

TOWN OF WASHINGTON
TOWN BOARD
May 14, 2009

The Town Board of the Town of Washington held its regular meeting on Thursday, May 14, 2009, at the Town Hall, 10 Reservoir Drive, Millbrook. The meeting was called to order at 7:00 PM by Supervisor Florence Prisco with the following present: Councilmen Stephen Turletes, Michael Murphy, Robert Audia and William Murphy, Town Clerk Mary Alex, Bookkeeper Laura Hurley and Attorney John Gifford.

Also present were Richard Cantor, Rob Dyson, Howard Schuman, Frank Genova, Cathy Culkin, Kate Farrell, Adelaide Camillo, Wilma Cole, David and Nan Greenwood, Jim Shequine, Tom Beaumont, Dan Weller, Kerry Weller, Chris Muscari, Warren McMillan, Kelly Whalen-Cassinelli, Catherine Webb, Michael Klemens, David Conklin, Jerry Baker, Stacy Hoppen, Steve Van Tassell and Anthony Sloan.

Supervisor Prisco opened the meeting with the Pledge of Allegiance. A moment of Silence was offered in the memory of Larry Bugosh and Michael Spagnola, employees of the town that have both died in the past month. Larry was a person many would see at the Town Transfer Station, with a smiling face and ready to help. Michael has been a part-time Constable for the town for many years. He was also a lifelong community member and business man.

Supervisor Prisco reported that she has received correspondence from Brad Roeller that she was very sorry to have received. Mr. Roeller has tendered his resignation as a member of the Town Conservation Advisory Commission. Mrs. Prisco said that this is a great loss to the town and CAC. Mr. Roeller was an active, well respected member of the Commission, and the town is very appreciative of all that he has done. Mr. Roeller will remain on the Zoning Board of Appeals. Mrs. Prisco offered a thank you to Mr. Roeller and said that he has been a gem.

The Town Board continued the Public Hearing on the proposed Wetlands Ordinance. Supervisor Prisco said she has received correspondence from Kate Farrell, Richard Cantor and Adelaide Camillo. The letters are on file as part of the record. Supervisor Prisco asked that if people wish to comment that they state their name, please be respectful to each other and not be redundant.

Mr. Beaumont said “the Planning Board would ask the Town Board to hold the Public hearing on the Wetlands law open until such time as we can produce a position document stating our concerns with the proposed law. This document will become available for the Planning Board to review within the next few days. We will then hold a special meeting to discuss this. We may request that we be allowed to modify, add, or delete from the proposed ordinance. The Planning Board’s position on this matter does appear ambivalent. We wish to set the record straight and clearly elucidate our position.”

Richard Cantor, an attorney with Teahan and Constantino spoke on behalf of his client Rob Dyson. Mr. Cantor began by addressing the formulation and that fact that the proponents are asking are you in favor or are you not in favor of protecting the groundwater. Everyone is in favor of protecting the groundwater. The correct formulation should be: 1. Is the proposed law necessary? 2. If necessary or appropriate, is it a good draft or should it be revised? Mr. Cantor said he doesn't believe this law is necessary or appropriate. If the Town Board thinks it is okay, the current draft should be substantially revised. Mr. Cantor said he has looked at the SEQRA process and the EAF presented to the town. It does not address the extent and impact of this law on development, housing, land values or assessment. The EAF doesn't begin to address the typical SEQRA questions. The town should identify the relevant questions, take a hard look and reach conclusions. The Army Corps of Engineers will review 1/100th of an acre. The DEC has provisions for 12.4 acres or smaller if there is unusual local importance. The SEQR provisions are administered by the Planning Board or ZBA. These three regulatory laws are a complete, adequate, full package to avoid significant negative impact on resources.

Mr. Cantor said in his opinion what's wrong with the proposal is the absence of procedure for an initial evaluation of these resources. Now, as written, an applicant has to submit an EAF and identify the wetlands. There should be a determination of significance, is there a potential for significant impact. This would avoid months of time and money. If there is a significant impact, then ask the applicant to prepare an environmental impact statement. This would be the upfront way of eliminating issues.

Mr. Cantor said this is an economic stimulus plan for environmental specialists, surveyors, scientists and lawyers. This law requires the whole 9 yards, with thousands of dollars and time. It doesn't have a procedure up front to exclude those resources that don't provide a benefit. As written, there are unreasonable application requirements such as the need to have all wetlands, streams and vernal pools to be mapped, delineated and shown one thousand feet away from your property. The law requires mapping on your property and 200 feet on adjoining properties. There is no provision giving you access to your neighbors property. The standard should be direct if what you're proposing to do have the potential to harm a resource that has a beneficial use.

The vernal pool definition is without any reference to having any other indicia such as soils or species. In this draft, you are to keep 100 feet away from a vernal pool. If the vernal pool is the size of a pinhead, with the buffer, you are talking a quarter of an acre of land you can't use regardless of the useful function or whether it will be there next week.

Mr. Cantor asked that the Board wait for what the Planning Board to offer recommendations, and if the Board finds what he is saying to be persuasive, put to the side this law. Do extensive work on the SEQRA process. He also asked that the Board consider the comments that will be offered by Wetland Scientist Steve Seymour.

Mr. Seymour offered the following comments. *“My name is Stephen Seymour and I am a 23-year resident of Dutchess County. I have been involved in wetlands work since 1981; having served on the Town of Carmel’s Environmental Conservation Board in the early 1980’s and involved in all aspects – delineation, permitting, functional assessment, mitigation, and mitigation monitoring – of wetlands science as a consultant in the Hudson Valley. I am a certified Professional Wetlands Scientist (by the Society of Wetlands Scientists) and a member of the New York State Wetlands Forum. I have worked extensively with NYSDEC and the Corps of Engineers for 20 years on wetlands and waterfront projects, and have worked with municipal wetlands ordinances in Westchester, Dutchess and Orange counties. I understand you have received comments from other citizens and attorneys and wish to offer my comments as a wetlands scientist.*

Specific Comments on the “Wetlands and Watercourses Law of the Town of Washington”:

It appears that the intent of the proposed Law is to provide greater protection than that afforded by NYSDEC or USACE. While there are references to the relationship with state and federal permits in Section IX, Item D, there is no mention of how the local law would work with the USACE Nationwide Permitting Program, or the NYSDEC Dam Safety Program (Part 673). There should also be a statement of under what conditions the municipality will accept NYSDEC and/or USACE-accepted impact minimization and/or mitigation plans (such as compliance with the terms and conditions of the USACE Nationwide Permitting program and compliance with USACE NY District and NYSDEC conditions on the current Nationwide Permits) and under what conditions the municipality could request additional mitigation. With the available NYSDEC (SEQR, Article 24, Article 15, Dam Safety, and the Endangered Species Program) and USACE (the Nationwide and Individual Permitting Program) in New York, there is no need for a local law that is generally duplicative of existing regulations. USACE has recently issued further post-Rapanos guidance (ecological connectiveness) that amplifies their protection over potentially isolated wetlands. NYSDEC has also amplified their protection over state-listed special concern species, which includes some vernal pool dependent species (such as the marbled salamander).

I have delineated wetlands that have been one or two hundredths of an acre in size that have been incorporated as part of USACE Jurisdictional Determinations and for which a USACE permit would be required for disturbance. I have also mapped numerous wetlands that, while not appearing on NYSDEC Freshwater Wetlands Maps, have been either incorporated as part of a State-regulated wetland based on proximity and water flow to a State-regulated wetland, or have been, based on acreage, deemed to be a State-regulated wetland.

- *It should be part of the preapplication process (Page 8, Item B) with the Zoning Administrator so an Applicant knows if a SEQR Long Form EAF would be required.*

- *It should be clearly stated if it is the municipality's intent to accept a USACE and/or NYSDEC-validated wetland and watercourse boundary as a valid delineation.*
- *There should be a fee schedule based on the property size, extent of proposed impact (controlled area vs. the wetland), or other variables so an Applicant can gauge the expense of the municipal review.*
- *Both Items 16 and 20 reference impact assessment on "upstream and downstream areas" without providing any guidance of how far or how large the assessment area should be.*
- *The definition of "intermittent watercourse" fails to cite if the designation is based on typical rainfall patterns or not. My concern is the designation of an intermittent watercourse could be rejected by the municipality if the rainfall in all or part of the prior 12 months was below average.*
- *Wetlands feature a number and range of functions; NYSDEC identifies nine specific wetland benefits in Part 664 and uses wetland functions as part of their wetland classification system. The municipality should consider a function-based approach to wetland regulation also, providing protection to wetlands demonstrated to perform a variety of functions and an expedited approval process for wetlands that provide few functions or benefits, and a waiver of regulations and permit requirements for potentially protected resources that do not make a valuable contribution to the environment.*

In summary, the draft law fails to provide a procedure to distinguish between potentially protected resources that make a valuable, definable contribution to the environment and those potentially protected resource that do not make a valuable or definable contribution to the environment. There is not a clear defined path or methodology that an Applicant can refer to in understanding the requisite studies, time frame, and potential cost of obtaining a wetlands approval. It appears that the requisite studies to support a permit application could take months or years (dependent upon rainfall patterns) to collect the data required for, as an example, surface water flow and groundwater assessments. It is entirely possible that the installation of groundwater wells and/or weirs to collect data to support a permit application may cause more damage than the proposed act for which a permit is being sought.

Vernal Pools - *In the definition of the vernal pool, it is unclear that to be deemed a vernal pool an area has to support the cited specialized species, or if the designation is based only on the physical characteristics and the potential to support specialized species. It is also unclear in the following definition of wetlands (which includes vernal pools as a geographic area) if the intent is to regulate only those areas greater than one-fourth of an acre in size. If the municipality intends to regulate vernal pools less than one-quarter acre in size, it needs to be clearly stated. There are specific criteria, such as those used by the Natural Heritage and Endangered Species Program (NHESP) of the State of Massachusetts, to document and define vernal pools.*

I have reviewed the landowner agreement circulated by the Cornell Cooperative Extension of Dutchess County and aside from identifying wildlife species and counting amphibian egg masses there are no criteria identified for how vernal pools are to be ranked. The Cary Institute release of 27 January 2009 cites a ranking system to be used to “distinguish between high quality habitats and those of lesser and degraded condition” but does not cite the ranking criteria or if areas identified as being of lesser value, degraded, or of no value would be exempt from regulation.

Vernal pools, by their definition, are ephemeral habitats that are influenced by rainfall, groundwater level, snowmelt, and temperature. Vernal pools are variable in appearance, water source, the timing of filling, duration of inundation, surrounding upland habitat, and plant and animal use. As an example, due to the below-average rainfall early this year, some vernal pools east-of-Hudson did not fill or featured very low water levels in March and early April. In addition, areas that may appear to be vernal pools do not support vernal pool-dependent species because they do not, under typical precipitation patterns, hold water long enough for these species to complete their breeding cycle.

In summary, there needs to be a robust definition of how vernal pools are to be identified, ranked, and regulated.

Thanks you for your time and consideration of my comments.”

Stacy Hoppen offered the following comments:

Addressing the question of why the Town of Washington needs a wetland law when there are already regulations in place from the New York State Department of Environmental Protection and the National Wetlands Inventory/US Army Corps of Engineers:

The wetlands protections currently provided by state-level and national agencies do provide basic protections, but these regulations still represent a compromise between these agencies' concern for water resource protection, as well as their manpower and budget constraints. To adequately protect groundwater within the Town of Washington, it is necessary to extend local protection to additional wetlands that are not currently regulated by the state or federal government.

Since a wetland represents an area where the water table meets the land surface, any wetland, large or small, is potentially a point at which contaminants can enter the groundwater below. Small or intermittent wetlands, many of which fall below the NY State DEC size threshold of 12.4 acres, could be an entry point for contaminants, not just the largest, regulated wetlands.

As development and housing density continues to increase in this area, it makes good sense to put wetlands protection and other preventative measures in place to protect our

groundwater. A contaminated aquifer is very costly and time consuming to clean up; it is far more cost effective to prevent contamination in the first place.”

David Conklin said he has lived in town for thirty years, and he has farmed 50 acres on Tower Hill Road. Mr. Conklin said that this proposed law is difficult to justify, since the reveal his taxes have continued to go up dramatically. He doesn't like the idea of further restrictions. Section H speaks of “further unregulated activities.” He asked for a list of unregulated activities. Are there activities that are wrong? What's going on in our town he asked?

Councilman M. Murphy said that right now, if an applicant is before the Planning Board there is no backup for protection on smaller wetlands and for the protection of watercourses. This is a vehicle for which the Planning Board can make determinations if there is an impact on water.

Mr. Conklin asked what unregulated activities are currently happening in town. Councilman M. Murphy said there is no list. This will help determine what needs to be regulated. Mr. Conklin said you have laws and are aware of violations and infractions with the existing regulations. Why do we want more?

Mr. Conklin said he has a 25 acre field to plant. The field he has to travel through has a high water table, and he will need to cut an additional road through a stream area for equipment to fit. The property does not have an agricultural exemption. What happens?

Dr. Klemens said that as outlined, Mr. Conklin has a flooded field not a vernal pool. People are getting emotional and confused. Fields that flood are different.

Supervisor Prisco said that on zoning enforcement, the town does a good job.

Mr. Genova said he wanted to clarify that wetlands are hydric soils. Vernal pools may not be hydric soils. Read the definition of a vernal pool in the ordinance. He asked would you sign a contract on these terms. How temporary? How shallow? He provided a statement and definitions that are on file as part of the record.

Mr. Cantor said that under the draft law, the description presented earlier would be considered a vernal pool.

Adelaide Camillo 507 Stanford Road Millbrook, New York 12545 read the following letter into the record:

Dear Supervisor Prisco and Trustees:

Thank you for the opportunity to place additional comments on the record. I attended the first hearings in January and March of 2008 when there was enormous positive support. I sat near well-respected contractors and well-known Dutchess County farmers, all of

whom expressed support for wetland protection that evening. In fact, the Millbrook Round Table's Mitch Trinka wrote an article in the Jan 24, 2008 issue entitled: "Public Backs Wetland Law." While opposition from developers is predictable, the enlightened developers today care about sustainable development and environmental policy and do not see these goals in conflict with their interests. I truly believe you will find that the advantages of thoughtful, scientifically-informed planning far out-weigh drawbacks.

Richard Cantor's comments on behalf of Rob Dyson – Points of Agreement I strongly agree with Mr. Cantor that the Planning Board (PB) -- and I would add that all Planning Boards in the magnificent Hudson Valley -- need substantially more training to be ready for the important decision-making challenges of an increasingly complex world and more aggressive development. Substantial and ongoing professional training would make their jobs easier, not harder. I would like to add that, strictly enforcing term limits for Planning Board members would safeguard citizens from members who use outdated approaches and are resistant to the realities of a changing environment. **I agree that the proposed vernal pool definitions are unclear. I would propose the following as a remedy:**

- Include vernal pools in the definition of wetlands thereby subjecting vernal pools to the same size limitations and protection as other wetlands.*
- Remove the references to vernal pools throughout the regulation because vernal pools will now be regulated as all wetlands.*
- Reduce the size limitation of the wetlands threshold to 5,000 sq. ft, or much less than the current ¼ acre, so that most of the important vernal pools will be included.*

Richard Cantor's Comments – Points of Disagreement **Mr. Cantor is incorrect that the DEC or New York State protects all wetlands.** The attached letter from a DEC attorney in Region 3 (includes Dutchess County) that reiterates that New York State protects only wetlands of 12.4 acres in size with some rare exceptions. As a result, small wetlands such as vernal pools have enormous ecological importance and are being eliminated across the state in alarming numbers. **Costs and Procedures under the Wetlands Law** Mr. Cantor provides no evidence whatsoever of the excessive financial burden that the proposed local law would incur. A realistic cost analysis should be conducted with a detailed description of the exact steps and procedures an application would follow.

Disagreement that SEQRA protects local wetlands I disagree with Mr. Cantor in his statement that SEQRA will handle the environmental issues on all applications. Not all applications would result in a determination of environmental significance, and even if they did, there is no guarantee that SEQRA would be upheld. The Article 78 that I worked strenuously to avoid in 2004, occurred almost entirely because SEQRA was violated extensively and repeatedly over a ten month period. As an adjacent neighbor, I sought protection from the PB (Planning Board) from a 4-lot subdivision (the largest the Town had ever seen at that point in time according to the PB Chair) that compromised natural resources and public road safety, and directly impacted my property. I was not notified by the Town after they had met with the applicants for a few months even though notification is required. To my complete surprise, I was placed in the untenable position of having to convince, not only the applicant, but the Planning Board, to follow the Town's own zoning laws, SEQRA and even Open Meetings Law. DEC refused to get involved, as this was a local jurisdictional matter. Dutchess County Soil and Water Conservation concurred that I was right and wrote letters on my behalf regarding the need for Stormwater Permits (SPEDES) and wetland protection, but unfortunately had no influence over the Town Planning Board. The US Fish and Wildlife only got involved after extensive lobbying and only because the Town of Washington was already on their radar screen as a site for endangered species. Even the Town's own Conservation Advisory Committee has no enforceable authority in the Town of Washington, nor had they met regularly at that point in time.

The entire ordeal would have been completely avoidable if correct public procedures and policies had been in place and if the site plan had been adequately completed by the Town's consultant before the site plan went to public hearing. So to assume the Federal government, the DEC, or the County agencies will do anything to protect wetlands less than 12.4 acres in this community, or to presume SEQRA is the catch-all answer is a complete fallacy based on my experience. In fact, I would argue that all Article 78 proceedings in the last five years in both the Town and the Village are a direct result of procedural errors with regard to SEQRA and public process. While lack of professionally trained planning board members, many with extremely outdated views on environmentalism, keep attorneys and consultants in business at taxpayers' expense, the ongoing SEQRA violations continue to degrade the environment one parcel at a time.

Dave Clouser's Letter of January 11, 2008 and the Need for Drafting Clarity At the first wetlands public hearing I submitted a very detailed overview of the ordinance from

*an environmental and planning engineer. In that letter there are numerous suggestions with regard to the unwieldy delegation of power of the zoning administrator, the ability of the Town Board to change the wetlands maps at will without the inclusion of wetland expertise, the inclusion of storm water runoff as a pollutant, vague ambiguous language, and many other suggestions to improve the legislative drafting. It seems that a number of those changes were not made. Could someone please explain why? **Reasons for Wetland Ordinances and Political Leadership** There are several good reasons, scientifically, ethically, and legally to enact wetlands ordinances. Many surrounding communities in Dutchess County have already enacted wetland ordinances based on sound reasoning. Ultimately, environmental protection is the responsibility of local decision makers like you. As elected officials, the questions that you need to answer when considering the passage of this ordinance are: do you really care about protecting our water supply and environment for future generations? And, if so, are you willing to lead your constituency to higher ground standing up to the predictable opposition from developers?*

Thank you very much, Adelaide Camillo

Ms. Camillo said thank you to the committee for the ordinance. After 18 months, there is still a need for regulations. The DEC letter that was submitted to the town explains why there is a need for regulations. The letter from Mr. John Parker, Regional Attorney for the NYS Department of Environmental Conservation is on file as part of the record.

Mr. Van Tassell submitted Guidelines for Review of Local Laws Affecting Farm Operations' Use of Wetlands dated 4/11/01. He asked that the Board read them and consider them as part of their decision making.

Mr. Schuman said his understanding of Mr. Cantor's comments is that the communities that have enacted wetlands ordinances have adopted them unnecessarily. He is confused as to why they are unnecessary.

Dr. Klemens stated that the Town is not reinventing the wheel. The Board should speak with colleagues that have local ordinances. In the greater part, they work well and it hasn't been the end of the world. You can talk about diminishment in perceived dollar value, but one should consider clean water and flooding problems that should become part of a taxpayer analysis.

In response to Mr. Seymour's comments, Dr. Klemens said that the study at Cary keeps being dragged into the procedure. If he thought this was the type of response that was coming he might have waited to do the study. The intent was to give an objective scientific study, not to do anything to tie the hands of the Planning Board. If Mr. Seymour had contacted him, he would have provided him with a full project document.

Dr. Klemens read the following letter into the record.

Dear Supervisor Prisco and Members of the Board:

Thank you for the opportunity to address you while you deliberate on enacting Washington's home rule wetlands ordinance (i.e., local law). The Cary Institute of Ecosystem Studies goes on record again endorsing the home rule wetlands ordinance that you are contemplating as a reasonable, fair, and practical approach to the stewardship of these locally-important resources.

Why does Washington need this law? Aren't our wetlands already adequately regulated?

Waters that are connected to riparian systems—or where a clear ecological nexus can be demonstrated to a riparian system, are considered waters of the United States and are regulated by the Army Corps of Engineers. Freshwater wetlands that are 12.4 acres in size or larger are regulated by the NY DEC. In areas that are sparsely developed, such as upstate and western New York, many smaller wetlands persist as part of the overall working landscape. In the Hudson Valley and southern New York, smaller wetlands are disappearing at an alarming rate, and with the loss of smaller wetlands, valuable ecological services are also lost. Fortunately, New York State enables local regulation of these smaller wetlands, and a growing number of towns in the Hudson Valley are adopting home rule regulatory authority over smaller wetlands.

Testimony presented by Attorney Cantor suggesting that this local law is not needed as it is duplicative of protections/regulations already in place is simply not true. You have received written testimony from the NY DEC stating that small wetlands are generally un-protected and that the DEC favors towns assuming home rule authority over smaller wetlands. Relying on SEQRA to protect these small wetlands is both unreliable and cumbersome. In order for SEQRA to be used, the Planning Board (or other lead agency) would need to make a declaration of positive significance, which would then trigger scoping, DEIS, completeness review, FEIS, and the preparation of findings. It would be onerous and very unfair to residents of the Town to invoke positive declarations under SEQRA (with all the associated expenses and delays) to enable better planning on subdivisions and other development sites when there exists a straightforward and cost-effective method (i.e., the local law) to achieve these goals.

In contrast to over-using the positive declaration provisions of SEQRA, the adoption of the local law gives the Planning Board the ability to consider small wetlands as part of its balancing of development and conservation. To deny the Planning Board this valuable tool will result in one of two outcomes—both equally undesirable. If the Planning Board resorts to making more positive declarations under SEQRA it runs the risk of considerable public opposition because of the expense and delays incurred to the taxpayers of the Town. If, on the other hand, the Planning Board chooses not to use SEQRA, it either will not protect small wetlands on the majority of the applications it reviews, or it will try and protect these wetlands absent the legal authority to do so. The proposed local law provides the authority for the Planning Board to consider these smaller wetlands as part of its overall site planning. Such authority enhances the ability of the Planning Board to ensure the correct balance of development and conservation within the Town without cumbersome review.

Vernal pools are poorly understood systems and therefore the Town is embarking on a dangerous and uncharted pathway by including them in this regulation.

Vernal pools are wetlands, and they can so be defined by a variety of methodologies, including hydric soils, as bona fide wetlands, and also as a specific wetland type known

as a vernal pool. There is an extensive amount of peer-reviewed scientific literature on vernal pools, their ecology, and how to develop near them in an ecologically sensitive and responsible manner. Vernal pools continue to be a topic of widespread research interest and public concern as they have important functions known as ecological services that include recharge of rainwater into sub-surface aquifers, filtration and detention of floodwaters, nutrient cycling, as well as wildlife habitat. As wetlands, vernal pools are encompassed by home rule wetland ordinances in New York State—in my experience no community has ever opted to eliminate a specific ecological type of wetland from an ordinance.

The discussion that has consumed a significant portion of the Town Board's meetings has centered on vernal pools versus small wetlands; this is simply a red-herring. Vernal pools are small wetlands. The proposed ordinance could be greatly simplified by the elimination of vernal pool language—but that would need to be accompanied by a reduction in the acreage threshold of wetland protection. Although 0.25 acre will encompass some vernal pools—regulating down to a lower threshold (1/8 acre) would ensure that the majority of the productive vernal pools would be encompassed by the proposed local laws. I do agree with Mr. Cantor and others that the two-tier wetland system proposed in the local law—one standard for small wetlands and one for vernal pools in cumbersome, scientifically difficult to separate, and subject to interpretative error. Simply protecting small wetlands at a lower acreage threshold than proposed will accomplish the goals of the law while promoting clarity and transparency. In addition, the Cary Institute will, upon your request, continue to provide technical guidance as you move from legislative action to implementation.

Regulating vernal pools would usurp the powers of the Planning Board.

Nothing in the proposed wetlands ordinance is prohibitive per se, rather, the ordinance gives the Washington Planning Board the authority to examine smaller wetlands as part of their decision-making process. Wetlands are only part of the overall balancing that planning boards must do in weighing all the factors of a proposed development or subdivision. The more tools that a planning board has at its disposal, the more flexible and creative they can be at actually enabling planning, as opposed to just reacting to applications. I therefore view this proposed local law as strengthening, not diminishing, the Washington Planning Board's home rule authority.

Protecting small wetlands and vernal pools result in legal challenges.

As I stated in an email to various town officials, it has been my experience that most legal challenges to vernal pool protection result in an agency overstepping its regulatory authority. Basically it's not the laws that are generally defective; it's the application of those laws by over-zealous, protective town officials that often result in legal challenges. I do not think this is going to be an issue in the Town of Washington, where there is strong respect for the rights of individual property owners, as well as the rural character of the Town.

Position of the Cary Institute.

The Cary Institute provides the science behind environmental solutions. As such we provide information and guidance that is objective and informed by peer-reviewed research. My role at the Cary Institute is to provide guidance to municipalities who are grappling with how best to foster and protect a healthy environment to the benefit of all

species, including our own, while allowing for economic growth and prosperity. The Cary Institute strongly supports the adoption of this proposed local law.

Sincerely,

Michael W. Klemens, PhD

Research Conservationist

Cary Institute

Mr. Dyson stated that Richard Cantor has it right. The perception is if you're against this law you are against open space and water preservation. This law is fundamentally flawed, as pointed out by Mr. Klemens. Mr. Dyson said that if you are going to create a law that is going to wash over a blade of grass, it must be written with scope and precision of the law. There are serious omissions in regards to farmers. He urged the Board to understand that he is not against preserving water. The Dyson Foundation funded the Hudsonia Study. He is not against realistic preservation.

Supervisor Prisco said the Town Board will set a workshop meeting with the committee and Town Attorney to incorporate the input. There has been some very good information provided. At the workshop meeting, there will not be public input. After the workshop, an additional public hearing will be scheduled. There were several suggestions that a wetland's specialist be included in the town board discussion. The meeting will be scheduled for either June 4 or June 9.

The Town Board scheduled a special meeting for May 18, at 7:00 PM to discuss upgrades to the municipal accounting software and the server.

Mr. Beaumont said that the Comprehensive Plan Committee is working with Michael Hagerty to design a pre-survey letter. He will be meeting with Mr. Hagerty to review the document. In developing the town wide survey, the sub-committee members have been provided with a copy, and they have a three week period to critique it or offer suggested changes. The survey is one of the more important parts of the Comprehensive Plan. If the public feels there is something lacking in the survey, there is an opportunity to hand write comments. Ms. Farrell asked when the public will be invited to participate. She wondered what guarantee there is that the people will be able to talk about what is important. Town Clerk Alex said that a visioning meeting has been scheduled with River Street for Friday, September 25. Ms. Farrell asked will there be meetings prior to the survey? No.

Supervisor Prisco advised that the town had advertised in the Poughkeepsie Journal for a Project Administrator for the Community Development Block Grant project. The Town had received only one proposal, from the Chazen Companies with a total estimated budget of \$7,800.00. On a motion made by Councilman Audia and seconded by Councilman M. Murphy the Board accepted the proposal from The Chazen Companies and named them the Project Administrator for the Community Development Block Program Handicapped Accessible project at the Town Park, for a cost not to exceed \$7,800.00. All ayes were recorded.

Highway Superintendent Brownell announced that John Hay will be retiring from the Highway Department on June 1. He will then fill the vacancy at the Transfer Station.

In other business, Hwy. Sup't. Brownell said he has been shopping for a truck to replace a 1989 dump truck. He has been researching through the state bid for a 10 wheel dump truck and the cost is \$168,700. He would like the Board to consider a municipal lease for five years at a cost of \$37,754.90 per year. This has worked well for the village. The Board had several questions including whether the town can make an early payoff without penalty, and whether the heavy duty emissions will not cause engine trouble with low mileage trucks. The Board will continue this discussion at the May 18th meeting.

Recreation Director McMillan introduced Kerry Weller to the Board, as the new Recreation Commission President. Mrs. Weller said that it has been a privilege to serve on the Recreation Commission, and the work has been very rewarding. Mrs. Weller said that she believed Chris Muscari will be a tremendous asset to the recreation commission. He has been a longtime coach and is active in many different recreation activities.

Mr. McMillan said that Supervisor Prisco has signed a lease agreement with Stacy Higgins to run the park concession stand for the 2009 season. Mrs. Higgins is a local woman that has some fresh ideas for the stand.

The Town Board discussed with Mr. McMillan the 2009 park hours. On a motion made by Councilman W. Murphy and seconded by Councilman Turletes the following hours were established for the 2009 park season:

The park hours will be from 12 noon – 7:00 PM.

Beginning on Memorial Day Weekend, the park will be open for enjoyment of the grounds, but not the pool.

Beginning on June 6 the park will be opened for swimming on weekends.

From June 19 – August 23 the park will be opened daily from 12 noon – 7:00 PM. All ayes were recorded.

Mr. McMillan thanked Hwy. Sup't. Brownell for his time and effort in cleaning the pool. It was immaculate. Supervisor Prisco thanked Mr. McMillan for all of his time spent painting and preparing the park for its seasonal opening. Both of these men are very hands on individuals.

Mr. McMillan advised that the diving board did not make it through inspection and will need to be replaced. So far, summer camp is at or ahead of last years numbers. The economic conditions are hitting the town, with more families requesting scholarship assistance than in the past. The Town will look for a renewal of that funding. This year the pre-school camp is questionable. The DC Department of Health now requires that a parent remain on site during this camp. The need for pre-school care is being met by other daycare and church programs in the community.

Thanks to the assistance of Mayor Ciferri the downstairs room at the Village Hall has been completed for recreations use. As the yoga program is doing well, the idea to provide gym equipment in that area is currently under review.

Mr. McMillan notified the Board that the Town will continue to provide the Youth Employment Service (YES) program, but will not seek funding through the Dutchess County Youth Bureau. The Division of Youth is requiring more checks and follow up on the program from the users and the participants.

Mr. McMillan and Supervisor Prisco are seeking funding to improve the camp building at the town park. By installing bathrooms, a utility sink, finishing walls and winterizing the facility, the town will be able to extend the useful period of the building and park. After school activities could be moved up there, which would be ideal.

The Dutchess County Chamber of Commerce continues to be interested in the park as a lift off site for the Balloon Festival. The proposed dates are July 16 and 17. Mr. McMillan is awaiting additional information from the Chamber.

Ms. Whalen-Cassinelli wanted the Board to be aware of all of the work Warren McMillan has been doing at the park. Usually the lifeguards complete the seasonal prep work, and with the cut in the recreation budget, Warren has been doing much of the work.

Mrs. Weller said she appreciates Councilman Turletes presence at the Recreation commission meetings. It provides a great avenue of communication between the two boards.

Ms. Farrell offered Channel 22 as a resource for information regarding town programs.

Mrs. Hurley presented the Town Board with monthly bank statements and revenue and expense reports. The town has received its first sales tax payment for the year in the amount of \$46,978, which is within the targeted budget. The mortgage tax revenue continues to be bad, and A fund expenditures are being watched very carefully.

Mrs. Hurley requested a budget adjustment in the amount of \$4,135 from donations for capital improvements. On a motion made by Councilman Turletes and seconded by Councilman Audia the Board approved a budget amendment of \$4,135.00 from the donations for capital improvements to line item A 1620 0401 to fund the building façade stairway project. All ayes were recorded.

The Town Board reviewed the cost to operate the transfer station for the year 2008 and to date for 2009. In 2008 the revenues for the facility amounted to \$122,000, with an expense of \$159,000. In 2009, the anticipated revenue is \$99,000 and the anticipated expense is \$155,000. To date, the revenue is higher than anticipated and the expense has been lower than anticipated. After a discussion, a motion was made by

Councilman W. Murphy and seconded by Councilman Turletes to keep the annual pass fee at the following rates:

Resident	\$75.00
Senior (62+)	\$45.00
Additional Car	\$20.00
Contractor	\$355.00

All ayes were recorded.

The Board debated a request made by a resident to lower the senior age requirement from 62 to 60 if retired, and to offer the senior rate to a disabled resident. A resolution was offered by Councilman Audia and seconded by Councilman Turletes to offer the \$45.00 senior rate to a disabled resident, if they can provide an SSI disability letter from the Social Security Administration. All ayes were recorded.

Town Clerk Alex reported that monthly reports were filed by the Town Clerk, Tax Collector, Justice Court and Building and Zoning Administrator.

Town Clerk Alex advised that the DEC has approved rate increases for the 2009/10 season. She recommends that hunters consider purchasing lifetime licenses by Sept. 30th.

Supervisor Prisco discussed with the Board the ongoing conversations regarding the court room improvements. Mr. Ciferri has been offering some ideas about reconfigurations and will have some specifications available to use when the town is ready to request proposals.

Grievance Day is scheduled for Tuesday, May 26th from 2:00 – 5:00 PM and from 7:00 – 9:00 PM. Forms are available at the town hall.

Supervisor Prisco said she has met with a representative from the US Census Bureau. Field representatives are currently in the area to confirm addresses and housing locations.

Councilman Audia reported that furnace has been inspected by Mr. Spagnola, and should be fine for one more year. There is one section that has leaked in the past, but is not leaking now. He recommends that section be patched prior to the winter. Regarding the handicap ramp, he recommends that the town purchase the metal handi-ramps shown at a previous meeting. Reardon-Briggs is unable to purchase them at a discount, however the manufacturer will offer a discount if we purchase more than 100.

Councilman M. Murphy advised that some issues have arisen with the use of properties on South Rd. for business purposes. The businesses, a ballet studio and a yoga studio, both believe they fall under the classification of tutoring. Both have declined ZBA interpretation. A petition has been made by Mr. Winmill, the owner of the Storage facility in Mabbettsville, for an expansion of his business. Councilman M. Murphy said that calculation of the formula for residential/commercial expansion might need to be

revisited. Mr. Campbell has spoken with the Board to adjust the signage for Williams Lumber located in Washington Hollow.

At 10:45 PM, on a motion made by Councilman M. Murphy and seconded by Councilman Audia, the Board moved into Executive Session. All ayes were recorded. At 11:30 PM, on a motion made by Councilman Audia and seconded by Councilman Turletes the regular meeting resumed.

The following claims were accepted as presented:

Gen Fund A	\$26,437.31
Gen Fund B	\$6,515.82
Youth Rec	\$6,082.53
Highway Fund DB	\$52,898.60
Fund H Park Devel	\$3,053.13
Fund TA PB Escrow	\$687.50
TOTAL	\$95,674.89

There being no other business, on a motion made by Councilman Turletes and seconded by Councilman M. Murphy the meeting was closed at 11:45 PM. All ayes were recorded.

Mary Alex, Town Clerk