

**TOWN OF MONTGOMERY
SPECIAL TOWN BOARD MEETING
Tuesday, October 22, 2019
6:00 p.m.**

MOTIONS

Resolve

Motion by Councilman Dempsey, Jr., seconded by Councilwoman Melick that the Town Board of the Town of Montgomery enters into Executive Session at 7:12 p.m. to confer with Counsel.

Roll Call: 5 Ayes/0 Nays/0 Absent **Carried: 5-0-0**

Resolve

Motion by Councilwoman Melick, seconded by Councilwoman Voss that the Town Board of the Town of Montgomery exits Executive Session at 7:28 p.m. (No action taken in Executive Session)

Roll Call: 5 Ayes/0 Nays/0 Absent **Carried: 5-0-0**

Resolve

Motion by Councilman Hoyt, seconded by Councilwoman Melick that the Town Board of the Town of Montgomery closes the Public Hearing for Introductory Local Law No. 8 of 2018 to consider the petition of Bluewater Industrial Partners seeking the adoption of a local law to rezone a portion from Interchange Business (IB) Zoning District to Industrial Park Major Access (I-2) Zoning District.

Roll Call: 5 Ayes/0 Nays/0 Absent **Carried: 5-0-0**

Resolve

Motion by Councilwoman Melick, seconded by Councilman Dempsey, Jr. that the Town Board of the Town of Montgomery adjourns the meeting at 7:32 p.m.

Roll Call: 5 Ayes/0 Nays/0 Absent **Carried: 5-0-0**

**TOWN OF MONTGOMERY
SPECIAL TOWN BOARD MEETING
Tuesday, October 22, 2019
6:00 p.m.**

A specially scheduled meeting of the Town of Montgomery Town Board was held in the Town Government Center, 110 Bracken Road, Montgomery, New York, on the above date and time.

Present:

Supervisor:	Rodney Winchell
Council Member:	Cindy Voss
Council Member:	Daniel S. Dempsey, Jr.
Council Member:	Sherry Melick
Council Member:	Mark Hoyt

Town Clerk:	Tara Stickle
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Also Present:

Stephanie Tunic, Attorney for the Town Audience
News Media

Supervisor Winchell called the meeting to order at 6:00 p.m., asking all to rise for the Pledge of Allegiance.

Public Hearing - Introductory Local Law No. 8 of 2018 - Bluewater Industrial Partners - Project Sailfish - Zone Change

A Public Hearing was reconvened to entertain comments on Introductory Local Law No. 8 of 2018 to consider the petition of Bluewater Industrial Partners seeking the adoption of a local law to rezone a portion from Interchange Business (IB) Zoning District to Industrial Park Major Access (I-2) Zoning District. The Public Hearing notice was re-published in the Wallkill Valley Times / Times Community Newspapers of the Hudson Valley on October 9, 2019.

Attorney Tunic stated that the Town received a written protest petition from certain property owners. She stated that they have not yet confirmed the validity of this as they just received it.

Mr. Dave Everett, Attorney for the project and Principal Owners, Mr. Donald Chase, Jr. and Mr. Stephen Butte appeared before the Board and Audience.

Mr. Everett updated the Board by stating that this is the 5th Public Hearing they've had for the zone change. He stated that he wanted to give everyone a few updates since the last Public Hearing. He

explained that the Town Planning Board closed its Public Hearing, adopted a written SEQRA findings statement, which was over 100 pages long. He stated that the findings show that there will be no significant adverse impact on the environment or rezoning; any significant impacts that did exist have been mitigated or avoided. He stated that the Planning Board also has findings regarding the rezoning, which is also many pages long. He read an excerpt from the Planning Board regarding the proposed rezoning, which basically states that over the last 30 years, the Town's planning documents have all recommended that the project site be used for industrial development. He also read that the proposed zoning is consistent with these recommendations and in accordance with the Master Plan; it also is an ideal location for the project due to its accessibility to I-84, NYS Route 17K and NYS Route 747. He added that this project will generate approximately 1000 jobs and a significant tax revenue. He reiterated from the last Public Hearing that there are over 30 Federal, State and local agencies that have reviewed this project, some that have commented which led to some improved changes to the project. Approximately 12 of those agencies have approved the project and/or approved permits for this project, including Coldenham Fire District, Orange County Department of Health which issued a certificate of approval for the project's water system, Orange County Planning Department (2nd time) has no objections for the project and the NYSDEC issued a Freshwater Wetlands Permit and a Discharge Permit for the project's small wastewater treatment plant.

R.J. Smith, Realtor, explained the history of the Comprehensive Plan. He explained that the Town's Comprehensive Plan was adopted in 1988. In 2004, a committee was formed, and a Comprehensive Plan was adopted. However, the Courts deemed the Plan to be deficient, as it lacked provisions for affordable housing. He stated that he doesn't necessarily agree with the Court, as the Plan provides for affordable housing in and around the Villages, as those locations have services to accommodate higher density housing. He added that there were no issues from the Courts with the non-residential portions of the Plan, which had the subject property zoned as I-2, which is being requested. He believes that even though the Courts found deficiency in this very Comprehensive Plan, he believes that this Town Board should address this issue while utilizing that Comprehensive Plan in its deliberation.

Susan Cockburn, Resident, stated that Mark Hoyt, Rich Hoyt, Jeff Crist and Bill Kirnan were on the committee for the Master Plan, who then turned the Master Plan over to the Town Board. She stated that Rich Hoyt acted as attorney for the committee. She added that Attorney Hoyt included that the Plan has to be updated every 5 - 7 years. She stated that the current Plan is a mess; it's in bits and pieces. She stated that the Town needs its own laws in place to protect the Residents. She stated that a Comprehensive Plan is needed and that this project is site specific rezoning. She stated that a Plan was done in 2007, which stated that corridor should design itself to build out around the Colden Mansion Ruins. She recommends that the Board waits to decide until they receive real traffic studies and until the adjoining property owner, who has been paying taxes for decades, is happy with it. She stated that zone changes like these shouldn't happen and affect the people and residents who are already here in the Town; she believes it is wrong.

Jeff Baker, Attorney with Young/Sommer LLC representing Barbara Lerner, stated that they submitted a protest petition yesterday. He stated he is sure that they have met the threshold with this petition, however it is difficult to know as the Board didn't request the applicant to submit the required calculation for percentage of land within 100 ft. of the boundaries; it is a specific requirement in the Town's Zoning Law for a zoning petition. He believes this requirement was never done. He also stated that he still has an outstanding F.O.I.L. request from 2 weeks ago which was never formally acknowledged. He stated that the Board has the right to say no to this zoning change; he believes this change is a bad idea for the Town. He stated that this area is perfect for warehouses with its proximity to major highways, however this project is not a normal warehouse; it is a fulfillment center, which it says in the findings. He explained that a fulfillment center is not a traditional warehouse; it's for Amazon and other e-commerce providers. He stated that allowing this zone change and facilitating these businesses, the Town is telling its local retail businesses that it's going to make it easier for people to compete against the local businesses in a manner that local businesses can't compete with. He believes the tax base will suffer because the Town allowed Amazon to come in. He also stated that the Town will be providing them with a \$25,000,000.00 tax break, which makes no sense since they're one of the richest companies in the world.

Barbara Lerner, Property Owner at NYS Routes 747 and 17K, stated that in the Findings in their application, the applicant says that this project will leave a developable IB zoned strip of land along 17K, which she states is false. She explained that over one third of this unchanged zone is wetlands and cannot be developed, another third is the wastewater treatment plant, which also cannot be developed. She stated that currently the new management at Stewart Airport is looking to bring in business and high-tech business, unrelated to warehousing. She stated that this project encumbers 100% of the developable land between I-84 and NYS Route 17K other than her property. She spoke about the traffic impacts that will take place if this zone change is made and this project goes through. She also spoke about the negative impacts to the environment, economy and society.

Beverly Mertz, Resident, explained to the Board that they have the right to say no to this zone change and also has the right to know who the new tenant will be and if the tenant will still be there in 15 years; at that point the Town would be stuck with a huge warehouse and no ratables.

Cherie Zahakos, Resident, stated that fellow Residents of the Town will be directly affected by the Board's choices going forward. She stated that each Board Member has a vote and that this decision to change the zone isn't solely up to the Supervisor. She spoke about the septic system in the Comprehensive Plan that the Board is fully aware of. She stated that the Town should be talking about where the septic should be and what kind will best serve the community. She also stated that based on information from the IDA, 775 temporary workers, not full-time, to 25 professionals will be working there. She added that the second year there will be no growth. She stated that no Town wants warehouses and that is why they are all being pushed in the Town.

William Devine, adjacent Property Owner, stated that he respectfully disagrees with R.J. Smith's comments regarding the Master Plan when he stated that there are no flaws in the Master Plan

regarding the I-84 corridor not having access to NYS Route 747. He asked what if Sailfish does not grant access through their property.

Kristen Brown, Resident and Business Owner, asked why the Town is trying to accommodate such a large project to come into our Town when our Comprehensive Plan and Zoning is outdated. She stated that at a recent Planning Board meeting, Chairman Reichle stated that they abide by the tools they are given. She asked that if they are given a Comprehensive Plan from 1988, which does not include the mention of warehouses, how can anyone ask the Planning Board to adequately review these projects. She stated that to ensure harmful effects do not occur to all of the neighbors, she urged the Board to wait on a determination until after the Town has the tools to properly review a project of this magnitude and evaluate the cumulative impacts of projects of this scale to ensure the Town is a place that everyone wants it to be.

Karina Tipton, Resident, stated that this local law to change the zone is made up of bad compromises. She stated that poor planning decisions are being evaluated as part of this rezoning. She stated that there is a bad compromise regarding the ratables; this compromise is sacrificing local business owners who have been paying ratables to the Town for the entirety of their time in Montgomery. She stated that this project is going to impact farmers and homeowners near the property and downstream from the Tin Brook watershed. She stated that homeowners in the Village of Walden may be forced to boil their water if their wells are overtopped and flooding occurs. She stated that labor is very important, however there are more bad decisions regarding labor to construct this building. She stated that Mr. Stoddard on the IDA Board has suggested a compromise to the local law reducing the percent of local labor that is permitted to work on this building. Another bad compromise would be the workers there after the building is built. She stated that documents submitted to the Planning Board clearly state that the 1400 people working will be coming from Middletown and Newburgh via I-84. She states that this won't impact our school district or housing, however, since the workers will be coming from somewhere else. She stated that we need zoning that will facilitate businesses investing in the Town's community and investing for the long term. She asked the Board to ask themselves who they are making these bad compromises for, a speculative property owner who is probably Amazon, who has had 13 deaths since 2013. She stated that the Ambulance Corps says that they will not be able to handle that kind of response time. She asked the Board to consider how this local law to amend the zoning will impact the locals.

Joe Keenan, Resident, stated that the applicant is Bluewater Industries and asked if they are also the property owner; as he understands it, they are not. He would like to know if the Town's zoning regulations permit a non-property owner to petition for a zone change. He is against this zone change.

Don Berger, Resident, stated that he went to Candidates' Night, where Supervisor Winchell and Councilman Hoyt said they believe a Comprehensive Plan should be put in place and in an expedient manner. Mr. Berger agrees with this and stated that there is so much going on right now in the Town and a battle between the Applicants and the Residents. He explained that he believes

the Town Board runs the Town for the Residents, not the Applicants. He asked that the Board not grant this zone change and to start working on the Comprehensive Plan. He asked why it is taking so long to get the Comprehensive Plan Committee formed. He believes that the Board currently has too much on their plate.

Todd Diorio, President of Hudson Valley Building Trades, stated that he represents 28 trade locals in the Hudson Valley with 10,000 members, including 150 residents who are for this project and have signed a petition. He should collect approximately 700 – 800 petitions. He stated that he doesn't like how some have labeled Building Trades as corrupt. He stated that they have a job to do and they want to promote good paying jobs. He explained that they don't promote all projects in the area. He read a petition regarding Project Sailfish stating how the project would bring long lasting benefits to Montgomery and how they support the local law to amend the zoning for this property. He explained local labor laws and why a certain percentage of the building labor will be local. He stated that there is currently a lot of work and the size of the project is so large that there aren't enough iron workers in this area. He stated that if Matthew Stoddard didn't make concessions, the work would probably have gone to out of State or out of area contractors. He believes Public Comment should be closed, as this back and forth could go on forever.

Debbie Drake, Resident, is one of the owners of the project property. She explained that Sailfish does have permission to represent the owners regarding the zoning change; she has owned the property since 1979. She stated that the words "fulfillment center and warehouse" are synonymous and there is just a change in the language at this point. She believes this property is in the perfect location, close to I-84, NYS Thruway, Stewart Airport and NYS Route 17K. She explained that the property owners came together to merge their properties into one 187-acre parcel. Now there won't be 4 different properties coming in with 4 separate applications. She also thinks that the amount of jobs that will be created because of this property is a positive thing. She also believes that the tenant should remain anonymous as there is attorney/client privilege and confidentiality involved; it shouldn't matter who the tenant is, as this project has been through so many State, County and Town approvals for the last 2 years. She believes it's time to close the Public Hearing; over and over the same comments are heard. She hopes the Board supports Project Sailfish.

Jayne Fiero, Resident, also believes the Public Hearing should be closed. She hopes the Board will vote no on this project, get the Comprehensive Plan going and move forward with more diversified job offers. She explained that both of her daughters needed to leave this area for employment reasons because there are no professional jobs available.

Supervisor Winchell reminisced about growing up near the property for Project Sailfish and stated that the prior owners, some were farmers, envisioned the property as commercial in the future. He stated that he would love to put a farm on that property, as he has fond memories of spending time there, but he added that since the 1970s the owners have been paying taxes on that land and bought the property as an investment.

Supervisor Winchell and Ms. Drake discussed the history of the property.

Randi Greene, Resident and Business Owner in the Village of Montgomery, stated that her partner has been in the Carpenters Union for 15 years, so she understands where people are coming from, but believes there are two sides to every story. She understands the need for ratables and stated that a Comprehensive Plan is needed, however she asked why the Town is not even asking these businesses to pay even half of their taxes. She stated that everyone should pay their adequate taxes. She stated that she acted as a liaison with these projects to voice the concerns of the Residents and has, along with Senator Skoufis, asked Medline to drop their PILOT agreement. She asked why she should be the one doing this and asked what the Board is doing.

Anita Falcone, Resident of Village of Montgomery, Business Owner, stated that she has clients coming to her for 15 years and they can barely get to her place now because of the lack of infrastructure. She explained that the Town needs better infrastructure in place before any decisions should be made on these large projects. She stated that the traffic is already significant.

Resolve

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Roll Call: 5 Ayes/0 Nays/0 Absent **Carried: 5-0-0**

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Roll Call: 5 Ayes/0 Nays/0 Absent **Carried: 5-0-0**

A Motion was made by Councilman Hoyt that the Town Board of the Town of Montgomery adopts the Findings Statement pursuant to the SEQRA for Bluewater Industrial Partners.

Jeffrey Baker, Attorney for Barbara Lerner, asked for a copy of the Resolution for the Findings Statement; he stated that there should be copies available. He also raised an objection as there was nothing on the Agenda noticing people that the Town Board would be considering a SEQRA Findings Statement tonight.

Councilman Hoyt stated that he rescinds the motion.

Attorney Tunic stated that it was noticed in the Public Hearing notice.

Attorney Baker stated that he wanted a copy of the Findings Statement, whether the Board is acting on it tonight or not.

Attorney Tunic stated that the Findings Statement is the Planning Board’s Findings Statement.

Attorney Baker asked if they were adopting the Planning Board’s Findings Statement without changes to it.

Attorney Tunic stated that it was the motion on the table, which was subsequently rescinded.

Resolve

Motion by Councilwoman Melick, seconded by Councilman Dempsey, Jr. that the Town Board of the Town of Montgomery adjourns the meeting at 7:32 p.m.

Roll Call: 5 Ayes/0 Nays/0 Absent

Carried: 5-0-0

The next Town Meeting is a regularly scheduled Town Board Meeting to be held on Thursday, November 7, 2019 at 7:00 p.m.

Respectfully Submitted,

Tara Stickle
Town Clerk