

December 13, 2022 – Regular Meeting

The regular meeting of the Gardiner Town Board was held this evening at 7 PM. This meeting was conducted as a hybrid - in person and on Zoom. Present were Supervisor Majestic, Councilmembers Carucci, Walls and Wiegand. Councilmember Richman attended via ZOOM. There were approximately 30± audience members.

ANNOUNCEMENTS

December 23 & 26 – The Town Hall, Transfer Station and Highway Dept. will all be closed for the Christmas Holiday.

PUBLIC HEARING – VIDEO-CONFERENCING

At 7:05 PM the Town Clerk read the public hearing notice for the resolution allowing video-conferencing for all Town associated boards and committees in the event a member cannot attend due to extenuating circumstances. Supervisor Majestic offered to the public the opportunity to make any comments or ask any questions.

Jean-Ann McGrane – Spoke in favor of the resolution.

There being no other comments the Board moved on with the agenda, keeping the hearing open to allow for additional comments.

LAZY RIVER RESOLUTION REVIEW

Board members are in receipt of a draft resolution on the application of the Lazy River Resort LLC. This resolution is for a Campground Floating District and a Special Use Permit. Board members met earlier with attorney Allyson Phillips in a session to obtain legal advice from the Town's counselor and to review the document. This document will be further discussed at the January meeting.

On October 28 the Town received a letter from Lazy River's attorney Charles Gottlieb addressing proposed mitigation to noise and buffers, camp safety, Gardiner Fire Dept. concerns, and Planning Board comments from their September meeting. Supervisor Majestic stated that she read the document and had questions on how they intend to mitigate the Halloween trail, movies and laser tag to name a few. Attorney Phillips stated that this is a very complicated application and this letter is a step in the right direction.

MINUTES

On motion of Supervisor Majestic, seconded by Councilmember Walls and carried, the minutes of November 1 and November 10 were approved as presented. A second motion was made by Councilmember Wiegand seconded by Councilmember Carucci and carried, to accept the minutes as written from October 11, 13 and 24 submitted by Deputy Town Clerk Julia Hansen.

SUPERVISOR'S MONTHLY REPORT

On motion of Councilmember Wiegand, seconded by Councilmember Carucci and carried, the Supervisor's report for the month of November was approved as presented.

CLAIMS

Claims for the month of November were approved on motion of Councilmember Wiegand, seconded by Councilmember Carucci and carried. They are listed on Abstract #11 as follows: General Fund voucher #546-611 \$35,252.97; Highway Fund voucher #188-216 \$75,935.02; Sewer Fund voucher #38-42 \$11,724.49

BUDGET TRANSFER AND SUPPLEMENTAL APPROPRIATIONS

Resolution No. 164 – Supplemental Appropriation in General Fund – Offered by Councilmember Wiegand

Resolved, pursuant to Section 112, Town Law, the 2022 Annual Budget, General Fund, is hereby amended to provide for supplemental appropriations in the amount of \$1500.00 in Acct No. 00.04.5182.401 CE Street Lighting, \$200.00 from Acct No. 00.07.8010.103 PS Clerk ZBA, \$150.00 from Acct No. 00.07.8010.401 CE Misc ZBA, \$100.00 from Acct No. 00.07.8010.404 CE Outside Services ZBA, \$900.00 from Acct No. 00.07.8010.439 CE Meeting Reimbursement ZBA, \$4,000.00 from Acct No. 00.07.8020.103 PS PB Clerk and \$3,100.00 from Acct No. 00.07.8020.404 CE Engineer.

Further Resolved, said moneys to be taken from the General Fund Unreserved Fund Balance. Seconded by Councilmember Carucci and carried. Councilmember Walls stepped out of the room.

Resolution 165 - Transfer in General Fund – Offered by Councilmember Wiegand

Resolved, pursuant to Section 112, Town Law, the 2022 Annual Budget, General Fund, is hereby amended to provide for the transfer of \$600.00 from Acct No. 00.07.8160.471 CE Waste Oil to Acct No. 00.07.8160.413 CE Port A Potty.

Seconded by Councilmember Carucci and carried. Councilmember Walls stepped out of the room.

Resolution 166 - Transfer in General Fund – Offered by Councilmember Wiegand

Resolved, pursuant to Section 112, Town Law, the 2022 Annual Budget, General Fund, is hereby amended to provide for the transfer of \$300.00 from Acct No. 00.02.3620.402 CE Mileage to Acct No. 00.02.3620.461 CE Professional Services, \$27.00 from Acct No. 00.06.7110.201 CE Gazebo to Acct No. 00.06.7110.401 CE Misc., \$200.00 from Acct No. 00.06.7110.201 CE Gazebo to Acct No. 00.06.7110.445 CE Mowing, \$350.00 from Acct No. 00.06.7110.455 CE Mulching to Acct No. 00.06.7110.463 EV Station Electricity and \$333.00 from Acct No. 00.06.7620.402 Gardiner Senior Living to Acct No. 00.06.7620.401 Senior Citizens (Rec).

Seconded by Councilmember Carucci and carried. Councilmember Walls stepped out of the room.

Resolution 167 - Transfer in General Fund – Offered by Councilmember Wiegand

Resolved, pursuant to Section 112, Town Law, the 2022 Annual Budget, General Fund, is hereby amended to provide for the transfer of \$56.00 from Acct No. 00.01.1620.417 CE Building Improvements to Acct No. 00.01.1620.401 CE Misc., \$690.00 from Acct No. 00.01.1620.417 CE Building Improvements to Acct No. 00.01.1620.412 CE Electric, \$820.00 from Acct No. 00.01.1620.417 Building Improvements, to Acct No. 00.01.1620.413 CE General Repairs, \$4,485.00 from Acct No. 00.01.1620.106 PS Ground Maintenance to Acct No. 00.01.1620.416 Mowing and \$130.00 from Acct No. 00.01.3620.402 CE Mileage to Acct No. 00.01.3620.421 CE Office Supplies.

Seconded by Councilmember Carucci and carried. Councilmember Walls stepped out of the room.

Resolution 168 – Supplemental Appropriation in General Fund – Offered by Councilmember Wiegand

Resolved, pursuant to Section 112, Town Law, the 2022 Annual Budget, General Fund, is hereby amended to provide for supplemental appropriations in the amount of \$300.00 in Acct No. 00.01.1620.416 CE Mowing, \$4,000.00 in Acct No. 00.02.3620.103 PS Clerk, \$450.00 in Acct No. 00.01.1670.204 CE Lease Copier, \$1,000.00 in Acct No. 00.01.1670.421 CE Office Supplies, \$200.00 in Acct No. 00.01.1670.438 CE Legal Notices and \$12,000.00 in Acct No. 00.02.3620.101 PS Building Inspector.

Further Resolved, said moneys to be taken from the General Fund Unreserved Fund Balance. Seconded by Councilmember Carucci and carried. Councilmember Walls stepped out of the room.

Resolution 169 - Transfer in General Fund – Offered by Councilmember Wiegand

Resolved, pursuant to Section 112, Town Law, the 2022 Annual Budget, General Fund, is hereby amended to provide for the transfer of \$105.14 from Acct No. 00.01.1220.460 Contract Service to Acct No. 00.01.1220.423 Software Contract, \$12.23 from Acct No. 00.01.1355.401 CE Misc to Acct No. 00.01.1355.421 CE Office Supplies, \$220.38 from Acct No. 00.01.1410.403 Conference to Acct No. 00.01.1410.402 CE Mileage, \$500.00 00.01.1420.470 CE Labor Relations to Acct No. 00.01.1420.401 CE Codification and \$18.00 from Acct No. 00.01.1420.460 CE Attorney Services to Acct No. 00.01.1420.401 CE Codification.

Seconded by Councilmember Carucci and carried. Councilmember Walls stepped out of the room.

Resolution 170 - Transfer in Highway Fund – Offered by Councilmember Wiegand

Resolved, pursuant to Section 112, Town Law, the 2022 Annual Budget, Highway Fund, is hereby amended to provide for the transfer of \$600.00 from Acct No. 01.04.5110.460 Outside Professional Service to Acct No. 01.08.9089.801 Dept. 9089 OSHA Boots and \$10,000 from Acct No. 01.04.5112.397 Clove Road to Acct No. 01.04.5130.431 CE Equipment Repair.

Seconded by Councilmember Carucci and carried. Councilmember Walls stepped out of the room.

Resolution 171 - Transfer in Sewer Fund – Offered by Councilmember Wiegand

Resolved, pursuant to Section 112, Town Law, the 2022 Annual Budget, Sewer Fund, is hereby amended to provide for the transfer of \$500.00 from Acct No. 03.07.8110.462 CE Tank Replacement to Acct No. 03.07.8110.461 CE Lab Cost.

Seconded by Councilmember Carucci and carried. Councilmember Walls stepped out of the room.

Resolution 172 - Transfer in Highway Fund – Offered by Councilmember Wiegand

Resolved, pursuant to Section 112, Town Law, the 2022 Annual Budget, Highway Fund, is hereby amended to provide for the transfer of \$1,050.00 from Acct No. 00.04.5132.489 CE Salt Barn Repair to Acct No. 00.04.5010.421 CE Office Supplies.

Seconded by Councilmember Carucci and carried. Councilmember Walls stepped out of the room.

CLOSE PUBLIC HEARING – RESOLUTION VIDEO-CONFERENCING

On motion of Councilmember Wiegand, seconded by Councilmember Carucci and carried, the public hearing on the resolution for video-conferencing was closed at 7:25 PM.

ADOPTION OF RESOLUTION

On motion of Councilmember Wiegand, seconded by Councilmember Carucci and carried the following resolution was adopted by the Town:

Resolution No. 173 – Video-conferencing – Open Meetings Law - Offered by Councilmember Wiegand

WHEREAS, by passing Chapter 56 of the Laws of 2022 (“Chapter 56”), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the Gardiner Town Board and all Committees and Commissions appointed therein (hereafter “Town Board”) to authorize its members to attend meetings by videoconferencing under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires the Town Board to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring “that a minimum number of members are present to fulfill the public body’s quorum requirement in the same physical location or locations where the public can attend”; and

WHEREAS, Section 103-a(2)(c) requires that members be physically present at any such meeting “unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting”; and

WHEREAS, in accordance with Section 103-a(2)(d), any members attending by videoconference must, except during executive session, be “heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon”; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to the Town Board web page within five business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if authorized, in any meeting by videoconference when a member attends by videoconference.

BE IT RESOLVED, that the Town Board authorizes its members who experience an extraordinary circumstance, including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting and further defined by any rules or written procedures later adopted, to attend meetings by videoconference: (i) as long as a quorum of the members attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that the Town Board shall create written procedures further governing its use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022.

Procedures for Member Videoconferencing Pursuant to Public Officers Law § 103-a

In compliance with Public Officers Law (POL) § 103-a(2)(a), the Gardiner Town Board, following a public hearing, authorized by resolution on October 27, 2022 the use of videoconferencing as described in POL § 103-a.

The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance. Town Board members shall be physically present at any meeting of the Town Board unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.

For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify the Chairperson and Clerk of Town Board no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given. If extraordinary circumstances present themselves on an emergent basis within four days prior to a meeting, the Town Board shall update its notice as soon as practicable to include that information. If it is not practicable for the Town Board to update its notice, the Town Board may reschedule its meeting. However, an adjournment is not required if a quorum is present.

If there is a quorum of members participating at a physical location(s) open to the public, the Town Board may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the Town Board but may participate and vote if there is a quorum of members at a physical location(s) open to the public.

Except in the case of executive sessions conducted pursuant to POL § 105, the Town Board shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. For members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.

The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.

The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.

The Town Board shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the Town Board website within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.

If members of the Town Board are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the Town Board shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Town Board shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.

Open meetings of the Town Board conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, “disability” shall have the meaning defined in Executive Law § 292.

The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the Executive Law if the Town Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Town Board to hold an in-person meeting.

DEDICATION OF MEETING ROOM

Councilmember Laura Walls spoke regarding my last meeting as Town Clerk this evening. She proceeded to read the following Resolution:

Resolution No. 174 - Honoring Gardiner Town Clerk Michelle L. Mosher – Offered by Councilmember Walls

Whereas, in January 1992, Michelle L. Mosher was appointed Confidential Secretary to Town Supervisor Mike Moran and, further, was also appointed Assessor’s clerk; and

Whereas, in January 1994, Michelle L. Mosher was appointed Deputy Town Clerk to Town Clerk Vivian McCord; and

Whereas, in November 1995, Michelle L. Mosher was first elected Town Clerk and since January 1996 has served 26 years in office; and

Whereas, in the course of Michelle L. Mosher’s service as Town Clerk she has worked with and supported six different town supervisors and, thereby, ensured stability and consistency in the governmental operations of the Town of Gardiner; and

Whereas, Michelle L. Mosher, is a registered member of the Republican Party and has, from time to time, been cross endorsed by the Democratic Party, in her service to the Gardiner community she has met the needs of countless residents without fear or favor; and

Whereas, Michelle L. Mosher the Town of Gardiner’s longest serving elected official in the modern era; and

Whereas, Michelle L. Mosher has, more than any other individual, ever, spent the most time in this meeting room witnessing and recording official conduct and decision making;

Now, Therefore, on this date, the 13th of December 2022, the Town Board of the Town of Gardiner, with humble gratitude,

Resolves and Proclaims this meeting room shall officially be named the Michelle L. Mosher Meeting Room.

Seconded by Supervisor Majestic and carried.

I was quite surprised by this dedication! It was a very thoughtful gesture and certainly appreciated. A plaque was presented and will hang behind the meeting table. Five of the Supervisors that I have worked with over the years were present along with several town employees and audience members. Serving as Town Clerk for the Town of Gardiner has been a great privilege for me and I will miss the day-to-day interaction and camaraderie with the residents. A small reception was held afterwards. Thank you all!

ADJOURNMENT

On motion of Supervisor Majestic, seconded by Councilmember Walls and carried, the meeting was adjourned at 8:00 PM.

Respectfully submitted,

Michelle L. Mosher
Town Clerk