

TOWN OF SOUTHEAST
1360 Route 22, Brewster, New York 10509
Thursday, June 9, 2016
EXECUTIVE SESSION 6:00 P.M.
WORK SESSION / REGULAR MEETING 7:00 P.M.

Pledge of Allegiance
Notation of Exits

Present: Supervisor Tony Hay
Councilwoman Elizabeth Hudak
Councilwoman Lynne Eckardt
Councilman Edwin Alvarez

Absent: Councilman Cullen

Also Present: Town Clerk Michele Stancati
Town Attorney Willis H. Stephens Jr.

And: 23 Persons

EXECUTIVE SESSION

Supervisor Hay made a motion to open the meeting and go into Executive Session. Councilman Alvarez seconded. All in favor.

Supervisor Hay made a motion to close the Executive Session where no decisions were made and Councilman Alvarez seconded. All in favor.

WORK SESSION

Fortune Ridge Sewer Rates

There was a discussion about setting the sewer rates for the Fortune Ridge Subdivision. Attorney for the project Richard O'Rourke explained that it was a traditional Homeowners situation where they are made aware of the cost from the beginning and the rates will be established by the Regulatory Commission. The rates can change every 5 years and there will be a total of 103 homes.

Barrett Hill

Terri Hahn submitted the EAF for Barrett Hill and asked if the Town Board had any questions. Ashley Ley, Town Planner, stated that she received the revised pages from the applicant that addressed the questions she had, and the EAF is sufficient to be circulated. Questions were asked by Councilwoman Eckardt about the number of school children that the zoning change would bring about,

and that in addition to using the Rutgers formula to estimate, could they compare it to another similar zoning project. She didn't feel the numbers were accurate. She also asked if this is considered spot zoning and Ms. Ley stated she didn't believe so but it is tailored zoning. Councilwoman Eckardt stated she also noticed that the revenue would be decreased significantly with school age children. Councilman Alvarez asked about how the traffic will be affected going from senior housing to a different age group. Terri Hahn explained that it is addressed in the traffic study. Councilman Alvarez stated that he didn't think 31 children should make a big difference. Supervisor Hay stated he is in full support of the project with housing Veterans and those with disabilities. He questions the fairness of a priority list and stated that it needs to be an objective process and meet fair housing guidelines. Ms. Ley stated that a priority list could lead to how and why certain people were chosen, and ethical questions. Supervisor Hay also feels there is more of a need for senior housing, and to confirm that there is a five year waiting list at Stonecrest. He believes it should be for Veterans, people with disabilities and seniors, so there is no need to change the zoning. He asked Mr. Lepler why he won't keep it for senior housing. Mr. Lepler stated that years ago there were state and federal grants for age restricted housing and that is no longer available, so it is hard to get financing.

REGULAR MEETING

Supervisor Hay made a motion to open the Regular Meeting and Councilwoman Hudak seconded. All in favor.

RESOLUTION NO. 36 / 2016 INDEPENDENT SEWER WORKS, INC. DETERMINATION OF RATE PETITION

INTRODUCED BY: Supervisor Hay
SECONDED BY: Councilwoman Hudak

WHEREAS, Independent Sewer Works, Inc. ("ISW") is a Transportation Corporation duly organized, existing and operating pursuant to the laws of the State of New York and providing sewer collection and treatment services to commercial entities located in the Highlands Shopping Center within the Town of Southeast (the "Rate Payers"); and

WHEREAS, the Town Board of the Town of Southeast is empowered to review and revise rates paid by such Rate Payers to ISW pursuant to the Transportation Corporation Law of the State of New York; and

WHEREAS, a petition seeking rate view having come before the Town Board and after thorough review of submissions on behalf of ISW and individual rate payers, including, but not limited to Home Depot, U. S. A., Inc., and upon review of all submissions made to the Board in its review of ISW's rate base, revenue requirements and rate design, and after due deliberation thereon, it is the Town Board intention to memorialize its decision.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast hereby establishes the annual revenue permitted to Independent Sewer Works, Inc. to be \$580,627.00 and the rates charged to individual Rate Payers shall be calculated and designed so as to be apportioned 82% based upon square foot occupancy of each Rate Payer within the area served by ISW and 18% upon water consumed by each

such Rate Payer in accordance with the table annexed hereto and made a part hereof as Schedule A; and be it further

RESOLVED, that the Town Board hereby adopts and incorporates herein by reference, the annexed Decision Determining the Revenue Requirement and Rates of Independent Sewer Works, Inc., effective June 9, 2016.

Upon Roll Call Vote:

Councilman Alvarez	<u>Aye</u>
Councilman Cullen	<u>Absent</u>
Councilwoman Eckardt	<u>Aye</u>
Councilwoman Hudak	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 4 in favor, 0 against; 0 abstained.

RESOLUTION NO. 37 / 2016 SPECIAL PERMIT REQUEST WARD – CASTLE HILL FARM – PRIVATE CEMETARY

INTRODUCED BY: Supervisor Hay
SECONDED BY: Councilwoman Hudak

WHEREAS, McClain Ward, owner of premises located at 2-12 Castle Hill Lane Tax Map No. 78.-1-53,(the “Subject Premises”) has made application to this Town Board for a Special Permit to allow establishment of a private burial plot on the Subject Premises; and

WHEREAS, the Subject Premises are located in an R-160 Zone; and

WHEREAS, a cemetery is only permitted in an R-160 zone upon the grant of a Special Permit by the Town Board; and

WHEREAS, the Town Board is in receipt of a report and recommendation from the Southeast Planning Board finding that the proposal of McClain Ward is in compliance with the applicable general and special standards of Article X of Chapter 138 of the Town Code; and

WHEREAS, the Planning Board, as Lead Agency for purposes of State Environmental Quality Review Act (“SEQRA”) has issued a Negative Declaration, thereby concluding review under SEQRA; and

WHEREAS, a duly noticed public hearing was held by the Town Board on May 19, 2016 in connection with this application and all interested parties have been given an adequate opportunity to be heard in this regard.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast hereby makes the following findings of fact in connection with the instant application:

1. The proposed use is in such location and is a size and character that it will be in harmony with the appropriate and orderly development of the surrounding district and will not be detrimental to the immediate site or adjacent properties;
2. The location and size of the proposed use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout, and its relation to access streets will be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous, provided the conditions set forth herein are incorporated in any final approval;
3. There are no proposed structures which might hinder or discourage the development and use of adjacent land and buildings; and
4. The proposed use will not require such additional public facilities or services or create fiscal burdens upon the Town greater than those which characterize uses permitted as of right.

AND BE IT FURTHER

RESOLVED, that based upon the foregoing findings, the Town Board of the Town of Southeast hereby grants a Special Use Permit to McClain Ward, Castle Hill Farm, to maintain a private, family burial plot on the Subject Premises in accordance with Statement of Use prepared and submitted to the Planning Board in connection with this Project Development Plan / Request for Special Permit application and incorporated herein by reference, on the following conditions:

1. The burial chamber, crypt or mausoleum shall be constructed so as to be wholly beneath ground and shall be designed and constructed to accommodate the burial of one (1) member of the Ward family. Any proposal to expand the burial plot to accommodate land burial of additional Ward family members shall require the owner of the Subject Premises to make further application to the Planning Board; and
2. The applicant shall maintain the cemetery in compliance with all conditions set forth in Article X of the Zoning Code; and
3. The applicant shall comply with any and all requirements, guidelines, rules and regulations of the Department of State, Division of Cemeteries; New York State Department of Health; Putnam County Department of Health and any other federal, state or local municipal or governmental agency having authority over the land burial of human remains; and shall file any and all such approvals with the Planning Board of the Town of Southeast.

And be it further

RESOLVED, that the Town Clerk is hereby authorized and directed to forward a certified copy of this resolution to the owner or representative of the Subject Premises and to the Secretary of the Town of Southeast Planning Board, forthwith.

UPON A ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Cullen	<u>Absent</u>
Councilwoman Eckardt	<u>Aye</u>
Councilwoman Hudak	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 4 in favor, 0 against; 0 abstained.

RESOLUTION NO. 38 / 2016 MACO LAND PROPERTIES ARCHITECTURAL REVIEW BOARD

INTRODUCED BY: Supervisor Hay

SECONDED BY: Councilman Alvarez

WHEREAS, the Town Board is in receipt of a Report of the Architectural Review Board (“ARB”) of the Town Southeast dated May 26, 2016 in connection with the application of Maco Land Properties to construct an office building on property located at 1651 Route 22, Tax ID 46.-3-14, in the Town of Southeast, Putnam County, New York; and

WHEREAS, the Report concludes that the ARB positively recommends the project to the Town Board on the condition that the applicant make modifications to certain construction materials and landscape plantings ; and

WHEREAS, the Town Board finds that there is no reason to upset the findings and recommendation of the Architectural Review Board in connection with said application.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board hereby accepts and approves the Report of the Architectural Review Board dated May 26, 2016, a copy of which is annexed hereto and made part hereof, in connection with Maco Land Properties, 1651 Route 22, Tax ID 46.-3-14 and that such Report, with conditions, shall be incorporated into any final Site Plan subsequently reviewed and approved by the Planning Board.

UPON ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Cullen	<u>Absent</u>
Councilwoman Eckardt	<u>Aye</u>
Councilwoman Hudak	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 4 in favor, 0 against; 0 abstained.

RESOLUTION NO. 39 /2016 PEOPLE v. BREWSTER AUTO, INC. & ESTATE OF MARIN (CARLA MARIN CO-EXECUTOR) APPOINTMENT OF SPECIAL PROSECUTOR

INTRODUCED BY: Supervisor Hay

SECONDED BY: Councilman Alvarez

WHEREAS, the Town of Southeast has previously instituted proceedings against Brewster Auto, Inc. and Carla Marin as Co-Executor of the Estate of Beatriz Marin in connection the illegal operation of an auto wrecking and junk yard facility within the Town of Southeast; and

WHEREAS, the aforementioned proceedings were transferred to the Justice Court in and for the Town of Philipstown (Hon. Alan Steiner presiding) wherein a bench trial was conducted on September 11, 2014 (the “Trial”) culminating in a entry of a decision and order dated November 16, 2015 which, *inter alia*, found the Defendants guilty of having violated various provisions of the Town’s codes and

later sentenced the Defendants to pay fines calculated from the time of the filing of the accusatory instruments for on-going violations through the date of the Trial; and

WHEREAS, the auto wrecking and junk yard facility has continued to operate in violation of the codes, rules and regulations of the Town of Southeast; and

WHEREAS, the Town Board had previously appointed Stephen Lewis, Esq., as Special Prosecutor to represent the People in these matters.

NOW, THEREFORE,

BE IT RESOLVED, that the Town Board of the Town of Southeast hereby appoints Stephen Lewis, to serve as Special Prosecutor for Town of Southeast in connection with all new, additional, supplemental or supplementary proceedings seeking redress and sanctions for on-going violations of the Town's Codes by the owners and operators of the Brewster Auto / Marin automobile wrecking / junk yard from the date of the previous Trial to such time as such violations are abated or otherwise discontinued.

UPON A ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Cullen	<u>Absent</u>
Councilwoman Eckardt	<u>Aye</u>
Councilwoman Hudak	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 4 in favor, 0 against; 0 abstained.

RESOLUTION NO. 40 / 2016 KOHL'S DEPARTMENT STORE SETTLEMENT OF CERTIORARI PROCEEDINGS

INTRODUCED BY: Supervisor Hay
SECONDED BY: Councilwoman Eckardt

WHEREAS, proceedings have been commenced in Supreme Court challenging the assessed valuation of commercial premises known generally as Kohl's Department Store, Tax Map No. 56.-1-23.-2for 2013, 2014 and 2015; and

WHEREAS, the Town Board is in receipt of settlement recommendations from the Town's Assessor, Appraiser and Town Attorney with regard to such proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast does hereby accept the recommendations of its professional advisors and authorizes the Town Attorney to execute a Stipulation of Settlement, Consent Judgment and/or Order on Consent in accordance with said recommendations for the following:

<u>Petitioner</u>	<u>Tax ID</u>	<u>Year</u>	<u>Assessment</u>	<u>Settled Assessment</u>
Kohl's	56.-1-23.-2	2013	\$8,966,000	\$7,994,000
		2014	\$8,966,000	\$7,994,000
		2015	\$8,966,000	\$7,994,000

And be it further

RESOLVED, that the Town Attorney is hereby authorized and directed to execute any and all stipulations, consent orders or other documents necessary to reflect the foregoing settlements.

UPON A ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Cullen	<u>Absent</u>
Councilwoman Eckardt	<u>Aye</u>
Councilwoman Hudak	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 4 in favor, 0 against; 0 abstained.

RESOLUTION NO. 41 / 2016 CRR TOP SPIN SETTLEMENT OF CERTIORARI PROCEEDINGS

INTRODUCED BY: Supervisor Hay

SECONDED BY: Councilwoman Hudak

WHEREAS, proceedings have been commenced in Supreme Court challenging the assessed valuation of commercial premises known generally as CRR Top Spin LLC, doing business as Hardscrabble Tennis Club, Tax Map No. 78.-2-16.3 for the Tax Year 2015; and

WHEREAS, the Town Board is in receipt of settlement recommendations from the Town's Assessor, Appraiser and Town Attorney with regard to such proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast does hereby accept the recommendations of its professional advisors and authorizes the Town Attorney to execute a Stipulation of Settlement, Consent Judgment and/or Order on Consent in accordance with said recommendations for the following:

<u>Petitioner</u>	<u>Tax ID</u>	<u>Year</u>	<u>Assessment</u>	<u>Settled Assessment</u>
CRR Top Spin	78.-2-16.3	2015	\$5,000,000	\$3,750,000

And be it further RESOLVED, that the Town Attorney is hereby authorized and directed to execute any and all stipulations, consent orders or other documents necessary to reflect the foregoing settlements.

UPON A ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Cullen	<u>Absent</u>
Councilwoman Eckardt	<u>Aye</u>
Councilwoman Hudak	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 4 in favor, 0 against; 0 abstained.

**RESOLUTION NO. 42 / 2016 AUTHORIZING SUPERVISOR TO EXECUTE
MEMORANDUM OF UNDERSTANDING WITH PUTNAM COUNTY, FEEHAN AGENCY
AND EAST OF HUDSONWATERSHED CORPORATION**

INTRODUCED BY: Supervisor Hay
SECONDED BY: Councilwoman Hudak

WHEREAS, the Town of Southeast (the “Town”) and Putnam County (the “County”) are members of the East of Hudson Watershed Corporation (“EOHWC”); and

WHEREAS, EOHWC assists its member municipalities, including the Town and the County, in complying with the New York State Department of Environmental Conservation (“NYSDEC”) Municipal Separate Storm Sewer Systems Permit effective May 1, 2010 (“MS4 Permit”) by the design and installation of stormwater retrofit projects approved by NYSDEC;

WHEREAS, one such project is designed for the collection and treatment of stormwater run-off emanating from Town owned roads, crossing County owned lands and rights of way and then through lands owned by Feehan Agency (“Feehan”) located at 2350 Route 6 (the “Premises”); and

WHEREAS, EOHWC proposes to undertake a Stormwater Retrofit Project which will entail the staging, storage and mobilization of equipment and materials from the Premises; and

WHEREAS, upon the conclusion of the construction phase of the Project, EOHWC will restore the disturbed area of the Premises and re-pave the balance of Feehan’s parking lot; and

WHEREAS, the Town and County will each reimburse EOHWC for one-third (1/3) the cost repaving the parking lot on the Premises.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Supervisor is authorized to execute and deliver any and all memoranda of understanding, agreements or other documentation necessary to memorialize the agreements and understandings necessary to reflect the intentions and commitments of the parties to share the expense of re-paving the Feehan Agency parking lot located on the Premises; and be it further

RESOLVED, that all actions heretofore taken by the Supervisor in connection with this initiative are hereby ratified, confirmed and approved *nunc pro tunc*; and be it further

RESOLVED, that this Resolution shall take effect immediately.

UPON A ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Cullen	<u>Absent</u>
Councilwoman Eckardt	<u>Aye</u>
Councilwoman Hudak	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 4 in favor, 0 against; 0 abstained.

RESOLUTION NO. 43 / 2016 AUTHORIZING SUPERVISOR TO EXECUTE INTERMUNICIPAL AGREEMENT WITH PUTNAM COUNTY FOR ELECTRICAL INSPECTIONS

INTRODUCED BY: Supervisor Hay

SECONDED BY: Councilman Alvarez

WHEREAS, pursuant to New York General Municipal Law, Article 5-G, local governments are authorized to enter into municipal cooperation agreements for the performance among themselves or one for the other of their respective functions; and

WHEREAS, the Town of Southeast (the “Town”) acknowledges that there is a critical need to utilize every means available to provide the maximum services in the most cost-effective manner and at the least possible cost to the local taxpayers, and that flexibility in operation local governments through shared services and resources is necessary to insure efficiency and maximum benefits to the local taxpayers which will result in efficient and cost-effective work performance; and

WHEREAS, pursuant to New York Executive Law §381(2), any local government may enter into an agreement with the county in which such local government is situated to administer and enforce the uniform code, the state energy conservation construction code, or both, within such local government; and

WHEREAS, the County of Putnam (the “County”) intends to enter into a contract with an electrical inspector consultant (the “inspector”) to perform electrical inspections, re-inspections or altered electrical wiring (collectively referred to as “electrical inspections”) in accordance with the standards of the National Electrical Code, New York State Uniform Fire Prevention Code, New York State Building Code, and all other applicable national, state and

local regulations, ordinances and codes for residential and commercial properties located within the County, including those properties located with the Town; and

WHEREAS, the Town wishes to authorize the County, through its inspector and at no cost to the Town, to administer electrical inspections within the Town’s jurisdiction; and

WHEREAS, taxpayer monies will be saved and that such an agreement is in the best interests of the Town to enter into such an agreement.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Supervisor is authorized to finalize and execute an Inter-municipal Agreement, which shall be in substantial conformance with the form attached hereto as “Schedule A” in order to effectuate sharing of services and resources as set forth hereinabove; and be it further; and

RESOLVED, that all actions heretofore taken by the Supervisor in connection with this initiative are hereby ratified, confirmed and approved *nunc pro tunc*; and be it further

RESOLVED, that this Resolution shall take effect immediately.

UPON A ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Cullen	<u>Absent</u>
Councilwoman Eckardt	<u>Aye</u>
Councilwoman Hudak	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 4 in favor, 0 against; 0 abstained.

Supervisor Hay made a motion to waive the rules to add a resolution to the agenda. Councilwoman Hudak seconded. All in favor.

RESOLUTION NO. 44 / 2016 HISTORIC SITES COMMISSION APPOINTMENTS TO FILL VACANCY

INTRODUCED BY: Supervisor Hay
SECONDED BY: Councilwoman Eckardt

WHEREAS, the Town of Southeast Historic Sites Commission (“HSC”) fully support the re-appointment of a current Board Member; and

WHEREAS, the Town Board is in receipt of an HSC report regarding the filling the re-appointment of that Board Member.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast hereby appoints

Lisa McCarthy

who resides at 147 John Simpson Road, Carmel, New York 10512 in the Town of Southeast, to fill an open 7 year term from 01/01/16 – 12/31/23 as a member of the Town of Southeast Historic Sites Commission; and be it further

RESOLVED, that these appointments shall take effect upon the taking and filing of the appropriate oath of office with the Clerk of the Town of Southeast.

Upon Roll Call Vote:

Councilman Alvarez	<u>Aye</u>
Councilman Cullen	<u>Absent</u>
Councilwoman Eckardt	<u>Aye</u>
Councilwoman Hudak	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 4 in favor, 0 against; 0 abstained.

PUBLIC COMMENT

John Lord asked the Town Board if the annual revenue to be paid to ISW is less than the previous year and Supervisor Hay stated that it is the same as what was decided in 2014.

Peter Bell mentioned that Home Depot has filled some space in their parking lot with rows of plants. Supervisor Hay stated that a notice of violation has already gone out.

TOWN BOARD COMMENT

Supervisor Hay stated that the new Town website is up and running and can be found at southeast-ny.gov. Councilwoman Hudak wished all the fathers a Happy Fathers Day!

Councilman Alvarez made a motion to close the meeting and Councilwoman Hudak seconded. All in favor.

Respectfully Submitted,

Michele Stancati
Southeast Town Clerk