

## **TOWN BOARD MEETING**

**April 25, 2018**

**7:00 PM**

Supervisor Jamieson opened the meeting at 7:00pm followed by a salute to the flag. Members present: Supervisor Jamieson, Councilman Valentine, Councilman Wensley, Absent: Councilwoman Smith, Councilman Medican.

Also Present: Scott Bonacic, Esq. – Bonacic, McMahon, Al Fusco – Fusco Engineering

### **ACCEPTANCE OF TOWN BOARD MINUTES**

**ON A MOTION BY** Councilman Wensley and second by Councilman Valentine to approved the Town Board Minutes through April 11, 2018 as submitted by the Town Clerk.

**VOTE AYES 3: Jamieson, Valentine, Wensley**

**ADOPTED**

### **INTRODUCTORY LOCAL LAW – A LOCAL LAW ADDING CHAPTER 84 ENTITLED “COMMUNITY PRESERVATION FUND” TO THE TOWN CODE OF THE TOWN OF CHESTER**

Supervisor Jamieson spoke on the PDR program the Town would like to advance. He explained how a preservation fund would be established by way of bonding and/or a transfer tax on the purchase of property in the Town of Chester through Senate and Assembly approvals. He said this would be a sure way to preserve open space and would be placed on the ballot in November.

**ON A MOTION BY** Councilman Valentine and second by Councilman Wensley to Introduce into law the following:

#### **INTRODUCTORY LOCAL LAW NO. \_\_\_\_ OF 2018**

#### **A LOCAL LAW ADDING CHAPTER 84 ENTITLED “COMMUNITY PRESERVATION FUND” TO THE TOWN CODE OF THE TOWN OF CHESTER**

Be it enacted by the Town of Chester in the County of Orange, as follows:

#### **Section 1. Title**

This chapter of the Town of Chester Town Code shall be known and may be cited as the "Community Preservation Fund Law."

#### **Section 2. Purpose**

The Town of Chester has determined that it is in the best interest of the Town to adopt a Community Preservation Fund local law which help protect and preserve open and undeveloped lands in the Town of Chester. This local law will further protect historic places and properties within the Town of Chester and provide visitors and residents with additional outdoor recreational opportunities.

#### **Section 3. Legislative Intent**

This chapter of the Town of Chester Code is adopted in accordance with and pursuant to the provisions contained in New York Town Law §64.

#### **Section 4. Community Preservation Fund**

Chapter 84 entitled "Community Preservation Fund" is hereby added to the Town Code of the Town of Chester, to read as follows:

### **Chapter 84. Community Preservation Fund**

#### **Article I. Fund Established**

##### **§ 84-1. Title.**

This chapter of the Town of Chester Town Code shall be known and may be cited as the "Community Preservation Fund Law."

##### **§ 84-2. Purpose.**

This chapter is adopted for the purpose of protecting and preserving open and undeveloped lands in the Town of Chester, including wetlands, woodlands, agricultural lands, and the other natural resources of the Town; for the purpose of protecting historic places and properties within the Town; and for the purpose of providing the Town's visitors and residents with outdoor recreational opportunities, all in accordance with the provisions of §64 of the New York Town Law and as more fully set forth within.

##### **§ 84-3. Definitions.**

As used in this article, the following words and terms shall have meanings indicated:

#### **ADVISORY BOARD**

The Town of Chester Community Fund Advisory Board established and created by this chapter.

#### **COMMUNITY PRESERVATION**

Shall mean and include all of the following:

- A. Preservation of open space, including agricultural lands,
- B. Establishment of parks, nature preserves and recreation areas,
- C. Preservation of lands of exceptional scenic value,
- D. Preservation of wetlands,
- E. Preservation of aquifer recharge areas,
- F. Establishment and/or preservation of public access to waterbodies,
- G. Establishment of wildlife refuges for the purposes of maintaining biodiversity and native animal species diversity, including the protection of habitats essential to rare, endangered, threatened or special concern species,
- H. Preservation of unique or threatened ecological areas,
- I. Preservation of streams and stream buffer areas in a natural, free flowing condition,
- J. Preservation of unique forested lands,

- K. Establishment and/or preservation of public access to lands for public use including trails, stream rights and waterways,
- L. Preservation of historic places and properties listed on the National and/or New York State Registers of Historic Places and/or protected under a municipal historic preservation law; and
- M. Undertaking any of the aforementioned in furtherance of the connecting open spaces and parkland within the Town of Chester.

#### **COMMUNITY PRESERVATION PLAN**

The Town of Chester Community Preservation Plan adopted by the Town of Chester Town Board pursuant to New York Town Law §64.

#### **§ 84-4. Community Preservation Fund established.**

- A. The Town of Chester Community Preservation Fund is hereby established as authorized by § 64 of the New York Town Law.
- B. Deposits into the fund may include revenues of the Town from whatever source and shall include the revenues from a real estate transfer tax imposed by the Town pursuant to Article 31-F of the New York Tax Law.
- C. The fund shall also be authorized to accept gifts of any such interests in land or funds. Interest accrued by monies deposited in the fund shall be credited to the fund.
- D. In no event shall monies deposited in the fund be transferred into any other account.
- E. Nothing contained in this chapter shall be construed to prevent the financing in whole or in part, pursuant to New York Local Finance Law, of any acquisition authorized pursuant to this chapter. Monies from the fund may be utilized to repay any indebtedness or obligations incurred pursuant to Local Finance Law, consistent with furthering the purposes of this chapter.

#### **§ 84-5. Purposes of fund.**

- A. The purposes of the fund shall be exclusively:
  - 1) To implement a plan for the preservation of community character as required by § 64 of the New York Town Law;
  - 2) To acquire interests or rights in real property for the preservation of community character with the Town, in accordance with said plan;
  - 3) To establish a bank pursuant to a transfer of development rights program consistent with § 261-a of the Town Law, at the sole discretion of the Town Board;
  - 4) To provide a management and stewardship program for such rights and interests acquired by the fund, consistent with the provisions of this chapter and in accordance with said plan.
- B. The acquisition of interests and rights in real property under the fund shall be in cooperation with willing sellers.
- C. Not more than 10% of the fund shall be utilized for the management and stewardship program provided for in Subsection A(4) of this section.
- D. Upon the full implementation of the Community Preservation Plan, and funds being no longer required for the purposes set forth in Subsection A above, any remaining monies in the fund

shall be applied to reduce any bonded indebtedness or obligations incurred to further the purposes of Subsection A.

**§ 84-6. Advisory board established.**

- A. The Town of Chester Community Preservation Fund Advisory Board is hereby established to review and make recommendations on proposed acquisitions of interest in real property using monies from the fund, and to act in an advisory capacity to the Town Board with respect to the administration of the fund.
- B. Such board shall consist of seven (7) members, who shall be residents of the Town and who serve without compensation. No member of the Town Board shall serve on the advisory board.
- C. A majority of the members appointed shall have demonstrated experience with conservation or land preservation activities. In addition, at least one member of the advisory board shall be an active farmer.

**§ 84-7. Acquisition of interests in property; public hearing and other requirements.**

- A. No interest or right in real property shall be acquired by the fund until a public hearing is held as required by §247 of the New York General Municipal Law. However, nothing herein shall prevent the Town Board from entering into a conditional purchase agreement before a public hearing is held.
- B. Any resolution of the Town Board approving an acquisition of land pursuant to this chapter shall include a finding that acquisition was the best alternative for the protection of community character of all reasonable alternatives available to the Town.

**§ 84-8. Management of lands acquired pursuant to chapter.**

- A. Lands acquired pursuant to this chapter shall be administered and managed in accordance with the following requirements:
  - 1) Public use and enjoyment of the lands shall be allowed in a manner which is compatible with the natural, scenic, historic, and open space character of such lands;
  - 2) The native biological diversity of such lands shall be preserved;
  - 3) With regard to lands acquired as open space (as opposed to lands acquired for active recreation use or public water access, or improved lands acquired for historic preservation reasons), improvements shall be limited to those designed to enhance access for passive use of such open space lands, such as nature trails, boardwalks, bicycle paths, and peripheral parking areas, provided that such improvements do not degrade the ecological value of the land or threaten essential wildlife habitat; and
  - 4) With regard to historic properties, historic and cultural resources shall be managed and maintained in a manner which is consistent with accepted standards for historic preservation.
- B. The Town may enter into agreements with corporations organized under the New York Not-For-Profit Corporation Law and engage in land trust activities, in order to provide for the

management and supervision of lands acquired by the fund, including less than fee interests in land. Any such agreements shall, however, provide that such corporations shall keep the lands under management accessible to the public unless such corporations shall demonstrate to the satisfaction of the Town Board that public access would be detrimental to the lands or to any natural features associated therewith.

**§ 84-9. Alienation of land acquired using fund.**

- A. Rights or interests in real property which are acquired with monies from the fund shall not be sold, leased, exchanged, donated, or otherwise disposed of or used for other than the purposes permitted by this chapter without the express authority of an act of the State Legislature, which is required to provide for the substitution of other lands having equal environmental and fair market value and reasonably equivalent usefulness and location to those to be discontinued, sold, or disposed of, and which may impose other requirements too.
- B. This section shall not apply to the sale of development rights by the Town acquired pursuant to this chapter, where said sale is made by a central bank created by the Town and pursuant to a transfer of development rights program established by the Town pursuant to § 261-a of the Town Law. However, said development rights program shall provide:
  - 1) That the lands from which development rights are acquired shall remain preserved in perpetuity via a permanent conservation easement or other instrument that similarly preserves community character as defined in this article; and
  - 2) That the proceeds from any such sale shall be deposited in the fund.

**Article II. Real Estate Transfer Tax**

**§ 84-10. Definitions.**

As used in this article, the following words and terms shall have the meanings indicated:

**CONSIDERATION**

The price actually paid or required to be paid for the real property or interest therein, including payment for an option or contract to purchase real property, whether or not expressed in the deed and whether paid or required to be paid by money, property, or any other thing of value. It shall also include the cancellation or discharge of an indebtedness or obligation. It shall also include the amount of any mortgage, purchase money mortgage, lien, or other encumbrance, whether or not the underlying indebtedness is assumed or taken subject to.

- A. In the case of the creation of a leasehold interest or the granting of an option with use and occupancy of real property, consideration shall include, but not be limited to, the value of the rental and other payments attributable to the use and occupancy of the real property or interest therein, the value of any amount paid for an option to purchase or renew, and the value of rental or other payments attributable to the exercise of any option to renew.
- B. In the case of the creation of a subleasehold interest, consideration shall include, but not be limited to, the value of the sublease rental payments attributable to the use and occupancy of the real property, the value of any amount paid for an option to renew, and the value of rental or other payments attributable to the exercise of any option to renew, less the value of the remaining prime lease rental payments required to be made.

- C. In the case of a controlling interest in any entity that owns real property, consideration shall mean the fair market value of the real property or interest therein, apportioned based on the percentage of the ownership interest transferred or acquired in the entity.
- D. In the case of an assignment or surrender of a leasehold interest or the assignment or surrender of an option or contract to purchase real property, consideration shall not include the value of the remaining rental payments required to be made pursuant to the terms of such lease or the amount to be paid for the real property pursuant to the terms of the option or contract being assigned or surrendered.
- E. In the case of (i.) the original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor and (ii.) the subsequent conveyance by the owner thereof of such stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold for a cooperative unit other than an individual residential unit, consideration shall include a proportionate share of the unpaid principal of any mortgage on the real property of the cooperative housing corporation comprising the cooperative dwelling or dwellings. Such share shall be determined by multiplying the total unpaid principal of the mortgage by a fraction, the numerator of which shall be the number of shares of stock being conveyed in the cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold and the denominator of which shall be the total number of shares of stock in the cooperative housing corporation.

#### **CONTROLLING INTEREST**

- A. In the case of a corporation, either 50% or more of the total combined voting power of all classes of stock of such corporation, or 50% or more of the capital, profits, or beneficial interest in such voting stock of such corporation; and
- B. In the case of a partnership, association, trust, or other entity, 50% or more of the capital, profits, or beneficial interest in such partnership, association, trust or other entity.

#### **CONVEYANCE**

The transfer or transfers of any interest in real property by any method, including but not limited to sale, exchange, assignment, surrender, mortgage foreclosure, transfer in lieu of foreclosure, option, trust indenture, taking by eminent domain, conveyance upon liquidation or by a receiver, or transfer or acquisition of a controlling interest in any entity with an interest in real property. Transfer of an interest in real property shall include the creation of a leasehold or sublease only where (i.) the sum of the term of the lease or sublease and any options for renewal exceeds 49 years, (ii.) substantial capital improvements are or may be made by or for the benefit of the lessee or sublessee, and (iii.) the lease or sublease is for substantially all of the premises constituting the real property. Notwithstanding the foregoing, conveyance of real property shall not include the creation, modification, extension, spreading, severance, consolidation, assignment, transfer, release or satisfaction of a mortgage; a mortgage subordination agreement, a mortgage severance agreement, or an instrument given to perfect or correct a recorded mortgage; or a release of lien of tax pursuant to this article or the Internal Revenue Code.

**FUND**

The Town of Chester Community Preservation Fund created and established pursuant to §64 of the New York Town Law and Article I of this chapter.

**GRANTEE**

The person who obtains real property or an interest therein as a result of a conveyance.

**GRANTOR**

The person making the conveyance of real property or interest therein. Where the conveyance consists of a transfer or an acquisition of a controlling interest in an entity with an interest in real property, "grantor" shall mean the entity with an interest in real property or a shareholder or partner transferring stock or partnership interest.

**INTEREST IN REAL PROPERTY**

Includes title in fee, a leasehold interest, a beneficial interest, an encumbrance, development rights, air space and air rights, or any other interest with the right to use or occupancy of real property or the right to receive rents, profits or other income derived from real property. It shall also include an option or contract to purchase real property. It shall not include a right of first refusal to purchase real property.

**PERSON**

An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

**REAL PROPERTY**

Every estate or right, legal or equitable, present or future, vested or contingent, in lands, tenements or hereditaments, including buildings, structures and other improvements thereon, which are located in whole or in part within the Town. It shall not include rights to sepulture.

**RECORDING OFFICER**

The County Clerk of the County of Orange. TOWN: The Town of Chester.

**TOWN SUPERVISOR**

The Town Supervisor of the Town of Chester.

**TREASURER (COUNTY TREASURER)**

The treasurer of the County of Orange.

**§ 84-11. Imposition of real estate transfer tax.**

There is hereby imposed in the Town of Chester a tax on each conveyance of real property or interest therein where the consideration exceeds \$500, as authorized by Article 31-F of New York Tax Law, the rate of such tax to be 0.75% of the consideration for the conveyance. Revenues from such tax shall be deposited in the Town of Chester Community Preservation Fund established pursuant to Article I of this chapter and may be used solely for the purpose of said fund. Such tax shall apply to any conveyance occurring on or after \_\_\_\_\_, 2018, but shall not apply to conveyances made on or after such date pursuant to building written contracts entered into prior to such date, provided that the date of execution of such contract is confirmed by independent evidence such as the recording of the contract, payment of a deposit, or other facts and circumstances as determined by the County Treasurer.

**§ 84-12. Payment of tax.**

- A. The real estate transfer tax imposed pursuant to this article shall be paid to the Treasurer, or to the Recording Officer acting as the agent of the Treasurer upon designation as such agent by the Treasurer. Such tax shall be paid at the same time as the real estate transfer tax imposed by Article 31 of the New York Tax Law is required to be paid. Such Treasurer or Recording Officer shall endorse upon each deed or instrument affecting a conveyance a receipt for the amount of the tax so paid.
- B. A return shall be required to be filed with such Treasurer or Recording Officer for purposes of the real estate transfer tax imposed pursuant to this article at the same time as a return is required to be filed for purposes of the real estate transfer tax imposed by Article 31 of the Tax Law. The Treasurer shall prescribe the form of return, the information that it shall contain, and the documentation that shall accompany the return. Said form shall be identical to the real estate transfer tax return required to be filed pursuant to § 1409 of the Tax Law, except that the Treasurer shall adapt said form to reflect the provisions of this article which are inconsistent with, different from, or in addition to the provisions of Article 31 of the Tax Law. The real estate transfer tax returns required to be filed pursuant to this section are required to be preserved for three years and thereafter until such Treasurer or Recording Officer orders them to be destroyed.
- C. The Recording Officer shall not record an instrument electing a conveyance unless the return required by this section has been filed and unless the tax imposed pursuant to this article shall have been paid as provided in this section.

**§ 84-13. Liability for tax.**

- A. The real estate transfer tax required hereunder shall be paid by the grantee. If the grantee has failed to pay the tax imposed pursuant to this article, or if the grantee is exempt from such tax, the grantor shall have the duty to pay the tax. Where the grantor has the duty to pay the tax because the grantee has failed to pay, such tax shall be the joint and several liability of the grantee and grantor.
- B. For the purpose of the proper administration of this article and to prevent evasion of the tax hereby authorized, it shall be presumed that all conveyances are taxable. Where the consideration includes property other than money, it shall be presumed that the consideration is the fair market value of the real property or interest therein. These presumptions shall prevail until the contrary is proven, and the burden of proving the contrary shall be on the person liable for payment of the tax.



**§ 84-14. Exemptions from tax.**

- A. Exemption for government agencies. The following entities shall be exempt from payment of the real estate transfer tax imposed by this article:
- 1) The State of New York or any of its agencies, instrumentalities, political subdivisions, or public corporations (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada);
  - 2) The United Nations; and
  - 3) The United States of America and any of its agencies or instrumentalities.
- B. Exemption for certain conveyances. The real estate transfer tax imposed by this article shall not apply to any of the following conveyances:
- 1) Conveyances to the United Nations, the United States of America, the State of New York or any of their instrumentalities; agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada).
  - 2) Conveyances which are or were used to secure a debt or other obligation.
  - 3) Conveyances which, without additional consideration, confirm, correct, modify, or supplement a prior conveyance.
  - 4) Conveyances of real property without consideration and otherwise than in connection with a sale, including conveyances conveying realty as bona fide gifts.
  - 5) Conveyances given in connection with a tax sale.
  - 6) Conveyances to effectuate a mere change of identity or form of ownership or organization where there is no change in beneficial ownership, other than conveyances to a cooperative housing corporation of the real property comprising the cooperative dwelling or dwellings.
  - 7) Conveyances which consist of a deed of partition.
  - 8) Conveyances given pursuant to the Federal Bankruptcy Act.
  - 9) Conveyances of real property which consist of the execution of a contract to sell real property without the use or occupancy of such property or the granting of an option to purchase real property without the use or occupancy of such property.
  - 10) Conveyances of real property, where the entire parcel of real property to be conveyed is the subject of one or more of the following development restrictions:
    - a) An agricultural, conservation, scenic, or other open space easement which entirely prohibits the development of the property or which restricts its use solely to agriculture.
    - b) Recorded covenants or restrictions which prohibit the development of the property.
    - c) A purchase of development rights agreement.
    - d) A transfer of development rights agreement, where the property being conveyed has had its development rights removed.
    - e) Development restrictions which result from the inclusion of the property in an agricultural district or its subjection to an individual commitment, pursuant to Article 25-aa of the New York Agriculture and Markets Law.
    - f) Development restrictions which result from the subjection of the property to a local land preservation agreement, such that the development of the property is entirely prohibited or is restricted solely to agriculture.

- 11) Conveyances of real property, where the property is viable agricultural land as defined in Subdivision (7) of § 301 of the Agriculture and Markets Law and the entire property to be conveyed is to be made subject to one of the development restrictions set forth in the preceding Subsection B(10), provided that said development restrictions are evidenced by an easement, agreement, or other suitable instrument which is conveyed to the Town simultaneously with the conveyance of the real property.
- 12) Conveyances of real property for open space, parks, or historic preservation purposes to any not-for-profit tax-exempt corporation operated for conservation, environmental, or historic preservation purposes.

**§ 84-15. Additional exemptions.**

- A. There shall be allowed an exemption of \$100,000 on the consideration of the conveyance of improved real property or an interest therein.
- B. There shall be allowed an exemption of \$50,000 on the consideration of the conveyance of unimproved real property or an interest therein.

**§ 84-16. Credit for prior tax paid on creation of leasehold or grant of option or contract to purchase.**

A grantor shall be allowed a credit against the tax due on a conveyance of real property to the extent that tax was paid by such grantor on a prior creation of a leasehold of all or a portion of the same real property or on the granting of an option or contract to purchase all or a portion of the same real property by such grantor. Such credit shall be computed by multiplying the tax paid on the creation of the leasehold or on the granting of the option or contract by a fraction, the numerator of which is the value of the consideration used to compute such tax paid which is not yet due to such grantor on the date of the subsequent conveyance (and which such grantor will not be entitled to receive after such date) and the denominator of which is the total value of the consideration used to compute such tax paid.

**§ 84-17. Cooperative housing corporation transfers.**

- A. Notwithstanding the definition of "controlling interest" contained in § 84-10 hereof or anything to the contrary found in the definition of "conveyance" contained in said section, the tax imposed pursuant to this article shall apply to the following:
  - 1) The original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of proprietary leasehold by the cooperative corporation or cooperative plan sponsor.
  - 2) The subsequent conveyance of such stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the owner thereof. With respect to any such subsequent conveyance where the property is an individual residential unit, the consideration for the interest conveyed shall exclude the value of any liens on certificates of stock or other evidences of an ownership interest in and a proprietary lease from a corporation or partnership formed for the purpose of cooperative ownership of residential interest in real estate remaining thereon at the time of conveyance. In determining the tax on a conveyance described in Subsection A(1) above, a credit shall be allowed for a proportionate part of the amount of any tax paid upon the conveyance to the cooperative housing corporation of the real property comprising the cooperative dwelling or

dwellings to the extent that such conveyance effectuated a mere change of identity or form of ownership of such property and not a change in the beneficial ownership of such property. The amount of credit shall be determined by multiplying the amount of tax paid upon the conveyance to the cooperative housing corporation by a percentage representing the extent to which such conveyance effectuated a mere change of identity or form of ownership and not a change in the beneficial ownership of such property, and then multiplying the resulting product by a fraction, the numerator of which shall be the number of shares of stock conveyed in a transaction described in Subsection A(1) and the denominator of which shall be the total number of shares of stock of the cooperative housing corporation (including any stock held by the corporation). In no event, however, shall such credit reduce the tax on a conveyance described in Subsection A(1) below zero, nor shall any such credit be allowed for a tax paid more than 24 months prior to the date on which occurs the first in a series of conveyances of shares of stock in an offering of cooperative housing corporation shares described in Subsection A(1).

- B. Every cooperative housing corporation shall be required to file an information return with the County Treasurer by July 15 of each year covering the preceding period of January 1 through June 30 and by January 15 of each year covering the preceding period of July 1 through December 31. The return shall contain such information regarding the conveyance of shares of stock in the cooperative housing corporation as the Treasurer may deem necessary, including, but not limited to, the names, addresses, and employee identification numbers or social security numbers of the grantor and the grantee, the number of shares conveyed, the date of the conveyance, and the consideration paid for such conveyance.

**§ 84-18. Designation of agent by County Treasurer.**

The County Treasurer is authorized by law to designate the Recording Officer to act as his agent for the purpose of collecting the tax imposed by this article. The Treasurer shall provide for the manner in which such person may be designated as his agent subject to such terms and conditions as he shall prescribe. The real estate transfer tax shall be paid to such agent as provided in § 84-12 hereof.

**§ 84-19. Liability of Recording Officer.**

**§ 84-20. Refunds.**

Whenever the Treasurer shall determine that any moneys received under the provisions of this article were paid in error, he may cause such money to be refunded pursuant to such rules and regulations as he may prescribe, provided that any application for such refund is filed with the Treasurer within two years from the date the erroneous payment was made.

**§ 84-21. Deposit and disposition of revenue.**

- A. All taxes, penalties, and interest imposed by the Town under the authority of this article, which are collected by the Treasurer or his agents, shall be deposited in a single trust fund for the Town and shall be kept in trust and separate and apart from all other monies in possession of the Treasurer. Moneys in such fund shall be deposited and secured in the manner provided by § 10 of the General Municipal Law. Pending expenditure from such fund, moneys therein may be invested in the manner provided in § 11 of the General Municipal Law. Any interest earned or capital gain realized on the moneys so deposited or invested shall accrue to and become part of such fund.

- B. The Treasurer shall retain such amount as he may determine to be necessary for refunds with respect to the tax imposed by the Town under the authority of this article, out of which the Treasurer shall pay any refunds of such taxes to those taxpayers entitled to a refund pursuant to the provisions of this article.
- C. The Treasurer, after reserving such funds, shall, on or before the 12th day of each month, pay to the Town Supervisor the taxes, penalties, and interest imposed by the Town under the authority of this article, collected by the Treasurer pursuant to this article during the preceding calendar month. The amount so payable shall be certified to the Town Supervisor by the Treasurer, who shall not be held liable for any inaccuracy in such certification. However, any such certification may be based on such information as may be available to the Treasurer at the time such certification must be made under this section.
- D. Where the amount so paid over to the Town in any such distribution is more or less than the amount due to the Town, the amount of the overpayment or underpayment shall be certified to the Town Supervisor by the Treasurer, who shall not be held liable for any inaccuracy in such certification. The amount of the underpayment or overpayment shall be so certified to the Town Supervisor as soon after the discovery of the overpayment or underpayment as reasonably possible and subsequent payments and distributions by the Treasurer to such Town shall be adjusted by subtracting the amount of any such overpayment from or by adding the amount of any such underpayment to such number of subsequent payments and distributions as the Treasurer and Town Supervisor shall consider reasonable in view of the underpayment or overpayment and all other facts and circumstances.
- E. All monies received from the Treasurer by the Town Supervisor shall be deposited in the Community Preservation Fund established pursuant to Article I of this chapter.

**§ 84-22. Judicial review.**

- A. Any final determination of the amount of any tax payable under this article shall be reviewable for error, illegality, or unconstitutionality, or any other reason whatsoever, by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within four months after the giving of the notice of such final determination; provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:
  - 1) The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by this chapter, shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in New York State and approved by the State Superintendent of Insurance as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding shall be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or
  - 2) At the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interest, and penalties stated in such determination, plus the costs and charges which may accrue against him in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest, or penalties as a condition precedent to the application.
- B. Where any tax imposed hereunder shall have been erroneously, illegally, or unconstitutionally assessed or collected, and application for the refund or revision thereof duly made to the Treasurer, and such Treasurer shall have made a determination denying such refund or

revision, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that:

- 1) Such proceeding is instituted within four months after the giving of the notice of such denial;
- 2) A final determination of tax due was not previously made; and
- 3) An undertaking is filed with the Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding is dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

**§ 84-23. Apportionment of consideration subject to tax for property located only partly within Town.**

- A. Where real property is situated partly within and partly without the boundaries of the Town, the consideration subject to tax is such part of the total consideration as is attributable to the portion of such real property situated within the Town or to the interest in such portion. If the consideration attributable to the property located in the Town is set forth in the contract, such amount may be used to compute the tax due.
- B. If the contract does not set forth the amount of consideration attributable to the portion of real property or interest therein situated within the Town, the consideration shall be reasonably allocated between the portion of such property or interest therein situated within the Town and the portion of such property or interest therein situated without the Town. If the grantor and the grantee enter into a written agreement, signed by both the grantor and the grantee, which sets forth a reasonable allocation of consideration, that allocation of consideration may be used to compute the tax due. If the grantor and the grantee do not enter into such an agreement, or if the allocation of consideration set forth in such agreement is deemed unreasonable by the Treasurer, the allocation of consideration must be computed by multiplying the amount of consideration by a fraction, the numerator of which is the fair market value of the real property or interest therein situated within the Town, and the denominator of which is the total fair market value of all the real property or interest therein being conveyed. Except in the case of a transfer or acquisition of a controlling interest where consideration means fair market value of the real property or interest therein, the tax shall be computed on the allocated portion of the actual consideration paid, even if that amount is greater or less than the fair market value as determined by appraisal.
- C. Where the methods provided under this section do not allocate the consideration in a fair and equitable manner, the Treasurer may require the grantor and grantee to allocate the consideration under such method as he prescribes, so long as the prescribed method results in a fair and equitable allocation.

**§ 84-24. Determination of tax; petition to Town Supervisor.**

- A. If a return required by this article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the Treasurer from such records or information as may be obtainable, including the assessed valuation of the real property or interest therein and other appropriate factors. Notice of such determination shall be given to the person liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 90 days after the giving of notice of such determination, shall petition the Town

Supervisor for a hearing, or unless the Treasurer, on the Treasurer's own motion, shall determine the same. The Town Supervisor may designate, in writing, a hearing officer to hear such an appeal, which hearing officer shall file a written report and recommendation with the Town Supervisor. In any case before the Town Supervisor under this article, the burden of proof shall be on the petitioner. After such hearing, the Town Supervisor shall give notice of the determination to the person against whom the tax is assessed and to the Treasurer. Such determination may be reviewed in accordance with the provisions of § 84-22 of this article. A proceeding for judicial review shall not be instituted unless:

- 1) The amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited with the Treasurer and there shall be filed with the Treasurer an undertaking, issued by a surety company authorized to transact business in New York State and approved by the State Superintendent of Insurance as to solvency and responsibility, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding shall be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of the proceeding; or
  - 2) At the option of the petitioner, such undertaking filed with the Treasurer may be in a sum sufficient to cover the taxes, penalties, and interest thereon stated in such decision, plus the costs and charges which may accrue against him in the prosecution of the proceeding; in which event, the petitioner shall not be required to deposit such taxes, penalties, and interest as a condition precedent to the commencement of the proceeding.
- B. A person liable for the tax imposed by this article (whether or not a determination assessing a tax pursuant to Subsection A hereof has been made) shall be entitled to have the tax due finally and irrevocably fixed prior to the ninety-day period referred to in Subsection A by filing with the Treasurer a signed statement consenting thereto, in writing and in such form as the Treasurer shall prescribe.
- C. The remedies provided by this section and § 84-22 of this article shall be the exclusive remedies available to any person for the review of tax liability imposed by this article.

**§ 84-25. Proceedings to recover tax due.**

- A. Whenever any person shall fail to pay any tax, penalty, or interest imposed by this article, the Town Attorney shall, upon the request of the Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of the Town, in any court of the State of New York or of any other state or of the United States.
- B. As an additional and alternative remedy, the Treasurer may issue a warrant, directed to the Sheriff of Orange County, commanding him to levy upon and sell any real and personal property of a grantor or grantee liable for the tax which may be found within the County, for payment of the amount thereof, with any penalty and interest and the cost of executing the warrant, and to return such warrant to the Treasurer the money collected by virtue thereof within 60 days after the receipt of the warrant. The Sheriff shall, within five days after the receipt of the warrant, file with the Clerk a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalty, and interest for which the warrant is issued. Such lien shall not apply to personal property unless such warrant is filed with the Department of State. The Sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of record, and for services in executing the warrant he shall be entitled to the same fees,

which he may collect in the same manner. In the discretion of the Treasurer, a warrant of like terms, force, and effect may be issued and directed to any officer or employee of the county; and in the execution thereof, such officer or employee shall have all the powers conferred by law upon Sheriffs but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. Upon such filing of a copy of a warrant, the Treasurer shall have the same remedies to enforce the amount due thereunder as if the County of Orange had recovered the judgment therefor.

**§ 84-26. Interest and civil penalties.**

Any grantor or grantee failing to file a return or to pay any tax within the time required by this article shall be subject to a penalty of 10% of the amount of the tax due plus an interest penalty of 2% of such amount, for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due; such interest penalty shall not exceed 25% in the aggregate. If the Treasurer determines that such failure or delay was due to reasonable cause and not due to willful neglect, the Treasurer shall remit, abate or waive all of such penalty and such interest penalty.

**Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. Effective date.**

This local law shall take effect immediately upon filing with the Secretary of State.

**ON A MOTION BY** Councilman Wensley and second by Councilman Valentine to refer the Introductory Local Law – A Local Law Adding Chapter 84 Entitled “Community Preservation Fund” To The Town Code Of The Town Of Chester to the Orange County Planning Department and the Town of Chester Planning Board for comments.

**VOTE AYES 3: Jamieson, Valentine, Wensley**

**ADOPTED**

**COMMUNITY DEVELOPMENT BLOCK GRANT 2019 (CDBG)**

Supervisor Jamieson said the Board is in receipt of this year’s paperwork for the grant application. He explained the purpose was to equip the new senior center with a generator.

**ON A MOTION BY** Councilman Valentine and second by Councilman Wensley to adopt the following resolution to apply for the Community development Block Grant for 2019 and allow Supervisor Jamieson to sign same.

**VOTE AYES 3: Jamieson, Valentine, Wensley**

**ADOPTED**

## **SET PUBLIC HEARING FOR THE CDBG 2019 GRANT PROGRAM**

**ON A MOTION BY** Councilman Wensley and second by Councilman Valentine to set a public hearing on the matter of the Community Development Grant Program 2019 on May 2, 2018 at 9:00am and direct the Town Clerk to cause to public notice of same.

**VOTE AYES 3: Jamieson, Valentine, Wensley**

**ADOPTED**

## **TEMPORARY PUBLIC ASSEMBLY**

Supervisor Jamieson explained how Mr. Logothetis continues his long tradition of hosting summer concerts from the time he owned the Lycian Theatre to the current summer concert series on his private property next to the Sugar Loaf Post Office.

**ON A MOTION BY** Councilman Valentine and second by Councilman Wensley to permit Mr. Logothetis a Temporary Assembly Permit for Thursdays, between July 5, 2018 and August 30, 2018 with a rain date of September 6, 2018 from 5:30pm-8:45pm at 1405 Kings Highway, Chester, New York, subject to the receipt of the proper certificate of insurance, naming the Town of Chester as additional insured.

**VOTE AYES 3: Jamieson, Valentine, Wensley**

**ADOPTED**

**ON A MOTION BY** Councilman Valentine and second by Councilman Wensley to permit The Alzheimer's Association a Temporary Assembly Permit for Sunday, June 24, 2018 from 12noon-5:00pm at 1405 Kings Highway, Chester, New York, subject to the receipt of a certificate of insurance, naming the Town of Chester as additional insured.

**VOTE AYES 3: Jamieson, Valentine, Wensley**

**ADOPTED**

## **EDUCATION REQUESTS**

Supervisor Jamieson read the memos from Town Clerk, Linda Zappala with regard to her education requests.

**ON A MOTION BY** Councilman Wensley and second by Councilman Valentine to approve the attendance of Town Clerk Linda Zappala to the "Legal Aspects of Records Management" on May 3, 2018 from 10am-1pm at the Town of Wallkill Town Hall at no cost.

**VOTE AYES 3: Jamieson, Valentine, Wensley**

**ADOPTED**

**ON A MOTION BY** Councilman Wensley and second by Councilman Valentine to approve the attendance of Town Clerk Linda Zappala to the NY Association of Local Government Records Officers (NYALGRO) Conference from June 3-6, 2018 in Lake Placid, NY for the budgeted expense of \$698.93.

**VOTE AYES 3: Jamieson, Valentine, Wensley**

**ADOPTED**

## **NO SOLICITATION LAW**

A discussion ensued about the adoption of a law to prohibit door to door solicitation in the Town of Chester. Supervisor Jamieson said the Village of Monroe had put it in place to prevent harassment. Attorney Bonacic was directed to draft a local law document for Town Board consideration.



## **ANNOUNCEMENTS**

Supervisor Jamieson announced the Hambletonian 5K on May 26, 2018 starting at 2 Walnut Street at 8:25am, with exclusive rights to Carpenter Field from 7am-11am.

Supervisor Jamieson acknowledged the Girl Scouts letter of appreciation to the Town Board and Town Clerk for their help in bringing recycling to our parks with the assistance of Team Redeem to collect returns and make a donation to local area animal shelters.

## **WARD SYSTEM DISCUSSION**

Supervisor Jamieson started the discussion by saying that we all love the Town and want to work together with the community organizers to improve it. He said he wanted to provide the facts concerning the Greens of Chester. He provided the audience with the following history:

(The following excerpted from the Planning Board “Resolution of Approval Final Subdivision and Site Plan for Arlington Chester, LLC [Greens at Chester], dated November 6, 2013.)

An application for subdivision and site plan approval, together with a Full Environmental Assessment Form (Full EAF), was submitted to this Board on or about May 26, 1994;

On September 7, 1994 this Board issued a positive declaration pursuant to those certain regulations known as the “SEQRA regulations,” contained and set forth in the State Environmental Quality Review Act at 6 NYCRR PART 617 et.seq. finding that the application of Arlington Chester, LLC may have a significant adverse impact on the environment and that an environmental impact statement would be required;

A formal scoping session as provided for in the SEQRA regulations was conducted on October 5, 1994;

A written scope identifying those areas of concern to be studied at length in a formal Environmental Impact Statement was adopted by the Board on March 1, 1995;

A Draft Environmental Impact Statement was submitted by the applicant to the Board in May of 1995 and thereafter revised in June and July of 1995 and ultimately accepted as complete for public review on December 6, 1995;

A public hearing was held on the Draft Environmental Impact Statement and preliminary subdivision approval on February 21, 1996;

A Draft Final Environmental Impact Statement was submitted to the Board in March of 1997;

The Draft Final Environmental Impact Statement was accepted by the Board on September 30, 1998;

The SEQRA Findings Statement was adopted and preliminary subdivision approval was granted the applicant on November 18, 1998.

He added that after being dormant for a couple of years, the project was given extensions of approvals during 2000-2004 and then in 2007, the Town Board, with Steve Neuhaus and himself voted against the development saying the 432 unites would have a negative impact on the Town. A lawsuit ensued against the Town as a result and the Court settlement provided for 260 single family and 160 duplexes; not condos. He said some benefits to the Town that came out of the stipulation was that the proposed sewer plant off Tetz Lane was eliminated. Additionally, Supervisor Jamieson said the previous owner was asked to allow a rezoning of the property to commercial to prevent overdevelopment in the Town, but later on the property was sold for \$13,000,000 to a group of investors from Brooklyn.

Supervisor Jamieson said that more recently, Town zoning was changed to require 3 acre lots, eliminating any further high density developments. Councilman Valentine added that the Camp LaGuardia property was rezoned from O(Office Park) to I(Industrial). All schools of special instruction and dormitories have been taken out of existing zoning and the FAR law puts in place restrictions on building size in relation to lot size, all protective measures in an attempt to stop overbuilding in the Town.

Supervisor Jamieson said he has learned more about the ward system over the past 2-3 weeks from Assemblyman Skoufis and the Town of Clarkstown representative, in attendance tonight. Supervisor Jamieson explained that the Town is comprised of 12 voting districts, with an at-large 5-council member board and 4 school districts. He added that if the ward system went to referendum, it would be placed on the 2019 ballot (biennial election) and the Board of Elections would draw the lines based on population. A new ward system of 4-6 members put in place in 2021 or 2022 would remain the same until the 2030 census results.

Supervisor Jamieson said that the Town of Blooming Grove is happy to have the ward system in place. He added the PDR is a way to preserve our community and slow development down. Supervisor Jamieson said that the Palmer's, Johnson's and Talmadge properties along with others are looked at as future developments. He said the ward system is new to our Board and most Towns have put it in place just recently. He applauded the community members' efforts to get people involved and preserve the rural qualities of our Town.

### **PUBLIC COMMENTS**

Supervisor Jamieson opened the floor to the public for comments concerning the Ward System, either for or against.

Steven Keahon, thanked the Town Board for putting the ward system on the agenda and for allowing open dialogue between the Board and residents to help preserve Chester. He said his group, Preserve Chester, wants to build relationships with local elected officials to preserve the Town, obtain equal representation and encourage people to get out to vote. He said the benefits of the ward system would allow for equal sections by population as per the census figures, electing a candidate residing in their ward. Mr. Keahon said the Town has 8,000 registered voters and 3,200 voted in the last election. He said 850 votes put the Board in their seats. He added that his group promotes the education and registration of voters and the use of absentee ballots.

Christy Grecco, 251 Pine Hill Road, said she has voter registration forms for anyone in the audience who would like them.

Kevin Ratti, Tuthill Road, Blooming Grove said that there was a big fight waged in Blooming Grove for equal representation. He thanked the Town and the public for their efforts with the ward system and the PDR.

Bob Benedict, 22 Surrey Road, asked how Palm Tree affected Monroe. Mr. Skoufis answered that Monroe had a special election for a Board seat this year and they are trying to keep Kiryas Joel out of the voting process.

Rodney Mullins, Grandview Terrace & Whispering Hills, asked if there were any traffic studies conducted since there is a lot of traffic in the area. Supervisor Jamieson answered that studies were done earlier in the approval process and the Court stipulation doesn't require any updates be done. He added that he sent a letter to the DOT asking that the speed limit be reduced from 50mph to 40mph, and is considering installing a red light at West Street from Whispering Hills to alleviate traffic.

Joe Niles, Chester resident, asked if the Town could implement a project labor agreement to require large scale projects be done by union workers. Councilman Valentine answered that the Town government doesn't have control over who builds a project.

Amy Peltier, 3818 Whispering Hills, asked how the Town would control the construction staying within the plans and not adding additional stories to the homes. Supervisor Jamieson said that Town Engineer Al Fusco is on site for all infrastructure development and, if need be, additional building inspectors would be hired

specifically for this project which is expected to have 30-40 houses+ built per year. She asked about clear cutting. The Supervisor said it was completed on March 31<sup>st</sup>. He said the roads will be going in and the first permits will likely be issued by September or October. Councilman Valentine added that they also have to form an HOA and the Town has not received any paperwork on that to date.

Suzanne Bellanich, 25 Wilson Road, thanked the Town Board, and the Preservation Collective for their work for the community. She expressed concern about the Chester School District due to the increase cost of bussing and special education. She noted that it costs \$114,000 per/student in the Kiryas Joel School District. She asked Assemblyman Skoufis to do whatever can be done by the State to alleviate pressure on the school district. Supervisor Jamieson said he will attend a meeting on May 1<sup>st</sup> between the owners and the Chester School District Superintendent. He added that costs to the school district is a main concern. It was estimated that based on the average sales price of \$400,000, the school tax could be approximately \$6,000 p/home while the cost for bussing and special education could be approximately \$4,000,000.

A Whispering Hills resident asked what could be done to keep the community of Whispering Hills intact. Supervisor Jamieson answered that the Town will consider a no solicitation law and will stay on top of developers to prevent overgrowth.

Ms. Csernai, 16 Oakland Avenue, asked if the goal is to get the Ward system in place before the 2020 census. Supervisor Jamieson said that it cannot get on the ballot until 2019 and would then be based on the 2020 census results, so that the wards would be drawn by 2020 or 2021. Councilman Wensley added that the lines would be drawn based on the existing population. Supervisor Jamieson said one development can take over 2 wards. So it may be better not to set up wards too soon. She asked about the number of people allowed in a home. Supervisor Jamieson answered that we cannot limit the number of people living in a home. Supervisor Jamieson said the number of bedrooms would be enforced by the Building Department based on Town Code and violations issued accordingly. He said he told the developer he must follow the law.

Ron Smith, 11 Hom Street, asked for the Town Board's word that what is put on paper is what happens and that a single family home is not turned into a multi-family. Supervisor Jamieson said he gives his word that every house will be built to code and the code enforcer and engineer will review every item and every home will be a single family dwelling.

Assemblyman Skoufis, Woodbury resident with offices at 11 Main Street, said he shares the sentiments expressed. He said he met with the Supervisor and Village of Chester Mayor to discuss this issue and he thanked the Town for having this important dialog. He said he recently met with the Hudson Gateway Realtors and, if there are any realtors harassing Chester residents, he asked to be informed so he can report it to the Department of State to have their professional licenses revoked, as this practice is unethical. He said he has also put the attorney general on notice as it is illegal to exclusively market to one group of people. He added the project cannot be built for a certain group before the first home is even sold. Assemblyman Skoufis mentioned the unscrupulous practice of LLC's to buy developments and homes and has had a bill passed for LLC's to disclose the real owner. Assemblyman Skoufis acknowledged Blooming Grove and Clarkstown for the implementation of the ward system in their communities and said it is important to get it right, preferably early, better than later. He said he is a strong supporter to get it enacted and it is important for Chester to have a referendum on the ballot. He said he thinks the PDR is a great idea and that there may be other ways to fund besides through taxation. With regard to the school district, Assemblyman Skoufis said as a member of the Town Board of Woodbury since 2009 he has had a hand in the rewriting of boundaries and is looking at ways to offset costs.

County Executive Steve Neuhaus said, as a Town resident, that the Town has to say no to the Greens and BT Holdings. He said he is not ready to give up. He added that these developments will cripple the Chester School District and advised the school board to do an independent analysis. The County Exec said we should

push the developer to develop the land commercially as it will destroy the nature of the community, and not having the sewer capacity required for this project is a problem. He said he would pledge every resource and is not giving up as it is unacceptable. He added that he thought the PDR is a good step.

Mike Perry, Ramapo, said they waited too long and their vote was defeated after a court battle following petitions filed in 2003-2005 and 2012. He advised that the Board can make a motion and the vote could be on the ballot this year and implemented in 2019. After the census is complete, the lines would be redrawn. He suggested to go to 6 members.

Pete Bradley, Clarkstown Councilmember, said their vote passed 51% to 49% and, it can be done this year if the Town is politically engaged, locally.

Cindy Balzano, 85 Surrey Road, asked about the water capacity. Councilman Valentine said there are five onsite wells, a water distribution system and a storage tank to be erected on West Ave. He added the wells have been approved by the Department of Health for quantity and quality. Supervisor Jamieson added that he has been informed that there will a water purification system installed. Engineer Fusco said the DOH approval is 4 years old.

Upon a question concerning the sale of homes, Supervisor Jamieson replied that he has been informed they will be listed on the MLS for access by the general public.

Steve Amante, Town of Blooming Grove Ward 6 Councilman, which covers from Roes Orchards to Goosepond Park, Cromwell Hill to Camp LaGuardia and Greycourt Road, spoke on his successful election from waging a door to door campaign. He said he is now the liaison to the Planning and Zoning Boards and tries to represent those who elected him. He said everyone needs to abide by the same rules and regulations.

Tom Becker, 11 Sanford Ave., said in his opinion as former Water Superintendent in the Village of Chester, the water issue at the Greens will be nightmare. He said at that time, the developer drilled wells on Arcadia for testing and has a back-up well on the property of AAA Glass. Mr. Becker asked why 191 Lehigh is still operating as an illegal business after being denied a variance, and is before the planning board again. Supervisor Jamieson said the Town Board doesn't interfere with the lower boards as it is running its course through the Planning Board, and has been cited for non-maintenance issues. Mr. Becker said it should not be in front of the Planning Board since they were denied a variance. He referenced a letter written by the Building Inspector to grandfather previous zoning from the 1980's to enable them to run a business on a property that should be used as a single family house only as being illegal.

Andrew Delo, 10 Glenmere Road, said he bought his home in 2006 and is dumbfounded that this development is not subject to following environmental guidelines. He asked how many violations are allowed before they are stopped. Supervisor Jamieson said the code enforcer can issue a stop work order if they violate Town code. He asked what is going to happen once the homes are built and you cannot legally go into someone's house. Supervisor Jamieson said that the Town cannot inspect without a written complaint. Councilman Valentine said that they will only get a c/o for homes built as per plan. Mr. Delo asked if the community center could be converted to a synagogue. Supervisor Jamieson said in order to do that, it would have to come before the Zoning Board of Appeals.

Mr. Mullins asked about the school located on 17M. Supervisor Jamieson replied that the Town appealed a court ruling on their expansion. He added that the Federal Land Use Act protects against religious discrimination and that has enabled the school on the top of the hill to be developed and extended through the years.

Jason Breandi, Restdale Road, asked if the Town goes to the ward system how do you prevent two wards from going into the same area. Supervisor Jamieson said if the system gets in place too early it may not be good since they can further split.

Walter Popailo, 16 Hulse Lane, asked about the timeline of the development and the impact on the ward system. Supervisor Jamieson said the first permit could be in September or October and completed in three to four years. He opined that the ward system is a temporary measure and will not fix the problem.

Tracy Shuh, Preservation Collective, said there were great things discussed tonight to preserve the rural community and we are now all learning about the ward system. She applauded County Executive Steve Neuhaus' comments. She added that this project had studies done 20 years ago and the environmental impact is now significant enough to fight aggressively using another angle, such as the eminent domain process. She added that the school district wasn't a factor at that time as it is now, and if the Town thinks a high density project is not appropriate, then we should take action to prevent its development.

Bonnie, Preserve Blooming Grove, said they got the ward system in with a vote of 2-to-1, with the Council against. She said six wards are better because you can spread the number of people that are voting.

Tara Fontana, Goshen, whose children attend Chester schools asked about the impact on the school district and the likelihood of a new school district forming. Supervisor Jamieson replied that 400 people are needed to create a Village. He said Kiryas Joel has both public and private. Supervisor Jamieson said that, by law, the public school must provide bussing to private schools up to a certain distance. He said the next meeting in May will have more information following his meeting with the school superintendent.

County Executive Neuhaus compared this issue to Bloomingburg's impact on the Pine Bush School District. He said he wrote a letter last year requesting the formation of a new school district. He added that the Chester School District needs to weigh their options and decide how they will pay for the added expense this will bring.

Vinny Santoro, Conklingtown Road, asked why it can't be slowed down or stopped. Supervisor Jamieson said the process requires that it go through engineering and building requirements along with a formation of an HOA. He added the Town will be monitoring all permits issued and homes to be built by code. Councilman Valentine added that if a builder comes in a posts his bond and inspection fees and does everything he needs to do by code, there is nothing we can we do to stop it. He added that all testing has been approved by the required agencies and the Town Board does not have the authority to just make them stop.

Mr. Delo interjected and said we need to reach out to the Assemblyman and County Executive to go up to the State and stop the development. He remarked that all lawyers in the County are Jewish.

Supervisor Jamieson asked Mr. Delo to refrain from his comments. James Skoufis said any anti-Semitic remarks needs to be condemned and the conversation needs to be focused on the issue at hand. Supervisor Jamieson said he doesn't approve of comments that are anti-Semitic and should be stricken from the record.

Someone asked about the sewer requirement. Supervisor Jamieson said the lawsuit requires us to provide for the first 300 units, then the developer will pay for additional capacity, but the Town will have to provide. He explained that all extra infrastructure will have to be provided by the developer.

Kerry Cambria asked Steve Neuhaus to elaborate on the ways he would stop the development. County Executive Steve Neuhaus said that based on the age of the project, that the water and traffic studies could be revisited. He added the Town could pressure the developer for commercial development, buy the property to save the Town or take by eminent domain for the purpose of economic development. The County Executive

suggested that the Chester School Board prepare numbers for the public and bring to the next Town Board meeting and said he will work together with the Town to do what is right. He added that all Towns are looking to get rid of high density zoning. Councilman Valentine remarked that the past five administrations didn't take care of it so it is now resting on this Board.

Lachelle, Meadow Ave., said she is with Steve Neuhaus for saving the community.

A resident of Warwick asked if there was anything that could be done to slow down the development through financial means. The County Executive said we do not have the sewer capacity. He added that all of Orange County goes through him for social services, except for Kiryas Joel which goes through Albany.

Frank Sambets, 114 Chester Acres said whether there is a way to change anything happening with this project, the issue today is to promote the ward system to guarantee proper representation throughout the Town. He said it can get on the ballot this year by obtaining 178 signatures. He added that the School Board will be at the next Town Board meeting with figures. He said the cost of education and transportation from this development will completely devastate the School District.

Tara Fontana asked if septic would affect the well water. Supervisor Jamieson explained that it will be a public sewer and water system, with the Town managing the water and the residents of the development paying all expenses.

Mike Perry said the ward system needs three member votes to get on the ballot for the general election this year and be implemented by 2019. He said the wards would then be redistricted within 2 years of a new census if the population increases by over 10%.

Supervisor Jamieson said he wants to continue to discuss the options and do it right. He will speak to County Executive Neuhaus and Assemblyman Skoufis to find out more information. He said he believes the Board, in general, is in favor of the ward system but wants to get the opinion of the other members not present tonight. Councilman Valentine said we need further discussion on the topic. Supervisor Jamieson said the goal of this meeting was to get a feel for the concerns of the public. He said he would be busy over the next two weeks to explore the subject and bring back more information at the following meeting. He thanked everyone for coming, especially the County Executive, Assemblyman, Village Trustees, School Board members, Council from Clarkstown and Ramapo representative.

#### **EXECUTIVE SESSION AND ADJOURNMENT**

**ON A MOTION BY** Councilman Wensley and second by Councilman Valentine to enter into an Executive Session, and there being no further business brought before the Board, the meeting was adjourned at 10:00pm.

Respectfully submitted,

Linda A. Zappala  
Town Clerk  
2018-04-25