Local Law #2 of 2013.

Jennifer Dougherty from Phillips Lytle who represents the GCEDC thanked the Town and said that the GCEDC is in support of the local law.

Richard Kutter said he worked with the zoning committee and felt there was some compromise but is in support of the changes in this local law.

On **MOTION** of Councilman Worth, seconded by Councilman Sformo, to close the Public Hearing at 8:10 P.M.

ALL AYES - MOTION CARRIED.

Everyone being heard that wished to be heard the public hearing was declared closed.

PUBLIC PARTICIPATION – Richard Doktor thanked the Town Board for moving the VFW boards to the wall at the Community Center.

On **MOTION** of Councilman Sformo, seconded by Councilman Worth, to approve the Minutes of the Regular Meeting/Public Hearing November 13th, 2013, and the Workshop Meeting November 27th, 2013.

ALL AYES - MOTION CARRIED.

DEPARTMENT REPORTS

ASSESSOR – Deborah Conti

- Mrs. Conti said that homeowners with Basic STAR must re-register by December 31st, 2013. NYS will be sending out another reminder letter to those people who haven't re-registered.

ZONING & CODES ENFORCEMENT – Shellye Dale-Hall

- Monthly report submitted and filed.
- Mrs. Dale-Hall reported that the zoning office is streamlining their reports for the Town Board and in February they will be ready to replace the current monthly reports. The zoning office is also closing out old permits and some new permits are coming in.

HIGHWAY – Stephen Stocking

- Mr. Stocking reported that the highway crew has been out plowing the roads.
- He said that the new light fixtures and lights in the highway garage are great.
- Mr. Stocking reported that a few rows of corn were left up on Route 77 to act as a snow fence. The Town will pay the farmer for that service based on the cost of the corn left and the State will reimburse the Town for that cost on the state road.

TOWN CLERK – Nicole M. Begin

- Monthly report submitted and filed.
- Mrs. Begin said that she will be attending mandatory training on the new County tax program that will be held on December 12th from 9:30am to 12:30pm.

PLANNING BOARD – Thomas Schneider

- Mr. Schneider spoke to Wayne Henry from Yancey's Fancy regarding a possible retaining wall at the BETP site that may need a variance. Mr. Schneider is working with the zoning office and ZBA to get everything that Yancey's Fancy needs to get their project moving.
- The Planning Board granted a special use permit for a bakery business on Gabbey Road and they granted a temporary special use permit for the construction trailers at the Yancey's Fancy site.

ZONING BOARD OF APPEALS – Nathan Witkowski

- Mr. Witkowski stated that the ZBA granted two variances in November, one for 1 ½ inches and the other for 3 ½ inches. Councilman Sformo said he would like the zoning committee to look at the zoning law for variances regarding such small amounts.
- Mr. Witkowski said that ZBA member Ronald Kasinski is retiring from the ZBA on January 1st and the position will need to be replaced. The Board requested that Town Clerk Begin advertise for the position.

JUSTICE – David O'Connor

- The November monthly reports have been submitted & filed. November fines and fees remitted to the Town ~ O'Connor \$43,577.00.

SUPERVISOR – Edwin F. Mileham, Jr.

- Deputy Supervisor Edward Arnold Jr. reported that he signed paperwork for McCabe Electric to submit to National Grid so that they can get reimbursed.

COMMITTEE REPORTSAudit, Finance, Insurance, Investment, & Purchasing – Edward Arnold Jr

- No report at this time.

Building & Ground, Highway Assessment, Court – Gary DeWind

- No report at this time.

Planning, Zoning, Code Enforcement, Public Safety – Pete Sformo

- Councilman Sformo reported that the zoning committee will continue to review the zoning laws in 2014 to make recommendations for changes.

Public Svcs., Water, Sewer, Refuse/Recycling, Economic, Intermunicipal, & Community Development – Pete Sformo

- Councilman Sformo said the sewer project is going well. The crew was able to drill under the creek in Corfu without issue. The board briefly discussed sewer district units for taxing purposes. Councilman Sformo is working with the Attorney and county to get necessary unit numbers in place.
- Councilman Sformo said he attended the Pembroke Community Band Christmas Concert on December 8th at the Community Center. Mr. Sformo thanked the Community Band for putting on a great concert and for the complimentary CD of their 2013 spring lineup. Mr. Sformo said that he, Nicole Begin and many others helped to clean up the hall after the program.

Youth Recreation Parks and Recreation, Land acquisition, Cemeteries – Gary DeWind

- Councilman DeWind said that there is one port-a-john left at the Town Park for use by the electricians and contractor doing the water line. The port-a-john will be removed shortly.

- Mr. DeWind reported that the driveway at the North Pembroke Cemetery is prepped and will be finished in late spring.

Human Resources/Benefits – Ed Mileham Jr.

- No report at this time.

IT, Grants- John Worth

- Councilman Worth said that a meeting will need to be set with Donna Fix for the Joint Youth Recreation program. A grant was approved for the program for approximately \$20,000.00 and can be used over the next two years for field trips.
- Mr. Worth wants to look into a recycling grant that has recently come out.
- Laura Landers and Councilman Worth finished the court audit. The letter and resolution will be sent to the Office of Court Administration. Court Clerk Susan Mortellaro and Laura Landers from Freed Maxick would like to hold training at GAM to let others know how to do a court audit.
- Mr. Worth attended a financial stress webinar and found it to be very interesting. They spoke about things that town's should monitor, things to pay close attention to and watching where money is being spent.

OLD BUSINESS

ROOF AT COMMUNITY CENTER – The roof is still being worked on but should be finished in the next couple of weeks.

TOWN PARK ELECTRICAL PROJECT – The electric work at the park is just about complete and the new water line as well.

LIGHTING PROJECT AT TOWN BUILDINGS – The lighting project to upgrade all light fixtures and bulbs to new energy efficient fixtures is underway. The Community Center fixtures are up and McCabe Enterprises is currently working at the Town Hall. Councilman Sformo said they are also working on new light switches inside the community center to make it easier to turn the lights on and two lights would be on motion sensor to light up when you come in at night. They will put the parking lot lights on a timer but lights would always be lit on the outside perimeter of the building.

NEW BUSINESS

ENGINEERING FEES FOR YANCEY'S FANCY PROJECT – The Board discussed the proposed engineering fees to look over the drawings for the Yancey's Fancy project. The Board chose to discuss further at the workshop meeting on December 26th.

COURT AUDIT – The court audit was complete by Councilman Worth and Laura Landers.

HEALTH INSURANCE FOR VOLUNTEER FIREMEN – Councilman DeWind asked about what has been talked about on the news as far as Volunteer Firemen being covered by Town's health insurance. The committee will look in to it but thinks that is only if the fire departments are under the jurisdiction of the town's as a protection district and not separate fire districts.

RESOLUTIONS**RESOLUTION # 79 of 2013** – Adoption of Local Law No. 2 of the Year 2013

On **MOTION** of Councilman Sformo, seconded by Councilman DeWind, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman DeWind, AYE;
ALL AYES - MOTION CARRIED

WHEREAS a public hearing was held by the Pembroke Town Board at a regular meeting on October 9th 2013 at the Pembroke Town Hall, 1145 Main Road in said Town at 7:00 P.M. pursuant to a Notice of Public Hearing, published in The Daily News on September 30th 2013, and posted on the sign board at the Pembroke Town Hall, A Local Law to Amend Local Law No. 1 of 1991, Zoning Law Text and Map changes of the Town of Pembroke; and

WHEREAS the members of the Town Board have had said Local Law No. 2 of the Year 2013 in final form for the period required under Section 20 of the New York Municipal Home Rule Law; and

WHEREAS the Town Board of the Town of Pembroke, as lead agency for SEQR, finds that any environmental effects regarding the proposed text and map changes in the zoning law will not be significant; and

WHEREAS the Town Board of the Town of Pembroke, after due deliberation, finds it in the best interest of the Town to adopt said Law; **NOW, THEREFORE, BE IT**

RESOLVED that as a determination of non-significance, and in compliance with the requirements of SEQRA, the Town Board of the Town of Pembroke, as Lead Agency for the purposes of this law, hereby issues a Negative Declaration and directs that the Negative Declaration be filed and made available in accordance with the requirement of SEQRA, and **BE IT FURTHER**

RESOLVED, that the Town Board of the Town of Pembroke hereby adopts said Local Law as Local Law No. 2 of 2013, a true copy of which is attached hereto and made a part of this Resolution, and **BE IT FURTHER**

RESOLVED, that the Town Clerk be, and she hereby is directed to enter this Resolution and said Local Law in the minutes of this meeting, enter said Local Law No. 2 of 2013 in the Local Law Records Book of the Town of Pembroke, and send a certified copy thereof with due notice of adoption to the New York Secretary of State for filing at the New York Department of State.

This Local Law shall become effective upon its filing with the New York Secretary of State.

LOCAL LAW NO. 2 OF THE YEAR 2013
OF THE
TOWN OF PEMBROKE

1. The Zoning Law of the Town of Pembroke known as Local Law No. 1 of 1991, as thereafter amended by Local Law No. 3 of 1992, Local Law No. 2 of 1993, Local Law No. 1 of 1995, Local Law No. 2 of 1995, Local Law No. 2 of 1996, Local Law No. 1 of 1997, Local Law No. 1 of 2000, Local Law No. 4 of 2000, Local Law No. 1 of 2002, Local Law No. 1 of 2003, Local Law No. 2 of 2003, Local Law No. 1 of 2005, Local Law No. 2 of 2005, Local Law No. 3 of 2005, Local Law No. 2 of 2006, Local Law No. 4 of 2006, Local Law No. 2 of 2007, and Local Law No. 3 of 2007, Local Law No. 4 of 2007, Local Law No. 1 of 2008, and Local Law No. 2 of 2008, Local Law No. 2 of 2009, Local Law No. 3 of 2011 and is hereby further amended by Local Law No. 2 of 2013 as follows:

SECTION 106 - Definitions

Dwelling Multi-family Project: An apartment complex containing one or more separate buildings with more than three units.

Inter-modal Shipping Container: A standardized reusable steel box used for secure storage and/or movement of goods. Inter-modal indicates a container that can be moved from one mode of transport to another (from ship, to rail, to truck) without unloading and reloading its contents.

Stabling of Agricultural Animals: A concentration of animals permitted under agricultural use, private stable and public stable, within a building, structure for the purpose of housing and feeding.

SECTION 301 BUILDINGS, USES AND LOTS

SECTION 301 A.

2. One permitted residential use accompanying a non-residential use, or uses, permitted on a lot in Agricultural (AG), Ag-Residential (AG-R), Medium Density Residential (MDR), and Limited Commercial (LC) Districts, provided there is only one use of a commercial nature on the lot.

3. One permitted residential use accompanying a non-residential use, or uses, requiring a Special Use Permit, permitted on a lot in Agricultural (AG), Ag-Residential (AG-R), Medium Density Residential (MDR), and Limited Commercial (LC) Districts, if approved by the Planning Board as part of the Special Use Permit Application process, provided there is only one use of a commercial nature on the lot.

SECTION 303 LOCATION OF ACCESSORY BUILDINGS, STRUCTURES AND OTHER ENCLOSED STORAGE

SECTION 303 A.

1. One-story accessory building having a total floor area of two hundred fifty six (256) square feet or less and a building height of not more than twelve (12) feet, shall not be located closer than eight (8) feet to the rear and side lot lines and shall be located in the rear yard.

2. The location of accessory buildings having a total floor area of greater than two hundred fifty six (256) square feet or a building height of greater than twelve (12) feet shall be located in compliance with the required yard areas of the respective districts and shall be located in either the side or rear yard(s). If the main structure is located 75 or more feet from the road right-of-way the accessory building may be located in the front yard of the main structure but not within the minimum required front yard setbacks and/or side.

SECTION 303 C. Other Enclosed Storage Is Permitted As Follows:

SECTION 303 C.

Semi-trailers, Inter-Modal Shipping Containers (cargo containers) and/or motor vehicles or portions thereof (i.e., truck bodies) may be used for accessory storage purposes related to a permitted principal use in the C, LC, I and INT Districts. When used in a C, LC, I or INT District for a period of more than 60 days, such trailers and/or motor vehicles or portions thereof shall be placed or parked in compliance with the provisions of Subsection A of this Section with the exception that they be located in the rear yard. Semi-trailers, Inter-modal Shipping Containers (cargo containers) and/or motor vehicles or portions thereof, shall not be used for storage purposes for longer than 60 days in the AG, AG-R, R or MDR Districts, except as provided for in SECTION 522. In no instance shall semi-trailers, Inter-modal Shipping Containers (cargo trailers) and/or motor vehicles or portions thereof be placed in such a manner as to interfere with, or pose a hazard to, traffic circulation. Mobile homes shall not be used for storage purposes.

SECTION 309 STABLING AGRICULTURAL ANIMALS

SECTION 309

A. There shall be no housing of large agricultural animals or storage of manure, fertilizer, or similar odor or dust producing substance within the MDR (Medium Density Residential) District. Such stabling or storage shall be permitted in the AG, AG-R, or EP Districts provided the following restrictions are observed:

1. No such stabling or storage shall take place within 500 feet of a MDR District.
2. No such stabling or storage shall take place within 75 feet of any adjoining lot line.
3. The stabling of large agricultural animal(s) including but not limited to horses, bovines, pigs, ostriches, goats shall not take place on a lot of less than two (2) acres, except as noted below.

4. The stabling of large agricultural animals on lots of less than two (2) acres may be allowed by Temporary Special Use Permit issued by the Planning Board for no more two (2) years, with the option for renewal. An approved manure management plan must be presented with the Temporary Special Use Permit Application.

5. The housing of small farm animals, including but not limited to chickens and rabbits is allowed in AG, AG-R, MDR and EP Districts provided such housing is limited to the rear and side yards, is in accordance with Schedule-A and that such housing doesn't cause any undue noises and/or odors.

SECTION 402 C

18. Contractor's Yard (see Section 518)
19. Retail, Commercial, Wholesale trade, and/or personal service not exceeding 10,000 sq. ft. of gross floor area.
20. Motor Vehicle Repair Shop (see Section 504)
21. Restaurant
22. Self-service Storage Facility
23. Indoor Recreation Facility
24. Outdoor Recreation Facility

SECTION 405 B.

21. Contractor's Yard (see Section 518)

SECTION 406 B.

23. One, two or multifamily dwelling(s)

SECTION 407 A.

5. Contractor's Yard (see Section 518)

SECTION 407 B.

The following uses are permitted in the Industrial District upon the issuance of a Special Use Permit.

1. Junkyard (see Section 509)
2. Industrial Park
3. Motor vehicle sales and/or service (see Section 504)
4. Recyclables handling and recover facility
5. Self-service storage facility
6. Manufacturing
7. Truck Stop
8. Trucking terminal

SECTION 506

A. General Standards

Except as provided in Section 506 C, every sign (other than temporary signs) shall require a zoning permit. A zoning permit issued for a sign that meets the provisions of Section 506 does not require a site plan review by the Planning Board. Also, every sign shall be designed, attached, supported, and located in such a manner as to:

SECTION 506 D.

- 1. A maximum of two (2) home occupation or skilled trade shop signs not exceeding six (6) square feet in area and located not less than ten (10) feet from a lot line.

- 3. A maximum of two (2) signs identifying farm produce sales or garage sales not to exceed twelve (12) square feet in combined total signage and located not less than ten (10) feet from a lot line when used sixty (60) or more days per year.

SECTION 511 C.

5. There shall be no exterior advertising of the Home Occupation, except for a maximum of two (2) signs not to exceed six (6) square feet each for which a permit has been obtained pursuant to the provisions of Section 506.D.1.

SECTION 514 B.

5. There shall be no exterior advertising of the skilled trade shop, except for a maximum of two (2) signs not to exceed six (6) square feet each for which a permit has been obtained pursuant to the provisions of Section 506.D.1.

SECTION 517 A.

Shared use of existing towers and/or structures.

At all times, shared use of an existing tower and/or structure (i.e., another Commercial communications tower, water tower, building, etc.) shall be preferred to the construction of a new commercial communication tower. An applicant shall be required to present an adequate report inventorying existing towers or other structures within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new commercial communication tower. The installation of a commercial communications antenna(s) on an existing structure located within the AG, AG-R, C and LC Districts shall be considered a permitted accessory use not subject to Site Plan Review, provided the following criteria are met:

SECTION 520 COMMERCIAL WIND ENERGY SYSTEMS

SECTION 522 INTER-MODAL SHIPPING CONTAINERS AND STORAGE

The purpose of this provision is to provide for Inter-modal Shipping Containers to be used for long term storage in AG, AG-R, R, and MDR.

A. Upon the adoption of this ordinance Inter-modal Shipping Containers, not exceeding forty (40) feet in length and sited according to Schedule A of this ordinance, shall be considered allowed non-conforming uses. Non-conforming containers moved after the adoption of this ordinance shall be required to comply fully with this ordinance.

B. An applicant may apply to the Planning Board for a Special Use Permit for the purpose of using an Inter-modal Shipping Container for long term storage in the AG, AG-R, R, and MDR districts. Semi-trailers, whole or parts of, are not to be confused with Inter-Modal Shipping Containers for the purposes of this section.

1. An Inter-modal Shipping Container shall not be used for long term storage on lots of less than forty (40) thousand square feet.
2. For the purposes of this law, containers shall not exceed forty (40) feet in length.
3. Containers shall be located in the rear yard in accordance with Schedule A of this Zoning Law.
4. There shall be a limit of one (1) container on any lot.
5. Screening may be necessary per the discretion of the Planning Board.
6. Other conditions may be imposed, as part of the Special Use Permit process.

SECTION 602 Mobile Home Park

D. A non-conforming Mobile Home Park may not be expanded as to the number of existing units. A new unit may be replaced for an existing unit provided it is installed in accordance to Section 601 D. If a lot is empty in a non-conforming Mobile Home Park it may be filled in accordance to Section 610 D.

Rezone and Schedule-A changes

2. Change Height Limit under Schedule-A for Interchange Zone from 35-feet to 60-feet.
3. Rezone Tax Map Parcel 19.-1-13 from Commercial/Agricultural-Residential to Interchange District
4. This Local Law shall become effective upon the filing thereof with the New York Secretary of State.

Councilman Worth asked to have the website updated once the law is passed to let people know that the zoning law online is under construction and that copies are available in the Town Clerk's office until the new zoning law is put together with the updates.

RESOLUTION # 80 of 2013 – Approval of Payment No. 3 – Sewer District # 1

On **MOTION** of Councilman Sformo, seconded by Councilman DeWind, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman DeWind, AYE; ALL AYES - MOTION CARRIED

BE IT RESOLVED that the Pembroke Town Board approves Sewer District No. 1 - Contractor's Application for Payment No. 3 for in the amount of \$416,642.67; and **BE IT FURTHER**

RESOLVED that the Town Board authorizes the Town Supervisor to sign this application for submittal to receive grant reimbursement.

RESOLUTION # 81 of 2013 – Code Enforcement Officer Agreement between the Town of Pembroke and the Town of Batavia

On **MOTION** of Councilman DeWind, seconded by Councilman Worth, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman DeWind, AYE; ALL AYES - MOTION CARRIED

WHEREAS the Town of Batavia and the Town of Pembroke entered into a Code Enforcement Officer Agreement in February 2007; and

WHEREAS the agreement addresses the need for each party to have its Codes enforced during periods when its Enforcement Officers are unavailable due to illness, vacation and other absences. **NOW, THEREFORE, BE IT**

RESOLVED, pursuant to Article 5-G of the General Municipal Law, the Pembroke Town Board wishes to re-enter into a two year agreement, January 1st, 2013 to December 31, 2015, between the Town of Batavia and the Town of Pembroke for Code Enforcement coverage (agreement attached); and **BE IT FURTHER**

RESOLVED, the Pembroke Town Board hereby authorizes the Supervisor to execute the aforementioned agreement.

RESOLUTION # 82 of 2013 - Payment of Abstract 12 of 2013

On **MOTION** of Councilman DeWind, seconded by Councilman Sformo, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman DeWind, AYE; ALL AYES - MOTION CARRIED

RESOLVED that the Town Board of the Town of Pembroke authorizes the Town Supervisor to make all payments and bills contained in Abstract 12 of 2013.

RESOLUTION # 83 of 2013 – Acknowledgment of Uniform Justice Court Act Audit

On **MOTION** of Councilman Worth, seconded by Councilman Arnold, the following **RESOLUTION** was **ADOPTED** by roll call vote: Councilman Arnold, AYE; Councilman Worth, AYE; Councilman Sformo, AYE; Councilman DeWind, AYE; ALL AYES - MOTION CARRIED

WHEREAS the New York State Unified Court System announced the Action Plan for the Justice Courts to improve accountability and controls over the Justice Court finances and records; and

WHEREAS Section 2019-a of the Uniform Justice Court Act requires that town justices annually provide their court records and dockets to their respective town boards to be examined or audited; **NOW, THEREFORE, BE IT**

RESOLVED that the Pembroke Town Board confirms that an audit was complete for calendar year ending 2012 for the Town of Pembroke including the Pembroke Justice Court.

On **MOTION** of Councilman Worth, seconded by Councilman Sformo to enter into Executive Session to discuss a personnel matter.
ALL AYES - MOTION CARRIED TIME 8:31 P.M.

On **MOTION** of Councilman Worth, seconded by Councilman DeWind to reconvene into regular session.
ALL AYES – MOTION CARRIED TIME: 8:47 P.M.

Deputy Supervisor Arnold reported that no decision was made in Executive Session.

On **MOTION** of Councilman Worth, seconded by Councilman Sformo to adjourn the meeting at 8:47 P.M.

ALL AYES – MOTION CARRIED.

Respectfully submitted,

Nicole M. Begin

Nicole M. Begin, Town Clerk

THESE MINUTES ARE A DRAFT ONLY OF THE TOWN BOARD MEETING OF DECEMBER 11, 2013 AND ARE SUBJECT TO CHANGE AND/OR REVISION PRIOR TO APPROVAL BY THE TOWN BOARD. APPROVAL OF MINUTES BY THE TOWN BOARD IS DONE AT THE NEXT REGULAR TOWN BOARD MEETING.