Cottager Update – Almost Thanksgiving 2015

I wanted to take this opportunity to update cottagers on news relating to proposed town laws, Haines Falls Auto (“HFA”), the Dollar General Store, and Machne Tashbar.

Fifteen months ago the Board reached out to a councilman on the Town Board. Our lawyer, Larry Gardner, provided the introduction. In the process of getting to know the councilman, several things became apparent. Within the Town and Town Board, sentiment regarding Twilight was generally positive, however the councilman noted that Twilight was less involved as an entity than were the other two Parks. The second observation was that the Town Board welcomes constructive input and that non-participation in Town meetings and events was not a positive. As per the councilman, the town board benefits by knowing where the constituent members concerns and interest lie and also benefits from the support of constituents on issues. The Town Board is made up of people. Decisions sometimes favor the path of least resistance. Twilight shouldn’t be involved in every town debate. But for issues that are relevant to Twilight, we would be ill served by non-participation.

**Proposed Town Laws**

The Town Board is currently working on three new laws all of which affect business and development on the mountaintop. Each law is scheduled to be completed in the first quarter of 2016 and will be open for public comment prior to formal approval.

This past summer, the Twilight Board retained a lawyer, John Lyons of Grant & Lyons, to represent Twilight at this critical juncture and ensure that we are well represented as these laws are formulated. Mr. Lyons has a reputation for being pragmatic and has a good working relationship with the Town Board. He recently represented the Platt Clove Environmental Group in the matter of Machne Tashbar. Mr. Gardner is our lawyer for all internal Park matters but cannot represent us in respect to the Town because he is also the Town Board lawyer. It was Mr. Gardner who recommended Mr. Lyons to Twilight.

Land Use Law – In 2014, in response to what the Town Board viewed as a series of impactful development requests, the Town Board imposed a nine-month moratorium on new development. The “time-out” was intended to allow the Town Board time to study resource constraints, develop guidelines for building, and establish a framework for how mountain top development should proceed. In many ways, this is a first step to zoning. The town distributed a first draft of the land use rules prior to the expiration of the moratorium. After public comment, the Town Board realized they needed more time to develop the law and have since extended the moratorium twice. The current moratorium expires in January 2016.

The Twilight Board is very supportive of the Town Board’s careful consideration and effort to advance this proposed law. We believe it’s a positive development for our broader community and we believe a Land Use law is consistent with how a well-run community should grow and develop. The devil is in the details, but we believe the Town is headed in the right direction. We wrote a letter of support to the Town Board for their efforts.

Junk Yard Law - The Town is also working on a new junkyard law. There are two junkyards on the mountaintop, with Haines Falls Auto being one of them. The proposed new law is a significant improvement over the prior law in both its clarity on permissible activity and its prohibition of further junkyard expansion. With the assistance of Mr. Lyons, we proposed some changes to the draft law mostly focused on handling of liquid toxins (protect our water source) and measuring existing boundaries. The Town expects to complete the new junkyard law in the first quarter of 2016.

We applaud the Town Board for their focus and improvement, in its draft form, of the junkyard law. We will continue to participate in the public hearings as this law advances to passage.

Scrap Metal Law – We have not seen a draft of this law but in essence the junkyard law is being split into two laws, junkyard and scrap metal. We believe Haines Falls Auto will be governed by the junkyard law but cannot be certain until a draft is available.

**Haines Falls Auto (“HFA”)**

HFA is our neighbor, provides services to many cottagers and is a leading employer on the mountaintop. We are mindful of all these things in any action we take that may impact HFA. However, we also have a duty to make sure that our water source is protected, HFA’s potential pollutants are monitored, that HFA is in compliance with all laws, and that traffic and visibility are considered in all future actions, especially in regards to the intersection of Sunset and Road 23a.

Actions we have taken to date include engaging the NY Rural Water Association to assess our water quality and safety. Their report is on our website. Their conclusion was that Twilight’s water was in good shape but that we should continue to monitor and test for potential pollutants especially with regard to our primary well, located on the golf course. That well is sufficiently close to HFA that if any future pollutants are released by HFA, there is a high probability they will find their way into our water system. The Rural Water Association urged us to let the Town Board and the Department of Environmental Conservation know about our well location.

At the recommendation of the Rural Water Association, we sent letters to the Planning Board, Town Board and to the DEC to let them know that we have a primary water source very close to HFA. We requested to be included as an interested party for all potential HFA environmental reviews and license applications. The Town Board noted that they had not realized we had our water source in close proximity to HFA. It is good that they now know this fact.

We also tested our well water to confirm its existing quality and tested the runoff water from the HFA Storm Water Protection System located adjacent to our property on Sunset Road to make sure it was operating as it was supposed to, separating oils from storm water runoff. Our tests were all negative for pollutants and we will continue to test periodically.

In 2015 HFA filed an application for a permit to handle Construction and Debris and serve as a transfer station for that material. If that license were granted, it wouldn’t be a huge leap to also seek solid waste transfer status and effectively become a garbage dump. Our concerns are environmental, traffic and expansion. HFA has been clear that to extend its business line into C&D handling, it needs to physically expand along Road 23a. HFA recently bought the Victorian House that is to the west of its property on the south side of 23a and appears to be preparing that home for demolition. They have already graded the Victorian backyard in what appears to be an assimilation of that property into the junkyard. HFA has also expressed interest in acquiring the post office building and the Plank property just west of the Post Office. There is also property available for sale on the north side of Road 23a adjacent to HFA.

The DEC has deemed HFA’s license application incomplete and HFA is in process of updating the application. Once the application is complete, HFA will be required to have a State Environmental Quality Review (“SEQR”) completed. If upon review of the SEQR the lead agency concludes that the activity covered under the permit has the potential to have significant adverse environmental impact, the process advances to a comprehensive Environmental Impact Study. It will cover handling of pollutants, the impact on traffic safety and potential remedial action steps. Either the DEC or the Town Planning Board can serve as lead agency in this process. The Planning Board is challenged to act as lead agency during the Building Moratorium, but once that is resolved, they and the DEC would prefer that the Planning Board be the lead agency.

Twilight Park has a committee that works with the Board and it is appropriately called the HFA committee. That Committee has been working with our lawyer and the Town Planning Board to ensure that Twilight’s interests are protected. Mr. Lyons met with the Planning Board to discuss the pending C&D license, reviewed files and let the Planning Board know that we would like them to be the lead agency. We believe that the Planning Board fully understands our interests in this matter and will hold appropriate public hearings should the C&D license application advance.

The Board’s primary interests with regards to HFA are: our water source is considered in all potential activities, the junkyard law is completed in a way that permits measurement and accountability, HFA follows the appropriate procedures before it expands physically and into to new ventures and that all parties comply with the laws once they are in place.

**Dollar General Store**

Just west of the Tannersville and Hunter Border on Road 23a, Dollar General is proposing to build a new store. The landowner and the Dollar General Corporation have requested a hardship waiver of the Building Moratorium so that they can proceed with construction. The landowner and the Dollar General Corporation have a broad relationship that covers many of the Dollar General existing sites. In a preliminary Town meeting held in October, the Town Board appeared ready to grant the waiver until one councilman raised objection and asked for a delay in the vote until a proper town hearing could be held. There are 5 councilmen on the Board. The hearing was scheduled for the following week.

Two days after the initial meeting, I received two requests to weigh in on the subject. The first request was from a Tannersville resident that my family and other Twilight families are quite close with. I also received a call at home from the councilman that had requested the vote delay. Both parties focused on the same issues. Exceptions to the Moratorium should only be granted in extreme hardship circumstances, which this is not, and Dollar General is exactly the kind of development that needed to be considered with the full weight of a Land Use Law in place. The councilman said to me that he expected to lose with the Board vote going 3-2 in favor of the waiver. However, he thought the majority support wasn’t firm within the Board.

Given the tight time frame, I did not consult the Twilight Board on this matter. In the interest of communication, I posted a letter to Cottagers requesting participation in this issue and also expressed my concern with the potential waiver.

My position is simple. The town needs to finish the Land Use Law. It’s been well over a year and instead of working around the current void by granting exceptions, the focus should be on completing the law. An exception for a multi billion-dollar entity doesn’t rise to a hardship. To proceed otherwise is sloppy and raises questions about the potential for other waivers, including HFA expansion.

At the Town Hearing, I had someone read my position, which was that the Town should focus on the Land Use Law and evaluate Dollar General at a later date. The meeting was well attended by town people and they were vocally against the waiver. In the end, the vote was 4-1 against the waiver exception and I believe that is a good thing. The councilman told me that my statement was well received.

Once the Land Use Law is in effect, the Town can make a decision on the Dollar General Store. It will have to weigh the convenience, economy pricing and employment the store will provide against the implication of a chain store that doesn’t have a local owner (profits aren’t reinvested in the Town), generally pays minimum wage and competes with local merchants. As a part time resident, I realize that my opinion may be at odds with the general town view. As such, I do not plan to participate in this debate once there is a Land Use Law in place.

**Machne Tashbar**

Machne Tashbar requested the Town Board approve its request for permit to form a sewage and wastewater Transportation Corporation. MT operates a wastewater plant with a DEC SPEDES permit that services two adjacent developed parcels in Platt Clove along the Scholarie Creek. The designation of Transportation Corp. has relevant tax benefits and requires compliance with guidelines established by the Department of Health.

The Town Board believes that granting the permit actually gives the Town more control over the wastewater treatment plant, its output, its capacity and compliance with health requirements. However, there was and is concern in the nearby community that this request was only the first in what may be a contemplated expansion of the Tashbar development, potentially to the other side of the creek and a proposed multi dwelling housing project - Williamsburg Development.

The Twilight Board discussed this matter with the Town Board and the town lawyer, Larry Gardner. We elected to not participate in this debate but instead leave it up to cottagers to decide individually if they wanted to participate. I believe most if not all of you received emails from Rob Constable of Elka Park encouraging your participation in a petition that was circulating.

The Town Board voted unanimously on November 19th to grant the Transportation Corp permit.