

Regular Town Board Meeting

May 14, 2015

Members Present: Supervisor Nayer, Councilperson Miller-Simmons, Councilperson Winchell-Sweeney, Councilperson Mettler and Councilperson Sullivan.

A motion was made by Councilperson Mettler and was seconded by Councilperson Miller-Simmons to waive the reading of the 9/18/15 Special and Regular Meeting minutes and accept them as written. Motion was carried.

Announcements:

May 16th there is the Town of Copake Clean-up Day, American Legion Flag Exchange Program and the West Copake Reformed Church Italian Night Buffet. The State has extend the NO Burn Rule until May 21st. May 23rd is the Copake Falls Memorial Weekend BBQ, May 25th Memorial Day Parade and Sun Rise Service at the Monument. May 30 and June 6 Summer Program Sign-ups.

Correspondence:

From the Department of the Army – a copy of a letter to Patrick Prendergast requesting more information on Camphill Village’s proposed dredging of a pond.

From Charter Communications – a letter advising the Town that the merger agreement between Comcast Corporation and Time Warner Cable has been terminated and Charter will continue to provide cable service to the Town of Copake.

From Comcast Corporation - a letter advising the Town that the merger agreement between Comcast Corporation and Time Warner Cable has been terminated and subsequent transactions agreement with Charter Communication.

From Maj and Lonny Kalfus – an email thanking Ed Ferratto for having the owners of an old excavator that hasn’t been used in three years, remove this machine.

From the VFW Post 7955 – a letter inviting Supervisor Nayer to participate in this year’s Memorial Day Sunrise Service and Parade.

From Jon Strom, Chairman Z.B.A. – a letter advising the Town Board that the Z.B.A. unanimously decided that the handling of Special Use permits should remain with the Z.B.A.

From Lindsay LeBrecht, Secretary Parks & Recreation Commission – an email requesting the Town Board appoint Jacquie Burdick to the vacant position on the Parks and Recreation Commission.

Presentation: Joe from ASA Networks advised the Board and the Public that they will be using Wi-Fi and TV White Space spectrum to offer broadband service to people in the Town of Copake who are unable to get internet service through the phone lines.

Public Forum: None

Department Head Report:

Councilperson Mettler announced that the Copake Agricultural Advisory Committee had its first meeting and appointed Lia Babitch and Christy Hegarty as Co-Chairpersons. They will be meeting monthly.

Copake Parks and Recreation Commission is finalizing the Music in the Park Program starting off with the Ghent Band on June 20th from 5:00 – 7:00.

Councilperson Miller-Simmons reported that the LURC is going to try meeting without their Chairman do to him recuperating from surgery over the next couple of weeks.

Roberta Roll Chairperson, CHRT reported on the Copake-by-Design Hamlet Weekend Meeting which was attended by a good diverse group. All of the results are available on the website and there will be links in the Copake Connection as well. Councilperson Sullivan questioned if all of the fund options were all grants? Ms. Roll responded that they are all grants.

New Business:

The Copake Zoning Board of Appeals has requested a trainer be brought into to do their annual training at the Town Hall instead of going out of Town for these required hours. The Town Board will try to set up training through the Associations of the Towns. Councilperson Mettler will report back what she finds out. Also Councilperson Mettler spoke to Leonard Barham Chairperson of the Copake Ethic's Board regarding having the Ethic's Board do the training that they had recommended to the Town Board for all Boards and Committees. Mr. Barham was very interested in this idea and was going to take it back to the Ethics Board for their input. Supervisor Nayer asked if the Town's Attorney could work with the Ethics Board in developing a training program instead of the Association of Towns. The Board thought that maybe a possibility. Councilperson Sullivan asked if the Ethics Board had to hire an outside consulting firm to help with the original matter, how are they going to be qualified to teach such a course? Supervisor Nayer advised that the Ethic Board requested permission to have an outside attorney assist with the original issue as the Town's Attorney felt that there was a conflict of interest with him consulting the Ethics Board on this issue.

A motion was made by Councilperson Winchell-Sweeney and seconded by Councilperson Miller-Simmons to authorize Supervisor Nayer to bid the crack sealing of the Town Hall Parking Lot. Motion was carried.

A motion was made by Councilperson Miller-Simmons and was seconded by Councilperson Sullivan to authorize Supervisor Nayer to include the Town of Copake's Tax Cap Freeze/1% Savings Plan with Columbia County's Report. Motion was carried.

Old Business:

The Board set a workshop with the old Comprehensive Planning Committee Members for Wednesday, May 20th at 7:00 pm to review the status of the goals for the Town set forth in the Comp Plan.

The Board set a Public Hearing for Charter Communications Franchise renewal for the Town of Copake for June 11th at 6:45 pm.

The Board discussed the status of the Copake Farmland Protection Plan. Town Attorney Dow advised that everything has been filed with the State as soon as they issue their final approval the project will be completed.

Following a discussion by the Town Board on whether to move the issuance of Special Use Permits to the Planning Board as they requested or leave it with the Z.B.A. as they have requested, a motion was made by Councilperson Sullivan and was seconded by Councilperson Winchell-Sweeney to move the Special Use Permits to the Planning Board. Supervisor Nayer, Councilperson Miller-Simmons and Councilperson Mettler voted no, Councilperson Winchell-Sweeney and Councilperson Sullivan voted yes. Motion was not carried.

Councilperson Winchell-Sweeney wanted to state that all of the work on trying to correct the errors in the Lighting District is in no way an effort to get a street light for the Library, as a matter of fact their Board of Directors voted to fund the street light at the entrance of the Library so it is no longer an issue for the Town Board. Councilperson Winchell-Sweeney and Councilperson Mettler read the following report detailing the history and current status of the lighting districts and are recommending the dissolution of these districts:

A. INTRODUCTION

The Copake-Hillsdale and Copake Light Districts have been in existence since

1920. While these Districts served a valid purpose in the early part of the 20th Century, that purpose has been outdated, and the need for the Districts no longer exists. Moreover, the continued existence of the Districts is a detriment to the residents of the Town of Copake, since the light tax imposed by Districts is unfair and arbitrary.

In view of the data presented here, it is recommended that the Town Board explore options to provide that the cost of streetlights be shared by all the taxpayers in the Town.

B. THE HISTORY OF THE LIGHT DISTRICTS

How and why the Lighting Districts were formed

A review of the Minutes of the County Board of Supervisors establishes that there was a Joint meeting of the Copake and Hillsdale Town Boards on December 2,

1920 at which the two Town Boards created the Copake-Hillsdale Lighting District, and the Town Board of Copake created the Copake Lighting District.

No rationale is cited for the creation of the Districts. A review of Minutes of the Copake Town Board from 1919 and 1920 likewise failed to elucidate a rationale for the Districts. It is significant to note however that there was no electricity in the Town of Copake at all, until 1916. At the time these Districts were set up, lights were a novelty and perhaps, seen as a luxury. It is reasonable to assume that in 1920 the principal beneficiaries of the street lights were the individuals who lived in the Hamlets. It would therefore have been reasonable for the Town Boards to legislate that only those taxpayers who were the beneficiaries of the light, would pay for the lights. (This would be similar to a sewer district, today.)

C. THE LIGHTING DISTRICTS IN THE 21ST CENTURY the Location of the Street Lights Today

In order to prepare this Report a list was obtained from NYSEG which showed every light in the Town of Copake. According to NYSEG records, there are 107 street lights in the Copake Lighting District. There are 59 lights in the Copake-Hillsdale

Lighting District, the majority of which lie within Hillsdale town bounds. Unfortunately the NYSEG list did not distinguish which lights are being assessed to Hillsdale and which are being assessed to Copake.

In order to establish the location of the lights, we conducted our own informal "light census" by photographing the lights in the Town. To date we have photographed 65 lights, which is about 50% of the street lights listed in the NYSEG inventory.

Using data obtained from Assessor Craig Surprise and the Columbia County Real Property Tax Service Agency, we have created a map showing the 406 parcels which are part of the two Lighting Districts. On this map we have superimposed the location of the streetlights, using the geotags embedded in each photograph.

This map has been produced and made available to the Town Board along with this Report.

The cost of street lights in the Town of Copake and who pays for the lights.

Only 406 of the 3169 parcels (12.08% of the total number of parcels) within the town of Copake are taxed for the payment of all the lights in the Town of Copake. (These parcels have a total assessed value of \$61,890,531 which equates to only

13.78% of the assessed value of all the property in town.)

The total cost of lights in Copake is \$15,089.54. The cost of lights in the Copake Lighting District is \$14,540, and the cost of lights in the Copake-Hillsdale Lighting District is \$549.54

D. THE PROBLEMS WITH THE CURRENT LIGHTING DISTRICTS The Tax is Arbitrary

When the Districts were set up the imposition of the tax was reasonably related to proximity to the lights, or the benefits of the lights. But today there are situations where an isolated parcel is taxed for a light nowhere nearby. There are also situations where some parcels on a particular street are taxed and others are not.

An example is an isolated parcel in Yonderview Road in Copake which is being taxed in the Copake Hillsdale Lighting District. This house is not near the Hamlet of Hillsdale- or Copake – Copake Falls. The only light on Yonderview is about a mile away in the Town of Hillsdale (at the intersection of Route 23 and Yonderview.) If there was a reason for taxing this parcel in 1920, there is no reason for it in 2015.

The tax is unfairly and inconsistently imposed

This can be seen by comparing Maple Lane to Snyder Pond Road.

Maple Lane is in the Copake Lighting District and the homeowners on that road are taxed for lights. There is no light on Maple Lane. There is a light on State Route 22 at the end of Maple Lane.

Snyder Pond Road is not in the Copake Lighting District, even though there is a light on Snyder Pond, at the intersection with Center Hill Road. But only one property on Snyder Pond road is in the lighting district, over one and a half miles from the light.

Both Snyder Pond Road and Maple Lane are situated outside of the Hamlets. There is no rationale which would explain why the people on Maple Lane are taxed for a light on a State highway, and all but one person on Snyder Pond Road are not taxed for a light on their own road.

Another example is the Copake Town Park, open and accessible to every single Copake resident. The cost of the street light at the park, however, is borne only by those assigned to the lighting district.

These Districts are obsolete as a matter of public policy

In 1920, it made sense that the people living within the hamlets pay for the street lights since they were the only ones directly benefitting from the lights. But today, 95 years later, the streetlights benefit all the residents and the traveling public at large. The associated costs should be levied against ALL parcels within Copake, not just a select few.

In 2011 the Town adopted a Comprehensive Plan. In the surveys and focus groups conducted prior to the creation of the Plan, one of the goals which Copake's residents most uniformly supported was the revitalization of the Hamlet of Copake. It is clear that we see ourselves as one Town, which includes the Hamlets of Copake and Copake Falls (as well as the area of "north Copake" which is adjacent to the Hamlet of Hillsdale).

In 2014 that the Town Board voted to hire a Hamlet Planner. The cost of the Planner was to be paid for by the entire Town, not just the taxpayers who happened to live within a mile of the Clock. It is recognized that the Hamlet belongs to the entire Town. If businesses can be attracted to the Hamlet this will improve the tax base for the entire town. Likewise, any sales tax generated will be received by the Town. It will not be designated for the people in the Hamlet.

E. A PROPOSED SOLUTION TO THE INEQUITY OF THE LIGHTING DISTRICTS

All the taxpayers in Copake should share the cost of the Lights

The total assessed value of the town is \$547,782,125. If lighting districts were abolished, and the cost of lights in the two districts was shared by the entire town, each taxpayer would pay 3 cents per \$1000 of assessment.

For a house worth \$100,000, the tax would be \$3.00. For a house worth \$150,000 the annual tax would be \$4.50. For a house worth \$300,000 the annual tax would be \$9.00.

It is conceded that this Report does not address how the Lighting Districts can be dissolved. The legal issue is no doubt complicated by the fact that we share one District with another Town.

F. OTHER ISSUES REGARDING THE LIGHTING DISTRICTS

In preparing this report some other issues became evident which should be explored.

1) It is unclear which street lights are being billed to Copake. The list from NYSEG is not determinative. It is not clear from the list which street lights are being assessed to Copake. Determining

which poles are being paid for by the Town is complicated because although each pole has a number, some of the numbers are covered by vines or have fallen off over the years.

2) The lists from NYSEG are at least confusing if not incorrect. We have counted 5 streetlights on Empire Road. NYSEG lists 18 lights on Empire Road.

3) There are also instances where a light was placed years ago when presumably one was necessary, but now the farm or business is no longer there. It would be fiscally prudent to review the location of lights in view of our current conditions.

G. THE FUTURE OF STREET LIGHTS IN COPAKE

Copake does not have a procedure for deciding when and where a street light should be installed. The Town should have a policy for deciding when Town funds will be used to pay for a light. When the Town gets a request for the installation of a light, the Town Board should make its decision based on objective criteria. There should be a protocol for making the decision and the sole standard should be public safety.

Objective criteria might include the speed limit on the road, the amount of traffic, the terrain (are there blind spots?). The number of accidents should be considered but not be determinative. Weighing these criteria, the Town Board would make a fact based determination, and decide whether public safety requires the installation of the light.

H. CONCLUSION

Our conclusions are twofold.

First, we concede that our study is not complete. We are still not certain that the Town is being billed properly for its lights. We believe that the Town should demand that NYSEG conduct an on-site audit. NYSEG should verify that we are only being billed for lights which exist and which are in working order.

Second, although it would be interesting to complete the Map, and be able to pinpoint every streetlight, it is patently clear from the evidence we have collected that the Lighting Districts are arcane, archaic, outdated and arbitrary. Such evidence mandates relief from the Town government.

While it is clear that the Districts have outlived their usefulness, we understand that the second issue is how the Districts can be dissolved. We therefore urge the Town Board to resolve to explore this issue further, to determine what steps might be taken to rectify this unfair system of taxation. It is no doubt true that the dissolution of the

Districts may be complicated. The complexity of the issue does not relieve the Town of the obligation to seek a remedy.

Supervisor Nayer felt that the people who live in the Lighting District have additional benefit of safety and security that the people who do not live in the lighting district don't have. Police cannot see the house out of the Districts as well as in the district. Our Assessor has changed two houses on Yonderview Road that should not have been paying for lights already. Supervisor Nayer has spoken to a lot of people who do not live in the Lighting Districts who do not want to pay for the lights no matter what the cost. As far as the benefit of people traveling, you have head lights on cars and street lights will not make a difference. Supervisor Nayer stated that he will not support this and does not feel people outside of the

Districts should have to pay. The factor is also a budgeting one that if you dissolve the lighting districts than that money has to go back into the Town Budget and that will equal to 1.3 or 1.4 % of a budget increase which may make it hard to stay within our 2% tax cap and then people will not be getting their rebate checks. Councilperson Winchell-Sweeney wanted Supervisor Nayer to clarify that the Lighting Districts are outside of town budgets. Supervisor Nayer said they are apportioned the same as the Fire Companies and anything else. We get it from the County we set how much it is according to the bills we get.

Councilperson Mettler stated we keep talking about dissolving the Districts, another way to do it would be extending the Districts to the entire Town. Regardless of what the Town Board decides, we should be asking N.Y.S.E. & G. to verify the locations and provide a map to the Town showing their locations.

Councilperson Sullivan stated that she has talked to a lot of people and there are a lot of inequities all across the Board in a lot of areas and am not sure why this particular issue has come up now, there a lot of things people are paying for in the school and other facilities, is it a safety issue or a cosmetic issue at this point. Personally Councilperson Sullivan thinks there are priorities as far as the Town is concerned, if you wanted to look at the lighting and maybe it fits in with Comprehensive Plan and the Revitalization Plan maybe it can be revisited at that time. Councilperson Sullivan did not think that this is a priority at this point and can fully appreciate the work that was put into doing this, she just thinks that there are more pressing issues and moving forward yes there are a lot of inequities all over the place and once you start looking at one who determines which one is more important than the others. Councilperson Winchell-Sweeney responded that this is a messy situation and why would we leave it to someone else to take care of it. There have been definitely inequities identified, these Lighting Districts were established over 95 years ago and the reason for them no longer exist.

Councilperson Miller-Simmons stated that she is concerned why there is a discrepancy of the number of lights and the number of lights that we are getting billed for. She would also like to see after the reval is completed how things have changed going forward but at this time she is not for dissolving the Lighting Districts.

A motion was made by Councilperson Mettler and was seconded by Councilperson Winchell-Sweeney to authorize Supervisor Nayer to contact N.Y.S.E. & G. requesting they review all of the lights in the two Lighting Districts and verify that the Town is in fact being billed for the correct number of lights. Motion was carried.

Town Attorney Dow reviewed what steps would need to be taken depending on what the Board decided to do with the Lighting District issue and how it was originally set up. Also Attorney Dow questioned if the Town's Assessor was within his rights to remove the two parcels on Yonderview which do not appear to be near any street lights. Supervisor Nayer advised that he would speak to him regarding these two parcels.

Appointments:

A motion was made by Councilperson Winchell-Sweeney and was seconded by Councilperson Sullivan that per the recommendation of the Copake Parks and Recreation to appoint Jacquie Burdick to fill a vacancy that will expire on December 31, 2017. Motion was carried.

Budget:

Supervisor Nayer reported that the Town of Copake received a check for \$137,899.62 which represents the Sales Tax. Also we will be receiving a Mortgage Tax check for approximately \$67,000.00.

Councilpersons Report: None

Public Forum:

Frank Peteroy stated he felt that the Town Board is exceeding its administrative capacity in considering making changes to the issuance of Special Use Permits. Mr. Peteroy researched this issue and the State Law says it is the Z.B.A. who issues Special Use Permits not the Planning Board. Supervisor Nayer responded that the Board has not made this change and if they were considering it, they would refer this matter to the Town's Attorney prior to any action.

A motion was made by Councilperson Winchell-Sweeney and seconded by Councilperson Sullivan that the bills from the General Abstract # 5 and the bills from Highway Abstract # 5 be paid. Motion was carried.

A motion was made by Councilperson Mettler and was seconded by Councilperson Winchell-Sweeney that the meeting be adjourned. Motion was carried.