

A special meeting of the Town Board of the Town of Ballston was held Tuesday evening, March 15, 2010 at the Town Hall on Charlton Road. Members present were Supervisor Patricia Southworth, Councilwoman Mary Beth Hynes, Councilman Jeremy Knight, Councilman Timothy Szczepaniak and Councilwoman Kimberly Ireland. Also present were Town Attorney Murry Brower and Town Clerk Muriel Swatling.

Supervisor Southworth called the meeting to order at 7:40 p.m.

The first item on the agenda was the proposed PUD for Janet V-Corners. The Town Board has to make a decision as to whether or not to forward the proposed project to the Planning Board for further consideration.

10-48: A motion was made by Patricia Southworth and seconded by Jeremy Knight to send the Janet V-Corners PUD proposal to the Planning Board.

Discussion was held regarding this motion.

The Town received an e-mail from David Schlitzer and Jennifer David expressing their concerns regarding this proposal. Councilman Szczepaniak commented about the walkability, buildings regarding parking, green space and co-locating residential and commercial space as stated in the e-mail.

- a) The design does not provide walkability from the North.
- b) Parking is located behind the buildings. Keep the parking lots from behind the buildings fronting major roads.
- c) Green space is useable for the general public. How many people from the public will go into that area to use the green space?

Supervisor Southworth then asked the Town Board if the proposed uses presented fit the area.

Councilman Szczepaniak replied yes.

Councilwoman Hynes said she appreciated the additional time to review this proposal. You did a thorough job. You were at a disadvantage because as I was reviewing the proposal, you didn't know what exactly the Town Board wants. In reviewing A, B, and C it could be all residential, commercial, and industrial. The preference is to bring in a grocery store. The way the project is laid out, it shows a grocery store and parking and another pad site with parking all around the building. Councilwoman Hynes stated she is looking for a streetscape. Build to a point and then provide more walkability. Right now, it is more car friendly. In the northern part of Town we were hoping to keep it similar to what is going on in the Village. We're trying to stay away from the urban feeling. Tie it in more with the Senior Housing. Walkability. I appreciated not having monsterly high commercial and senior housing buildings.

Supervisor Southworth stated she is not in favor of drive-thru buildings; she favors walkability.

Mr. Levine said it is hard to review the plan. How come there is a lane in front of the buildings? Because DOT will probably widen Route 50 and install a roundabout. If DOT and the Town forego the option of a roundabout, then there is no problem.

Councilwoman Hynes suggested looking at the road coming in and turning the building the opposite way. The last time we looked at a PUD, it was definite with numbers. She stated she has a hard time looking at a plan with multiple purposes.

Mr. Levine stated he came to the Town Board with a very different approach. There are restrictions but feels everything can be worked out with the Planning Board and hopes the Town Board will work along with him. Most accidents happen south of Brookline Road on Route 50. Everyone is in a hurry. More accidents happen on Route 67 toward the Northway and Brookline Road. No one has really looked at accidents. There is about 51% of green space. There is a natural pond and a spring fed pond; pavilion, and wetlands. There is also a buffer. Trails lead through this area. About half of the green space is buildable.

Councilwoman Ireland asked what amount of the green space that is buildable are you giving up? About 10% is being set aside for green space.

Mr. Levine answered that the front part is all sand. The more green area, the more attractive to the public. There would be a sidewalk on Route 50 and a berm to hide the parking on Route 50. There are proposed trails and could put more connecting walkways. Cut off lighting would be used; not big glaring lights.

Councilman Szczepaniak asked if Mr. Levine felt that he could address some of these comments by the next meeting.

Mr. Levine said that DOT won't look at the project until it has been referred to the Planning Board. He would like to get Planning Board input also. He would also like continuing input from the Town Board. We would be developing this project as we go along.

Attorney Brower asked the Town Board if the plan merits further review?

Supervisor Southworth asked if you cannot get a grocery store to come in, do you plan to put some other residential area?

Mr. Levine said the residential in that area would be located above commercial.

Councilwoman Ireland asked did you have third party review for the traffic?

Attorney Peterson replied that there is so much guess work. DOT will tell us what has to be done.

Polly Windels said she thinks the Town Board should not send it to the Planning Board at this time. Councilwoman Hynes is right on when she said we should be making a connection between the rural and the Village. This is not clearly articulated.

Councilman Knight said that he is sticking by what he said at the last meeting. His concerns had been addressed.

Councilwoman Ireland said send it to the Planning Board and then have a workshop with the Planning Board. We have concerns.

Councilwoman Hynes answered that it has not been the role of the Town Board to go to the Planning Board. Let them do their job.

Attorney Peterson said that the project will go to the Planning Board and then come back to the Town Board; then it can be workshopped.

Councilwoman Ireland spoke regarding open space. Some land is left green because you can't do anything with it.

Councilwoman Hynes spoke regarding the transfer of development rights. Maybe you could provide preservation of open space somewhere else in Town.

The vote on resolution 10-48 is as follows:

10-48: A motion was made by Patricia Southworth and seconded by Jeremy Knight to send the Janet V-Corners Planned Unit Development proposal to the Planning Board. Roll Call: Councilwoman Hynes – aye; Councilman Knight – aye; Councilman Szczepaniak – aye; Councilwoman Ireland – aye; Supervisor Southworth – aye. Motion carried.

Councilwoman Hynes said her concerns are DOT, open space issues, define what the proposal is and the percentage of each type.

Councilman Szczepaniak is confident the concerns will be addressed.

The following resolution was presented to be sent to the IDA regarding the Town of Ballston's request for funding.

10-49: A motion was made by Jeremy Knight and seconded by Kimberly Ireland to adopt the following resolution to be presented to the IDA regarding the Town of Ballston's request for funding.

WHEREAS, the Town Board, acting as Commissioners of Water District No. 2 and its various extensions located in the Town of Ballston, has voted to make infrastructure improvements that are necessary to promote economic development in the Town of Ballston; and

WHEREAS, a connection to the Saratoga County Water Authority system will allow for an increase in fire flow, as well as, an increased capacity which is a critical component in any effort to grow jobs; and

WHEREAS, the Town Board, acting as Commissioners of Water District No. 2 and its various extensions, is going to construct a fully operational pump station in the vicinity of Route 67 and East Line Road which will serve as a connection to the Saratoga County Water Authority main and provide service, should a break in the main along Route 50 occur, that would otherwise leave some users without water. The Village of Ballston Spa has an emergency connection to the Town of Ballston which currently is not capable of delivering water due to pressure differences under normal circumstances; and

WHEREAS, this corridor currently employs approximately 750 individuals at Curtis Lumber, the Curtis Industrial Park, the Ballston Commercial Park, and

WHEREAS, there is an opportunity for significant job growth with proposed projects at the Curtis Industrial Park, the Ballston Commercial Park and the Rossi-Monaco site, and

WHEREAS, Saratoga Hospital has a project proposed at Exit 12 that would benefit from water supplied by the Town of Ballston Water District No. 2, and it has discussed the possibility of making a connection to said district when it builds a new facility at exit 12, and

WHEREAS, the Corporate Technology Park, located on Route 50, employs approximately 400 individuals, has some areas for further expansion and additional properties appropriately zoned along Route 50 have strong potential for job creation in the near future; and

WHEREAS, the Saratoga Economic Development Corporation estimates the possibility that an additional 500 to 1,000 jobs can be created in properly zoned areas in the Town of Ballston; now, therefore, be it

RESOLVED that the Town Board of the Town of Ballston hereby requests a grant from the Saratoga County Industrial Development Agency to fund the cost of all engineering services for the Town of Ballston Pump Station Project; and be it further

RESOLVED, the Town Clerk shall forward a certified copy of this resolution to the Saratoga County Industrial Development Agency.

Discussion was held and changes were made to the above resolution to read as follows:

WHEREAS, the Town Board, acting as Commissioners of Water District No. 2 and its various extensions located in the Town of Ballston, has voted to make infrastructure improvements that are necessary to promote economic development in the Town of Ballston; and

WHEREAS, a connection to the Saratoga County Water Authority system will allow for an increase in fire flow, as well as, an increased capacity which is a critical component in any effort to grow jobs; and

WHEREAS, the Town Board, acting as Commissioners of Water District No. 2 and its various extensions, is going to construct a fully operational pump station in the vicinity of Route 67 and East Line Road which will serve as a connection to the Saratoga County Water Authority main and provide service, should a break in the main along Route 50 occur, that would otherwise leave some users

without water. The Village of Ballston Spa has an emergency connection to the Town of Ballston which currently is not capable of delivering water due to pressure differences under normal circumstances; and

WHEREAS, this corridor currently employs approximately 750 individuals at Curtis Lumber, the Curtis Industrial Park, the Ballston Commercial Park; and

WHEREAS, there is an opportunity for significant job growth with proposed projects at the Curtis Industrial Park, the Ballston Commercial Park the Rossi-Monaco site, and Janet V-Corners; and

WHEREAS, Saratoga Hospital has a project proposed at Exit 12 that would benefit from water supplied by the Town of Ballston Water District No. 2, and it has discussed the possibility of making a connection to said district when it builds a new facility at exit 12, and

WHEREAS, the Corporate Technology Park, located on Route 50, employs approximately 400 individuals, has some areas for further expansion and additional properties appropriately zoned along Route 50 have strong potential for job creation in the near future; and

WHEREAS, the Saratoga Economic Development Corporation estimates the possibility that an additional 500 to 1,000 jobs can be created in properly zoned areas in the Town of Ballston; now, therefore, be it

RESOLVED that the Town Board of the Town of Ballston hereby requests a grant from the Saratoga County Industrial Development Agency to fund at least the cost of all engineering services for the Town of Ballston Pump Station Project; and be it further

RESOLVED, that the Town Clerk shall forward a certified copy of this resolution to the Saratoga County Industrial Development Agency.

10-49: A motion was made by Mary Beth Hynes and seconded by Kimberly Ireland to adopt the above resolution to be forwarded to the IDA regarding the Town of Ballston's request for funding. Roll Call: Ayes – all; Noes – none. Carried.

The funds from the Town of Clifton Park will be disbursed after the project is completed.

Councilwoman Ireland asked when the first expenditures for the Saratoga County Water Authority System will be coming.

Supervisor Southworth replied that some have already been paid.

10-50: A motion was made by Kimberly Ireland and seconded by Jeremy Knight to adopt the following resolution authorizing the construction of a pump station for Burnt Hills-Ballston Lake Water District No. 2 and its connection to the Saratoga County Water Authority system, authorizing the issuance of Serial Bonds in an aggregate principal amount not to exceed \$586,000 of the Town of Ballston, Saratoga County, New York, pursuant to the Local Finance Law to finance said construction and delegating the power to issue Bond Anticipation Notes in anticipation of the sale of such bonds to the Town Supervisor, provided the Town receives grant funding from the IDA Roll

Call: Councilwoman Hynes – aye; Councilman Knight – aye; Councilman Szczepaniak – aye; Councilwoman Ireland – aye; Supervisor Southworth – aye. Motion carried.

BE IT RESOLVED, by the Town Board of the Town of Ballston, Saratoga County, New York (“the Town”) (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The specific purpose (hereinafter referred to as the “Project”) to be financed pursuant to this resolution is the construction of a metering/chlorination/pump station near the southwest corner of the intersection of NYS Route 67 and East Line Road in the Town along with connections to a 16” main and a 12” main on East Line Road to facilitate the connection of Burnt Hills-Ballston Lake Water District No, 2 (the “Water District”) to the Saratoga County Water Authority system, including necessary site work and the acquisition and installation of equipment, machinery and apparatus for the foregoing purpose. The estimated maximum cost of the Project, including preliminary costs and costs incidental thereto and the financing thereof, will not exceed \$586,000 and said amount is hereby appropriated therefore.

SECTION 2. The Town Board plans to finance the maximum estimated cost of the Project by the issuance of \$586,000 serial bonds of the Town, hereby authorized to be issued therefore pursuant to the Local Finance Law and the cost of such improvement is to be paid by assessments upon benefited real property in an area less than the area of said Town.

SECTION 3. It is hereby determined that the Project is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law and the period of probable usefulness of said purpose is forty (40) years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five (5) years.

SECTION 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes

issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 9. The Town Board has issued a negative declaration determining that the Project will not have a significant effect on the environment.

SECTION 10. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) (a) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- (b) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

- (2) Said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 11. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in the Daily Gazette, a newspaper having a general circulation in the Town of Ballston in the County of Saratoga, and hereby designated as the official newspaper of said Town of such publication.

SECTION 12. The expected source of funds to be used to initially pay for the expenditures authorized by Section 1 of this resolution shall be from the Water District Fund. The Town then reasonably expects to reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by Section 2 of this resolution. This resolution shall constitute a declaration of "official intent" to reimburse such expenditures, as required by the United States Treasury Regulations, Section 1.150-2.

SECTION 13. This resolution shall take effect immediately upon its adoption.

Attorney Brower recommended that the Town Board go out to bid on the pump station project.

10-51: A motion was made by Kimberly Ireland and seconded by Mary Beth Hynes to go out to bid for the pump station project and set a bid opening for April 27, 2010 at 3:00 p.m. Roll Call: Ayes – all; Noes – none. Carried. WHEREAS, the Town Board, acting as Commissioners of Water District No. 2 and its various extensions located in the Town of Ballston, has voted to make infrastructure improvements that are necessary to promote economic development in the Town of Ballston; and

WHEREAS, a connection to the Saratoga County Water Authority system will allow for an increase in fire flow, as well as, an increased capacity which is a critical component in any effort to grow jobs; and

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RESOLVED, that the Town Clerk shall forward a certified copy of this resolution to the Saratoga County Industrial Development Agency.

10-49: A motion was made by Mary Beth Hynes and seconded by Kimberly Ireland to adopt the above resolution to be forwarded to the IDA regarding the Town of Ballston's request for funding. Roll Call: Ayes – all; Noes – none. Carried.

Merrill McColl asked when the Town is going to start painting the water tower.

Attorney Brower responded that the Town is going to have to sue the contractor to construct the monopole before that can begin.

Dennis Pokrzywka stated that Kyle York had presented misinformation at the continuation of the public hearing held on February 23, 2010, and Mr. Pokrzywka would like to have those comments stricken from the record. Are we guaranteed that the water from the Town of Glenville won't have contamination? Can we FOIL the information regarding the hazardous waste site?

Mr. Pokrzywka said that there is TCE present in the Town of Glenville water. He presented a map to Supervisor Southworth. TCE is a water soluble chemical. It can move anywhere in the water. Mr. Pokrzywka stated that he will not drink the water from the Town of Glenville. He feels the Town should call DEC to confirm this information.

Councilwoman Ireland asked if the Town of Glenville can address this issue.

Attorney Brower said that the contamination hasn't gotten to the Great Flats Aquifer.

A motion was made by Timothy Szczepaniak and seconded by Jeremy Knight to adjourn the meeting. Carried.

Respectfully submitted,

Muriel K. Swatling
Town Clerk