

**TOWN BOARD MEETING
JULY 19, 2012**

A regularly scheduled Town Board Meeting was held on Thursday, July 19, 2012 in the Town Hall 284 Broadway Port Ewen, New York with the following persons in attendance:

**Supervisor John Coutant
Councilperson Gloria VanVliet
Councilperson Wayne Freer
Councilperson Donna McAuley
Councilperson Kyle Barnett**

Administrative Recorder: Diane L. McCord, Town Clerk

Pledge to the Flag

Supervisor Coutant called the meeting to order at 7:36PM and thanked the members of the public who attended for coming this evening.

Mike LaManna: We are here tonight because our girls from Esopus are the District 16 Softball Champions. We would like to know about Ross Park.....is it town property or Little League property? The park is owned by the town said the Supervisor. Mike LaManna continued....the field is in rough shape. We would like a nice field. What can the town do to help us out? Supervisor Coutant asked what is the problem with the field as it is now? It seems no matter what the town does there are low spots filled with puddles. Helicopters have landed there and pushed the sand around.

Councilperson Wayne Freer congratulated the team and asked for the girls to come back for an award in the near future. Councilperson Freer is the liaison with the Parks and Recreation Commission. We will soon be starting our budget process for 2013. This is a good time to go before the Parks and Recreation Commission to bring up your expectations. We are approaching the budget season quickly. What is needed perhaps is the pricing. What do we need for the field? That way they can put in what is needed for their budget. I realize the infield is really crummy and the baselines are really hard. What are we looking at? Mike LaManna said the drainage is poor and it needs to be dug up and we need dugouts. It is a project. Would it be possible to let us know what figures we are looking at? Could we do some fund raising or apply for a grant? The Councilman is definitely interested in seeing what we can do. Supervisor Coutant asked for them to go to the Recreation Board and see if you can put a plan together with pricing etc. We need more representation from the Recreation Board when it comes to spending money. Last year the Town Board put together the budget because no one came forward. They meet the second Monday of the month and if you let us know when you are coming we can place you on the agenda said Councilperson Freer.

Supervisor Coutant said this Town Board is aware we need at least one or more good fields in our town. We should have adequate fields. There should be plenty of room and plenty of fields. Congratulations. Our 11 and 12 year olds came in third in New York State and this is the third year in a row. The girls ages 13-17 won the District 16 Championship. Esopus is extremely proud.

Marjorie McCord – Hardenburgh Rd. Ulster Park: I am here tonight on behalf of the community to share the concerns that have been voiced in conversations and through emails on the proposed closing

of Anna Devine School. These same concerns have been voiced at the School District Meeting last evening. The School District is in a rush and are trying to vote on this by the end of this summer. Many people find questions have not been answered as to why they are closing this one elementary school. It is not only the loss of the elementary school, it is the loss of the middle school. Anna Devine students go to J. Watson Bailey and Robert Graves students go to Miller Middle School.

In addition, what will happen to our historic beautiful Anna Devine old school house building? If you haven't seen this historic site, you should. The transportation time for our children to go to Miller is the most disconcerting for we are at the southern most corner of the district. Buses will go from 7 miles to middle school to 14 or 15 miles placing the children on the buses one, two, three hours a day. It reduces the home values and it closes one of the most physically sound buildings in the district according to the school district's own report. It is the only elementary school that does not need major repairs. It is in great shape with a new boiler, new siding. The community is really frustrated that there are no other options not being considered. We feel our questions are not being answered. We should share the voice of Esopus.

Supervisor Coutant asked the Town Board if they would entertain writing a letter to the School District? The Town Board was in agreement. You will need to tell us when the next School Board meets for I would like to take the letter and read it to them. The next meeting is August 1st. Councilperson Donna McCauley would like to attend also. The Supervisor said he watched some of the testimony on the TV and they all touch on sensitive issues. What time will those parents have to get those children out of bed and to the bus?.....it will be dark....and they will get back on the bus in the dark. Is that the way we should be treating our offspring? I will put together a letter and I will review it with you and Donna and I will both go to the meeting.

Meryl Murray: The board is in a tough spot as is the school board. We realize there is a shortage in the funds. The Graves School will be impacted also. Getting over to Robert Graves from Creek Locks will also be a problem. We want to improve our education but we need answers about transportation and distance. We are concerned that the needs should be more thoroughly investigated. The merging of two schools Meagher going to Kennedy those children will all stay together. We just want to know that every consideration has been explored. The real estate values are a concern and parents traveling south to work and our children are going in the other direction make our area no longer a viable option. The Supervisor asked if a copy of the letter from the Town Board can be sent to Ms. Murray.

Denise Breithaupt: If you ask a parent who has a fourth or fifth grader sitting next to an eighth grader on the bus, they will tell you there is a problem. We have to think about these schools. In the elementary school they have only fifteen minutes to be outside. In the cafeteria at Robert Graves there is no talking. They have to behave all day and when they come home they have homework. There is then the long bus ride home which is another thing to think about. What everyone is saying is what is more important? What is more important is the children and what affect it has on the families. Has anyone taken that approach with the school board? A different approach is looking at the human side of this and is this the way to go?

1. Central Hudson

Supervisor Coutant received a letter from Central Hudson dated July 13 regarding CESIR for 1.0 MW PV Installation (revision). This letter recommends upgrades to the Central Hudson system in order to accommodate our new 1.0 MW PV installation to be installed at our covered landfill in West Park. The cost to accomplish this is \$189,750 which will be paid by our vendor. Since we now have the go ahead from Central Hudson our next task is to receive the permits required by the Dept. of Environmental Conservation and this should be accomplished within the next several weeks.

Our capped landfill has had no gas escaping for the last three years. Solar panels will be placed upon the capped landfill and should create one million megawatts of power which will be fed into the Central Hudson system. This will stabilize our electric bills for the next twenty years providing electricity for all our needs and instead of paying Central Hudson we will pay the same amount to our installers. At the end of twenty years we will make the decision to purchase the system or extend our contract with the vendor.

2. Excavator – Highway Dept.

We have been waiting for a new excavator and it has finally arrived. The “J” Road needs immediate attention for we have a drainage issue and our Highway Supt. Mike Cafaldo is assessing the needs of the community in regards to the excavator. Supt. Cafaldo has done an excellent job.

3. Scenic Hudson Land Trust – Resolution, Letter from Supervisor and Letter from Town Board

Scenic Hudson has property on River Road adjacent to our Lighthouse Park. This year, due to the flood, they lost one of their structures. They have since demolished the building and they are now asking the Town Board to support them in applying for a grant to build a pavilion.

Kate Kane from Scenic Hudson was in the audience. Kate is a Park Planner for Scenic Hudson and has put together this application for a pavilion. She thanked the Town Board for their support of this project and asked for a letter of support from the Supervisor, the Town Board and a Resolution. The Supervisor asked in addition, he would like consideration to be given to construct a small dock of approximately 4'x8' so that it would be available for kayakers to go directly from the preserve to the Esopus Lighthouse and there is a good possibility that our waterchestnut machine could also be utilized while cleaning the river of waterchestnuts around this area. The Supervisor and Town Board agreed to write these letters of support. The following Resolution was put forward:

TOWN OF ESOPUS

TOWN BOARD

RESOLUTION – CONSOLIDATION FUNDING APPLICATION: ESOPUS MEADOWS PRESERVE

WHEREAS, The Scenic Hudson Land Trust, Inc. (Scenic Hudson), having its principle offices at One Civic Center Plaza, Suite 200, Poughkeepsie, New York, is a not-for-profit corporation under New York State law which is exempt from federal income tax under Section 501 ©(3) of the Internal Revenue Code of

1986, as amended, and which, among other things, works to conserve natural lands and open space in the Hudson Valley of New York State for the benefit of the general public;

WHEREAS, Scenic Hudson owns and manages a 96-acre preserve known as the Esopus Meadows Preserve, which is located within the Town of Esopus, Ulster County, New York;

WHEREAS, Esopus Meadows Preserve has provided free public access for passive recreation and educational programming, including hiking, kayaking, and bird-watching, for residents and visitors;

WHEREAS, Scenic Hudson is submitting an application to New York State’s Regional Council Consolidation Funding Application for a grant under the park acquisition, development and planning program for a park project at Esopus Meadows Preserve (“Esopus Meadows Preserve Educational Access Improvements”), a site located within the territorial jurisdiction of this Board, to improve accessibility, enhance educational and passive recreational opportunities, and promote connections with other attractions in the Town of Esopus;

WHEREAS, as a requirement under the rules of these programs, Scenic Hudson must obtain the approval/endorsement of the governing body of the municipality in which the project will be located;

NOW, THEREFORE BE IT RESOVLED, the Town Board of the Town of Esopus hereby does approve and endorse the application of Scenic Hudson for a grant under the Regional Council’s Consolidation Funding Application for the park project known as Esopus Meadows Preserve Educational Access Improvements and located within this community.

**Resolution offered by Supervisor John Coutant
Resolution seconded by Councilperson Wayne Freer**

Supervisor John Coutant	Aye
Councilperson Gloria VanVliet	Aye
Councilperson Wayne Freer	Aye
Councilperson Donna McAuley	Aye
Councilperson Kyle Barnett	Aye

Resolution duly adopted.

Date of Adoption: July 19, 2012

I, Town Clerk of the Town of Esopus
Hereby certify that this is a true and correct
copy.

Signed

Date

4. Resolution – Settlement Town of Esopus adv. Dyno Nobel

**TOWN OF ESOPUS
RESOLUTION TO AUTHORIZE SETTLEMENT
TOWN OF ESOPUS ADV. DYNO NOBEL
JULY 19, 2012**

BE IT RESOLVED, by the Town Board of the Town of Esopus, in the County of Ulster, State of New York the following:

WHEREAS, the Town Board of the Town of Esopus has received and reviewed the proposed settlement in the above matter,

THEREFORE, BE IT RESOLVED, that the Town of Esopus Town Board authorizes the Town Attorney Paul T. Kellar, Esq., to execute the proposed settlement and such documents as necessary to effect settlement of this case on behalf of the Town of Esopus and to have said documents filed.

**Resolution offered by Councilperson Kyle Barnett
Resolution seconded by Councilperson Donna McAuley**

Supervisor John Coutant	Aye
Councilperson Gloria VanVliet	Aye
Councilperson Wayne Freer	Aye
Councilperson Donna McAuley	Aye
Councilperson Kyle Barnett	Aye

Resolution duly adopted.

Councilperson Barnett commented he had spoken with Attorney Kellar before agreeing to this settlement and he made us all aware of the condition of the property and the settlement avoids any refund and is a reduction going forward.

5. Raquel Rabinovich - Lighthouse Park

For some time, beginning last year in the fall, an artist Raquel Rabinovich asked the Town Board to do an art exhibit rock and rocks sculpture at Lighthouse Park. Councilperson Freer said you must see this sculpture at low tide. "Creek Week" will be held on September 15th and one event would be the dedication of the work entitled Emergences, Lighthouse Park, 2012. The Supervisor has been asked to be the key note speaker. This is the ninth piece for the ongoing series Emergences begun in 2001. A brochure is being made featuring a picture of our Lighthouse Park Sculpture on the front.

6. Mortgage Tax Check

Supervisor Coutant said we just received a check from Ulster County for mortgage taxes in the amount of \$68,369.81. This is approximately one half of the amount for the year. When Supervisor Coutant first

took office we had \$400,000 in mortgage taxes. The housing market decline has certainly affected how we do business in Esopus. He could only hope the housing market comes back to something that is reasonable.

7. EXECUTIVE SESSION – Planning Board – Possible Litigation

Planning Board Chairperson Roxanne Pecora asked for the Town Board to enter into Executive Session to discuss Hoy and ARC Ltd. – Connelly Terrace possible litigation. Councilperson Kyle Barnett asked if the litigation was threatened, current or pending? There was no threat of current or pending litigation and as a result Councilperson Barnett was not convinced that either matter could go into Executive Session. His understanding of the Open Meetings Law states pending, current or threatened litigation and these matters do not apply and it would violate the law.

Councilperson Wayne Freer asked about Section 105-1 public monies. If it involves money issues could it be discussed in Executive Session? Councilperson Barnett said it does not make a difference. We are not authorized to enter into Executive Session.

Attorney Joseph Pisani – I would like the opportunity to discuss something with you in Executive Session. Councilperson Barnett asked if the discussion was about threatened, pending or current litigation? No. It is about pending litigation with Ulster County against the Hoys over taxes. Councilperson Barnett said it would be a stretch and he would not vote to enter into Executive Session.

Attorney Pisani asked to discuss this matter in public? Supervisor Coutant following what I have just heard I would like to ask can this matter be addressed without any confidential information being given to the public? If it involves confidential information I will not discuss it. Attorney Pisani said it could be discussed without revealing confidential information.

Supervisor Coutant tried to summarize the situation. We are discussing Certified Marina which is now called Certified Marina LLC. Sharon Jones and her husband Fred Jones operate the marina. They are involved in a six acre parcel of property on the Rondout in Connelly. There have been several times where the tax bills have been switched from one to two to three parcels. Initially on purchase there were seven parcels. The parcels have been combined several times. Up until there was a family illness and Sharon Jones became Power of Attorney and she has tried to take on some of the problems. In doing so, there was a need to finance the properties and none of the properties had clear deeds that would be honored by a bank.

The purpose of the Planning Board is to decide on the three parcels. Part of the tax bill has been totally unusable land. The three parcels include one where the home is located and to put to bed the vacant property and the commercial property. One parcel is a rock pile and that is totally unusable land and should be assessed as vacant property. In the early 1970's drainage from town streets was running through their property because one Highway Superintendent directed the drainage to the rear of the property and this was done without an easement. In the schedule of fees a Recreation Fee is charged per lot and in this case there was a fee proposed and the Town Board reviewed the conclusion of Planner Myles Putman.

What the Supervisor was getting at is why they are here. The Town Planner analyzed the situation. When a subdivision is done a Recreation Fee is charged per lot. In this case \$2,000 to \$4,000 and the Town Board reviewed the situation. A conclusion from Planning Board consultant Myles Putman and this will not make additional lands.

Point of Order – made by Councilperson Kyle Barnett:

We reviewed Myles' memo and from what it appeared to be it was our position that Myles had a point. We did not make a collective decision. My position is that whether there is a fee or not charged, it is within the discretion of the Planning Board if they make a proper case. It is not an automatic thing and I believe if there is a charge, that is entirely within the discretion of the Planning Board and the Planning Board can only charge if there is a proper case. I believe in order for there to be a proper case, an increase in the population where the town could not support the population regarding parks should be made

Councilperson Wayne Freer was under the opinion, with the way Myles had put it, that it is up to the Planning Board to make the designation on each and every parcel. If the Planning Board fails, the decision should come to the Town Board to see about any reduction or change. Councilperson Barnett said our only roll is if they decide there is going to be a fee, the Town Board sets the fee. Councilperson Freer said we set all the fees and we are the only entity that can change the fee.

Fred Zimmer – As I understand this properly...whether there is a Recreation Fee charged or not it is up to the Planning Board?

Councilperson Barnett: In each case there is a subdivision, it does not matter if it is residential or commercial, in terms of whether to charge the fee or not. It is not a waiver, it is a determination.

Roxanne Pecora: The Planning Board feels the application fee, the public hearing fee and the escrow fee should be paid. When that is all resolved, we will sign the print and not before. Supervisor Coutant said there is no need to discuss the recreation fee any further. Roxanne said the next meeting we will readdress the situation.

Fred Zimmer: The Planning Board makes the decision and if the client is happy it ends there. If the client is unhappy they go to the Town Board? The Town Board deals with unhappy people.

Attorney Pisani: We are talking about a subdivision and the requirement for a subdivision was not made on behalf of the client. It was not the result of the land owner, it was done because of the Assessor. For thirty years it was three separate (SBL's) tax bills. They get a letter from the Assessor stating there should have been a subdivision and he is combining the three parcels into one. The legality should be addressed. I am not here to create any problems but to solve a problem.

The town has been sending storm water over our land. One problem we are facing now is we have a foreclosure pending in Ulster County Court. We have financing lined up to pay the taxes. However, we cannot get financing until we get an SBL. The county will not accept the subdivision until the taxes are paid. In August I have an Order to Show Cause and we are in jeopardy of losing the entire property.

This is not something they brought on themselves. They were forced into this subdivision. It is trying to make something legal that has been legal for thirty years. We appreciate the Planning Board and their efforts. We will deal with the Planning Board. We are looking for help from the town in exchange for your storm water coming over our property.

Supervisor Coutant said this action you are going through now will lead to three clear deeds. Attorney Pisani said yes but I cannot do a deed without an SBL. The property has been owned since 1978 and now I am told I need to have three new deeds deeding the property to himself.

8. ARC – American Residential Communities

Planning Board Chairperson Roxanne Pecora said ARC is being represented by Attorney Mike Moriello dealing with the recreation fees. It is not a subdivision, it is 29 lots. They will be coming to our Planning Board to discuss the reduction of that fee. Our take is, it is 29 lots with many children using our facilities. This is a drain on our resources and this would be a drain on our recreational facilities. If the Town Board has any opinions in seeing how that money could be utilized, that would be helpful to us. We are in need of additional ball fields. Councilperson Kyle Barnett said it is the Planning Board's decision.

9. Budget Adjustments

BUDGET ADJUSTMENTS JULY 2012

Be it Resolved, by the Town Board of the Town of Esopus, County of Ulster, State of New York as follows:

Whereas, the Town of Esopus has been presented with the following budget adjustments and these adjustments have been examined and approved by the Town Board,

Therefore, Be it Resolved, the following budget adjustments be approved for payment:

AO.599.00	Fund Balance	to	AO1680.400	Data Processing	\$
89.40					
AO.599.000	Fund Balance	to	AO7143.400	Water Chestnut	
\$1,292.73					

Resolution offered by Councilperson Wayne Freer
Resolution seconded by Councilperson Kyle Barnett

Supervisor John Coutant	Aye
Councilperson Gloria VanVliet	Aye
Councilperson Wayne Freer	Aye
Councilperson Donna McAuley	Aye
Councilperson Kyle Barnett	Aye

Resolution duly adopted.

10. Payment of Vouchers

**PAYMENT OF VOUCHERS
JULY 2012**

Be it Resolved, by the Town Board of the Town of Esopus, County of Ulster, State of New York as follows:

Whereas, the Town of Esopus has been presented with vouchers for payment and these vouchers have been examined and approved by the Town Board,

Therefore, Be it Resolved, that the following vouchers be approved for payment:

General Fund	121329-121389	\$ 43,773.28
Highway Vouchers	122130-122151	\$ 25,086.49
Street Lighting	126007	\$ 5,719.13
Capital Fund		
Port Ewen Sewer	123115-123130	\$ 6,708.27
Port Ewen Water	124178-124203	\$ 13,157.77
Total.....		\$ 94,444.94

Resolution offered by Supervisor John Coutant
Resolution seconded by Councilperson Donna McAuley

Supervisor John Coutant	Aye
Councilperson Gloria VanVliet	Aye
Councilperson Wayne Freer	Aye
Councilperson Donna McAuley	Aye
Councilperson Kyle Barnett	Aye

Resolution duly adopted.

10. Approval of Minutes

A Motion to approve the previous meetings minutes was made by Councilperson Gloria VanVliet and seconded by Councilperson Donna McAuley. All Town Board Members voted in favor. Motion Carried.

11. Reports of Committees and Officials

The following reports of boards, committees and officials were received and are on file in the Town Clerk's Office along with the monthly correspondence:

Town Clerks' Report dated June 2012
Supervisor's Report dated July 2012
Recreation Minutes dated May 11, 2012
Planning Board Minutes dated June 13, 2012
Building Dept. Report dated June 2012
Port Ewen Water & Sewer Agenda dated July 12, 2012
Environmental Report dated July 18, 2012

12. Community Garden

Councilperson Freer spoke about the Environmental Board Meeting where we talked about mowing an area for a Community Garden. The Environmental Board would like to put in a Community Garden if anyone out there has some land. It is late in the season, however, broccoli and squash could still be planted.

The soil samples from the West Park area we spoke about at our Workshop Meeting were not acceptable. Discussed also at our Environmental Board Meeting was the celebration of "Creek Week" September 15-22. We encourage the use of our trails, creeks and waterways. Information will be available at the Town Hall.

A Motion to adjourn at 9:00 was made by Supervisor John Coutant and seconded by Councilperson Wayne Freer. All Town Board Members voted in favor. Motion Carried.

Respectfully submitted,

**Diane L. McCord
Town Clerk, CMC, RMC**