

**MINUTES OF THE TOWN BOARD**  
**February 5, 2019**

Minutes of a Meeting of the Town Board of the Town of Eastchester held on February 5, 2019 at 7:00 p.m., at the Town Hall, 40 Mill Road, Eastchester, New York.

**I. ROLL CALL**

Present: Supervisor Anthony Colavita  
Councilman Glenn Bellitto  
Councilman Joseph Dooley  
Councilwoman Theresa Nicholson  
Councilman Luigi Marcoccia

Present: Town Clerk Linda Laird  
Comptroller Dawn Donovan  
Town Attorney Louis Reda

**II. OPPORTUNITY TO ADDRESS THE BOARD ON AGENDA ITEMS - none**

**III. APPROVAL OF MINUTES**

Councilman Bellitto offered a motion that was seconded by Supervisor Colavita to approve the Minutes of the January 15, 2019 Town Board Meeting and the January 29, 2019 Special Town Board Meeting.

The Supervisor explained that the Special Town Board Meeting had been held, in part, to give furloughed federal employees a temporary extension to pay their property taxes.

**On the roll call, all voted "AYE." Motion carried.**

**IV. REPORTS OF DEPARTMENTS, BOARDS AND COMMISSIONS**

**A) LAW DEPARTMENT REPORT**

**1. INTRODUCTION OF A LOCAL LAW PROVIDING FOR THE AMENDMENT OF SUB SECTIONS OF LOCAL LAW NO. 5 – ZONING CODE OF THE TOWN OF EASTCHESTER RE: SENIOR HOUSING DEVELOPMENT**

Supervisor Colavita offered a motion that was seconded by Councilman Dooley to approve the INTRODUCTION of Proposed Local Law 1-2019 and to set a Public Hearing for March 5, 2019 at 7:00 p.m.

Supervisor Colavita explained the amendments to the Zoning Code clarify the Town Board's support of provisions that provide residents with the benefits of 'aging in place,' in town. With 31% of residents currently over 55, there are many who may want to downsize into an apartment while remaining close to family, doctors and the support services provided by the Town.

**27. Senior Housing Development**

- A. Special Permit Authorized. A Senior Housing Development shall be permitted as a Special Permit Use in the GB, General Business District as follows:
  - a. A Senior Housing Development shall consist of one or more residential buildings containing a minimum of 15 percent affordable dwelling units for rent or for-sale limited to occupancy by senior households, as defined below. A Senior Housing Development may be comprised of any combination of types of multifamily buildings, excluding attached "townhouse" style buildings, provided that the buildings are arranged to function as one integrated development.
  - b. Senior Housing Development shall not include nursing homes, convalescent homes, private proprietary homes, homes for the aged, assisted living facilities or other facilities regulated and licensed by the New York State Department of Health under the Public Health Law of the State of New York.

- c. Permitted Accessory Uses. Permitted accessory uses shall include accessory uses incidental to the Senior Housing Development which are reasonably necessary for the maintenance, administration and security of the Senior Housing Development, but which are subordinate to the residential character of the development, including but not limited to accessory buildings, off-street parking areas or structures, fences, and utilities. The following accessory uses are expressly permitted provided that such uses are managed as part of the Senior Housing Development and restricted to use by, or for the benefit of, residents of the Senior Housing Development:
- i. Meeting rooms, multipurpose rooms, lounges, libraries, lobby areas, or other similar common spaces.
  - ii. A convenience shop for daily needs such as food items, nonprescription drugs, newspapers and small household items and similar items, provided that the maximum floor area devoted to such use is no more than 400 square feet.
  - iii. A coin operated vending machine room, provided that the maximum floor area devoted to such use is no more than 150 square feet.
  - iv. Security office and/or management office.
  - v. Indoor and/or outdoor recreation facilities, including sitting areas, walking trails, pool, exercise room and other recreation and leisure facilities.
  - vi. Common kitchen and dining room.
  - vii. Beauty and/or barber shop.
  - viii. Office for a doctor, medical infirmary or clinic and/or social service delivery for use exclusively by residents of the facility.
  - ix. Other accessory uses as permitted by the Planning Board.
- d. Occupancy of Dwelling Units. Dwelling units in a Senior Housing Development shall be occupied for residential purposes only. Unless otherwise provided herein, occupancy of a dwelling unit shall be limited to a senior household and guests as set forth below:
- i. Senior Household. A "senior household" shall consist of:
    - (a) One or more persons, all of whom are 55 years of age or older; and
    - (b) A spouse (over or under the age of 55) of a qualified resident 55 years of age or older; and
    - (c) One person 18 years of age or older, residing with at least one person who is 55 years of age or older, provided that the presence of such person 18 years of age or older is required for the physical care of persons listed in (a) and (b) above, as certified by a physician licensed in the State of New York.
  - ii. All Dwelling Units to be "Affordable". A minimum of 15 percent of dwelling units in a Senior Housing Development shall be offered as "affordable" to senior citizens earning less than 80 percent of the area median income for Westchester County, as defined annually by HUD (hereinafter "80% AMI"), such eligible household referred to herein as a "Qualifying Household".
  - iii. Distribution of Affordable Units. Affordable units shall generally be distributed evenly throughout the development; shall not be distinguished as a class from other units based on size or design; shall be distributed among efficiency, one and two bedroom units in the same proportion as the market-rate dwelling units.
  - iv. Maximum Occupancy. The maximum permitted number of persons who may reside in a dwelling unit shall be two persons for efficiency and one-bedroom units, and three persons for two bedroom units.
  - v. Guests. Temporary occupancy by guests of residents shall be permitted, provided that such occupancy does not exceed 30 total days in any calendar year. Residents shall notify the manager or superintendent of any guests staying at the Senior Housing Development for more than three consecutive nights. A log shall be maintained, by the project superintendent or manager, of all guests and such log shall be available for review by the Town Attorney.
- e. Preferences.
- i. The owner or authorized manager of the senior housing development shall be responsible for selecting tenants. The owner or authorized manager of the development shall be responsible for selecting new

dwelling unit owners upon resale. A general waiting list for prospective tenants or purchasers shall be maintained by the owner or authorized manager. Subject to the right of the owner or authorized manager to reject a prospective tenant or prospective purchaser for good cause shown, selection of tenants, original owners or owners on resale for all dwelling units shall be made upon the following priorities:

(a) Residents of the Town of Eastchester.

[1] Cumulative length of Town residency.

[2] Date of application.

[3] Lottery.

~~(b) Relatives of residents of the Town of Eastchester (immediate family: father, mother, son, daughter, brother or sister).~~

~~[1] Cumulative length of residency of Town resident.~~

~~[2] Cumulative length of former Town residency.~~

~~[3] Date of application.~~

~~[4] Lottery.~~

~~(c) Other residents of Westchester County.~~

~~[1] Cumulative length of former residency within the Town of Eastchester.~~

~~[2] Cumulative length of former residency in the county.~~

~~[3] Date of application.~~

~~[4] Lottery.~~

~~(d)(b) All others.~~

~~[1] Cumulative length of former residency in the Town of Eastchester.~~

~~[2] Cumulative length of New York State residency.~~

~~[3] Date of application.~~

~~[4] Lottery.~~

- i. Notwithstanding the priorities set forth in this subsection, a companion of a senior citizen owner or tenant shall have first priority to rent or purchase a dwelling unit if the companion has resided with the senior citizen for at least one year and at the time of death of such senior citizen. This priority shall only apply to the rental or purchase of the dwelling unit in which the companion resided as a primary or principal residence with the deceased senior citizen owner or tenant, and if such companion shall be otherwise qualified under this section to rent or own a dwelling unit.
  - ii. In the event that after the exercise of the preferences set forth in this subsection e., there remains vacant units, said units may be offered to non-Senior Households for rental for a term not to exceed one year. Prior to the renewal or re-renting, said units shall once again be offered pursuant to the terms of the preferences.
- f. Occupancy by Manager or Superintendent. Notwithstanding the foregoing, one dwelling unit may be occupied by a manager or superintendent and his/her family without regard to the occupancy requirements set forth above, provided that the unit shall not be in addition to the number of units otherwise permitted under this section and provided that the unit is not considered in the affordable unit count.
- g. Other Dwelling Unit Requirements. Dwelling units in a Senior Housing Development shall comply with the following requirements:
- i. Dwelling units shall be limited to efficiency, one-bedroom and two-bedroom units.

- ii. The minimum floor area per dwelling unit in a Senior Housing Development shall be 500 square feet for efficiency units, 600 square feet for one-bedroom units, and 750 square feet for two-bedroom units.
- iii. All dwelling units shall be designed for independent living and shall contain full bathroom and kitchen facilities, including but not limited to a sink, refrigerator, stove, range or combination unit in the kitchen and a sink, toilet, bathtub and shower in the bathroom.
- h. Lot and Bulk Requirements. The following lot and bulk requirements shall apply to Senior Housing Developments:
  - i. Minimum lot area. The minimum lot area shall be 40,000 square feet.
  - ii. Maximum residential density. The maximum permitted density shall be one dwelling unit per 700 square feet of lot area.
  - iii. Maximum impervious surface coverage shall not exceed 70 percent of the lot area.
  - iv. Maximum building coverage shall not exceed 35 percent of the lot area.
  - v. Minimum front yard. The minimum front yard setback for all structures shall be 22 feet.
  - vi. Minimum side yard. The minimum side yard setback shall be 22 feet.
  - vii. Minimum rear yard. The minimum rear yard setback shall be 30 feet.
  - viii. Maximum building height. The maximum building height shall not exceed 4 stories or 45 feet to the highest point of a flat roof or 50 feet to the ridge of a hip or gable roof, with the exceptions specified in Section 7.C.1 of this Law. The building height shall be measured from the finished grade along the building elevation fronting on a street. If a building fronts on more than one street, then no elevation fronting on any street shall exceed the maximum permitted building height.
- i. Miscellaneous Requirements.
  - i. Parking spaces shall be provided at the ratio of 1.2 spaces per dwelling unit plus an additional 10 percent of the total number of required parking spaces shall be provided as guest parking.
  - ii. The minimum number of accessible parking spaces shall be two times that required by the Building Code of the State of New York. The manager of a senior housing development may, at his/her discretion, designate additional spaces near building entrances for the exclusive use of certain residents that may have limited mobility or other disabilities that require parking spaces proximate to building entrances.
  - iii. The minimum number of accessible units, including the minimum number of units requiring a roll-in-shower, shall be two times that required by the Building Code of the State of New York.
  - iv. Sidewalks, which may include handrails when appropriate and/or required by the New York State Building Code, shall be provided so as to allow residents of each unit to access all other units and components of the development and adjoining properties, the neighborhood sidewalk network and transit stops. The Planning Board shall consider the health and recreational needs of the future residents in evaluating the adequacy of the sidewalk/pathway network.
  - v. Suitable landscaping as required by the standards contained in Section 11.H of this Law, or as otherwise required by the Planning Board, shall be provided.
  - vi. Building identification signs and number/letter identification shall be provided in accordance with the applicable sections of this Law, and as recommended by the Office of the Fire Inspector, to ensure efficient and timely identification for residents, visitors and emergency personnel.
  - vii. All areas within a Senior Housing Development shall be suitably lighted, sufficient for the convenience and safety of older persons.
  - viii. Adequate facilities shall be provided for the removal of snow, trash and garbage and for general maintenance of the Senior Housing Development. Adequate on-site space shall be provided for source separation and storage of recycle materials in accordance with county and local regulations. If located outside of the building(s), trash and recycle facilities shall be contained in an enclosed structure.
  - ix. Laundry facilities (washers and dryers) or service adequate to serve the occupants of the Senior Housing Development shall be provided and maintained. Facilities shall be located in each building, in a convenient location.

- x. Designed open space, suitable for passive recreation, shall be provided.
- xi. Pick-up and drop-off area adequate to accommodate larger vehicles providing transportation for residents for group activities.
- xii. Principles of sustainable design and energy efficiency shall be incorporated into the design of all senior housing developments to the greatest extent practicable.

B. Enforcement.

- a. Covenants. The developer shall provide a covenant running with the land, binding upon heirs, successors and assigns, which shall be filed by the owner and recorded in the office of the County Clerk, which form and substance shall be satisfactory to the Town Attorney ensuring that the project will be maintained as a "senior housing development" and that the priority system as set forth above will be established and administered correctly, and that the minimum number of approved affordable units has been provided. Proof of such recording shall be provided to the Town Attorney prior to the issuance of the Building Permit. The covenant shall provide that the property approved as a senior housing development under this section shall be utilized for that purpose in accordance with the provisions of this section, and for no other purpose.
- Furthermore, the restrictive covenant shall include a provision requiring that every deed for an Affordable Housing Unit and every lease for an Affordable Housing Unit shall include, in substance, the following paragraph so as to inform all future tenants, sellers and buyers that the unit is an Affordable Housing Unit subject to the conditions of this Local Law:

"This Affordable Housing Unit has been constructed for use by a Qualifying Household. This Unit's sale (including resale) or rental must be to one or more persons who meet the requirements of a qualifying household as defined in the Zoning Law of the Town of Eastchester."

- b. Notices to Town. The owner or authorized manager shall provide (under oath if requested) at least the following notices and information to the Town:
- i. Waiting lists and a list of any unoccupied dwelling units shall be provided to the ~~Town's Housing Choice Voucher Program Office~~. Town of Eastchester Town Attorney
  - ii. A notice of rental or sale shall be provided to the ~~Town's Housing Choice Voucher Program Office~~. Town of Eastchester Town Attorney upon the initial rental or sale of every dwelling unit and upon each renewal or resale.
  - iii. A copy of the certified rent roll shall be provided to the ~~Town's Housing Choice Voucher Program Office~~. Town of Eastchester Town Attorney at least four times a year (January 15<sup>th</sup>, April 15<sup>th</sup>, July 15<sup>th</sup>, and October 15<sup>th</sup>).
  - iv. The ~~Town's Housing Choice Voucher Program Office~~. Town of Eastchester Town Attorney or Building Inspector, or authorized agent of either of them, may from time to time require the submission of such other notices and information as may be deemed pertinent. At all reasonable times the Building Inspector or authorized agent of the Town Board may visit and inspect the premises and all relevant books, records and accounts of the senior citizen housing development, the authorized manager and owner, including on-site audits and inspections, for the purpose of determining compliance with this section.
  - v. Penalties for offenses. Any person violating the provisions of this section shall, upon conviction, be guilty of an offense and shall be liable for a fine not exceeding \$1,000. for each offense or by imprisonment not exceeding 30 days, or by both fine and imprisonment. Each day an offense continues shall be deemed a separate offense.

- vi. Injunction. The Town Board may apply in a court of competent jurisdiction for injunctive relief to enjoin any continuing violation of the provisions of this section. In such application, irreparable injury shall be deemed to exist.
- C. Additional requirements. The Planning Board may require additional provisions or conditions as the Planning Board may, in its discretion, determine to be appropriate to serve the health, safety and welfare of the Town. The Planning Board may adopt rules and regulations to carry out the provisions of this section.
- D. Conversion to Cooperative or Condominium Ownership. Notwithstanding the foregoing, the owner of the of the senior housing development shall have the right to convert the Senior Housing Development to cooperative or condominium ownership, provided that the developer or owner shall otherwise comply with the requirements set forth in this Section 12.

**On the roll call, all voted "AYE." Motion carried.**

**2. RESOLUTION AUTHORIZING THE SETTLEMENT OF A CLAIM BY ANGELO SAVINO AGAINST THE TOWN OF EASTCHESTER**

Councilman Marcoccia offered a motion that was seconded by Supervisor Colavita to approve a **RESOLUTION** authorizing the settlement of a claim by Angelo Savino against the Town of Eastchester in the amount of \$861.62 for damages sustained to Mr. Savino's vehicle when it was parked at the Town of Eastchester highway yard on 11/18/2018.

**On the roll call, all voted "AYE." Motion carried.**

**3. RESOLUTION AUTHORIZING THE SUPERVISOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF EASTCHESTER, SEMINARA PELHAM, LLC AND ELIDE ENTERPRISES, LLC PERTAINING TO STORMWATER MANAGEMENT**

Supervisor Colavita offered a motion that was seconded by Councilman Dooley to approve a **RESOLUTION** authorizing the Supervisor to enter into an agreement between the Town of Eastchester, Seminara Pelham, LLC and Elide Enterprises, LLC pertaining to the stormwater control measures to be implemented at the Senior Housing Development at 40 Jackson Avenue, Eastchester, NY.

The approved Stormwater Pollution Prevention Plan (SWPPP) submitted by the owners of 34 & 40 Jackson Avenue proposed improvements to be construction for the purpose of controlling and mitigating stormwater runoff from the property. The purpose of the Agreement is to insure the maintenance of the stormwater management measures continue in perpetuity.

**On the roll call, all voted "AYE." Motion carried.**

**B) HIGHWAY DEPARTMENT REPORT** for December 2018 was received for filing.

Superintendent of Highway's Hector DiLeo and Supervisor Colavita discussed the ongoing Con Edison project in which the utility is installing a 36" gas main between Mount Vernon and White Plains directly through the Town of Eastchester. The Supervisor acknowledged that while the project is necessary, it is greatly inconvenient to our residents. He and Mr. DiLeo will continue to meet with Con Edison officials to require the job sites do not impede the safety of vehicular traffic or impact neighborhoods. Further, the town will continue to enforce the permitting process and collection of fees.

**C) TOWN CLERK'S REPORT** for December 2018 was received for filing.

**vii. CORRESPONDENCE**

**A) MEMORANDUM FROM COMPTROLLER RE: PART TIME AND SEASONAL EMPLOYEES**

Councilman Bellitto offered a motion that was seconded by Supervisor Colavita to approve the following part-time and seasonal employees:

NAME	JOB TITLE	APPT. TYPE	RATE	EFF. DATE	
Baker, Andrew	Rec Attendant	Seasonal	8.00	2/19/2019	Rehire
Baker, Jackie	Rec Attendant	Seasonal	8.00	2/19/2019	Rehire
Lombardo, Kristen	Rec Attendant	Seasonal	9.00	4/13/2019	Rehire
Sasso, Estella	Rec Attendant	Seasonal	14.00	2/19/2019	Rehire
Imoukhuede, Henrietta	Rec Attendant	Part-time	10.00	2/6/2019	New
McGettigan, Ella	Rec Attendant	Seasonal	9.00	2/19/2019	Rehire
Bernabo, Livia	Rec Attendant	Seasonal	9.00	2/19/2019	Rehire
Stephen Bryson	PEO	Part-time	18.00	2/6/2019	Rehire
Justin Nunes	Laborer	Seasonal	12.00	2/6/2019	Rehire
Robert Conti	Laborer	Seasonal	12.00	2/6/2019	Rehire

**On the roll call, all voted "AYE." Motion carried.**

**B) MEMORANDUM FROM SUPERINTENDENT OF PARKS AND RECREATION RE: PERMISSION TO BID – GROUND MAINTENANCE**

Councilman Marcoccia offered a motion that was seconded by Councilman Dooley to approve a RESOLUTION authorizing the Parks & Recreation Department to go out to bid for the Ground Maintenance of Town owned property within the Town of Eastchester.

Supervisor Colavita clarified the Highway Department is responsible for maintaining the areas along the roads; while the parks and building grounds are maintained under the Ground Maintenance Contract.

**On the roll call, all voted "AYE." Motion carried.**

**viii. MISCELLANEOUS BUSINESS - none**

**ix. COUNCIL MEMBER REPORTS**

Councilman Marcoccia announced Lake Isle applications are currently available on-line and will be mailed to residents of Eastchester, Tuckahoe and Bronxville in the coming week. Beginning March 15<sup>th</sup>, the registration office will be open M-F from 9-5 and from 10-4 on weekend days. The Annual Lake Isle Open House has been scheduled for April 27<sup>th</sup> beginning at noon.

Councilman Bellitto announced information regarding the Summer Camp program is available on the Parks and Recreation page of the town website.

Councilman Dooley announced the 2019 St. Patrick's Day Parade will step off on Sunday, March 10<sup>th</sup> at 3:00 p.m. and congratulated Patrick Murtaugh on being named Grand Marshal. Mr. Dooley announced and congratulated the 2019 Parade Honorees Tom Beirne, Gary McCloskey and Gerry McLoughlin.

Additionally, Mr. Dooley announced AARP provides free income tax filing assistance every Tuesday from 9am – 2 pm at the Eastchester Library. The service is provided on a first come, first serve basis.

Councilwoman Nicholson announced the annual "Night Out" program offered by the Chamber of Commerce. The program allows parents to drop off their 4-12 year olds at the Tuckahoe Community Center for a fun night of activity and enjoy dinner at one of our local restaurants.

In closing, Councilwoman Nicholson announced the kick-off meeting for 2019 Relay for Life will be held at Broken Bow on February 28<sup>th</sup> and is open to anyone interesting in participating.

Supervisor Colavita stated; "over the last several months questions have been raised regarding a particular police disciplinary matter. Under New York State Law, (Civil Rights Law Section 50-a) police disciplinary matters are strictly confidential and not subject to release or discussion without a Court Order. This law covers all police officers from Patrol right up to the Chief of Police. Nonetheless, proper discipline of police officers is essential and the Town holds all of our officers to high standards. For that reason, when allegations were made regarding the Chief of Police, specifically a theft of a gun at his house, the Town retained a lawyer with extensive police disciplinary experience to investigate the claim.

That investigation has now been concluded and the Town has acted upon the matter and taken remedial action. The Chief was completely cooperative throughout the entire investigation.

While I cannot reveal the specific action taken in this case, the penalty imposed was significantly harsher than in the only other case where there was a disciplinary action pertaining to a weapon.

In assessing what corrective action is appropriate in disciplinary cases, numerous factors are considered including, the level of responsibility by the Officer, what action was taken in similar cases and the overall record of the Officer. Like every other case, the Board considered these factors, including an unblemished record with 38 years of dedicated service by this Officer and imposed corrective action. The Chief has fully accepted the discipline, as is his right. This concludes this matter and the Town will have no further comment on this.”

In response to the question, the Supervisor stated the cost of the investigation was under \$8,000.

Supervisor Colavita announced the formation of a Transportation Committee and called for volunteers to serve on the Committee. The mission of the committee will be to explore opportunities and feasibility of the town owning buses for the purpose of providing commuter shuttles from neighborhoods to train station, for the use by senior programs and services, camps and Teen Scene. Further, the committee will determine if the schools might benefit from using the buses for travel to sporting and special events. Anyone interested in serving on the committee should contact the Supervisor’s Office at 771-3302.

The Supervisor explained that a handful of parents are mis-using the cul-de-sac at Apple Court as part their student’s drop-off and pick-up routine. The street becomes so crowded during the morning and afternoon that residents are often unable to enter or exit their driveways. In addition to asking the public to refrain from using the street in such a manner, the town will reach out to the State DOT to request a ‘green arrow’ turn signal to ease traffic in and out of the Eastchester High School parking lot.

Supervisor Colavita reported the Governor has announced that virtually all State Aid to local municipalities will be withheld, including \$181,000 to Eastchester. With state legislation aimed at legalizing recreational use of marijuana being considered, state funds may be reinstated to communities that do not restrict the sale marijuana.

#### **x. SECOND OPPORTUNITY TO ADDRESS THE BOARD**

Note to the reader: Frequently, a clarification or general question concerning an Agenda Item or topic previously discussed is requested during this Opportunity to Address the Board. To benefit the reader, the clarifications and additional information are included at the point when the Item is considered and discussed by the Town Board.

Michael Denning called the creation of a Transportation Committee a ‘good idea’ and stated, if buses are purchased, they should be offered for use to both the Tuckahoe and Eastchester School Districts.

Mr. Denning and Supervisor Colavita discussed recent statements by Con Edison in which they claim there is insufficient infrastructure for natural gas service for much of Westchester County and announced a moratorium on new residential, commercial and industrial gas service to customers starting March 15<sup>th</sup>. The moratorium could affect residents hoping to complete renovations and new construction.

Mr. Denning asked if a reassessment of the utility poles in town is likely. Supervisor Colavita explained a court ruling regarding the way in which utility poles are assessed is anticipated. Assessor Todd Huttunen is watching this carefully and will act accordingly.

David Levy expressed concern regarding the increase in the cost of utilities and the installation of 5G cell towers.

There being no further public business, the meeting was adjourned at 7:55 p.m.

Minutes prepared by:

Linda Laird  
Town Clerk