

Town of Washington
Town Board
September 9, 2010

The Town Board of the Town of Washington held its regular meeting on Thursday, September 9, 2010, 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 Turlletes, Michael Murphy, Robert Audia and William Murphy, Town Clerk Mary Alex, Highway Superintendent James Brownell, Bookkeeper to the Supervisor Laura Hurley, Attorney John Gifford and Associate Attorney Rebecca Valk.

Also present were Justice Elizabeth Shequine, Recreation Director Warren McMillan, Village Trustees Buddy Cox, Joe Spagnola and Stan Morse, Howard Schuman, Joan Trombini and Rita Rotunno.

Supervisor Prisco opened the meeting with the Pledge of Allegiance. She asked for a Moment of Silence in honor of the servicemen and women that are protecting our interests throughout the world.

Supervisor Prisco said that there are difficult correspondence that to receive. She has three letters of resignation. Here in the town and the village we rely very heavily on volunteers to serve on our Boards. We have very competent people on our Boards. We have a letter from Bob Alley that has served on the Planning Board. We have a letter from Tom Beaumont who is resigning from his position on the Steering Committee of the Comprehensive Plan as well as his position on the Town planning Board. We have a letter from Jim Shequine resigning from his position on the Steering Committee of the Comprehensive Plan. She said "I could talk all night about these gentlemen and their contributions to the town. They will be missed significantly for all they work they have done. Each of these men has served on other boards as well. A rousing thank you to all three of these men and sadness to us. We appreciate all that they have done.

Supervisor Prisco announced that we have received an additional two grants from the Millbrook Tribute Garden Foundation. We have received \$5000.00 for senior bus trips and \$5000.00 for scholarships for children to attend camp if there family has a financial need.

The next order of business was for the Village and Town to continue to discuss the possibility of combining the Village and Town Courts into one system in the Town. Judge Shequine said that the information that was provided by Mayor Hurley was very informative. Judge Shequine confirmed that there are ways to ensure that moneys from fines on Village ordinances are turned over to the Village. Judge Shequine said that hiring a special prosecutor, by appointment of the District Attorney, makes a lot of sense and would be cost effective for the town and advocated that the Town consider doing this in the near future, rather than waiting until the Village eliminates their court system.

There was a discussion regarding ensuring that Vehicle and Traffic revenue remain with the Town and the funds that would go to the Village. Trustee Cox said that if the Courts are combined, New York V & T law violations that occur in the Village the fines will remain with the town. If there was a violation of a Village of Millbrook Local Law the fines would go to the Village. Mayor Hurley said that the Village Board wanted to hear what the Town and Village Justices opinions were, and it seems that the concept has been positively received by all. Attorney Gifford said that the Village benefits by eliminating the court and this move would need to be revenue neutral for the Town. The Town will further discuss the hiring of a Special Prosecutor.

Ms. Rotunno said that as a Village resident she wants to hold onto what we have. In terms of impact how much more will it put on the judges, as there seems to be a lot of activity in the Village? Have you thought about if you will need to add another Town Justice? Supervisor Prisco said that it would probably double the workload of the justices, which they are aware of.

The Village and Town Board members all concurred that it is a god idea to go forward with the combination of the Town and Village Justice Court Systems. The Town Board spoke favorably about going forward with hiring a special prosecutor. The Village would need to begin the process of eliminating the position of Village Justice. Village residents may choose to bring forth a petition requesting a vote on that decision. If that was the case, ideally the village would want a special election in November at the same time as the general election.

In regard to dog licensing, Mayor Hurley said that dog licensing has been a function of the town, and to bring it back to the village would slow the cooperative process we are looking to achieve. Funds from dog licensing can only be used for animal control matters. The Village Board has decided to keep the dog licensing solely as a town function.

Supervisor Prisco introduced County Legislator Michael Kelsey, and invited him to update everyone on County happenings. Mr. Kelsey said that the increase in sales tax will begin on October 1st, the revenue from which the towns will be able to pay the election costs that is being charged to them by Dutchess County. Mrs. Hurley advised him that in a town with a village, the sales tax revenue can only be allocated to the B fund. Election costs are a function of the A fund and therefore the residents in our town will not benefit from the sales tax revenue to pay for the election costs.

The Legislature is currently considering a \$3,500,000.00 bond for jail improvements. The legislature is looking at the possibility of expanding or building a new jail in order to house the overflow of inmates that are being housed in other areas. The cost to house and transport these inmates are very high. The county has identified two sites for the potential location of a new jail. Mr. Kelsey said he could not disclose where the sites are, however they are not in the Town of Washington.

Mr. Kelsey said another bond being considered is a \$5,500,000.00 bond for the Medical Examiner and Coroner's office. They are currently located in a small closet sized area of Vassar Brothers Hospital.

The other item being reviewed is the Resource Recovery Agency, and that the full Legislature will be meeting to discuss the Solid Waste Management Plan that is required to be completed by January.

The Town and Village Boards were presented with an intermunicipal cooperation agreement cloaking each other's code officer. This agreement was drafted by Attorney Valk at the request of Supervisor Prisco and Mayor Hurley.

Trustee Spagnola asked if one of the Building Inspectors was to be out for an extended period of time, would the cooperating Building Inspector have the authority to issue an applicant a building permit. Ms. Valk said yes they could, however it would need to be reasonable. For example, if a building inspector was out for a couple of days, it would be unreasonable to apply to the cooperating inspector for a permit. In a long term absence, it would be acceptable.

On a motion made by Councilman M. Murphy and seconded by Councilman Audia, the Town Board authorized Supervisor Prisco to sign and enter into the following agreement. All ayes were recorded.

On a motion made by Trustee Morse and seconded by Trustee Spagnola, the Village Board authorized Mayor Hurley to sign and enter into the following agreement. All ayes were recorded.

INTERMUNICIPAL COOPERATION AGREEMENT

AGREEMENT, made this 9th day of September, 2010 between the TOWN OF WASHINGTON (the "Town") with offices at 10 Reservoir Drive, Millbrook, NY 12525 and the VILLAGE OF MILLBROOK (the "Village"), with offices at 35 Merritt Avenue, Millbrook, NY 12525.

WHEREAS, the Town has the authority to regulate and enforce the construction and occupation of buildings and structures, and the use and occupancy of parcels of property, located within the Town of Washington, pursuant to the New York State Uniform Fire Prevention and Building Code, the Town of Washington Zoning Law, Town Law §268 and Municipal Home

Rule Law §10 (collectively referred to hereinafter as the Town’s “building and zoning laws”); and

WHEREAS, the Village has the authority to regulate and enforce the construction and occupation of buildings and structures, and the use and occupancy of parcels of property, located within the Village of Millbrook, pursuant to the New York State Uniform Fire Prevention and Building Code, the Village of Millbrook Village Code, Village Law §§7-714 and 20-2006 and Municipal Home Rule Law §10 (collectively referred to hereinafter as the Village’s “building and zoning laws”); and

WHEREAS, there are occasionally situations where either the Town or the Village will need additional assistance with regards to the regulation and enforcement of its building and zoning laws due to either the absence of a municipal employee or due to the need for additional enforcement officials due to the size of a particular project; and

WHEREAS, the Town and the Village wish to enter into an agreement whereby each municipality may request assistance in the regulation and enforcement of its buildings and zoning laws from the other municipality; and

WHEREAS, this agreement is made pursuant to authority granted by General Municipal Law Article 5-G.

NOW, THEREFORE, in consideration of the mutual covenants provided for herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. The Village Board of Trustees hereby states that:
 - a. The Village’s building inspector, zoning administrator and/or code enforcement officer(s) are authorized to and may provide assistance to the

Town in the regulation and enforcement of Village's building and zoning laws upon the Town's reasonable request for such assistance.

- b. Any Town building inspector, zoning administrator and/or code enforcement officer(s) providing assistance to the Village pursuant to the terms of this Agreement shall, in addition to making all necessary and required inspections during the terms of this Agreement, have all authority granted to building inspectors, zoning administrators and/or code enforcement officers under the Village's building and zoning laws, including the authority to issue any orders, notices or tickets regarding the enforcement of the Village's building and zoning laws, including the New York State Uniform Fire Prevention and Building Code.

2. The Town Board hereby states that:

- a. The Town's building inspector, zoning administrator and/or code enforcement officer(s) are authorized to and may provide assistance to the Village in the regulation and enforcement of the Town's building and zoning laws upon the Village's reasonable request for such assistance.
- b. Any Village building inspector, zoning administrator and/or code enforcement officer(s) providing assistance to the Town pursuant to the terms of this Agreement shall, in addition to making all necessary and required inspections during the terms of this Agreement, have all authority granted to building inspectors, zoning administrators and/or code enforcement officers under the Town's building and zoning laws, including the authority to issue any orders,

notices or tickets regarding the enforcement of the Town's building and zoning laws, including the New York State Uniform Fire Prevention and Building Code.

3. The parties recognize that whether a request is "reasonable" will be dependent upon the particular facts in a given situation. For example, a request by the Town to the Village for assistance during its code enforcement officer's scheduled time off would be made upon greater notice than a request by the Town to the Village to conduct an inspection to determine the structural integrity of a building after a fire. Each municipality agrees to use its best efforts to accommodate requests made by the other municipality.
4. Each municipality agrees to provide and furnish the other municipality with all maps, forms, applications, rules and local regulations, and other documents necessary to carry out the duties required by this Agreement.
5. The notes and records of all inspections made and of all orders, notices and tickets issued pursuant to this Agreement shall be filed with the municipality in which the property is located.
6. That, any liability resulting from the inspection of properties, or the issuance of orders, notices or tickets regarding the enforcement of building and zoning laws, shall be borne by the municipality where the property is located.
7. That any fees collected by any enforcement officer pursuant to local laws or the New York State Uniform Fire Prevention and Building Code, shall be remitted to the municipality where the property responsible for said fees is located.
8. That each party shall provide appropriate liability insurance to cover any and all

liability that may arise under the terms of this agreement;

9. Any code enforcement officer providing assistance to a requesting municipality under this Agreement shall not be considered an employee of the requesting municipality.
10. This Agreement shall be amended or modified only upon approval by a majority vote of the Town Board of the Town and the Board of Trustees of the Village and the execution of a modified agreement.
11. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall be deemed one instrument.
12. This Agreement was approved by a vote of the Village of Millbrook Board of Trustees on September 9, 2010
13. This Agreement was approved by a vote of the Town Board of the Town of Washington on September 9, 2010.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first written above.

TOWN OF WASHINGTON

By: _____
FLORENCE PRISCO, SUPERVISOR

VILLAGE OF MILLBROOK

By: _____
LAURA HURLEY, MAYOR

Ms. Valk raised the issue that some towns have requested agreements for their highway departments to work with other departments. Highway Superintendent Brownell said that the

NYS Highway Law already has provisions allowing for the highway departments to assist each other when required. The departments have done so for many, many years all without incident. Ms. Valk agreed that there are currently provisions in place for this assistance.

Ms. Valk reviewed with the Town Board her recent memo regarding discussions with Roger Connor of Cablevision for the proposed franchise renewal agreement.

The Board discussed the following:

The current franchise states, in sum and substance, that all residential homes within 150 feet of the trunk or feeder cable will receive service at the standard installation charge. Ms. Valk requested that the distance to be lengthened due to many of the large lots in town. Mr. Connor advised that Cablevision would not agree to go above 300 feet as a standard installation, and the homeowner would be responsible for the cost over 300 feet. The Town Board concurred that the standard installation should be lengthened to 300 feet. The same increase would be requested for municipal buildings, schools and libraries.

Paragraph 16.1 provides the Town with basic cable TV service in each municipal office building, school or library. The Town currently receives the service at the Highway Garage and is requesting service to be provided to the Town Hall and the Camp Building.

Cablevision would provide for a \$4,000.00 donation for the sole purpose of supporting public, education and governmental programming. The money could be used for such purposes as taping Board meetings or preparing for public announcements. The Board wondered if the funds could be donated to the school district or for something of equivalent value.

Town Clerk Alex has reviewed the sections of the franchise renewal pertaining to the sections which deal with providing copies of Cablevision documents to requestors under FOIL. Mrs. Alex has discussed them with Ms. Valk and is comfortable with the provisions.

Paragraph 16.2 will provide the Town with courtesy internet access at the Town Hall. This is estimated to be a \$6,000.00 value over the 10 year term of the license. Also, paragraph 18.1 will provide for the franchise fee to be paid semi-annually.

Mr. Schuman asked if the digital IO box rental fee could be waived. He has heard that some towns have been able to negotiate for that.

Ms. Rotunno said that she is paying \$72.00 per month for basic service. As a senior citizen that is retired, she knows that there are some that can't afford this charge. She would like to see a reduction for seniors. Ms. Valk said that is something that must be taken up with the NYS Public Service Commission. Ms. Rotunno said that we have residents that need to have service. If they are giving service to the town they should give it to the seniors as well. Supervisor Prisco said that she understands that Ms. Rotunno should contact the Public Service Condition, however she would like her comments also relayed to Mr. Connor. Ms. Rotunno asked if the Town can say to Cablevision that we are going to bring in another server.

Councilman Turletes suggested that the Town can reach out to Verizon to see if they might be interested in serving the Town.

The Board will wait until the October meeting to set the date of the Public Hearing on the contract.

Recreation Director McMillan reported that it was a good summer at the park. It didn't rain and there were many high temperature days which resulted in many people using the pool. Revenue was up this year with many people purchasing daily admission rather than season passes. Mr. McMillan indicated that the lifeguard line was fully expended. The trees by the park entrance will be removed within the next few weeks, due to safety concerns. He said that there has been discussion that the town should request from the NYS DOT a reduction of the speed limit by the new park entrance beyond the restaurant When Pigs Fly South. He agrees with this idea. Mrs. Hurley reminded everyone that there is still \$7,400.00 in the camp building fund.

On a motion made by councilman Audia and seconded by Councilman Turletes to open the Public Hearing for Community Development Block Grant funding. This is an opportunity for anyone to bring forth ideas on projects the town might wish to request funding for. No comments were offered.

RESOLUTION

Councilman Audia, seconded by Councilman , introduced the following proposed local law, to be known as Local Law No. ____ of 2010, entitled A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK TO EXTEND LOCAL LAW #4 OF THE YEAR 2007 "A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK TO AMEND THE ZONING CODE OF THE TOWN OF WASHINGTON TO ADD A NEW SECTION 395 ENTITLED 'REGULATION FOR AN INTERIM PERIOD OF DEVELOPMENT AND USE OF LANDS AND BUILDINGS'" FOR AN ADDITIONAL YEAR.

BE IT ENACTED by the Town Board of the Town of Washington that the Town Code is amended to read as follows:

Section 1. PURPOSE

The Interim Development Law, adopted as Local Law No. 4 of 2007, became effective upon filing with the New York State Department of State on November 16, 2007. By its express terms the Interim Development Law was due to expire one (1) year from the date of filing, or November 16, 2008.

Subsequently, the Town Board adopted Local Laws in both 2008 and 2009, extending the term of the moratorium for one (1) additional year, to November 16, 2009 and then to November 16, 2010.

The Town Board, the Comprehensive Master Plan Review Committee and all sub-committees, along with the Town's consultants all continue to study, review and consider the content of the Town's future master plan. During the last year, the Comprehensive Master Plan Review Committee and all of its sub-committees conducted extensive research, met on a regular basis to discuss, evaluate and debate the research gathered, and public "visioning" sessions were held to allow for community input.

Upon completion of the proposed master plan, the document will be reviewed pursuant to the State Environmental Quality Review Act and, upon adoption of the new master plan document, necessary companion updates, if any, to the Town Zoning Code will be prepared.

Inasmuch as the Comprehensive Master Plan Review Committee, the Town Board and the Town's consultants will require some additional time to finalize a draft master plan proposal, undertake SEQRA review, set a date(s) for public comment, and adopt the new master plan document and any necessary companion updates to the Town Zoning Code as recommended by the Comprehensive Master Plan Review Committee, much of which will take place after November 16, 2010, the Board deems it prudent to extend the expiration date of the Interim Development Law for an additional one (1) year period to provide the Board sufficient

time in which to consider the new Master Plan and obtain public comment. This extension to Local Law No. 4 of 2007 is specifically determined to be necessary in order to maintain the *status quo* pending continued work on the preparation and enactment of a new Master Plan and any necessary companion updates to the Town Zoning Code.

Section 2. AUTHORITY

This extension of Local Law #4 of 2007 is enacted by the Town Board of the Town of Washington pursuant to its authority to adopt local laws under the New York State Constitution Article IX and Municipal Home Rule Law Section 10.

Section 3. ENACTMENT OF EXTENSION TO THE TEMPORARY MORATORIUM

The expiration date of LOCAL LAW #4 OF 2007, ENTITLED "A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK TO AMEND THE ZONING CODE OF THE TOWN OF WASHIGNTON TO ADD A NEW SECTION 395 ENTITLED 'REGULATION FOR AN INTERIM PERIOD OF DEVELOPMENT AND USE OF LANDS AND BUILDINGS'", which was previously extended until November 16, 2010, is hereby further extended for a period of one (1) year beginning November 16, 2010, after which date Local Law #4 of 2007 shall lapse and be without further force and effect unless further extended by action of the Town Board.

Section 4. This Local Law shall be filed immediately with the Secretary of State as provided by law and shall be effective as of November 16, 2010.

Supervisor Prisco advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this local law.

Councilman Audia offered the following resolution which was seconded by Councilman Turletes, who moved its adoption:

WHEREAS, on September 9, 2010, Councilman Audia has introduced this local law for the Town of Washington, to be known as "Town of Washington Local Law No. __ of the Year 2010, a local law of the Town of Washington, Dutchess County, New York, to extend Local Law #4 of the Year 2007 "A local law of the Town of Washington, Dutchess County, New York to amend the Zoning Code of the Town of Washington to add a new section 395 entitled 'Regulation for an Interim Period of Development and Use of Lands and Buildings'" for an additional year.

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Town Hall, 10 Reservoir Drive, Millbrook, New York, on October 14, 2010 7 o'clock, p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Washington, by the Town Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Washington will hold a public hearing at the Town Hall, 10 Reservoir Drive, Millbrook, New York on October 14, 2010, 2010 at 7:00 o'clock, p.m., on Local Law No. __ of the Year 2010, to extend Local Law #4 of the Year 2007 "A local law of the Town of Washington, Dutchess County, New York to amend the Zoning Code of the Town of Washington to add a new section 395 entitled 'Regulation for an Interim Period of Development and Use of Lands and Buildings'" for an additional year.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Washington, at the Town Hall, 10 Reservoir Drive, Millbrook, New York between the hours of 9:00 a.m. to 12:30 p.m. and then between 1:30 p.m. to 3:00 p.m.. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Millbrook, New York
September 9, 2010

MARY ALEX, TOWN CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Prisco	Aye
Councilman Turletes	Aye
Councilman M. Murphy	Aye
Councilman Audia	Aye
Councilman W. Murphy	Absent

DATED: Millbrook, New York
September 9, 2010

Mr. Schuman asked if the Town Board would be taking the suggestion made at the last meeting to send a mailing regarding the Public hearing for the Wetlands law. Councilman Murphy said that this legislation shouldn't be treated differently than any other legislation, and that the appropriate notices have been made.

On a motion made by Councilman Turletes and seconded by Councilman Audia the Board approved the request made by Highway Superintendent Brownell to seek bids for highway materials. All ayes were recorded.

Highway Superintendent Brownell reported that the new grader will be delivered tomorrow. On a motion made by Councilman Audia and seconded by Councilman Turletes the Board approved the Transfer of \$85,000.00 from the Highway Truck reserve fund to the Highway Fund for a portion of the purchase of the grader. All ayes were recorded.

Mayor Hurley thanked the Highway Department for their expertise and services for the work completed in the Village on Nine Partners Lane. Their help was very much appreciated.

The Town Board was presented with bank balances, revenue and expense reports and mortgage tax data for the month. The mortgage tax data indicates that the town will receive a greater amount than anticipated for the year. Sales tax revenue will also be over what has been budgeted.

Mrs. Hurley reminded the Board that budget workshops are scheduled for 9/20 and 27, 104, 18 and 25 all at 7:00 PM.

As no comments were received on Community development Block Grant funding, on a motion made by councilman Turletes and seconded by Councilman Audia the Public Hearing on that matter was closed. The Town has decided not to pursue any CDBG funding in 2010.

Councilman Turletes advised that the Recreation Department has released the Fall and Winter brochure, which is available at the Town Hall, online and other locations throughout the village. Programs beginning in September are the after school program, dodge ball and fall soccer.

Councilman M. Murphy reported that there is an Emergency Plan meeting on September 13th. The binder from the Town will be complete for committee review and they will be discussing memorandums of understanding.

Councilman Murphy reminded everyone of the continued Public Hearing for the Wetlands ordinance. The meeting will be held at the Millbrook Fire House beginning at 7:30 PM.

Councilman Audia reported that he is receiving estimates for work on the side door. He has received two totally different ideas on gutter replacement, so he is continuing to research the best solution. Mr. Ciferri has proposed some alternate plans for the court room, which look good. The Board appreciates the many hours of his time that he donated to this project.

Due to the multiple resignations and to discuss the remaining terms and the length of any potential appointments and other legal questions raised by the recent multiple resignations submitted by members of the Comprehensive Plan Committee, on a motion made by Councilman Turletes and seconded by Councilman Audia the Board moved into Executive Session at 9:15 PM. All ayes were recorded. On a motion made by Councilman Audia and

seconded by Councilman Turletes the regular meeting resumed at 10:00 PM. All ayes were recorded.

On a motion made by Councilman Audia and seconded by Councilman Turletes the following claims were accepted as presented:

Gen Fund A	\$101,623.96
Gen Fund B	\$8,837.46
Highway Fund DB	\$118,541.51
Other Fund H	\$168,742.65
Other Fund R	\$85,000.00
Other Fund TA	\$2,785.50

All ayes were recorded.

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

Mary Alex, Town Clerk