

TOWN OF CONSTANTIA
MINUTES– INFORMATIONAL SESSION - TOWN BOARD – May 4, 2010
6:00PM – Constantia Town Hall

Present: Charles Gilkey – Supervisor
Richard Colesante, Thomas Moran and Frank Tomaino – Council Members
Clare Haynes – Town Clerk
Others Present: Eric Pond – Barton & Loguidice, P.C.

CALL TO ORDER:

At 6:00pm Mr. Gilkey called the meeting to order with the Pledge of Allegiance.

PURPOSE:

The purpose of this meeting is for Mr. Pond to update the board on the procedures that need to be followed to form the proposed Bernhards Bay Water District.

ACTION TAKEN:

There was no action taken at this meeting, adjourned at 6:52pm.

TOWN OF CONSTANTIA
MINUTES– PUBLIC HEARING - TOWN BOARD – May 4, 2010
7:00PM – Constantia Town Hall

Present: Charles Gilkey – Supervisor
Richard Colesante, *John Metzger, Thomas Moran and Frank Tomaino – Council Members
Clare Haynes – Town Clerk
Warren Bader – Town Attorney
Others Present: John Illingworth – Code Enforcement Officer

CALL TO ORDER:

At 7:03pm Mr. Gilkey called the meeting to order with the Pledge of Allegiance.

PURPOSE:

The purpose of this public hearing is to hear comments on the proposed Local Law B-2010 (Creating the Department of Planning, Development and Code Enforcement) and to discuss Operating Permit conditions.

LOCAL LAW B-2010:

Mr. Gilkey read the proposed Local Law as follows:

**A LOCAL LAW CREATING THE DEPARTMENT
OF PLANNING, DEVELOPMENT AND CODE
ENFORCEMENT IN THE
TOWN OF CONSTANTIA**

Be it enacted by the Town Board of the Town of Constantia, that this Local Law creates a separate department of town government to be known as the “Department of Planning, Development and Code Enforcement,” in the Town of Constantia, as follows:

“Section 1. Creation of Department

There is hereby created within the Town of Constantia a separate department of town government to be known as the Department of Planning, Development and Code Enforcement.”

Section 2. Purpose

The responsibilities of the Department of Planning, Development and Code Enforcement will include code enforcement, development review, development and building inspection, community and transportation planning, and land use regulation. The Town Board recognizes that there are a range of State and local building, land use and environmental regulations designed to protect the health, safety and welfare of Town residents and visitors, as well as to ensure that the Town of Constantia continues to develop in an attractive, orderly manner. One of the primary duties of the Department of Planning, Development and Code Enforcement shall be to interpret, enforce and assist the public with such regulations. The Department of Planning,

Development and Code Enforcement shall prepare and propose short term and long range planning initiatives, as well as recommend amendments to the Town of Constantia's local land use and environmental regulations. In addition, the staff of the Department of Planning, Development and Code Enforcement shall render advice to the Town Board, Town of Constantia Planning Board, Town of Constantia Board of Appeals, and other Town committees and departments, as appropriate.

Section 3. Planning Department

- A. The Planning Department conducts studies, produces plans, identifies program needs and develops policies that promote the physical, economic and social development of the Town of Constantia.
- B. The Planning Department works to advance the orderly growth of the Town of Constantia through professional land use planning, environmental planning, small area planning, and corridor planning. The efforts have resulted in the development of the Town of Constantia Land Use Plan, the Town of Constantia Comprehensive Plan, and the Hazard Mitigation Plan.
- C. The Planning Department also ensures that changes to the Town of Constantia's physical environment comply with applicable reviews, development proposals, policies, codes and ordinances to insure consistency with Town of Constantia policy and land development requirements.
- D. The development proposals reviewed by the Planning Department include requests for land development, law amendments, site plans, variances, and subdivision plans.
- E. The Planning Department also provides assistance to the Town of Constantia Planning Board and the Town of Constantia Board of Appeals, and provides guidance to persons submitting applications to such Boards.

Section 4. Code Enforcement Department

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all of the provisions of the New York State Uniform Code, the New York State Energy Code and the Town of Constantia Land Development Law.
- B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel. The Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. The Code Enforcement Officer shall have the following powers and duties:
 - 1. to receive, review and approve or disapprove applications for Building Permits, [*Certificates of Occupancy/Certificates of Compliance*], Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;
 - 2. upon approval of such applications, to issue Building Permits, [*Certificates of Occupancy/Certificates of Compliance*], Temporary Certificates and Operating Permits, and to include in Building Permits, [*Certificates of Occupancy/Certificates of Compliance*], Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
 - 3. to conduct construction inspections, inspections to be made prior to the issuance of [*Certificates of Occupancy/Certificates of Compliance*], Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;
 - 4. to issue Stop Work Orders;
 - 5. to review and investigate complaints;
 - 6. to maintain records;
 - 7. to collect fees as set forth by the Town Board;
 - 8. to pursue administrative enforcement actions and proceedings;

9. in consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and
 10. to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.
- D. In the event the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.
 - E. One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel. Each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
 - F. The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board.

Section 5. Office of Director of Planning, Development and Code Enforcement

There is hereby created the office of Director of Planning, Development and Code Enforcement, who shall be the executive administrator of the Department of Planning, Development and Code Enforcement. The term of said office shall be for two (2) years and until a successor shall have been qualified; provided, however, that the appointee to such office shall be removable at the pleasure of the Town Board.

Section 6. Powers and duties of Director

The Director of Planning, Development and Code Enforcement shall be responsible to the Town Board and shall perform under the general direction of the Town of Constantia Supervisor. Although the Director of Planning, Development and Code Enforcement shall have considerable discretionary authority in the operation of the Department of Planning, Development and Code Enforcement, the Director of Planning, Development and Code Enforcement have generally the following powers and duties:

- A. Those powers and duties necessary for the general supervision of the Department of Planning, Development and Code Enforcement.
- B. To plan, organize, direct and review administrative procedures and policies necessary to the operation and accountability of the Department of Planning, Development and Code Enforcement.
- C. To develop and implement an annual budget within the constraints established by the Town Board.
- D. To supervise and review the work of Departmental subordinates and report on a monthly and annual basis to the Town Board concerning the operations of the Department.
- E. To recommend personnel matters, including the hiring and discipline of employees, as deemed necessary for the proper operation of the Department of Planning, Development and Code Enforcement, to the Town Board.
- F. To direct, assign and review activities relating to code enforcement.
- G. To have and exercise the same powers and duties as are granted to the Code Enforcement Officer by the laws of the State of New York and by resolutions of the Town Board; such powers and duties shall include, but shall not be limited to:
 1. the administration and enforcement of all laws, codes and regulations relating to the construction, maintenance, and rehabilitation of structures or the use of land or structures within the Town of Constantia, as well as the interpretation of Town of Constantia Town Code provisions;
 2. the review of applications for permits, to insure compliance with the Town of Constantia Town Code;
 3. the issuance of permits, certificates and approvals for activities to confirm compliance with the Town of Constantia Town Code requirements; and

4. to meet with the public to review applications and explain the Town of Constantia Town Code requirements.
- H. To attend and participate in the meetings of the Town Board, the Town of Constantia Planning Board, the Town of Constantia Board of Appeals, the Fire Prevention Bureau, and any such community groups, as is necessary to accomplish the goals of the Department of Planning, Development and Code Enforcement.
- I. Upon receipt of an application, to prepare a staff report for referral to the Town of Constantia Planning Board and/or the Town of Constantia Board of Appeals.
- J. To plan and implement special projects, as requested by the Town Board or as necessary in furtherance of Department of Planning, Development and Code Enforcement goals.
- K. To plan and prepare materials for safety training of Town of Constantia employees and ensure compliance with such safety training measures by each Town department.
- L. Shall perform such other duties and functions as the Town Board may lawfully request.

Section 7. Effective Date

This Local Law shall take effect upon its filing with the New York Secretary of State.

Mr. Gilkey then read the following

**DIRECTOR OF PLANING AND DEVELOPMENT
DISTINGUISHING FEATURES OF THE CLASS**

The work involves responsibility for administering all laws, codes and regulations relating to construction, maintenance, rehabilitation or use of land or structures within" the Town of Constantia. Work is performed under the general direction of the Town Supervisor with considerable leeway allowed for the exercise of independent judgment in the planning and direction of the department. An employee in this class exercises supervision. Does related work as required

TYPICAL WORK ACTIVITIES

Directs, assigns and reviews the activities of code enforcement.

Administers all laws. Codes and regulations relating to construction, maintenance rehabilitation of structures or use of land or strictures within the town and makes final interpretation on code provisions.

Reviews applications for permits to insure code compliance.

Issue permits, certificates and approvals for activities in compliance with minimum code requirement. Meet with the general public to review applications and explain code requirements.

Attends and participants in meetings of the Town Board, the Planning Board, the Zoning Board of Appeals, the Fire Prevention Bureau, community groups to accomplish the goals of the department in relation to obtaining Code Compliance.

Develops and impliments department policies and procedures for department operations and to insure Accountabilily of department staff.

Develops and implements the annual budget within restraints established by Town Board.

Recommends personnal matters including hiring and disciplining employees to the Town Board.

Prepares and insures submission of monthly and annual staff reports to the Town Board regarding activities of the department.

Prepares staff reports of Applications received and referred to the zoning Board of Appeals and/or the Planning Board.

Plans and implements special projects as requested by Town Board or as needed based on department goals. Prepares training outline for safety training of town employees and ensures training is completed for each department.

The first step in this process is to create the department and then we will appoint the director. The director of the Planning, Development and Code Enforcement Department will have a two year appointment. At the present time the Code Enforcement Officer makes \$19,760. The Director of the new department will have a salary of \$29,640.

*7:18pm Mr. Metzger arrived

PUBLIC COMMENT:

There was no comment at this time.

CLOSE:

At 7:26pm Mr. Colesante made the motion to close the Public Hearing pertaining to Proposed Local Law B-2010, seconded by Mr. Moran.

Carried: Moran – Yes Tomaino – Yes Colesante – Yes Metzger – Yes Gilkey – Yes

ADOPTION:

Mr. Colesante made the motion to create the Department of Planning, Development and Code Enforcement for the Town of Constantia Local Law 2 of 2010, seconded by Mr. Moran.

Carried: Moran – Yes Tomaino – Yes Colesante – Yes Metzger – Yes Gilkey – Yes

Mr. Moran made the motion to appoint John Illingworth to the position of Director of the Planning, Development and Code Enforcement Department, this appointment will be effective upon the filing of Local Law 2 of 2010 with the New York State Secretary of State, seconded by Mr. Colesante.

Carried: Moran – Yes Tomaino – Yes Colesante – Yes Metzger – Yes Gilkey – Yes

OPERATING PERMIT:

At 7:29pm the public hearing on operating permit conditions was opened.

PUBLIC COMMENT:

The following is a condensed list of points made during the lengthy discussion on hours and days that outdoor amplified music can be played at any category A2 establishments.

Mrs. Pierce

- Loud music ruins her peaceful neighborhood, would like to have this issue resolved.
- The frequency is what is difficult, even inside with the window shut, can still hear.
- Is not looking for silence, just would like the music toned down.

Mr. Warford

- Does not like the idea that every weekend during the summer bands will be allowed to play, give the property owners one day out of the weekend that there is no music at all.
- If the business and property owners are equal, then they should be only able to have outdoor music every other weekend, not 3 of the 4 Saturdays in a month.

Mrs. Warford

- Understands that the businesses are giving up time, only having music until 11:00, but letting them have all Fridays and Sundays is just too much.
- Would like to have Sunday's music free and at least one holiday.

Mrs. Richards

- Used to live around the corner, did not hear the music until lately – thinks there should be a compromise.

Mr. Defuria

- Does feel that he has compromised, cutting the bands at 11:00
- Having small bands on Fridays
- Having the bands is good for the community as a whole, they do employ local people and boats are docked at the slips to hear the music.

Mr. Brash

- Has been working with Mr. Defuria to help push the sound right at the building instead of the surround sound type of speakers.

Mr. Illingworth Code Enforcement Officer reminded everyone that this is a one year permit, and the Town must start somewhere, it will be a learning process. This draft does pull way back from the hours that were in place before times were put on the proposed operating permit.

At 8:43 the Public Hearing was closed by Mr. Gilkey, information gathered tonight will be taken into account and a new draft will be discussed at the May 18, 2010 Town Board Meeting.

BOARD DISCUSSION:

The board understands that nothing is perfect, they have only been working on this for a short time and would like to have something in place to start the summer with and then if need be to change for next year.

ADJOURN:

At 9:08pm Mr. Tomaino made the motion to adjourn, seconded by Mr. Moran.

Carried: Moran – Yes Tomaino – Yes Colesante – Yes Metzger – Yes Gilkey - Yes