

**TOWN OF WILTON**

**22 TRAVER ROAD**

**WILTON, NEW YORK**

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Susan Baldwin, Town Clerk

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**REGULAR TOWN BOARD MEETING-FEBRUARY 7, 2013**

Supervisor Johnson called the Regular Town Board meeting to order at 7:05 p.m.

**Pledge of Allegiance**

**Supervisor Johnson** led the board and the audience in reciting the Pledge of Allegiance to the Flag.

**Roll Call**

Roll Call by the Town Clerk showed all board members present.

Arthur Johnson-Supervisor

John Lant-Councilman

Robert Pulsifer-Councilman

Robert Rice-Deputy Supervisor

Steve Streicher-Councilman

Also present were Town Comptroller Jeffrey Reale, Town Attorney Richard DeVall and Director of Planning and Engineering, Ryan Riper.

**Supervisor Johnson** noted that there two plaques to recognize two very outstanding individuals, Carol Maynard, retired Town Clerk and Nancy Fleming, retired Wilton Water and Sewer Chairwoman. Neither are present therefore the presentation will be held off until later in the meeting should they arrive.

**Supervisor Johnson** stated that he wanted to thank and express the Town's sincere gratitude to the Maple Avenue Fire Department and the Wilton Fire Department. There was a massive accident on the Northway that involved 50-60 cars. It was caused by a whiteout and icy conditions on the road. Councilman Lant is the Chief of the Maple Avenue Fire Department and took command of the scene and the Town would like to express our thanks. The scene was handled efficiently. There were some injuries but nothing serious and that has a lot to do with our two fire departments.

**Approve Pending Minutes**

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

**RESOLUTION # 67**

**NOW, THEREFORE, BE IT RESOLVED,** to approve the minutes from the December 6, 2012 meeting.

The adoption of the resolution was seconded by Councilman Lant, duly put to a vote, all in favor.

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

**RESOLUTION # 68**

**NOW, THEREFORE, BE IT RESOLVED,** to approve the minutes from the January 3, 2013 meeting.

The adoption of the resolution was seconded by Councilman Lant, duly put to a vote, all in favor.

**Public Comment Session**

**Supervisor Johnson** asked if anyone signed up for public comment.

**Joanne Klepetar** said everything has been said over and over but there are a couple more comments she would like to make. In view of what she said she like to call a "non-committee", she said she believes it has been flawed from the start and it would be nice if everything that has been talked about up to this point should be thrown out. A committee should start again with full transparency and open it up to the citizens of Wilton. She said she would like to have all of the zoning changes voted on separately, although she said it probably won't happen. The third item, for the future, would be to develop some way for the public to know about the things going on at the town. A lot of people do not get the Saratogian anymore. If there was some sort of email list developed so people could find out about things happening at the town that would affect them directly. Mrs. Klepetar noted that she is going to do that in the Parkhurst Road and King Road area. It would be a good thing for the town to adopt.

**Connie Towers** said tonight is when we get to the crux of the matter. The Zoning Committee has had two and a half years to review this and the public two and a half months. Healthy debate breeds open government but she is still left with questions, more questions than answers. Article 129-2, Zoning Purpose: How do these measures, in any way, preserve the rural attractiveness of Wilton to provide a sound environment for the residents of the Town of Wilton, now or in the future. Here are some red flags: Why is there now a new permitted use in Item #4, posted on the web on 1/31? Why is there a new use? We went from here to here. What is it? It is an added restaurant use, a drive-through in the

CR-2, a highly congested area north of Northern Pines Road. She said she went to the workshop on January 28, 2013 and that schedule was never discussed, never brought up. Has this been, according to Councilman Pulsifer, a deliberate process for two and a half years or a deliberate omission? Is this transparency in government? The relevant question is whether it was accomplished for the benefit of the individual owners rather than pursuant to a Comprehensive Plan for the general welfare of the community. This is a prime example of where the good of many is tossed aside for the interests of a few, increased density, reduced setbacks, minimizing lot sizes, new uses and change to our buffer zones. When businesses have encroached on our residential properties in the past, the unwanted impacts were tossed between the three boards. Are strict zoning penalties enforced? No, fines up to \$350 to \$1,000, a drop in the bucket when the building is already up or the damage is forever done to our landscape. The question is what are the alternatives to the elimination of 1 ½ hamlets. Where is the creative vision form 2 ½ years? Viable suggestions may be a historical overlay district, maybe that won't work. How about a designated historic district to salvage what is left of old Wilton and not an H-1 amendment to a PUD? How about recognizing and prioritizing the gateway to our community at the base of McGregor? How about that surrounding area? How about Article 47, Historic Preservation. Think about it. Set aside a percentage of your cultural budget, amortize it if you have to. Amortize it to beautify and enhance what's left of this remaining hamlet. Create an incentive program to encourage owners of historic sites to maintain and improve their properties. Preserve a true corner of the town's unique character. Tie in Grant's Cottage and the vista view. It is a win-win for local restaurants and shops. Take measures to safeguard the town's history before Grant's Last View becomes a memory and a vestige of real Wilton. Finally, reread the 21s Century planning survey. It's an appendix of the Comprehensive Plan, a response back from 1,631 active residents and it's ironic because it is the number of votes, plus/minus, that all of the board members received in the election. The best thing about Wilton: Rural atmosphere-25% strongly agreed or agreed. Quality of life-74% agreed. Areas of concern-Too much growth and development-67%. Depletion of natural resources-67%. Roads and traffic-69%. The good news is that 60% of the residents in the survey planned to stay in Wilton indefinitely. People care about the future of this town. What you have heard over the past few months has been an affirmation of this. Have you listened? The public deserves the right to hear how each board member votes on each particular issue, as it will affect everyone in this town for generations to come. An item line of the vote, note grouped as suggested in the workshop. We entrust doctors and nurses with our lives. We entrust fireman, EMT's and police with our safety. We entrust the own Board, as public servants, with our quality of life. Citizens, do these changes serve the best interest of the community as a whole and will tonight's vote reflect the will of the people. You decide.

**Bob Walsh** said he has been spending too much time in this place. He said his biggest problem from the start was the process or lack of process with the development of the changes. He said he wanted to give councilman Pulsifer the benefit of the doubt and checked to see what kind of documentation there was with the committee. In January of 2010, the Supervisor asked Councilman Pulsifer to form a committee and work to make adjustments to the code. There were no minutes or membership roll for the committee. When the items were requested he was told by the Town Clerk that the documents did not exist. The minutes of the Town Board meeting were read from January 2010 up till December of 2012. The first mention of the committee was in August of 2012. There was nothing in the minutes from January 2010 to August of 2012. At the informational meeting, Councilman Pulsifer had a list of people that were on the committee. He said he wondered who the people were and if they were people that were disaffected or injured by the town's zoning apparatus or were they picked from the general population of folks that would represent a spectrum of the town. He said from what he could see, someone sat in a room for a couple of hours and marked up the code and put it out there. What was presented in November was the result of the committee's work. He said he also wondered why he

didn't see anything from the Planning Board or the Zoning Board of Appeals. He was told that not until October 2012, was either board involved in the project. What we have is a supposed three year project that has been compressed to five months, from August 2012 to the present. He said he didn't think it was right and also expressed some concerns to the Supervisor about the Town not following its own law, Town Code Section 15-1. It states there has to be a hearing on the law in its final form before any law is adopted. There have been loads of changes since the December 6, 2012 public hearing. Here for the town is required to have another public hearing on this. He said he is spending too much time at town hall and he is sick about this stuff. He said in reading the garbage in the minutes of the town board, the level of discussion is a sewer and no one should take it. What should be done is make sure that anyone hat votes for this should get canned. That is the only recourse we have other than legal means. We are angry and hope the town board understands that.

**Supervisor Johnson** stated that he received an email from Mr. Walsh this morning regarding the public hearing. I was referred to Attorney DeVall. Mr. Walsh was responded to but the public should know what the legal opinion is.

**Attorney DeVall** said Mr. Walsh is correct in quoting part of Section 15-1. It does use the phrase "in final form" but the sentence does not end here. It states "In accordance with the laws and statutes of the State of New York". Supervisor Johnson has been on the board for many years and as a member before that. Attorney DeVall said he has represented the Wilton Town Board, other town boards, village boards and other municipalities and has never heard anyone say when a board makes any changes to a resolution or local law, they have to stop and have another public hearing. The whole point of the public hearing is for the board to receive input and make changes so long as the changes are not so substantial that they make wholesale changes to the proposal. The statutes and laws of the State of New York state that the board does not have to have a second public hearing. Attorney DeVall said he understood that all of the changes from the initial proposal were those that ones that reflect input from the public. In general, most of the changes made to the proposed legislation withdraw items. They overall action of the board tonight is to adopt legislation that consists of less than what was originally proposed and consists of changes, if any, that were made after the public hearing and as a result of the public hearing. He said he read all of the cases that were reported under New York State Law, relating to this and they all say what was just stated. Attorney DeVall said, in his opinion, the board does not need to have a second public hearing unless it chooses to.

**Zoning and Code Revisions**

Public Hearing Held

Referral Rec'd from Saratoga County Planning Board

**Supervisor Johnson** said Councilman Pulsifer put out the proposed zoning changes in November. There was a public hearing in December. There was a public forum in January where a presentation was made and comments were taken and questions were answered. That was followed by a Town Board Workshop. After listening to the comments made from the public forum and the workshop, the board agreed to make some changes and that is the document that is being voted on. Copies are available. The changes made were to reinstate the R-3 zone, as originally in the code. Digital signs will only be allowed in the C-1 zoned, which is the Exit 15 area and along Route 50 to near Perry Road. Drive-thru restaurants were eliminated in the RB-1 zone. The C-3 zone that was proposed at the intersection of I-87 and Ballard Road, the boundaries were reduced to better buffer the adjacent residential zone. Prior to the said changes, the board had already recognized the problems with split zoning where properties

fell into two different zones. That was eliminated from the changes. The final draft was put on the website. It was submitted to the Saratoga County Planning Board.

Arthur Johnson, Supervisor  
Town of Wilton  
22 Traver Road  
Gansevoort, NY 12831

**RE: SCPB Referral Review #12 Revisions to Town Zoning Ordinance**

*Zoning and code revisions and modifications to zoning district boundaries near:*

1. Exit 16/Ballard Road
2. Ballard Road/Route 9
3. Conversion of existing zoning district from R-3 to R-3
4. Conversion of existing zoning district from RB-2 to RB-1

*Received from the Town of Wilton Town Board on December 12, 2012.*

*Reviewed initially by the Saratoga County Planning Board on December 12, 2012 and further reviewed by department staff and members of the Saratoga County Planning Board under MOU provision on February 7, 2013.*

**Decision:** No Significant County Wide or Inter Community Impact.

**Comment:** *In accordance with the Memorandum of Understanding (MOU) between the Town of Wilton Town Board and the Saratoga County Planning Board (SCPB) the above-noted referral, as proposed textual and map revisions to town zoning, has been reviewed and deemed to present no impacts or issues of the countywide or intermunicipal nature. We recognized that the proposed revisions have presented of the countywide or intermunicipal nature. We recognized that the proposed revisions have presented issues of concerns of a more local nature that have been and are being addressed through public comment and input.*

*Following staff review of the material initially submitted on December 12, 2012, the Saratoga County Planning Department was advised that it would be premature for its Board to consider a recommendation at its December 20<sup>th</sup> meeting due to further committee/local review and possible changes that may result from a public hearing, informational meeting and town board workshop meeting in January. Two of the initial points of discussion for staff of the SCPB were:*

1. *Concern for how the Town Board will take on completion of a Long EAF and designation as a Type 1 action (involving zoning changes affecting more than 10 acres) for the lead agency's SQR review in light of the fact that the format of an LEAF does not suit itself well to zoning revisions or modifications that have no specific/identifiable project associated with its review, and*
2. *That any changes, revisions or modifications reviewed and considered for adoption should be in general conformance with the municipality's adopted Comprehensive Master Plan and zoning ordinance.*

*We have received the Long EAF and not the Type 1 designation of the zoning action, recognizing the responsibility of the lead agency to undertake what it considers to be a complete review of the impacts posed by the zoning changes and revisions. One impact of the zoning revisions that we recommend the Town Board should address in its SEQR review is the impact (traffic and services) of multifamily development along Routes 9 and 50 in the amended RB-1 District by use of a planned unit development.*

*While we have seen no plans for the development of properties in the southwest quadrant of Ballard/Traver intersection according to the Hamlet District (H-1) designation, we are not aware of the degree to which discussion has been had on the change in zoning and uses within that district. Not having been party to or received record of such discussion does not mean that the change is not warranted, particularly as the earlier hamlet designation did little to prompt development in the manner hoped for. We would hope, however, that the town recognize public sentiment for pedestrian-friendly and walkable municipal roads/right of way as a standard for development as a matter of course.*

*The two proposed zoning changes that this agency noted as having the potential for impacts to be reviewed and considered through the SEQR process were the change of zoning west of Route 9 from R-3 to R-2 and the district change from R-2 to C-3 on lands east of the Exit 16 interchange north of Ballard Road. Again, we recognize the designated role of the Town Board to initiate and implement those zoning changes it deems appropriate for the town's development following proper review and public input. It appears that based upon public comment at meetings in December and January the proposed R-3/R-2 zoning change has been removed from consideration due to the desire to maintain 3-acre minimum lot size and significant lot frontages as a way to maintain a more rural character. Additionally, the Town Board may have heard enough necessary comment and commentary related to the Ballard/Exit 16 zoned change to C-3 with which to exercise its authority to rezone. The public record should so reflect that. It would be a concern for this agency that there be the potential for "creeping" zoned change (from residential to commercial) without benefit of full public input. It should be noted, however, that there already exists C-3 zoning on the three other quads of the Exit 16 interchange and that the adoption of C-3 zoning for the fourth quadrant is a natural progression. We would recommend that the new boundaries are strongly upheld to uphold the integrity of those lands east of the Northway not pressured by development due to the lack of public water and sewer and commercial designation.*

*Overall review of the proposed zoning revisions by the Saratoga County Planning Board and Department did not evidence impacts of countywide or intermunicipal concern. We do recommend that the public record provide fully for both written and verbal input from both public hearing(s) and public informational meetings. We suggest that as the town's Comprehensive Plan is to soon reach ten years of use, it may be appropriate to begin the process of an update to determine if necessary land use and zoning changes are necessary. Jason Kemper, Director of Planning, Authorized Agent for Saratoga County.*

**Supervisor Johnson** noted the board received a final draft of the zoning and code revisions and asked if there were any requests for a separate vote on any of the revisions. **Councilman Lant** asked if Item #4 affected Route 9. **Supervisor Johnson** said #4 is mainly Route 50 but it does affect Route 9 along with Item #4A.

**Councilman Lant** asked Councilman Pulsifer if he ever, currently or in the past, legally represented any of the members of the Zoning Revision Committee. **Councilman Pulsifer** said he has represented some of the members and has also represented people that are opposed to the revision. He said he wasn't sure how that mattered. **Councilman Pulsifer** said he could ask Councilman Lant the same question, if he has sold cars to anybody on the Zoning Revision Committee or if he has sold cars to anybody who is opposed. It has nothing to do with it. **Councilman Lant** asked Councilman Pulsifer if he represented any of the property owners in the proposed revision areas. **Councilman Pulsifer** said there are a couple of people he has represented and several that he has not. **Councilman Lant** asked Councilman Pulsifer if he was going to vote on the revisions. **Councilman Pulsifer** said he was going to vote on them because the Ethics Law states that if someone is doing business with the town, it is a problem; that is where the conflict is. **Councilman Pulsifer** said he has represented some of them but two people, in most opposition, Connie Towers and Dennis Towers, have also been represented by him.

**Councilman Lant** stated that he is bothered most by the fact there is no one in the audience that is in favor of the zoning and code revisions. **Councilman Pulsifer** said there are 16,000 people in the Town of Wilton and they wouldn't fit in the room. There are many people that have come to the meetings and are in favor of the changes and are supportive of the board but are afraid to say anything in fear of being attacked like he said he has been attacked.

**Councilman Lant** said he would like to vote on Items #4 and #A separately.

**Councilman Pulsifer** said he wanted to make a statement because a question has been raised regarding procedure. He said for three years the committee has been following the same procedure that Town Law has been passed for twenty years back when he was the Assistant Town Attorney. Many of the meetings were full meetings, some informational meetings and a lot of the meetings were with staff. It is the same way all legislation has been done. The Town Attorney has been in close contact though out all of the process, double checking if the procedures being followed are the correct and legal procedures and whether minutes of the informal meetings were required. **Attorney DeVall** stated that minutes are not required for informal meetings. Councilman Pulsifer said all of the same procedures were followed and it was not required to keep minutes of the meetings because they didn't involve a quorum of Town Board members. Much of the work was done with Keith Manz prior to him moving on to the County. **Councilman Pulsifer** said he was comfortable with the advice of the Town Attorney and that the committee did follow all of the correct procedures.

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

**RESOLUTION # 69**

**NOW, THEREFORE, BE IT RESOLVED,** to  
approve the Long EAF, as presented

The adoption of the resolution was  
seconded by Deputy Supervisor Rice, duly  
put to a vote, all in favor.

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

**RESOLUTION # 70**

**NOW, THEREFORE, BE IT RESOLVED,** to  
approve a Negative Declaration under SEQR  
for the proposed zoning and code revisions.  
The adoption of the resolution was  
seconded by Deputy Supervisor Rice, duly  
put to a vote, all in favor.

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

**RESOLUTION # 71**

**NOW, THEREFORE, BE IT RESOLVED,** to approve Zoning and Code Revisions 1 through 3 and 5 through 23 (see attached).

The adoption of the resolution was seconded by Deputy Supervisor Rice, duly put to a vote, all in favor.

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

**RESOLUTION # 72**

**NOW, THEREFORE, BE IT RESOLVED,** to approve Zoning and Code Revisions 4 and 4A (see attached).

The adoption of the resolution was seconded by Deputy Supervisor Rice, duly put to a vote, all in favor except Councilman Lant, who was opposed. The motion carried 4 to 1.

**Resignation (Zoning Board)**  
**John Minogue**

On a motion introduced by Deputy Supervisor Rice, the board adopted the following resolution:

**RESOLUTION # 73**

**NOW, THEREFORE, BE IT RESOLVED,** to accept John Minogue's resignation as a long standing member of the Zoning Board of Appeals, with regrets effective immediately

The adoption of the resolution was seconded by Councilman Pulsifer, duly put to a vote, all in favor.

On a motion introduced by Councilman Lant, the board adopted the following resolution:

**RESOLUTION # 74**



**NOW, THEREFORE, BE IT RESOLVED,** to appoint Robert Barrett to the position of member to the Zoning Board of Appeals to fill John Minogue's position (New term to expire 12/31/15).

The adoption of the resolution was seconded by Councilman Pulsifer, duly put to a vote, all in favor.

**Committee Reports**

**Councilman Streicher** stated that as the Park and Recreation Liaison at Gavin Park, he has a Master Plan updated prepared by the LA Group. He said he would like the Town Board Members to look at it and give feedback on it for the March 7, 2013 meeting. **Supervisor Johnson** said the Master Plan was updated and the LA Group came up with some ideas for the park and the potential costs.

**1.) Comptroller's Report**  
**(Including Bills & Transfers)**

**December 2012 Cash Disbursements**

<b>General Fund</b>	<b>\$492,025</b>
<b><u>Highway Fund</u></b>	<b><u>\$265,027</u></b>
<b>Total</b>	<b>\$757,052</b>

**2.) 2012 Budget Transfers and Amendments**  
**(See attached) Budget Transfers**

On a motion introduced by Deputy Supervisor Rice, the board adopted the following resolution:

**RESOLUTION #75**

**NOW, THEREFORE, BE IT RESOLVED,** to approve the budget transfers and amendments requested for and listed in the Comptroller's 2/7/13 report (attached) to the Town Board.

The adoption of the resolution was seconded by Councilman Pulsifer, duly put to a vote, all in favor.

**3.) Personnel**

**a.) Education**

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

**RESOLUTION#76**

**NOW, THEREFORE, BE IT RESOLVED,** to approve the request submitted by Steve Porto to attend the NYS Recreation and Park Society Conference meeting being held in Rochester, NY, March 17-19, 2013.

The adoption of the resolution was seconded by Deputy Supervisor Rice, duly put to a vote, all in favor.

**b.) Education**

On a motion introduced by Councilman Streicher, the board adopted the following resolution:

**RESOLUTION #77**

**NOW, THEREFORE, BE IT RESOLVED,** to approve the request submitted by John Herlihy to attend the Basic Code Enforcement class held in Orange County, January 21-24, 2013.

The adoption of the resolution was seconded by Deputy Supervisor Rice, duly put to a vote, all in favor.

**c.) Cellular Phone (Susan Baldwin)**

On a motion introduced by Councilman Pulsifer, the board adopted the following resolution:

**RESOLUTION #78**

**NOW, THEREFORE, BE IT RESOLVED,** to approve Susan Baldwin, Town Clerk, to be added to Resolution #12 Cellular Phones and is requesting to be reimbursed the flat rate of \$30/month, effective for February 1, 2013.

The adoption of the resolution was seconded by Councilman Streicher, duly put to a vote, all in favor.

**d.) Employee Salaries**

On a motion introduced by Councilman Streicher, the board adopted the following resolution:

**RESOLUTION #79**

**NOW, THEREFORE, BE IT RESOLVED,** to amend Resolution #7, Employee Salaries to include Jonathan Hoffman to pay in the amount of \$673 and Laurie Burton to pay in the amount of \$673.

The adoption of the resolution was seconded by Deputy Supervisor Rice, duly put to a vote, all in favor.

**4.) Changes to the Personnel Policy**

**Supervisor Johnson** said the board just received the proposed changes and would like some time to look them over. Councilman Pulsifer agreed and made a motion to table the item. Deputy Supervisor Rice seconded, all board members were in favor.

**5.) Designated Smoking Areas**

On a motion introduced by Councilman Lant, the board adopted the following resolution:

**RESOLUTION #80**

**NOW, THEREFORE, BE IT RESOLVED,** to approve three designated smoking areas on the Town Hall Complex; each area shall be at least 100' from the main entrance to Town Hall, Town Garage and the Town Court.

The adoption of the resolution was seconded by Councilman Pulsifer, duly put to a vote, all in favor.

**Adjournment**

On a motion introduced by Deputy Supervisor Rice, and seconded by Councilman Pulsifer, the meeting was adjourned at 7:48 p.m.

Respectfully Submitted,

\_\_\_\_\_  
Susan Baldwin, Town Clerk

\_\_\_\_\_  
Supervisor, Arthur Johnson

\_\_\_\_\_  
Councilman, John Lant

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Councilman, Robert Pulsifer

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Councilman, Steve Streicher

\_\_\_\_\_  
Deputy Supervisor, Robert Rice