

The Milan Town Board held their Regular Town Board Meeting on 04/15/2013 at 7:30 PM at the Milan Town Hall.

Present: Supervisor William Gallagher  
Councilpersons Jack Campisi, Roberta Egan, Jack Grumet, Marion Mathison

The Supervisor opened the meeting with the Pledge of Allegiance and a moment of silence for our fellow Americans in Boston (The Boston Marathon Bombing).

Pamela Johnson, Tax Collector handed out her March Monthly report. She collected \$103,198.43 in taxes and collected \$2,063.96 in penalties. She said that her cutoff date is May 31, 2013.

Deborah Blalock, Dutchess County Legislator spoke about the pending merger of Central Hudson and Fortis, Inc., that is before the Public Service Commission. She said that a group has forward a resolution that is opposed to the merger. The group made a presentation to the county legislature. She said that if individuals wanted to find out more about it you could on line. Ms. Blalock also talked about authorizing an agreement with the municipalities with Dutchess Delivery. They are offering it as a service to municipalities. They already have three (3) towns that have signed on; it should save money and will funnel information from the county to the towns. Ms. Blalock said that there was a fee attached to it but was not sure what it was. The legislators also passed and adopted a resolution asking Dutchess County to look into Solar Panels on county buildings. They also adopted the Solid Waste Management Plan, which she opposed; the reason for that was because of the cost and the impact of burning on air quality.

Rocky Mancini stated that he had a petition to reduce the speed limit on Rt. 199 and Rt. 308 through the Hamlet of Rock City, which he wanted the Supervisor to look at. The Supervisor said that he would.

Sam Lore wanted to know what the town can do about Rt. 199. The Supervisor said that it is a state road which the town has no control over.

**MINUTES:** Public Hearing/ Local Law # 1 of 2013 – 03/18/13 – **MOTION** by Supervisor Gallagher seconded by Council. Egan to accept these minutes as written. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher  
NO – 0

**MINUTES:** Regular Town Board Meeting 03/18/13 – **MOTION** by Supervisor Gallagher seconded by Council. Campisi to accept these minutes as written. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher  
NO – 0

**BUSINESS:**

Senator Terry Gipson addressed the Town Board stating that he is trying to get around to all the towns in the 44<sup>th</sup> District. He said that he is trying to find out what is important to each town. Senator Gipson said that there was one thing that the towns' wanted was mandate relief. He said that he would try to help the town with that. He also said that he would see what he could do with the situation that the town is having with the road on Rt. 199. The Senator said that his primary goal is to create jobs in the district and reduce the cost of living. He then asked if there were any questions. Council. Campisi stated that a representative from workers compensation, told the town that they had to make drastic changes to secure the town hall. The changes were

bullet proof windows, a buzzer system and other changes. This representative said that there would be someone checking up on these changes and if they were not done, the town would be fine. The Senator said that he had not heard of anything like this. He asked Council. Campisi to get the name of the representative so he could contact him. Council. Campisi said that the town just received some numbers and it will probably cost the town between \$12,000 to \$15,000. The Senator said that he would look into this and get back to the town. Council. Mathison also had some questions for the Senator. Her concern was the unfunded mandate certainly but it was also that the County and the State are able to pull money from us so therefore the town is unable to be accountable for a budget. Council. Mathison said that she would like to find a way that the town can be accountable for a budget.

### **LOCAL LAW # 1 OF 2013**

The Supervisor addressed the new Local Law #1 of 2013 – Convenience Stores/ Drive – in Business- Zoning changes. He read aloud the Full Environmental Assessment Form, Part 2 – Project impacts and their Magnitude, the Planning Board Resolution in favor of a Drive – in Business dated 11/19/12, the Planning Board resolution in favor of the Zoning change: An increase in the allowable size of a Convenience Store from 2,500 SF to 4,000 SF dated 02/07/13, The letter from Dutchess County Planning and Development dated 03/12/13 regarding the zoning change – they state it was a matter of local concern but encourage the town to be consistent with Greenway principles to ensure that structures are place at the front of the parcels and parking and drive-throughs are screened toward the rear. He read the Negative Declaration and then the Findings:

### **RESOLUTION #67 - 2013**

**Findings regarding amending the Town of Milan Zoning Code with Respect to Section 200-5 – Definition for Convenience Store: Changing the maximum size of a convenience store from 2,500 SF to 4,000 SF in the Highway Business District only; and Table A – Schedule of Use Regulations, Drive-in Business: Add “B” to HB column (B=Type B Special Use Permit Required from Planning Board)  
Town Board, Town of Milan  
April 15, 2013**

Resolution offered by Supervisor Gallagher seconded by Councilperson Egan that the: Town Board members introduced on February 18, 2013 a resolution initiating review of a local law for the subject amendment. The Town Board’s understanding and rationale for the proposed amendment is provided in the resolution as follows:

**WHEREAS**, Section 200-5, Definitions, defines a Convenience Store as “A business, containing less than 2,500 square feet of gross floor area, where food, tobacco, drugs, periodicals, beverages, snacks and similar convenience items are kept for retail sale. In the HB District only, either an automobile wash or the retail sale of gasoline or other petroleum products, or both, shall be specially permitted accessory uses requiring a Type B special use permit. The retail sale of gasoline or other petroleum products shall comply with the provisions of Section 200-41 and Section 200-45 of this chapter. (Amended 5-9-2001 by L.L. No. 3-2001; 8-8-2005 by L.L. No. 3-2005; and

**WHEREAS**, under Section 200-14.1.C. Highway Business District Bulk and Area Regulations, “Principal permitted uses shall locate in existing structures or new structures with no more than a five-thousand-square-foot building footprint...” so the increase from 2,500 square feet to 4,000 square feet will allow a convenience store to be in harmony with other retail establishments in the Highway Business district; and

**WHEREAS**, limiting a convenience store to 2,500 square feet is no longer economically viable as the increased use of convenience stores with an automobile wash or the accessory use of the retail sale of gasoline or other petroleum products require additional interior square footage for ancillary, non-productive space, such as bathroom facilities, storage facilities, adequate circulation areas, recycling compliance and office area; and

**WHEREAS**, at their February 6, 2013 regular meeting, the Planning Board recommended the Town Board approve an amendment to the Zoning Code to increase the allowable size of a convenience store from 2,500 SF to 4,000 SF in a memo dated February 7, 2013; and

**WHEREAS**, Section 200-5 of the Zoning Code defines a Drive In Business as “An establishment which, by design, physical facilities, service or by packaging procedures, encourages or permits customers to receive services and obtain goods while remaining in their motor vehicles.” This definition was added in 2003 by L.L. #1 of 2003; and

**WHEREAS**, Section 200-25 of the Zoning Code states “Plans for the erection or structural alteration of drive-in business establishments as herein defined shall be submitted to the Planning Board for approval. The Planning Board shall require such changes therein in relation to yards, driveways, driveway entrances and exits and the location and height of buildings and enclosures as it may deem best suited to ensure safety, to minimize traffic hazards or difficulties and to safeguard adjacent properties.”; and

**WHEREAS**, Table A, Schedule of Use Regulations, of the Zoning Code prohibits a Drive-in business (excluding drive-in outdoor theater) in any zoning district in Town; and

**WHEREAS**, Based on the fact that there is a definition in the code and an actual section of the code that states the procedure one must follow if one desires to establish a Drive-in business, it appears there may have been an oversight in Table A; and

**WHEREAS**, at their November 14, 2012 regular meeting, the Planning Board recommended the Town Board approve an amendment to the Zoning Code to allow a Drive-in business in the Hamlet Zoning District and the Highway Business Zoning District with site plan approval from the Planning Board in a memo dated November 19, 2012; and

**WHEREAS**, the Town Board has considered the criteria of Section 200-72.C. when making this determination; and

**WHEREAS**, the Town Board has considered the comments submitted by the Dutchess County Department of Planning and Development with regard to the Greenway principles; and

**NOW, THEREFORE, BE IT RESOLVED**, the Town Board of the Town of Milan hereby adopts these findings for the proposed enactment of a change to the Town Zoning Code.

Roll was taken and adopted.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

**RESOLUTION # 68 -2013 – Adopting Local Law # 1 of 2013 – Amending the Town of Milan Zoning Code with Respect to Section 200-5 – Definition for Convenience Store: Changing the maximum size of a convenience store from 2,500 SF to 4,000 SF in the Highway Business District only; and Table A – Schedule of Use Regulations, Drive-in Business: Add “B” to HB column (B=Type B Special Use**

**Permit Required from Planning Board)**

Resolution offered by Councilperson Campisi seconded by Councilperson Egan

**WHEREAS**, a proposed Local Law entitled “A Local Law of the Town of Milan, Dutchess County, New York, Amending the Town of Milan Zoning Code with Respect to Section 200-5 – Definition for Convenience Store: Changing the maximum size of a convenience store from 2,500 SF to 4,000 SF in the Highway Business District only; and Table A – Schedule of Use Regulations, Drive-in Business: Add “B” to HB column (B=Type B Special Use Permit Required from Planning Board) was introduced to the Town Board of the Town of Milan in the County of Dutchess and State of New York on February 18, 2013; and

**WHEREAS**, the Town Clerk caused to be published a public notice in the official newspaper of the Town, to wit: the Poughkeepsie Journal, of the Public Hearing on said proposed Local Law at least ten (10) days prior to the said Public Hearing; and

**WHEREAS**, the Town Board referred this proposed Local Law to the Town of Milan Planning Board pursuant to Section 200-72.B of the Town of Milan Zoning Code, and by resolutions adopted on November 14, 2012 and February 6, 2013, the Milan Planning Board has provided its analysis of this action and recommendations adopted by the Town Board; and

**WHEREAS**, the Town Board further referred this proposed Local Law to the Dutchess County Department of Planning and Development for review and advisory opinion pursuant to Section 239 of the General Municipal Law and Section 200-71 of the Milan Zoning Code. The Department has responded that this is a Matter of Local Concern with comments; and

**WHEREAS**, the Town Board has examined the reasoning of the Town Planning Board and the comments from the Dutchess County Department of Planning and Development and has prepared “Findings with Regard to the Enactment of the Local Law; and

**WHEREAS**, a Public Hearing on said proposed Local Law was held at the Wilcox Memorial Town Hall, 20 Wilcox Circle, Milan, New York, on the 18<sup>th</sup> day of March, 2013; and

**WHEREAS**, the Town Board determined that, pursuant to SEQRA, the adoption of this proposed Local Law is an Type 1 action, requiring the preparation of an Environmental Assessment Form (EAF) and, finding that there are no other involved agencies, the Town Board declared itself Lead Agency on February 18, 2013; and

**WHEREAS**, pursuant to SEQRA and the regulations adopted pursuant thereto (Part 617) the Town Board caused a Long Environmental Assessment Form to be prepared and filed with the Town Board which analyzed the different environmental effects associated with the adoption of the Local Law; and

**WHEREAS**, the Town Board considered the long Environmental Assessment Form Parts 1 and 2 in evaluating and assessing the importance of impacts associated with the Local Law; and

**WHEREAS**, a Negative Declaration has been prepared; and

**WHEREAS**, the Town Board has considered the criteria of Section 200-72.C. when making this determination; and

**WHEREAS**, the Town Board of the Town of Milan proposed to undertake and approve the adoption of the Local Law amending the Zoning Code with respect to increasing the allowable square footage of a convenience store in the HB zoning district and allowing a

drive through business in the HB zoning district;

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Milan, that the proposed action of adopting the proposed Local Law is a Type 1 Action under SEQRA; and it is further

**RESOLVED**, that the proposed action will have no adverse impacts upon the environment as shown in the long Environmental Assessment Form and for the reasons set forth in the Negative Declaration; and it is further

**RESOLVED**, that the Negative Declaration is hereby approved and it is determined that an Environmental Impact Statement (EIS) is not required for the proposed action; and it is further

**RESOLVED**, by the Town Board of the Town of Milan that the Local Law amending the Zoning Code of the Town of Milan with respect to increasing the allowable square footage of a convenience store in the HB zoning district and allowing a drive through business in the HB zoning district is hereby passed and adopted; and it is further

**RESOLVED**, that the Town Board hereby accepts and adopts the “Findings with Regard to the Enactment of Local Law No. 1 of the year 2013; and it is further

**RESOLVED**, that the Town Board authorizes and directs the Town of Milan Supervisor to respond to the Commissioner, Dutchess County Department of Planning and Development, within thirty (30) days as required by statute, citing the “Findings with respect to enactment of Local Law No. 1 of the year 2013” herein accepted; and it is further

**RESOLVED**, that the Town Clerk of the Town of Milan (i) enter this Resolution and the Local Law in the minutes of the Town Board; and (ii) maintain a file of all SEQRA documents and notices which are readily accessible to the public made available upon request; and it is further

**RESOLVED**, that the Town Attorney is directed to file the law with the Secretary of State.

Discussion followed. Council. Egan wanted to thank everyone for their interest in this issue. She stated that she did a lot of research on this and she found the National Association of Convenience Stores definition of a Convenience Store – “...a retail business with primary emphasis placed on providing the public a convenient location to quickly purchase from a wide array of consumable products (predominantly food or food and gasoline) and services.” She did some comparisons to different stores that we use and the square footage is much, much larger than a convenience store. Council. Egan went on to talk about the how zoning changes encourage economic growth in Milan. She said that “any economic development helps to offset our tax base by increasing the overall value of our town. Economic Development encouraged by these zoning changes can help keep residential taxes at acceptable levels, while enabling the Town to maintain vital services.” Council. Egan also talked about more goods and services that would be available for residents, encouraging new business with zoning changes increases local employment and economic opportunities and the advantage of small local business. To sum up Council. Egan said “Milan residents need a town board that supports local business and our community. No growth is not “Smart Growth.”

Council. Mathison said that her comments were about the Comprehensive Plan and a few clarifications and misperceptions. She said that during the public hearing people were operating under misunderstandings. One of them was that we were modifying the Comprehensive Plan. Council. Mathison said that the town is not modifying the Comprehensive Plan. She read the following: “Enable small-scale and limited commercial activity.”

“The Town is not opposed to commercial activity; however, residents indicate a strong preference for commercial activity that serves the people of Milan. Focusing commercial activity in the mixed-use environment of the hamlets and in home based businesses, with limited, well-designed highway business activity along Route 199, is consistent with the vision Milan residents have for our town.” This is what was put out and approved. Misperception number two seems to be that the public thinks that the board can and should determine how many businesses the town can have in the town. She said that is not legal. Council. Mathison said that the board is putting this zoning change in place so that we make this a more attractive place for a more viable business.

She said that the board is acting on the recommendation of the Planning Board and the Zoning Board not any particular opportunity at hand. Council. Grumet said that as far as the change concerning the Drive –in Business, he said that it is not a zoning change but a correction. He referred to the Code Book where it has Schedule of Use Regulations – under Drive – in business you have to have site plan approval required. He said what they are doing is rectifying a wrong in this instance and putting things in there proper perspectives. He then addressed the square footage. Council. Grumet said that in the whole highway business district you are allowed to build a 5,000 SF business. The only time you are not allowed to build one is if you are building a convenience store. He felt that it was discriminatory for a convenience store. Council. Campisi said that it did not seem reasonable not to allow a convenience store to increase the size from 2500 SF to 4000 SF when there are other establishments much larger than that allowed. He said that the board could have increased it to 5000 SF but kept it down to 4000 SF to make it a viable business out of it.

Roll was taken and adopted.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

#### **RESOLUTION #69 – 2013 Kennel Contract**

Resolution offered by Supervisor Gallagher seconded by Council. Campisi to sign the contract with the Pine Plains Vet for services. Roll was taken and adopted

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

#### **BIDS/ODAK FARM ROAD**

**MOTION** by Supervisor Gallagher seconded by Council. Campisi to authorize the Town Clerk to advertise for Bids for recycling and stabilization of Odak Farm Road. Discussion followed. Council. Egan wanted to know how long. G. Butler said it is 1.53 miles and we are going to do half of it at a cost of \$100, 00. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO -0

#### **SHARED SERVICES**

Council. Egan said that Dutchess county has created the Municipal consolidation and shared Services Grant Program. The overview of the program was that the county would set aside \$2 million in sales tax revenue to support local initiatives to increase cooperation and reduce redundancy at the municipal level. Council. Egan said that County Legislator Deborah Blalock hosted a meeting with other town officials. Council. Egan said that she attended the meeting along with Council. Campisi, who represented Supervisor Gallagher who could not attend. Eoen Rafter from Dutchess County Planning and Development was also in attendance. He explained the grant processes. Council. Egan said the town was going to share services with Red Hook along the lines of a Wood Chipper but instead the town will be purchasing one with Red Hook. She said hopefully the town will have another grant opportunity to share service with another town.

#### **PARKINSON AWARENESS MONTH PROCLAMATION**

**MOTION** by Supervisor Gallagher seconded by Council. Campisi

WHEREAS, Parkinson’s disease is a progressive neurological movement disorder of the central nervous system, which has unique impact on each patient; and

WHEREAS, according to the Parkinson’s Action Network, the )Parkinson’s Disease Foundation, the American Parkinson’s Disease Association and the National Institutes of Health, these are over one million Americans diagnosed with Parkinson’s disease; and

WHEREAS, symptoms include slowness, tremor, difficulty with balance and speaking, rigidity, cognitive and memory problems; and

WHEREAS, although new medicines and therapies may enhance life for some time for people with Parkinson's more work is needed for a cure; and

WHEREAS, increased education and research are needed to help find more effective treatments with fewer side effects and ultimately a cure for Parkinson's disease; and

WHEREAS, multidisciplinary approach to Parkinson's disease care includes local wellness, support, and caregiver groups; and

WHEREAS, April has been proclaimed as World Wide Parkinson's Awareness Month for all to recognize the need for more research and help in dealing with the devastating effects of Parkinson's disease.

NOW, THEREFORE, I, William Gallagher the Supervisor of the Town of Milan, do hereby proclaim April as Parkinson's Awareness Month in April.

Given under my hand in these United States in the Town of Milan, on this day of two thousand and thirteen, and to which I have caused the Seal of the Town of Milan to be affixed and have made this proclamation public.

Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO - 0

#### **RESOLUTION # 70- 2013 WORKERS COMPENSATION**

Resolution offered by Council. Campisi seconded by Council. Egan to terminate workers' compensation coverage with the New York Municipal Workers' Compensation Alliance, effective midnight June 30, 2013 and to purchase said coverage from Dutchess County Workers' Compensation Program, effective July 1, 2013; and further to direct the Supervisor to inform the New York State Municipal Compensation Alliance and the Dutchess County Workers' compensation Program of this change coverage. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO - 0

The Supervisor announced that the Farmers Market will be on Friday, May 17<sup>th</sup> from 3PM to 7PM and the towns' Memorial Day Parade will be on Sunday, May 26<sup>th</sup> at Noon.

#### **PUBLIC COMMENT**

Ginny Sidorik asked why the town did not contract with the SPCA. The Clerk said that she would look into it.

**BILLS** – The bills were presented to the Board for their audit and review. **MOTION** by Council. Campisi seconded by Council. Egan to pay General Abstract # 4 Claims 100 thru 142, totaling \$19,014.05 – Highway Abstract #4 Claims 44 thru 61, totaling \$32,177.19 and Escrow Abstract # 4 Claims 4 & 5, totaling \$527.75. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO - 0

**MOTION** by Council. Campisi seconded by Council. Egan to adjourn this meeting.

(9:05 PM). Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO - 0

Deleted: .

Respectfully submitted,

Catherine Gill, Town Clerk

Deleted: Y

