

Special Meeting of the Milan Town Board held on 02/23/09 at 7:30 PM at the Milan Town Hall on the establishment of the Pasture Rock Drainage District and the proposed Local Law – Amendment to Article X “Referral and Amendment Procedures” of Chapter 200 of the Town Code of Milan.

Present: Supervisor Richard Barrett

Councilpersons David Byrne, Roberta Egan, Diane May & Ross Williams

Supervisor opened the meeting and the Clerk read the notice.

RESOLUTION # 23-09 Pasture Rock Drainage District

Resolution offered by Council. Byrne seconded by Supervisor Barrett

WHEREAS, the Town Board has received a written petition dated June 4, 2008 and amended January, 2009 from David Borenstein, (“Petitioner”) for the establishment of a Town Drainage District to be known as “Drainage District, Pasture Rock Subdivision” (the “Proposed Drainage District”); and

WHEREAS, a map, plan and report related to the establishment of the proposed Drainage District, prepared by David Clouser and Associates, duly licensed engineer of the State of New York, has been duly filed with the Town Clerk, in accordance with the requirements of Article 12 of the Town Law; and

WHEREAS, on January 12, 2009, the Town Board adopted an Order reciting the filing of the Petition, together with the map, plan and report, the proposed improvements, boundaries of the Proposed Drainage District, and all other matters required by law to be stated, and scheduling February 9, 2009 at 7:15 p.m. at Milan Town Hall, as and for a hearing on the establishment of the Proposed Drainage District; and

WHEREAS, such Order was duly published and posted as required by law; and

WHEREAS, thereafter, on February 9, 2009, the Town Board did by resolution, reschedule the public hearing to February 23, 2009, at 7:15, p.m. at Milan Town Hall, in order to provide for proper notice of the public hearing to the State Comptroller; and

WHEREAS, notice of such rescheduled public hearing was duly published and posted as required by law; and

WHEREAS, a hearing on the Proposed Drainage District was duly held on February 23, 2009, at 7:15 p.m. at Milan Town Hall, and all persons having an interest therein were given an opportunity to be heard; and

WHEREAS, pursuant to the Petition, it is the intention of the Petitioner to construct the improvements, solely at his own expense; and

NOW THEREFORE BE IT RESOLVED THAT, the Town Board of the Town of Milan does determine that:

The Petition is signed and acknowledged or proved or authenticated as required by law and is otherwise sufficient pursuant to Town Law §191; and

All property owners within the proposed Drainage District are benefitted thereby; and

All properties benefitted by the proposed Drainage District are located within the limits of the proposed Drainage District; and

It is in the public interest to grant the relief sought by the Petitioner; and

State Comptroller permission is not required as the Petitioner will provide and install the improvements at no cost to the Town and the Town will not incur any indebtedness in connection with the improvements; and

BE IT FURTHER RESOLVED THAT:

The Town Board of the Town of Milan does hereby establish the “Drainage District, Pasture Rock Subdivision”; and

The Town Clerk is hereby directed to immediately file a certified copy of this resolution, in duplicate, in the Office of the State Department of Audit and Control in Albany, New York. Roll was taken and adopted.

Councilmember Roberta Egan	Aye
Councilmember David Byrne	Aye
Councilmember Ross Williams	Aye
Councilmember Diane May	Aye
Supervisor Richard Barrett	Aye

Council. Byrne discussed email that Pam Richardson, Town Board Attorney sent regarding the Performance Bond for David Borenstein.

The Supervisor asked Mr. Lyons, D. Borenstein’s Attorney if he had any comment on this. Mr. Lyons stated that there was some language said that it is not really a performance bond but an agreement. He also referred to page two - “provisions of Town Law Section 277”. Mr. Lyons had other comments that he would be sending to Ms. Richardson for her evaluation.

Council. May wanted to know when the board would have the final document and who will prepare them.

Mr. Lyons stated that the final letter of credit will be prepared by the bank and the performance agreement is issued by the town. He stated that Ms. Richardson told him that everything would be ready by the March 9th meeting.

Discussion continued.

Council. May interjected and asked that the salary issue be put on the agenda.

Mr. Lyons had one other issues regarding drainage easements for Mr. Borenstein that are going to be required to be signed by the Supervisor. He said that there are five of them and have been drafted already. Mr. Lyons thought it would be a good idea to have them in place for the March 9th meeting.

ARTICLE X – CHAPTER 200

Council. Williams talked about some of the verbiage in the proposed law. He touched upon the issue of notification to landowners – e.g. to provide notice when the town is going to change zoning. Council. Williams read the change “When an action proposed under Section 200-72(A) amends the zoning map and changes the zoning district to which one or more properties are assigned. . . .” Discussion. He said that does not mean that there would not be a legal notice in the paper for a zoning change. He stated that since the suggestion of the change of notification came from the Planning Board that maybe before we introduce the law the board should send it back to them and ask them what they think of this.

Council. Egan stated that she was confused regarding the wording Section 200-72 (B) (1) (b) "The owners of 50% or more of the frontage in any zoning. . . . She stated that Ms. Richardson used the word "owner" instead of "frontage" - she found that to be confusing – which word would be part of the request? Council. Egan continued to read on and Ms. Richardson change it based on Lauren Kingman's recommendation "an applicant may file a petition in the office of the Town Clerk." She said that was not a bad idea if you want to put up a shed but what if you wanted to put up kennel, there might be a problem.

Council. Williams responded saying that those kinds of things would normally be handled by a variance.

Council. Egan said wouldn't that be a zoning change

Council. Williams said no that would not be a zoning change it would be a variance – he explained.

Discussion continued and there were other comments made on this issue. Since there more issues concerning this proposed law the board decided to table this.

MOTION by Council. Williams seconded by council. May to table this proposed Local Law until the next meeting. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

JUSTICE COURT ASSISTANCE PROGRAM GRANT FUND (JCAP)

The Supervisor brought up the JCAP dedicated account. He stated to the board that he reviewed the amount with Justice Christensen and the Bookkeeper and that was the amount that they came up with as of December.

MOTION by Supervisor Barrett seconded by Council. Byrne to authorize and direct the Supervisor to establish a dedicated Justice Court Assistance Program (JCAP) Grant Fund and approve the transfer of \$9,053.75 from the General fund to this newly established JCAP Fund

by 02/28/09. Discussion followed. Council. May stated that she thought the number was in correct. She said that she spoke with Justice Christensen and he told her the amount was \$9,340.75, which if you include the jury box (\$6,032.00) the amount would come to \$15,372.75. Council. May felt that we should not move forward because the board does not have the real numbers. The Supervisor stated that the idea is to establish the account. Discussion. The Supervisor said that this is the amount Justice Christensen gave him and if it changed why didn't he let him know. The Supervisor amended the **MOTION** seconded by * to delete the dollar amount – to direct the Supervisor to establish a dedicated Justice Court Assistance Program Grant Fund. Discussion. Then Council. May wanted to amend that **MOTION** seconded by * to say that when we know what the dollar amount is that that money is transferred into that line. * No one second the amendments to the first MOTION. The Board decided to withdraw all **MOTIONS and AMENDMENTS!**

MOTION by Supervisor Barrett seconded by Council. Williams to direct the Supervisor to establish a dedicated Justice Court Assistance Program Grant Fund and transfer into that fund the certified amount agreed upon between the Supervisor and the Town Justices from the General Fund. Discussion. Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

SALARY ISSUES

MOTION by Council. May seconded by Council. Williams to go into Executive Session for personnel issues regarding salaries. Roll was taken and carried. (8:05 PM)

YES - 4 Byrne, May, Williams, Barrett

NO - 0

ABSTAIN – 1 Egan

MOTION by Council. May seconded by Council. Williams to reconvene regular meeting. Roll was taken and carried. Roll was taken and carried. (8:45 PM)

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

MOTION by Council. Egan seconded by Council. May to adjourn this meeting. (8:46 PM).

Roll was taken and carried.

YES - 5 Egan, Byrne, May, Williams, Barrett

NO – 0

Respectfully submitted,

Catherine Gill, Town Clerk