The Town Board met in Regular Session this evening at the Gardiner Town Hall at 7 PM. Present are Supervisor Majestic, Councilmembers Wiegand, Walls, Richman and Carucci. There were approximately 15 ± audience members.

**ANNOUNCEMENTS**

Gardiner Craft Supply Sale is Saturday, September 23rd at the Pole Barn in Majestic Park.

Gardiner Dump Run is Sunday, September 24th at Riverbend Trails.

Gardiner Day is Saturday, September 30th at Majestic Park.

Welcome Peter Kiesler to Climate Smart Gardiner.

The Town received a report from the County on the Real Estate Transfer Tax that was collected in August. It states that the Town will receive $83,262.15. The total real estate transfer tax collected in 7 months to $183,651.36.

Councilmember Richman updated the Board of her findings regarding enforcement procedures for code violation fee schedule. She stated that the Attorney General has recommendations on their website but would like to have this added to next month’s meeting.

**FUNDING UPDATE FOR LED STREET LIGHTS**

Brief update provided regarding the pending contract. There was a consideration to use some combination of funding between ARPA, Spectrum and unexpended funds. However, due to federal restrictions with ARPA, the interest rate would be higher. The Board agrees to not use ARPA funds to ensure the lowest inters rate is offered. Councilmember Carucci will notify the company of this and the plan will be that the drafted contract can be reviewed next month.

Once a contract is signed, the ordering process can take up to 6 weeks, then the installation will only take a few days. Inclement weather conditions could delay this.

**EMMY LANE ACCEPTANCE OF BID**

On the motion of Councilmember Walls, seconded by Councilmember Wiegand and carried to accept the only bid for the Emmy Lane property owned by the Town of Gardiner made by Mr. John Potthaust in the amount of $2,045.00.

**PRESENTATION ON NARCAN ACCESS BOX FROM ULSTER COUNTY SHERIFF’S DEPARTMENT**

On the motion of Supervisor Majestic, seconded by Councilmember Walls and carried to authorize the Ulster County Sheriff’s Department O.R.A.C.L.E. Division to install a Narcan Access box on the Northern side of the Wallkill Valley Rail Trail.

**RESOLUTION ALLOCATING ARPA FUNDS TO THE GARDINER BOARD OF FIRE COMMISSIONERS**

**Resolution No. 113** – Offered by Councilmember Richman;

**Whereas**, the Town of Gardiner received $576,486.71 in funding under the ARPA Coronavirus

Local Fiscal Recovery Fund; and

**Whereas**, the enabling legislation and regulations allows expenditures of said funds to be made

for Responding to the public health emergency or its negative economic impacts; and

**Whereas**, the Gardiner Board of Fire Commissions have requested assistance in funding an assistant chief’s vehicle; and

**Whereas**, the current vehicle is a 2009 with 160,000 miles on it.

**Whereas**, this vehicle act as an incident command center at the scene and is vital for

communication; and

**Whereas**, this vehicle is equipped with vital life support saving devices; and

**Whereas**, this vehicle is generally the first vehicle to arrive at an incident; and

**Whereas** the Gardiner Town Board was presented a request to fund the assistant chief’s vehicle

from the Gardiner Board of Fire Commissioners for the Gardiner Fire District at the town

board meeting on June 6, 2023; and

**Now, therefore it is resolved**, that the Town Board of the Town of Gardiner hereby appropriates

$40,000 from the ARPA Funds for the Gardiner Board of Fire Commissioners for the purchase of said assistant chief’s vehicle.

Seconded by Councilmember Walls and carried.

**PARKS AND REC BASKETBALL COURT FUNDING REQUEST**

On the motion Councilmember Walls, seconded by Councilmember Richman and carried to authorize the additional expense of $8,460.00, to come from the ARPA Fund, to prepare the Basketball court surface to be sealed and painted.

**REPORT ON EMPLOYMENT POLICIES**

Councilmember Walls presented an update on employment policies. The personnel policy needs to be updated. She interviewed those in the town hall to get an understanding of their perspective of the manual, which included their requests for adding missing items, ensuring equity and modifying verbiage to ensure clear interpretation. An external company was contacted to help with building a comprehensive employee manual. Once drafted, we would review, and revise then can implement the new manual. Ideally, employees would have the opportunity to review and provide feedback as well.

Discussed option of budgeting for an HR consultant when personnel issues arise to ensure an objective perspective on the issue. The firm recommended to bring the final version to the Town’s attorney and they would provide guidance based on the manual.

**REVIEW OF RBT REVISED PROPOSAL AND UPDATE ON EDMUNDS FINANCIAL MANAGEMENT SYSTEM**

Victor Churchill previously presented to the Board regarding the RBT proposal. Based on the modifications the Board requested, the proposal was revised and was distributed to the Board. Discussion ensued regarding the three phases of the proposal.

Phase 1 – Assist with focus on the 8 years of missing data from RDA, which was identified as a concern, assist in identifying data from RDA in a usable format and assist with identifying other options to the RDA data at an estimated annual cost of $1,500

Phase 2- Assist with updating the Town’s procurement policy, review and make recommendations for improvements in the Town’s segregation of duties and review claims auditing process and develop the best practice recommendations.

Phase 3- Assist in reviewing and right sizing the Town’s administrative staff and other items as identifies as the process proceeds.

The transfer to the Edmunds Management System will now include the Board during the implementation phase. Supervisor Majestic is requesting an expert accountant consultation, during the implementation phase. Propose a resolution to go forward with Phase 1 with recommendations for implementation of phase 2 and 3 at a later date. On the motion of Councilmember Walls seconded by Councilmember Wiegand and carried to approve Phase 1 of the RBT proposal.

**SET DATE FOR SPECIAL MEETING ON ZONING CODE UPDATE**

The Board agreed to have a Special Meeting to discuss zoning code updates with David Church on October 2nd.

**AWOSTING CLUB RESOLUTION**

**Resolution No. 114 -** Offered by Councilmember Walls;

**WHEREAS**, the property located at 50 Camp Ridge Road (UCTM 92.4-1-71.100), Wallkill, in the Town of Gardiner (the “Subject Property”) was the subject of an application by Camilla Bradley on behalf of Awosting Club, the owner of the Subject Property (“Owner”), for a Campground License pursuant to Chapter 200 of the Town of Gardiner Code (the “Application”); and

**WHEREAS**, the Application was filed after the Town Building Inspector issued a Notice of Violation to the Owner of the property dated July 22, 2021, *inter alia,* requesting the submission of an application for a campground license pursuant to Chapter 200 and 200-45.2 of the Town of Gardiner zoning code; and

**WHEREAS**, by Resolution #59-2023 of the Town Board adopted February 7, 2023 (the “Resolution”), the Application was rejected by the Town Board as Defective and Incomplete for the litany of reasons outlined in the Resolution, and included, but was not limited to, a finding that the application sought authorization for a Campground use in year round structures that are not permitted for Campground License use outside an approved Campground Floating District, a finding that the GeoDomes at the Subject Property appear to be permanent structures that have been installed without building permits and proper authorization, a finding that a preliminary review of the available information regarding the Subject Property suggests that any preexisting nonconforming use of the Subject Property was limited to seasonal canvas tents and a Lodge facility, both of which appear to have been subsequently voluntarily discontinued for at least one year, thus losing any such status, and a finding that the apparent primary use of the Subject Property is as a Lodging Facility, not a Campground, despite the fact that a Lodging Facility use is not authorized for the Subject Property and is not a use contemplated by or that can be included in a Campground license; and

**WHEREAS**, at or about the date of the adoption of the Resolution, the Owner advised the Town Board that it should consider the Application as withdrawn; and

**WHEREAS**, rather than comply with the deficiencies set forth in the Resolution, the Owner filed an Article 78 proceeding in the Ulster County Supreme Court (the “Supreme Court”) seeking, *inter alia,* an Order staying enforcement of the Resolution, declaring that the Owner does not require a license to “continue” operating a campground on its property, or alternatively, either finding that the denial of the Application was unconstitutional due to an alleged prior non-conforming use, or ordering the Town to grant said license (the “Article 78 Proceeding”); and

**WHEREAS**, by Decision and Order dated and entered June 6, 2023 (the “June 6, 2023 Order”) the Supreme Court granted the Town’s motion to dismiss the Article 78 Proceeding, finding, *inter alia,* that the Owner failed to exhaust its administrative remedies prior to bringing the Article 78 Proceeding, and observing that, among other things, the Owner had the right to request that the Code Enforcement Officer (“CEO”) provide an interpretation regarding an alleged non-conforming use, and, in the event that the Owner disagreed with the opinion of the CEO, the Owner could have appealed that determination to the Town Zoning Board of Appeals (“ZBA”); and

**WHEREAS**,the Supreme Court rejected the Owner’s argument that the CEO had previously found that Owner’s use of the Subject Property was a pre-existing non-conforming use; and

**WHEREAS**, the Supreme Court found that the Resolution had “set forth clear and fully reasonable requirements regarding necessary documentation and information for the Board to Consider”; and

**WHEREAS**, the Supreme Court rejected the Owner’s request for declaratory relief regarding the existence or lack of an alleged pre-existing non-conforming use, finding that it is not ripe for judicial review until and unless Petitioners resubmit and receive an adverse ruling on the application, stressing that the Owner has “not sought a formal opinion from the CEO” and “if they sought such an opinion, it could be reviewed by the Zoning Board of Appeals and any adverse decision by the ZBA could be properly reviewed in an Article 78 proceeding”; and

**WHEREAS**, the Town served Notice of Entry of the June 6, 2023 Order upon the Owner on June 14, 2023; and

**WHEREAS**, following Notice of Entry of the June 6, 2023 Order, the Owner did not thereupon undertake any action to comply with the requirements set forth in the Resolution, but instead filed a motion for reargument of the June 6, 2023 Order with the Supreme Court; and

**WHEREAS**, by Decision and Order dated August 24, 2023, the Supreme Court denied the Owner’s motion for reargument, specifically rejecting the Owner’s argument that the “informal communications” that she had received from the CEO were sufficient to constitute a determination of a prior non-conforming use, and reiterated that “the Court specifically found that contrary to Petitioner’s repeated assertions, there is no prior determination from the CEO that the use of the property is a prior non-conforming use entitled to protection,” and rather “that there has been no prior factual determination regarding the controlling issue”; and

**WHEREAS**, the Owner has not complied with the insufficiencies set forth in the Resolution, has not filed application to the Town Board with respect thereto, has not ceased operations at the Subject Property and has not made formal application for a determination regarding an alleged pre-existing non-conforming use of the Subject Property:

**THE TOWN BOARD OF THE TOWN OF GARDINER THEREFORE FINDS, DETERMINES AND RESOLVES** that:

1. Litigation is hereby authorized to be commenced and litigated on behalf of the Town of Gardiner in the Supreme Court, Ulster County against the Owner of the Subject Property and any related and/or other required parties, seeking injunctive relief and enforcement of the Town of Gardiner Zoning Code (the “Town Code”) with respect to, *inter alia,* the apparent operation of a year-round “campground” use at the Subject Property without a license and in violation of the Town Code, the apparent use of the Subject Property as a Lodging Facility in violation of the Town Code and the apparent construction of GeoDomes at the Subject Property without building permits and proper authorization in violation of the Town Code, and seeking any other reasonably associated relief (the “Litigation”); and
2. The law firm of Hamburger & Yaffe, LLP, 191 New York Avenue, Huntington, New York 11743 (the “Firm”), is hereby retained and authorized to commence the Litigation and to represent the Town of Gardiner in the Litigation pursuant to the terms and conditions set forth in the Firm’s March 2, 2023 letter.

Seconded by Councilmember Carucci and carried.

**MINUTES**

Minutes of May 9th, June 6th and June 13th was approved as written on motion of Supervisor Majestic, seconded by Councilmember Wiegand and carried.

**SUPERVISOR MONTHLY REPORT**

On motion of Councilmember Wiegand, seconded by Councilmember Carucci and carried. The August Supervisor’s Monthly Report was approved as presented.

**CLAIMS**

Claims for the month of August 2023 were approved on the motion of Councilmember Wiegand, seconded by Councilmember Carucci, and carried. They are listed on Abstract #8 as follows; General Fund voucher #380-449 $24,460.03; Highway Fund voucher #139-160 $24,751.27; Sewer Fund voucher #31-37 $31,927.99.

**BUDGET TRANSFERS**

Resolution No. 115 – Transfer in Highway Fund – Offered by Councilmember Wiegand, pursuant of Section 112, Town Law, the 2023 Annual Budget, Highway Fund is hereby amended to provide the transfer of $800.00 from Acct 00-04-5010-403 CE Conference & Education to Acct 00-04-5010-421 CE Office Supplies. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

Resolution No. 116 – Transfer in General Fund – Offered by Councilmember Wiegand, pursuant of Section 112, Town Law, the 2023 Annual Budget, General Fund is hereby amended to provide the transfer of $1087.00 from Acct 00-06-7310-420 CE Summer Rec Arts & Crafts to Acct 00-06-7310-107 PS Summer Rec Staff; $1041.00 from Acct 00-06-7310-433 CE Staff Supplies & Adm. To Acct 00-06-7310-107 PS Summer Rec Staff; $58.00 from Acct 00-07-8790-460 CE ECC to Acct 00-07-8790-422 CE ECC Program Support; $648.00 from Acct 00-07-8791-428 CE Baseline Inv. Consultant to Acct 00-07-8791-421 GIS Consultant. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

Resolution No. 117 – Transfer in General Fund – Offered by Councilmember Wiegand, pursuant of Section 112, Town Law, the 2023 Annual Budget, General Fund is hereby amended to provide the transfer of $38,220.00 from Acct 00-01-1410-102 PS P/T Deputy Clerk to Acct 00-01-1410-103 PS Deputy Clerk; $720.00 from Acct 00-06-7310-108 PS Bus Driver to Acct 00-06-7310-106 PS Assistant; $328.00 from Acct 00-06-7310-410 CE Buses to Acct 00-06-7310-406 PS Assistant; $30.00 from Acct 00-06-7310-410 CE Buses to Acct 00-06-7310-430 CE Supplies; $153.00 from Acct 00-06-7310-410 CE Buses to Acct 00-06-7310-107 PS Summer rec Staff. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

Resolution No. 118 – Supplemental Appropriation in General Fund – Offered by Councilmember Wiegand, Resolved, pursuant to Section 112, Town Law, the 2023 Annual Budget, General Fund, is hereby amended to provide for supplemental appropriations in the amount of $1,060.00 in Acct 00-01-1330-401 CE General Misc; $9,500.00 in Acct 00-02-3620-110 PS P/T Jr. Clerk.  Further Resolved, said money to be taken from the Geneal Fund. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

Resolution No. 119 – Supplemental Appropriation in Sewer Fund – Offered by Councilmember Wiegand, Resolved, pursuant to Section 112, Town Law, the 2023 Annual Budget, Sewer Fund, is hereby amended to provide for supplemental appropriations in the amount of $14.650.30 in Acct 03-07-8110-468 CE Repairs. Further Resolved, said money to be taken from the Sewer Repair Reserve Fund #23. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

Resolution No. 120 – Supplemental Appropriation in Sewer Fund – Offered by Councilmember Wiegand, Resolved, pursuant to Section 112, Town Law, the 2023 Annual Budget, Sewer Fund, is hereby amended to provide for supplemental appropriations in the amount of $2,184.00 in Acct 03-07-8110-472 I&I Study; $8,349.70 in Acct 03-07-8110-468 CE Repairs. Further Resolved, said money to be taken from the Sewer Fund. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

Resolution No. 121 – Transfer in Highway Fund – Offered by Councilmember Wiegand, pursuant of Section 112, Town Law, the 2023 Annual Budget, Highway Fund is hereby amended to provide the transfer of $1,000.00 from Acct 01-04-5140-420 Supt Misc Expense to Acct 01-04-5140-404 Misc Parts & Supplies. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

Resolution No. 122 – Transfer in Highway Fund – Offered by Councilmember Wiegand, pursuant of Section 112, Town Law, the 2023 Annual Budget, Highway Fund is hereby amended to provide the transfer of $10,000.00 from Acct 01-04-5110-400 CE Contract Expense to Acct 01-04-5120-400 CE Bridges Culverts. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

Resolution No. 123 – Transfer in Highway Fund – Offered by Councilmember Wiegand, pursuant of Section 112, Town Law, the 2023 Annual Budget, Highway Fund is hereby amended to provide the transfer of $800.00 from Acct 00-04-5010-403 CE Conference & Education to Acct 00-04-5010-421 CE Office Supplies. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

Resolution No. 124 – Transfer in Highway Fund – Offered by Councilmember Wiegand, pursuant of Section 112, Town Law, the 2023 Annual Budget, Highway Fund is hereby amended to provide the transfer of $21,258.93 from Acct 01-04-5110-127 Santano Bravo, Erick to Acct 01-04-5110-128 Goodnow, Brandon. Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

**PRIVILEGE OF THE FLOOR**

Residents spoke about Lazy River, Awosting Club, noise complaint issues.

**EXECUTIVE SESSION**

On the motion of Supervisor Majestic, seconded by Councilmember Walls and carried, the Town Board entered Executive Session at 9:15 PM to discuss Personnel matters to come back to regular meeting only to adjourn.

**ADJOURNMENT**

On the motion of Councilmember Carucci, seconded by Councilmember Richman and carried, the meeting adjourned at 9:46 PM.

Respectfully Submitted,

Julia Hansen, Acting Town Clerk