

At 7:05 p.m., Supervisor Johnson called the regular meeting to order.

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 members present:

Arthur Johnson-Supervisor
Raymond O'Conor-Deputy Supervisor
Shirley Needham-Councilwoman
Larry Gordon-Councilman
Charles Gerber-Councilman

Also present: Town attorney, Richard DeVall, Town Planner, Kate Maynard, Town Engineer, Keith Manz and Town Comptroller, Jeffrey Reale.

Approve Pending Minutes

Supervisor Johnson asked for a motion and a second to approve the pending minutes from the last meeting. Councilman Gerber asked the board for an amendment to the minutes. He wanted a quote he made relative to the PUD on Rte 9 and a letter from a resident added to last month's minutes. Supervisor Johnson stated that the minutes could be approved at the next meeting. No action taken.

Wilton Fire District (Rt. 50) (Presentation)

**Fire House Substation
Attorney, Carusone, Jr.**

Supervisor Johnson asked Attorney Carusone, Jr. to address the board. **Attorney Carusone** explained that since the last meeting we have obtained an extension on the closing date on the property until the 15th of September so time is of the essence. We are here tonight because some of the board members had some questions and thoughts regarding the proposal. Attorney Carusone asked Robert Brown the Fire Chief to make a presentation which should answer a lot of questions. Attorney Carusone stated that before the presentation he would like to talk about the balancing test. It came about as a result of a case in Rochester where the Municipal Airport Authority, wanted to expand into the City of Rochester and the question was whether they would be subject to the zoning ordinances of the City of Rochester. The highest court of this State said that "if they met and past this balancing test that they were immune from those regulations". The whole idea is if you have competing municipal interest there has to be a way to do this because one municipality is not always subject in the same way a private individual would be to the zoning and land use regulations. So there has to be this balancing test. Attorney Carusone stated the factors that apply here: The applicant's legislative grant of Authority; that's contained in section 176 of the Town Law, in subdivision 14, which clearly gives the fire district a right to acquire real property to build on for the purpose of housing its apparatus. It goes on to say "That all real property required by any fire district for any purchase authorized by this article shall be deemed to be required for public use". Another factor is: Are there alternative locations that would be better suited for the facility. We think this is a much better location then the last site. The extent of the public interest to be

served; I think that is something that will be covered by the presentation. Zoning requirements of the post government; the zoning requirements would consist of the use variances that may be necessary and or the area variances. Attorney Carusone explained that they believe this building would not require any area variances. They will meet all the setbacks and lot percentages etc. As far as the use variance goes it is not a prohibited use, but it is not a permitted use either. Argumentatively, it is a permitted use because it is a government building. Finally, the impact on legitimate local interest, if for example you wanted to do a substation in a residential area where there would be noise problems and things that would alter the lifestyle of the residential neighbors. In this location there would be far less impact on residents. And finally there is no budgetary or fiscal operations of the fire district really have any part in this balancing test. **Robert Brown the fire chief** for the Wilton Fire District handed out an impressive packet describing the mission of the fire district. Mr. Brown during his presentation to the board went over how your fire protection works: The Staff; The Wilton Fire District provides the policies, equipment and funding. The Wilton Volunteer Fire Department provides the manpower. Fire Department is 100% volunteer (approximately 50 active members). Mr. Brown explained what happens when the call comes in. He then went over the common questions/answers. One of the questions was: How will response change with a second station? Members would respond to the closest station. The basic response will be the same from then on. Both stations will respond simultaneously. We will still remain one district. Mr. Brown explained the need for a second station: Call volume of 21% and growing in South/East section of our district; Residents paying high cost for insurance due to the distance from the Fire Department; Provide response from both sides of the railroad and Northway; The concept of a second station is not new. The debate has gone on for over 25 years. He then went over call statistics from 1998 to present, presented some news articles relating to a proposed substation in March of 1981 and in May of 2005 a notice of special election was publicized in the Saratogian newspaper for "Referendum for Establishment of a Station 2 Reserve Fund", a public vote was held on 6/14/05 and the establishment of the fund was passed at that time. In August 2009, a petition with 500 signatures was presented to the Wilton Town Board in support of building a second fire station at the proposed location on Route 50. Mr. Brown then went over the facts for the proposed substation it would be located on Route 50 (across from the Living Waters Church), approximately 2.5 acres of land (Tax ID No. 141.-3-49) and there are no wetlands located on the property. The new station would: improve fire and rescue services to Wilton residents located in South/East areas of the Town. It would be staffed by volunteer firefighters residing primarily in South/East area neighborhoods and be available as an emergency shelter during disasters. The new station would not impact the tax rate for fire district residents. It will be funded through the district's general operating budget and monies currently available in the "Station 2" fund. The fire district also participates in all Grant programs and consistently applies for available assistance. Mr. Brown explained member support, variances required, driving times between the two stations and showed a district map of the two locations. Councilman Gerber asked if they would have to purchase new equipment for the new station. Mr. Brown: No, we will use reserve apparatus for the second station. **Supervisor Johnson** asked Attorney Carusone what kind of action from the board he is looking for tonight. **Attorney Carusone** stated that they are asking for a vote that says they are immune from the application of the zoning ordinances. With that we could go to the Planning Board. **Attorney DeVall:** John, when you say Immune you have represented that the only relief you anticipate needed is the use of the property. **Attorney Carusone:** That is right. **Supervisor Johnson** asked Attorney Carusone if they plan to go to the Planning Board for site plan. **Attorney Carusone** stated that they had already had preliminary discussion with them. **Supervisor Johnson** stated that they had done their homework and put on a very nice presentation and asked if there has been any type of independent need assessment done. **Attorney Carusone** stated that was done internally. We did not feel the need to go through all that expense at this point there has been enough requests to justify going ahead with the project. **Supervisor Johnson** stated that assuming all the requirements are met, we will get the public involved

and they will have an opportunity to give input as to whether they want to bare the burden of building this station. I urge you to be as open as possible. As far as the site goes I have no problem I think it's a good site, it's compatible with the uses that are there. **Deputy Supervisor O'Connor** asked Attorney Carusone what the factors were that go into the balancing test. **Attorney Carusone** read the factors as follows: **1.** Expression of legislation intent zoning requirements of the host governmental unit. **2.** The nature of scope of the mentality seeking immunity. **3.** The kind of function or land use involved. **4.** The extent of the public interest to be served. **5.** The effect of the local land and use regulation upon the enterprise concerned. **6.** The impact upon legitimate local interest. **7.** The applicant's legislative grant of authority. **8.** Alternative methods of providing the needed improvement. **9.** Inter-governmental participation in the project. **Deputy Supervisor O'Connor** stated that most seem very clear cut. The one I am concerned about is the public and local interest. It comes down to the rewards and benefits versus the cost. After some discussion the board adopted the following motion.

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

RESOLUTION # 160

NOW, THEREFORE, BE IT RESOLVED, that the board finds that the proposed use of the subject property as a fire substation is immune to the application of the Town of Wilton Zoning Ordinance as it pertains to use and;

FURTHER BE IT RESOLVED, with the direction that they need to appear before the Town Planning Board for site plan approval.

The adoption of the resolution was seconded by Councilman Gerber, duly put to a vote, all in favor, except;

Deputy Supervisor O'Connor, who cast a no vote, stating without a full OSPC assessment and total cost, extended public and local interest and stating he was not completely satisfied without more information.

708 Rte. 9 PUD

Supervisor Johnson explained that the board failed to deal with SEQR last month on this project. He asked Town engineer Keith Manz, to take the board through the process. Engineer Manz stated this is just a procedural or administrative thing we neglected to make a SEQR determination, even though staff had recommended a Negative Declaration. The board should rescind the initial approved resolution or motion and then do the Negative Declaration for SEQR and a new motion for approval.

On a motion introduced by Councilwoman Needham, the board adopted the following resolution:

RESOLUTION # 161

NOW, THEREFORE, BE IT RESOLVED, to rescind resolution # 153 due to neglecting to do a SEQR Determination at the August meeting.

Mr. Michael Worth an adjacent property owner wanted to comment. Supervisor Johnson stated he was not taking any public comment on the whole project again. Mr. Worth: According to the information he had you should on SEQR. Attorney DeVall stated he was not aware of that.

The adoption of the resolution was seconded by Councilman Gerber, duly put to a vote, all in favor, except;

Deputy Supervisor O’Conor and Councilman Gordon, abstained from voting.

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

RESOLUTION # 162

NOW, THEREFORE, BE IT RESOLVED, to approve a Negative Declaration under SEQR, (unlisted action).

The adoption of the resolution was seconded by Councilwoman Needham, duly put to a vote, all in favor, except;

Deputy Supervisor O’Conor, who abstained and Councilman Gordon, who cast a no vote (Motion carried 3,1,1).

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

RESOLUTION # 163

NOW, THEREFORE, BE IT RESOLVED, to approve the 708 Rte. 9 PUDD.

The adoption of the resolution was seconded by Councilwoman Needham, duly put to a vote, all in favor, except;

Deputy Supervisor O’Conor, who abstained and Councilman Gordon, who cast a no vote (Motion carried 3,1,1).

Attorney DeVall explained that the minutes should reflect that the Town Board had received a petition from Mr. Worth.

Saratoga Heritage Phase III (PUD Amendment)
Amending Local Law # 7 of 2005

Supervisor Johnson asked Mr. Gordon Nicholson, Engineer/Architect from Environmental Design to address the board. **Mr. Nicholson** explained that Mr. Farone would like to amend his original PUD to provide for a road that will be built to the Town of Wilton specifications. It meets all of the radii percented grade and installing water and sewer and the agreement between Mr. Farone and Mr. Roohan requires that he extend that road to Mr. Roohan’s property, which he is proposing to do. The advantage of the road being at this location (illustrating on site plan) is we are eliminating the existing entrance into Saratoga Heritage III and eliminating the existing entrance into the self storage and Mr. Farone’s office. This will create a four way intersection. This road will result in the loss of an eight unit building in the currently approved project. **Supervisor Johnson** asked Engineer Manz and Town Planner Kate Maynard to comment on this project. **Mrs. Maynard** explained that there are some other items that are forthcoming for example: It is desirable to have one access point, but we want to see how that functions. Mr. Nicholson explained that a traffic study has been initiated including the current use, future and potential uses and including the hundred and seventeen units Mr. Roohan may build. The board set a public hearing for October 1, 2009 at 7:00 p.m..

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

RESOLUTION # 164

NOW, THEREFORE, BE IT RESOLVED, to refer the Saratoga Heritage PUD amendment to the Town and County Planning Board for review and recommendation.

The adoption of the resolution was seconded by Councilman Gordon, duly put to a vote, all in favor, except; Deputy Supervisor O’Conor, who abstained.

Northern Pines Road (Sheila Duggal)
Letter Re: Safety issues on No. Pines Rd.

Supervisor Johnson asked Councilman Gerber to address this issue. **Councilman Gerber** stated that Ms. Duggal had submitted a letter last month regarding outlining some safety concerns she saw them on both Northern Pines Road at the intersection of Carr and Jones Road at the intersection of Carr Road. He then asked Ms. Duggal to address the board. **Ms. Duggal** explained her concerns regarding the heavy

traffic that passes through Carr Road. She stated that her initial concern for safety was getting a stop sign established on Northern Pines Road after finding out that Northern Pines Road was a County Road she proposed that the Town share the cost of the sign. She has not had a response to her concerns. Ms. Duggal stated she was not in favor of the Bike Path but if it has to be built, she has two proposals: one is to go along the farm fields to Gavin Park. She also wants a stop sign. **Town Planner Kate Maynard** explained that Ms. Duggal's letter was on the agenda as correspondence last year and what happened from that point on was; with the Carriage Pines project we required that the applicant, based on resident concerns and our knowledge, set up for the planning concerns for this area. The applicant had Clough, Harbour do a traffic analysis to see if a stop device is warranted. They found that it was not warranted at this time. Ms. Maynard stated that after the study she sent everything including Ms. Duggal's letter to the County, which was in December of 2008, for their comment and review. Ms. Maynard explained that one of the starting points of the tasks was in relation to safety concerns within the two roadways. The design has been successfully implemented in many communities, which is an off-road path which provides for walking and biking. Supervisor Johnson stated he had checked with Joseph Ritchey at the County regarding this letter. He tried to track it down but could not find it. Supervisor Johnson asked Town Planner Maynard to forward the letter again. He also stated that the Town would forward any responses received.

Reappointment (IBR Board)

Carol Green

Term to expire 9/30/09

New Term 10/01/09-09/30/2014

On a motion introduced by Deputy Supervisor O'Connor, the board adopted the following resolution:

RESOLUTION # 165

NOW, THEREFORE, BE IT RESOLVED, to reappoint Carol Green as a member of the Independent Board of Assessment and Review. New term 10/01/09-09/30/2014.

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

Carriage Pines PUD (Easement)

Attorney DeVall

On a motion introduced by Deputy Supervisor O'Connor, the board adopted the following resolution:

RESOLUTION # 166

NOW, THEREFORE, BE IT RESOLVED, to accept the easement for the Carriage Pines PUD and;

FURTHER BE IT RESOLVED, to authorize the supervisor to execute all documents.

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

The Wilton Global Job Development Corp.

Blueprint for Economic & Job Growth

Ray O’Conor

Supervisor Johnson asked Deputy Supervisor O’Conor to address the board. Deputy Supervisor O’Conor explained that there are a few minor changes from the original document the board received last month. That will be done in a couple of weeks and everyone will get a final copy.

Resignation (Park & Rec. Comm.)

R. Dale Long Jr. (term to expire 6/30/11)

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

RESOLUTION # 167

NOW, THEREFORE, BE IT RESOLVED, to accept with regret the resignation of R. Dale Long, Jr. as member of the Park & Recreation commission (term to expire 6/30/11).

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

Saratoga Co. Office of Emergency Services

DPW Mutual Aid agreement

Supervisor Johnson explained that the Saratoga County Office of Emergency Services has put together a mutual aid agreement that they have asked each municipality in the County to adopt.

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

RESOLUTION # 168

NOW, THEREFORE, BE IT RESOLVED, to accept the Saratoga County Office of Emergency Services DPW Mutual Aid Agreement subject to Attorney DeVall’s Review and;

FURTHER, BE IT RESOLVED, to authorize the Supervisor to execute all documents.

The resolution was seconded by Deputy Supervisor O’Conor, duly put to a vote, all in favor.

Committee Reports (If Any)

Supervisor Johnson asked if anyone had any committee reports.

Hazardous Waste Day

Councilwoman Needham explained that she needed to have a Negative Declaration under SEQR for the Hazardous Waste Day.

On a motion introduced by Deputy Supervisor O’Conor, the board adopted the following resolution:

RESOLUTION # 169

NOW, THEREFORE, BE IT RESOLVED, to approve a Negative Declaration under SEQR for environmental significance for the Hazardous Waste Day.

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

Comptroller’s Report
(Including Bills & Transfers)

2009 Budget Transfers and Budget Amendments

On a motion introduced by Deputy Supervisor O’Conor, the board adopted the following resolution:

RESOLUTION # 170

NOW, THEREFORE, BE IT RESOLVED, to approve the 2009 budget transfers and amendments requested for and listed in the Comptroller’s 9/3/09 report to the Town Board.

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

Parks Department

On a motion introduced by Councilwoman Needham, the board adopted the following resolution:

RESOLUTION # 171

NOW, THEREFORE, BE IT RESOLVED, to approve the request submitted by Steve Porto, Park Director, to use the balance of \$9,027 in his capital account on other projects. (Stay inside the \$9,000)

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

Personnel

a.) Resignation Highway (Don Myers)

On a motion introduced by Deputy Supervisor O'Conor, the board adopted the following resolution:

RESOLUTION # 172

NOW, THEREFORE, BE IT RESOLVED, to accept the resignation submitted by Don Myers a highway employee effective 08/10/09.

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

b.) Highway MEO (Ryan Cook)

On a motion introduced by Deputy Supervisor O'Conor, the board adopted the following resolution:

RESOLUTION # 173

NOW, THEREFORE, BE IT RESOLVED, to approve the request submitted by Highway Superintendent Kirklin Woodcock, to move Ryan Cook into the MEO position effective 09/30/09 starting at the base rate with full time benefits.

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

Highway Laborer (Paul Wochanko)

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

RESOLUTION # 174

NOW, THEREFORE, BE IT RESOLVED, to approve the request submitted by Highway Superintendent Kirklin Woodcock, to move part-time employee Paul Wochanko into the open laborer position effective 09/15/09 starting at the base rate with full-time benefits.

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

NOT ON AGENDA

Executive Session (Land negotiation)

Supervisor Johnson stated the board needed to adjourn to executive session to discuss land negotiation.

On a motion introduced by Deputy Supervisor O’Conor, and seconded by Councilman Gerber, the board adjourned to executive session at 8:45 p.m..

On a motion introduced by Deputy Supervisor O’Conor, and seconded by Councilwoman Needham, the board reconvened the Regular Town Board Meeting at 9:00 p.m..

Action Taken

Supervisor Johnson stated that in executive session there was some action taken. He asked Attorney DeVall to explain the action: Attorney DeVall stated that the board would like to adopt a motion to authorize the negotiation of a contract to sell certain real property owned by the town which is located adjacent or near-by Waller Road for the sale price of the average of two real estate appraisals that has already been received in the amount of \$185,000. Once the contract is negotiated it would return to the Town Board at a meeting to be ratified. If the board agrees to the contract it is subject to permissive referendum.

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

RESOLUTION # 175

NOW, THEREFORE, BE IT RESOLVED, to authorize the negotiation of a contract to sell certain real property owned by the town which is located adjacent to near-by Waller Road in the amount of \$185,000.

The adoption of the resolution was seconded by Councilman Gordon, duly put to a vote, all in favor, except; Deputy Supervisor O’Conor, who abstained.

Town Resident Dan Tagliento explained that some years ago there was a committee or an on-going conversation between the Town of Wilton and the City of Saratoga Springs regarding a problem at Gick Road intersection with Route 50. There is no right-hand turn at times there is a line of cars backed up. **Supervisor Johnson** explained that the stop sign came up in part of the approval process for that plaza 50 that was a requirement by the City. After some discussion, Supervisor Johnson stated that the City of Saratoga Springs and the State DOT are looking into the problem.

On a motion introduced by Deputy Supervisor O’Conor, and seconded by Councilwoman Needham, the meeting was adjourned at 9:06 p.m..

Respectfully Submitted,

Carol Maynard, Town Clerk

_____ Supervisor, Arthur Johnson

_____ Councilman, Raymond O’Conor

_____ Councilman, Charles Gerber

_____ Councilman, Larry Gordon

_____ Councilwoman, Shirley Needham