

Minutes of the Town of Riverhead Board meeting held by the Town Board of the Town of Riverhead at Town Hall, Howell Avenue, Riverhead, New York on Thursday, January 20, 2016 at 7:00 p.m.

PRESENT

Sean Walter	Supervisor
John Dunleavy	Councilman
James Wooten	Councilman
Jodi Giglio	Councilwoman
Timothy Hubbard	Councilman

ALSO PRESENT:

Diane Wilhelm	Town Clerk
Robert Kozakiewicz	Town Attorney

The meeting was officially opened at 7:00 p.m. by Supervisor Walter with the Pledge of Allegiance followed by an Invocation by Reverend Dr. Enrique Lebron of the Riverhead United Methodist Church.

AWARDS /PROCLAMATIONS/COMMENDATIONS

Supervisor Walter presented each Police Officer, Daniel Hogan, Patryk Loszewski and Branden Heller with a Proclamation thanking them for saving the life of an eighteen month old child who had stopped breathing. He said in a second they changed somebody's life in that family by responding so quickly to their call of help. The Supervisor continued by saying he couldn't express his and the Town Board's gratitude enough for what the police officers do and he said he never worries about the safety of Riverhead Town because he knows the police department is always there to back them up no matter what happens.

Councilman Dunleavy made a motion which was seconded by Councilman Wooten that the Town Board Minutes of December 31, 2015 and January 5, 2016 be approved. Motion carried.

REPORTS

- Tax Receiver – Utility Collection Report December 2015 - \$477,145.05
- Tax Receiver – Total Tax Collection to Date as of January 19 - \$73,697,974.50
- Sewer District – 2015 Influent Gallonage Report

CORRESPONDENCE

- Ethel Sussman – letter regarding the proposed FOLD Festival tentatively scheduled for August 2016 at Martha Clara Vineyards, Jamesport

PUBLIC HEARINGS

Supervisor Walter: “Any other Town Board reports? Not seeing any other reports we have three public hearings. Three scheduled for 7:05 and it is now 7:11. I’m going to open up the first public hearing which is a Consideration of a Local Law to Amend Chapter 108 Entitled “Zoning” of the Riverhead Town Code, Article LIII. Hamlet Center (HC) (108-288. Supplementary Guidelines) and this has to do with adding additional requirements of hours of operation of retail business establishments as used herein, a retail business establishment hours of operation similar to what we have in the business CR of Wading River. No business retail establishment shall be open for business during the five hour period between twelve midnight and five a.m. That public hearing is open.

I open up the second public hearing which is also scheduled for 7:05 and it’s a Consideration of a Local Law to Amend Chapter 108, Entitled “Zoning” of the Riverhead Town Code, Article LII. Rural Corridor (RLC) (108-284. Supplementary Guidelines) and that is the same public hearing with hours of operation be limited from twelve midnight to five a.m. and that public hearing is opened.

We open the third public hearing scheduled also for 7:05 and this is the Consideration of a Local Law to Amend Chapter 108, Entitled “Zoning” of the Riverhead Town Code, Article LIV. Village Center (VC) (108-292. Supplementary Guidelines) and that is also hours of operation from twelve midnight to five a.m.

Ok would anybody like to be heard on these public hearings? Yes Sir if you could step up to the podium and.”

Robert Kozakiewicz: “And while he’s stepping up I do want to acknowledge that two letters were received by the undersigned on or about January 19th and December 28th which I shared with the Board earlier today from the Amato Law Group. Mr. Greenspan’s from their Firm and he’s (inaudible) rather than reading the entire letter into the record.”

Supervisor Walter: “Unless you read with feeling and conviction I’d rather you do that, thank you Sir. If you could just state your name and affiliation again for the record that would be wonderful and those are admitted.”

Scott Greenspan: “Thank you very much. My name is Scott Greenspan from the Amato Law Group. I represent 7-Eleven and first of all I thank you for giving me the opportunity to comment.

I’m here today to tell you that its 7-Eleven’s belief that this proposed ban on overnight operations can’t be sustained is illegal for three separate reasons. They’re enumerated in detail in the letters but I’ll summarize them.

The first is we believe it’s an unconstitutional exercise of the Town’s zoning power. The second reason is it’s an unconstitutional exercise of the police power of the Town and third we believe that this proposed ban is preempted by the alcoholic beverage control law which is a state law otherwise known as the ABC Law.

This isn’t my legal opinion or guess, there’s case law on it. The Village of Westbury enacted essentially a very similar ban to what is now before the Town Board. In that instance they proposed to ban overnight business operations within a hundred feet of property zoned for residential use, it’s not exactly the same but it’s an overnight ban on business operations.

7-Eleven challenged the ban in the Supreme Court of Nassau County. The Court struck down the law for the reasons I’ve expressed above other than the preemption such they didn’t feel

the need to reach. That decision was then affirmed by the Appellant Division Second Department which would also hear any appeal to a challenge to the law if enacted. That would be started in the Supreme Court here in Riverhead. The case that I'm talking about is a case called Louhal Properties, Inc. vs. Strada that's 191 Misc. reporter second 746. It was then affirmed by the second department at 307 Appellant Division reporter second 1029."

Supervisor Walter: "These are all in your letter?"

Scott Greenspan: "Yes, briefly each of the things; first the zoning power. A municipality can't regulate the manner of operation of a business. One of hall marks of that of the signs is if the municipality tries to regulate the hours of operation. The Louhal Court found that this kind of a ban did exactly that.

Secondly under the police power a municipality can't interfere with the enjoyment of real property unless there's some real substantial evil that the legislation is trying to cure and there's a reasonable relation between the evil and the proposed remedy. The Louhal Court struck down the overnight ban in the Town of Westbury based on this. It found that even if the Village could have shown a real substantial evil, even if they had support for that, that overnight operations caused some sort of menace, an outright ban just wasn't reasonably related to curing it, it was too broad and it was too overreaching. The Court said the Town would have been better served to look at some of the alleged problems with it rather than just ban it altogether.

The third reason is alcoholic beverage controlled preemption. Municipality can't forbid an establishment with a liquor license from selling alcoholic beverages when that sale would otherwise be permitted under the ABC law and doing so creates a head on collision between the local law and the ABC law.

As our letters explain in such a case the local law must give way to the ABC law. That's what we have here."

Supervisor Walter: "Well actually not really. Can I ask you a question because I heard that we, the Town of Riverhead beat Southland Corporation in a similar case in Wading River and the business CR zoning so why is it that in Riverhead, Wading River we were successful in having the ban sustained and then these cases we were, the other towns were not. Can you differentiate that case?"

Councilwoman Giglio: "I'm going to say because it was residential. They were situated next to a residential use rather than banning it throughout the whole zoning district."

Scott Greenspan: "I think, I mean I wasn't involved in that case. I think that was in 1994. That was before the Louhal Court there was no preemption argument raised and I think the intervening decision of the second department."

Supervisor Walter: "They didn't rule on preemption, you said that they ruled on the police powers rights so."

Scott Greenspan: "Correct but I think the intervening decision by the second department in the Louhal case is now the controlling precedent so we do believe that based on that decision this ban would probably not survive a court challenge."

Supervisor Walter: “But we were successful on the same ban in 1994 by Southland Corporation which you represent.”

Scott Greenspan: “Yeah I wasn’t part of the 1994 case. The more recent case law says otherwise. As far as the preemption issue goes the ABC law has one hours restriction on the retail sale of beer, right? And that’s no sale between three a.m. and eight a.m. The proposed ban would prohibit businesses like 7-Eleven from operating from midnight to five a.m. meaning no beer sales can happen. Under the ABC law that ban renders an illegal sale of alcoholic beverages by 7-Eleven during hours that sale would be permitted under the ABC law.”

Supervisor Walter: “I’m going to stop you there for a second. So if the ABC law allows us to have a ban, bans it from three a.m. to eight a.m. allows that intervening timeframe would you believe that our stature would not be preemptive if we ban the hours of operation which would be worse for Southland Corporation from three a.m. to eight a.m. because we could do that but I think that’s the coffee hour.”

Scott Greenspan: “That’s just on Sunday’s.”

Supervisor Walter: “Ok.”

Councilwoman Giglio: “We’re not saying you can’t sell alcoholic beverages between a certain hour and a certain hour. We’re saying you can’t be open.”

Scott Greenspan: “Right and actually there’s a bunch of case law that I sited in my letter that talks about that and what the case law says is that if the practical effect, if the effect of the local law has the effect, even if it’s sort of more mutually worded, broader application, if it has the effect of rendering that which is permitted under the ABC law that’s preemptive. There’s a bunch of cases that say that, they are in the letter.”

Supervisor Walter: “I’m just really curious about this, so in the Louhal Court did they site the Riverhead, Southland case, differentiate it in some?”

Scott Greenspan: “It wasn’t discussed.”

Supervisor Walter: “So it wasn’t overruled per say so there’s something different about what Riverhead has done and what the other towns have done.”

Scott Greenspan: “Well again you know what I position is, it’s an intervening case, it’s a more recent case and we think the ban is pretty similar.

Now what we see in this proposed law is the Town appears to try to get around the ABC law by saying premises that sell alcohol for on premises consumption are exempted and I think that only highlights the problem here. That the town clearly recognizes that the ABC law applies but now they’re treating on premises consumption businesses differently than they’re treating off premises consumption. In one instance in the on premise they’re following the ABC law with the

off premises consumption retail businesses they're not. We think it's preemptive because of that that the law essentially outlaws what is permitted under the ABC law.

Now our preference obviously would be to talk to the town and have a constructive dialogue rather than."

Supervisor Walter: "Let me ask you some questions. Can you tell us what 7-Eleven's are affected by this ban?"

Scott Greenspan: "Under the current law none of the three existing stores in the town would be affected. The proposed store on the eastern part of town would be affected."

Supervisor Walter: "Well that's in litigation and as far as I know they're still an automatic stay in the appellant division and that was not lifted so that's two years out."

Scott Greenspan: "Right, I mean as I see it the three current stores don't fall into the zones that this ban would cover. The ban, I actually drove through and went to each of the zones."

Supervisor Walter: "We did that on purpose by the way, just so you know we understand. The difference here is that in the hamlet centers these are more residential transition districts, they're not heavy commercial districts like we have on Route 58 where I'm going to say all three of the 7-Elevens are so we were intentional in making sure we protected Southland's rights. What we're now intentionally doing is trying to protect the peace and tranquility of the residents in the sort of transition districts from a heavy commercial to purely residential and so that transitional area is what we don't want this to be."

Scott Greenspan: "And again, I mean ultimately it's a decision that's up to the Town Board and the Town Board is going to vote whichever way it's going to vote as they deem it best for their constituents. We just are here today to let you know what our feeling is. We believe it won't survive a legal challenge for several reasons and we're trying to avoid that. I mean courts great but if there's a way to work it out and we can have a constructive dialogue that would be great but ultimately it's going to be your decision and we thank you for the opportunity to present our point of view and."

Supervisor Walter: "Thank you. It was tremendously interesting, thank you Sir. Alright does anybody else wish to be heard on this issue?"

Angela DeVito: "I'm going to read; Larry Simms could not be here this evening, oh I'm sorry, Angela DeVito from South Jamesport. Good evening Larry Simms asked me to read into the record a letter that he had sent I believe e-mailed previously and my testimony sort of echoes that so I will not read mine, just submit it for your review."

Dear Supervisor & Town Board members – We believe we understand your motivation underlying these several resolutions to restrict retail business operating hours in select parts of town. Unfortunately the draft resolutions have two fatal flaws. The first is contained in the language, principally major ambiguities with regard to gas stations. Gas is a commodity sold at retail and hence is covered by the proposed code sections. We suspect it's not your intent to force gas stations to close between midnight and five a.m. possibly stranding travelers running on empty,

yet that's what this language does. Secondly if you intend to allow gas stations to operate, then to be equitable, you must include specific language restricting their ability to sell anything other than gas, oil and things essential for vehicle operation and maintenance. Unless the sale of tobacco, beverages and the sundry items carried at gas station convenience stores is constrained, your action will foster unfair competitions. Thirdly any code restricting opening hours must curtail illuminated signage use and lighting when closed.

The second flaw lies in the process of introducing, discussing and voting on legislation without candidly discussing its impact. To be clear, we all know that the proximate cause of these resolutions is the announcement of a 7-Eleven coming to Aquebogue. We also know that the 7-Eleven franchisee and/or corporate real estate executives have signed a lease on the existing Aquebogue space and that the court has ordered the town to proceed with the permitting process.

In these circumstances it seems highly unlikely that the proposed legislation if codified will have any bearing or beneficial effect on the location and retail operation which prompted the resolutions. To proceed without clarification on this point would be disingenuous.

Please table these resolutions until the language is fixed and you have clarified whether or not they will, after the fact, impact existing and already planned stores. Thank you, Larry Simms for Save Main Road."

Supervisor Walter: "Thank you very much. Does anybody else wish to be heard on this matter? Not seeing anybody we will close the public hearing and leave it open for written comment to January 29th at 4:30 in the Town Clerk's office. Thank you everyone."

**Public Hearing Closed at 7:28 p.m.
Left Open for Written Comment until January 29, 2016 at 4:30 p.m.**

Supervisor Walter: "And then the fourth and final public hearing was scheduled for 7:05 and it is now 7:28 and this is a Consideration of a Local Law to Amend Chapter 108, Entitled "Zoning" of the Riverhead Town Code, Article XXII, Residence RC (Retirement Community) (108-119. Additional Requirements). Is Jeff Murphree here? Jeff, do you want? I just want Jeff to be, Bob ok, I'll let you do it."

Robert Kozakiewicz: "The legislation and I understand is a little bit wordy is designed to address those parcels that were mapped retirement community before we took the steps of adding local law nine in 2012 which was adopted on June 19, 2012. The legislations intent is to address parcels that were not considered and had already been mapped as retirement community in June of 2012 when we made changes to the section of code which is 108-119 which was the retirement RC district. Prior to that date there was limited requirements in the section of 108-119 specifically dealing with the buffer strip and essentially that was the only thing with the addition of parking requirements all RC applications had to comply with our parking district requirements, our parking requirements.

During the hearing there were some questions posed about where you are going to map these particular parcels and I don't think we really did the analysis to identify the fact that some had already been mapped and the desire was not to impact those applications of those parcels.

So what the proposal is, is to allow anything that had been mapped as a residence RC district prior to June of 2012 to comply only with those requirements that were in place prior to that change date as set forth in 108-119. I know it's a little bit convoluted but you have a cutoff date, June 19, 2012. Anything that was mapped or already approved as a retirement community must comply with those provisions. Anything coming after that will be required to comply with everything else that's been added after that date."

Supervisor Walter: "Ok, so what I've done is I've asked, I should have had Jeff look at this sooner from listing, delineating what we did change but there are two of the things we did change and it was never intentional to effect this, I know most of you are here for this four point eight-eight parcel or just under a five acre parcel. It was never the Board's intention to affect that parcel. We required that we did this change of zone so that we could put retirement communities into the retirement community district and so added things like you had to be within fifteen hundred feet of the sewer district, you had to have a minimum lot area of fifteen acres. What else Jeff? As we go through it we'll pop through with the other ones probably affected the impervious surface because what we did is a frequency analysis. I remember looking at the frequency analysis Councilman Giglio had asked for it, believe me where we looked at all the different parcels around looking for a fifteen acres or more to see whether a retirement community could land was never our intention.

This parcel that I know you're here for this parcel had received approvals I believe twice if I'm not mistaken this parcel had gotten purchased the development rights purchased the sanitary credits and we were all set to move forward. They did allow their approvals to expire and I'm sure they may explain why, my suspicion is the economy but our intention was never to impact this parcel. This community that they would like to build should this go forward is similar to the community many of you folks live in in terms of density and so I guess there's not too much more that can be said on it. This was an unintended consequence of the zoning for the retirement community. I'm going to open it up to the public. Does the public wish to comment on this, Mr. Cuddy?"

Charles Cuddy: "Mr. Supervisor and members of the Board, we reiterate a little bit what Mr. Kozakiewicz said. This really recognizes a situation that the Board didn't address when it adopted that particular provision in the code. At that time the code reads somewhat differently and all that's being done at this point is to correct the situation which has now been recognized and I want to point out to you and I think it's important for everybody to realize this does not change the process whatsoever. The applicant still must have a special permit and have a hearing. He must have site plan approval and have a hearing. He must have variances and have a hearing. So nothing changes as far as the process goes. There's three public hearings and they have to go through the same thing. The only thing that changes is to recognize that it was a map section at the time of the code adoption and that's the only thing that's really changed. Thank you."

Supervisor Walter: "Alright, does anybody else."

Councilman Dunleavy: "Mr. Cuddy, can I ask one question? On your site plan if we go back to 2012 the buffer zone is going to be a lot smaller than what it is now and some people have said that they've asked you to have a twenty-five foot buffer. Some people said they asked you to have a fifty foot buffer. I was looking at your plans that Councilwoman Giglio has and you have

a forty-seven foot buffer in the back. What's going to be on the sides of that? The plan shows a forty-seven foot buffer in the back here."

Charles Cuddy: "That's correct."

Councilman Dunleavy: "I assume that you, if this is happening we're going to write that into the code."

Charles Cuddy: "That's the way the site plan is set up."

Councilman Dunleavy: "But what about the sides, one that abuts one senior citizen community and the other side abuts the entrance to the other senior citizen community."

Charles Cuddy: "Well each side is going to be in accordance with code which I think is at least fifteen feet and both sides have to be in total at least twenty-five feet. They're going to be at least fifteen feet. If we can make them more we will make them more but that's what code requires."

Councilman Dunleavy: "I don't know what the. Does anybody here know what the code before 2012?"

Charles Cuddy: "I think the code; I don't think the dimensional regulations changed. They're the same now as they were then, it's the same code."

Councilman Dunleavy: "I know they've been changed. On June 19th they went from twenty-five to fifty so they've been changed. I don't know what before June of 2012. Do you know what it was?"

Charles Cuddy: "I think."

Councilman Dunleavy: "This is your business so I think you should know."

Charles Cuddy: "I think what I said was correct. I said the side yards were fifteen. The total side yards were twenty-five. The backyard was forty and we're going to have those in effect and if we can do more we will do more. We've said that to the Board several times."

Supervisor Walter: "Alright, well as you said you have to go through; should we adopt this you have to go through site plan. Who is special permit?"

Charles Cuddy: "There's a special permit application also, yes."

Supervisor Walter: "To the Town Board?"

Charles Cuddy: "Yes."

Supervisor Walter: “So they’re going to come back here should we adopt this and then move forward. They’re going to come back here and that would be the point where the Town Board is going to say this is what we want in terms of buffering. We can do that at that point.”

Charles Cuddy: “That’s correct.”

Supervisor Walter: “Ok, thank you Mr. Cuddy.”

Councilwoman Giglio: “And they’ve agreed to a twenty-five foot buffer?”

Charles Cuddy: “Yes, absolutely.”

Councilwoman Giglio: “On the north side, the north line of the property.”

Charles Cuddy: “Yes.”

Supervisor Walter: “Ok, does anybody else wish to be heard?”

Angelo DeVito: “Angelo DeVito, South Jamesport. I’m trying to unbundle all that you said Bob, which is a bit much. I understand that you enacted a piece of legislation on June 19, 2012 and prior to that there had been a proposal for, going back to I believe 2007, 2008, on a parcel of land that now became affected by what you enacted in 2012 and all of, because of the economy that’s what has been testified on this particular piece of property, that we seem to be focusing on. All of the permits had lapsed because there wasn’t a shovel put into the ground because there wasn’t the money for the project. Now they’re coming back to redo this now. Now that the economy’s better they feel a little bit sounder, economically to be able to go ahead and do this. So nothing is changing in the process. That property was mapped for RC prior to 2012 and how many more parcels are affected by this change that you are proposing here, this sub-parquet?”

Robert Kozakiewicz: “I believe it’s only that one.”

Supervisor Walter: “I’m not, we’ll take that and we’ll get that answer back to you if we can today we’ll get it back to you. Jeff will take a look at it.

Angela DeVito: “Because I think it’s very important to see that we are passing legislation that will assist for benefits that retirement communities are supposed to be able as they’re developed and not too much to pass legislation on, yes I own a piece of property that today is in a RC zone and as time goes by it changes because there are many people here in town who have owned parcels of land that the zoning has changed over the years and many things they can do and not do with them has changed also. But the fact that we are specifically amending a code for a potentially a single piece of property is something that.”

Supervisor Walter: “That’s not what’s happening Angela. That’s not accurate Angela.”

Angela DeVito: “It will affect just his piece.”

Supervisor Walter: “No that’s not accurate, this is an unintended consequence. When we passed legislation it was never the Town Board’s desire to change the retirement community the way communities were set up, Stoneleigh and Sunken Ponds and whatever it was never our intention. The unintended consequence was that we put the retirement assisted living component in the retirement community. Had we thought about it we would have specifically at the time accepted the folks that wanted to build really a retirement community not an assisted living. That was always the Board’s intention. We’re trying to fix that.”

Angela DeVito: “The unintended consequences is on a piece of property for which there is no (inaudible) project, it’s not there on any of these lands that are there within that. None of them there, they have the potential to be developed, those lands that are there.”

Councilwoman Giglio: “Mr. Cuddy how many developments did the owner buy for this piece of property based upon the approval that he received on two separate occasions? Did he buy farmland credits in order to accommodate the number of units that he’s getting?”

Supervisor Walter: “Twelve is that what you said?”

Councilwoman Giglio: “He purchased twelve. When did he purchase those?”

Supervisor Walter: “We’re going to have you answer that later on.”

Angela DeVito: “The question then would become and with all due respect Ms. Giglio, if you purchase these does that mean you’re vetted in your project?”

Supervisor Walter: “It might be.”

Angela DeVito: “I don’t know. What do we use as criteria in this town to vet projects, to say you’re at this point where when we do something that’s unanticipated did we have to go back and make special allowance for you? What is that? What are those criteria that we use uniformly and they’re verifiable, they’re reproducible in every single instance where this may happen and it does occur, I’m not saying it doesn’t occur there are people who have been disadvantaged that’s very true but what do we use? What is the measure we use and how could we reproduce it?”

Supervisor Walter: “Angela that’s not, the scenario that you’re setting up is completely opposite from what happened here. We never intended to do this. This was the Town Board’s mistake, plain and simple. We didn’t want to up zone this. We didn’t want to change the ability throughout the town to.”

Angela DeVito: “So now you’ve down zoned everything. That’s what this does?”

Supervisor Walter: “Angela, what we’re doing is fixing something that we unintentionally messed up. The Board never intended to change the zoning for communities that wanted to build places like Stoneleigh. We’ve done that unintentionally. In fact Stoneleigh and Sunken Ponds could never be built under this zoning code as it’s written. None of them could have been built.”

Councilwoman Giglio: “They all bought development rights.”

Angela DeVito: “Again, that doesn’t, I don’t think that that’s, you can purchase what you want to do things. The question becomes then, ok as you progressed with this and there were public hearings on the changes that you did and arrived at your unintended consequences what was the objection from those developers on the record? What were, for example were they specific saying no the unanticipated consequence of this is going to be to disenfranchise some people with regard to their development rights.”

Supervisor Walter: “Well it won’t be an unintended consequence if somebody told us what the consequence was because then we wouldn’t have made the mistake.”

Angela DeVito: “Well then no one testified, no one that is now going to benefit from you’re fixing this thought enough of their rights to stand up and testify for them, that would be the other outcome.”

Councilman Dunleavy: “Nobody came to the public hearing to testify about this.”

Supervisor Walter: “Now that I recall there might have been somebody.”

Councilwoman Giglio: “Cuddy, Cuddy was here.”

Supervisor Walter: “Alright, Angela anything else? Thank you.”

Angela DeVito: “Thank you.”

Supervisor Walter: “Does anybody else wish to be heard tonight? How are you doing Sir?”

Bill Conlon: “Hello, good evening everyone. Bill Conlon, you know where I live. Well anyway, we’re here, the same thing. I have a few questions and then I’ll make a statement. First of all I would like to know who proposed Amendment K? Who asked for this change?”

Supervisor Walter: “This was done because when the developer came in or the developer’s attorney came in to try to build the community that he bought the developer rights and sewer credits to he realized he couldn’t do it anymore because we had changed.”

Bill Conlon: “But who was that, Mr. Cuddy?”

Supervisor Walter: “Mr. Cuddy, yes.”

Bill Conlon: “Alright, so second would be how would this Amendment K benefit the developer in regards to 450 Middle Road? What is changing?”

Supervisor Walter: “He’ll be allowed to build the project that he originally proposed.”

Bill Conlon: “Which is without sewers.”

Supervisor Walter: “Correct.”

Bill Conlon: “And what is, I heard, what is in regard to the border plantings? The main question I have is where we are going back to. It says prior to June 2012. Prior is a big word.”

Supervisor Walter: “We’re going to go back to the code as it existed prior to that day so whatever that code was June of 2012 that’s our code.”

Bill Conlon: “What was it, what was it?”

Supervisor Walter: “I mean I can’t cite it to you but we can give it to you. Bob, provide Mr. Conlon tomorrow the next day the code (inaudible).”

Bill Conlon: “Well that’s my problem. I can’t stand here and discuss this with you because I don’t know.”

Supervisor Walter: “The two biggest things and I think there’s a third one is the sewer hookup which honestly if I had to do it again, if I was Supervisor at the time when all your communities were built you all would have been sewerred.”

Bill Conlon: “You were Supervisor then or you weren’t?”

Supervisor Walter: “No I wasn’t Supervisor then. All these communities should have been sewerred but you can’t bring sewer main in for sixteen houses.”

Bill Conlon: “But you’re willing to let GenDot do it.”

Supervisor Walter: “No actually the worst part is if we were to bring sewer main in we could force every one of you to hook up to the sewer which would be ridiculously expensive.”

Bill Conlon: “Ok, ok.”

Supervisor Walter: “You don’t want that because we would create a sewer district for that area, you don’t want that (inaudible).”

Bill Conlon: “You don’t know what I want.”

Supervisor Walter: “Well, most people wouldn’t want it. Some of the people are going to get it in the wetlands areas but we will get you the sections of what the (inaudible) looked like prior. The biggest issue is the fifteen acres, the sewer and I think probably the impervious surface.”

Bill Conlon: “Yeah those are the big issues.”

Supervisor Walter: “Those are the three that I think are probably the big ones.”

Bill Conlon: “Those are all the things, well there’s one more thing besides the variances that Gendot allowed to expire. It’s the impervious surfaces, the fifteen acres, they let those variances expire twice, 2007 and 2010 and now we’re adding on the sewers; that’s what’s happening.”

Supervisor Walter: “No they didn’t have to.”

Bill Conlon: “That was back then but they do now.”

Supervisor Walter: “And they didn’t have to have fifteen acres.”

Bill Conlon: “Yes they did, it says it on their site plan.”

Supervisor Walter: “We’re going to.”

Bill Conlon: “You know what I think we should do? I think we should table this because we don’t have enough information.”

Supervisor Walter: “This is what the public hearing is for; to gather the information from the public.”

Bill Conlon: “Yeah but you didn’t give enough, like using the term “prior to”, well where do we go back to the eighteen hundreds?”

Supervisor Walter: “No, it goes back to.”

Robert Kozakiewicz: “Goes back prior to 2012, it’s not that old a code.”

Supervisor Walter: “That’s a very real thing.”

Robert Kozakiewicz: “It would be the code that was in effect June 2012.”

Bill Conlon: “2012, in June. Where in 2012?”

Supervisor Walter: “June 18, 2012, it’s a very simple thing.”

Robert Kozakiewicz: “June 18, 2012.”

Bill Conlon: “Ok, prior to, you could have said June 18th though, would have made it a lot simpler, right? Ok, so let’s go on, let’s go on. If the Town Board does adopt Amendment K does that require Gendot to change its site plan because of the fifty foot buffer zone that you, Sean, and I discussed last night?”

Supervisor Walter: “What’s going to happen is they’re going to have to come back to the Planning Board for a public hearing and the Town Board for a special permit. We then, when they

come to the Town Board can impose that fifty foot buffer which we will, I don't know that it's fifty."

Bill Conlon: "You said fifty last night."

Supervisor Walter: "No, what I said was it's a forty-seven foot."

Bill Conlon: "No, you said fifty."

Supervisor Walter: "You're mixing apples and oranges. There's a buffer of almost fifty feet some places."

(Inaudible)

Supervisor Walter: "Ok, there's a buffer which is a setback; I'm talking about a setback from the property line of almost fifty feet, it's forty-eight feet, I'm looking to this point then there's a, what I would really call a buffer not the setback, a buffer of trees which I believe we're looking at a."

Councilwoman Giglio: "(inaudible) buffer that was approved in 2007 and 2010 for ten feet. The new code that we adopted for the retirement community would require a twenty-five foot buffer which the applicant has agreed to provide but that would be stipulated in the special permit process."

Bill Conlon: "So where does the fifty foot?"

Councilwoman Giglio: "That's the setback I think."

Supervisor Walter: "That's the setback, the setback from the property."

Bill Conlon: "That's not what you said last night Sean, you said buffer."

Supervisor Walter: "Setback, well you can look at it as a buffer. It's the setback from the property line. These houses are further back then the houses in Stoneleigh Woods from the property line."

Bill Conlon: "So we have a twenty-five foot buffer plus approximately another twenty-four feet?"

Councilwoman Giglio: "On your property."

Bill Conlon: "Not on our property, we don't have that."

Councilwoman Giglio: "You have a setback from the rear of your building to the property line."

Bill Conlon: "It's fifty feet."

Councilwoman Giglio: "Of fifty feet so then you would have an additional forty-seven feet to the next unit."

Bill Conlon: "So you're including what's on Stoneleigh Woods side?"

Councilwoman Giglio: "I'm just saying that's what the distance would be from unit to unit based on the site plan and then there would be a twenty-five foot planted buffer in between."

Bill Conlon: "Let me ask you another question then."

(Inaudible)

Supervisor Walter: "Your house, to your property line, your house from the property line is only forty foot setback is what."

Bill Conlon: "It's about fifty feet really."

Supervisor Walter: "Not according to this."

Bill Conlon: "No? Ok, so it's forty feet."

Supervisor Walter: "My point is your closer to the property line, your house than any of these new proposed houses would be."

Bill Conlon: "I think we're fifty feet, I don't know. So, let me look."

Supervisor Walter: "You can look at it; you can pull a scale out and look at it. It's closer, it's obvious."

Bill Conlon: "No, it's not obvious and I have one at home that says its fifty feet. It's not that obvious. So anyway you're telling me that we'll have to come back and discuss this because there's a special permit involved or something like that, could you go over that again?"

Supervisor Walter: "The requirement, there's a public hearing element to the special permit for the Town Board and then there's a public hearing element for the Planning Board."

Bill Conlon: "Zoning Board you mean?"

Supervisor Walter: "Planning Board."

Bill Conlon: "Planning Board."

Supervisor Walter: "And then there's a public hearing element for the Zoning Board if they need variances from the Zoning Board. So they have to go through three separate public hearings."

Bill Conlon: “Let me ask you this, why are we here discussing the fifteen hundred foot sewer regulation instead of being at the Zoning Board? Why is the Town Board involved in this? Why isn't it a zoning issue where you would go to get a variance?” Why are you guys involved?”

Supervisor Walter: “Because all three Boards are involved because that's the process.”

Bill Conlon: “Is that so?”

Supervisor Walter: “That is the process, all three Boards are involved.”

Councilman Dunleavy: “We make the code and then the ZBA interrupt's it.”

Bill Conlon: “They have a code, they have the code. The code says that you need to be in the sewer district, so the code is there. So why are we here?”

Supervisor Walter: “So, you're here actually, you don't want to be in the sewer district. I mean if we make a sewer district.”

Bill Conlon: “No, that's not what I'm asking. It's saying that the RC district.”

Supervisor Walter: “Because they need relief from this code provision.”

Bill Conlon: “That's why?”

Supervisor Walter: “That's exactly why because we have the unintended consequence.”

Bill Conlon: “I know; I heard that.”

Supervisor Walter: “This was a mistake.”

Bill Conlon: “So we made a mistake and now we're going to make another mistake to correct that mistake?”

Supervisor Walter: “So we put the property owner and we put the rest of the property owners back where they could be. The alternative is that he could build it. He could get variances from the ZBA and he could petition the town to bring the sewer district in but if he does that the town would never just put sixteen houses in. The town would put all the houses between wherever the connection is.”

Bill Conlon: “Well maybe environmentally that would be a good idea.”

Supervisor Walter: “That would be millions upon millions of dollars for the residents of those.”

Bill Conlon: “For the residents or for the town?”

Supervisor Walter: “For the residents.”

Councilman Wooten: “I pay a sewer tax because I’m in the sewer district (inaudible).”

Supervisor Walter: “We could do that.”

Bill Conlon: “Well the sewer district, the people in the sewer district would have to pay the tax?”

Supervisor Walter: “That’s correct and the rate. There’s two things that happen. If we decide, and the town, the county and the town, the county and the town are doing this in other areas but (inaudible) from the southwest sewer district.”

Bill Conlon: “I remember.”

Supervisor Walter: “Ok, remember that debacle.”

Bill Conlon: “It was a debacle but it got straightened out.”

Supervisor Walter: “That’s what the towns, that’s what Long Island is moving into so.”

Bill Conlon: “But I’m sure with you guys in charge it would be no debacle.”

Supervisor Walter: “No but you would pay the rates. Whatever, you would pay two things. If they petition the Town Board to extend the sewer district, the sewer district (inaudible), you’re not going to bring it in for sixteen homes. So we’re going to put everybody that’s on that pipeline in the sewer district should we do that so then the people in the sewer district will pay a sewer tax based on their assessed valuation and a rate based on their flow.”

Bill Conlon: “What kind of flow?”

Councilwoman Giglio: “Water flow.”

Supervisor Walter: “Depending on how much water usage so that.”

Bill Conlon: “There’s only two people in the house so I don’t think.”

Councilwoman Giglio: “They’re talking about the water association; they use to water the grass and everything.”

Bill Conlon: “To water the grass. So I don’t think Mr. Cuddy would want to get involved in that end. I mean I wouldn’t if I was him.”

Supervisor Walter: “So the problem is we could extend the sewer district. That would necessitate a lot of changes to every one of these.”

Bill Conlon: “How long do you think that would take, to go through all those machinations?”

Supervisor Walter: “A couple of years.”

Bill Conlon: “A couple of years, ok, alright.”

Supervisor Walter: “And the county, honestly we could get a lot of grant money to put all you guys in the sewer district, no question in my mind. Would that cover it all, no?”

Bill Conlon: “What do you think all that would cost? What, you don’t have an idea.”

Supervisor Walter: “That’s a whole map and plan.”

Bill Conlon: “Ok, here I’ve got another one. On June 19, 2012 all the Town Board members voted to require that all RC lots should be within the Riverhead Town sewer district. You guys voted on that, right? Why would any Town Board member make an exception now? You know why; you keep going back to this thing about you made a mistake, but you made a mistake.”

Supervisor Walter: “So we want to fix it.”

Bill Conlon: “You want to fix it.”

Supervisor Walter: “Correct.”

Bill Conlon: “So let’s see. There’s going to be about thirty-two people move into this new development.”

Supervisor Walter: “Potentially.”

Bill Conlon: “Potentially, and the developer of course is going to benefit from it so now you’re talking about probably fourteen hundred to eighteen hundred people that don’t want this to go forward. You made the mistake now you’re going to say well sorry guys you’ve got to live with it.”

Supervisor Walter: “I’ll be honest with you; we have to own up the mistake we made.”

Bill Conlon: “Ok, ok. Here’s another one. Sunken Ponds, Stoneleigh Woods, Saddle Lake, John Wesley Apartments, Timothy Hill, Mercy High School, are already saturating the immediate area around 450 Middle Road with septic systems. When Jodi Giglio and Sean Walter were running for the office of Town Supervisor they both campaigned on making Riverhead’s environmental codes stronger than Suffolk County’s code. Because of this we are assuming, incorrectly, they will be taking a stand against Amendment K.”

Supervisor Walter: “You know what Sir, you would be probably one of the most unwelcomed people in your neighborhood if we extended the sewer district.”

Bill Conlon: “I don’t mind.”

Supervisor Walter: “You have no concept of what you’re asking, no concept.”

Councilwoman Giglio: “Besides that the approval required the developer to purchase twelve transfer development rights. So that means there are twelve acres of farm land that is being preserved that will never be built on.”

Bill Conlon: “I’d rather the three and a half acres that are behind my house never be built on.”

Councilwoman Giglio: “I’m just saying that he purchased twelve acres that can never be developed, that couldn’t potentially be developed as single family homes and he said that that could never be developed and he transferred the development rights to this particular piece of property that is surrounded by zoning and uses that are similar to what he is proposing. The units in Sunken Ponds, the units in Stoneleigh Woods, the units in Saddle Lake could never be built without the transfer of development right program so several farm acres.”

Bill Conlon: “But they were.”

Councilwoman Giglio: “No they weren’t. They had to buy.”

Bill Conlon: “I knew that, yeah.”

Councilwoman Giglio: “They’re only entitled to one unit per acre so they had to buy three TDR’s in order to get four units on one acre and that happened throughout the retirement community district. This developer did the same exact thing and got his approvals renewed twice and just never went forth with building the project but he’s asking for the same thing and same guidelines that Stoneleigh Woods, Saddle Lake and the other (inaudible).”

Bill Conlon: “He doesn’t like, they don’t want to go by what has changed since that time.”

Councilwoman Giglio: “And what was changed was simply to in a response to a lot of the residents in the fifty-five and over community to build an assisted living to provide that type of service and Councilman Dunleavy can attest to that because he’s been trying to get this legislation for the retirement community.”

Bill Conlon: “Yeah, up on Mill Road.”

Councilwoman Giglio: “On Mill Road but in the retirement community zoning district to provide an assisted living so we changed the retirement community code to allow for the assisted living and maybe what we should have done instead for an assisted living you have to be connected to sewers instead of for the (inaudible).”

Bill Conlon: “I understand that, I understand that.”

Supervisor Walter: “I’m going to make an observation. I get a lot of, I don’t want to say a lot of complaints and you and I had this conversation. I’m going to give you some food for thought. You know what the biggest complaints I have from folks in Middle Road, it’s not the people who live in Stoneleigh, Sunken Ponds, Saddle Lakes, it people who live outside the gates. The biggest one is garbage, property maintenance, we get noise issues. My personal opinion and I’m going to tell you honestly I would rather have these sixteen units behind my house than two houses that potentially could have swimming pools with kids, garbage sitting at the curbs.”

Bill Conlon: “We discussed that.”

Supervisor Walter: “Tennis courts. I spend a lot of time in your communities knocking on doors and talking to people. It’s a very quiet situation but you know where you move from your single family residences, you know what kids are in the neighborhood. I’ve got kids surrounding me they’re up all the time playing basketball. The alternative if we don’t do this are two, maybe four houses on there with all the accoutrements of single family living and (inaudible).”

Bill Conlon: “So you would have to change it back to what we call, spot?”

Supervisor Walter: “You could build here two maybe four single family dwellings.”

Bill Conlon: “Because it’s almost four acres, yeah.”

Supervisor Walter: “And that’s my point that if you have four, two to four single family houses back there with kids and swimming pools and everything else that’s a much larger burden in my opinion on the neighbors directly adjoining it. Kids and swimming pools, you all know when you go to your swimming pool and all the relatives come in the summer, you know what it’s like, that’s what it’s going to be like. That’s my observation.”

Bill Conlon: “Ok,”

Supervisor Walter: “Something’s going to be built here; I mean this is what we’re saying. What I’m saying is this is within the character of the community.”

Bill Conlon: “Ok, you told that already and I get it. This is a statement not a question really. We understand that Gendot has put time, money into this project. When a developer buys land it is an investment with no guarantee of a return. The Riverhead Town Code does not have to make a parcel of land viable or profitable. We are citizens, tax payers and voters in good standing. We ask the Town Board members just how in this new project going forward benefits the Riverhead community. Sixteen units, thirty-three parking spaces and a gazebo on a small parcel of land will not be up to the standards of the retirement communities that already exist. By allowing the Amendment K to go forward we feel there is a total disregard for our property values and our quality of life issues resulting from overdevelopment, increased traffic, noise, loss of privacy, loss of woodlands, loss of wildlife as well as the septic issues.”

The following is taken from Amendment K. Parcels that are mapped as retirement community prior to June 19, 2012 shall be subject to the additional requirements of Section 108-119 in effect prior to June 19, 2012. I've already gotten the papers that we needed so in closing I would like to table this in order to get the rest of the stuff we need to argue about it."

Supervisor Walter: "We don't, we leave it open until the 29th."

Bill Conlon: "You leave it open so we can make a written."

Supervisor Walter: "So you can make a written comment and we meet every Thursday so if somebody."

Councilman Wooten: "This isn't a resolution passing, it's just a public hearing at this point."

Bill Conlon: "I understand."

Supervisor Walter: "But what I want you to think about is there's a potential for I'm guessing minimum of two houses potentially four single family residences."

Bill Conlon: "But you would have to change the zoning."

Supervisor Walter: "Just the way it is, just the way it is. So something's going there. Mr. Cuddy, do you know if we could put four units there? Ok, so something's going there and it's my humble opinion and I could be wrong if I lived there I would rather have sixteen units similar to what I have in the adjoining neighbors than four noisy neighbor with kids but something's going there it's just a question of what. That's a question you guys should roll around in your minds"

Bill Conlon: "Got yah and I appreciate everybody's time and listening to me. Thank you very much."

Supervisor Walter: "Anybody else wish to be heard on this matter?"

Maureen Bay: "Maureen Bay, Stoneleigh Woods. I live the closest to the project. I'm in the third building and there's only twenty-eight feet between the end of my patio and the property line. My question is the woods that are behind us are full of dead trees and I spoke to Jodi about this before. What is their proposal for a buffer zone? Are they going to clear that of all the dead trees that threaten our house? Two of them have fallen already and put up something pleasing to the eye?"

Councilwoman Giglio: "The developer said that, as we discussed, that if you would mark out the trees that you want to remain he would leave those trees and then he would fill in the rest of the open space with other evergreens to buffer in the twenty-five foot buffer instead of the ten foot buffer that was originally approved."

Maureen Tobin: "Twenty-five to my twenty-eight."

Councilwoman Giglio: “Its twenty-eight feet to your property line so then it would be a twenty-five foot planted buffer and then there’s another twenty-seven feet to the actual unit itself on the other side of the property.”

Maureen Tobin: “You realize Jodie that most of the trees are dead so it would be completely.”

Councilwoman Giglio: “It would be a planted buffer then, a twenty-five foot planted buffer which they agreed to do.”

Supervisor Walter: “I’ve not been happy with the buffers we’ve had in this town. I’m going to tell you that when you (inaudible) go forward you’re going to be impressed with the buffer we’re going to ask for because much like the bamboo that’s planted in my backyard that I can’t see my neighbor, that’s what my intention is that you’re not going to see anything and I personally am going to let them plant little five, six foot bushes. They’re going to plant bushes full grown that you’re never going to see through. I don’t know how we do that but I know we can do it and we will do it.”

(Inaudible)

Maureen Tobin: “Blue and Gold planted a border of trees. Half of them died the first year and they’re as tall as I am. That does nothing and I believe from looking at the site plan that their parking circle, my neighbors is going to be right in my bedroom windows so this (inaudible).”

Supervisor Walter: “I think we’re going to move that too.”

Councilwoman Giglio: “We’ll buffer it.”

Councilman Dunleavy: “I’d rather have plantings of ten foot trees to start out with.”

Maureen Tobin: “Oh yes.”

Councilman Dunleavy: “I’ve been in your community and I’ve been behind some of those houses and some of these houses have little trees like this as a buffer. That’s not a buffer. Trees have to be at least ten foot to be a buffer. They have to be close together so they grow and you don’t see through the trees. That’s a mistake that’s been made in many communities that border residential areas. I’ve seen it, I don’t like it and I would never approval on a special permit those trees. They have to be at least ten foot and they have to be together so you can’t see through them.”

Supervisor Walter: “And we will require.”

Maureen Tobin: “I’m going to hold you to it. I’ll be right out there watching.”

Supervisor Walter: “You don’t have to worry about that because I agree with him. We will make sure they are watered.”

Maureen Tobin: “Like I said our building, building three is closest to it and my personal property is only twenty-eight feet so to me they’re going to go further from me.”

Councilman Wooten: “If this project gets the approval they still have to come here for a special permit and the Town Board at that time has a chance to work with the developer (inaudible) your concerns saying this is what we want and believe me they’ll go out of their way to accommodate us.”

Supervisor Walter: “Start thing about the indigenous trees you would like to see there because they might wind up on the tree list.”

Councilman Dunleavy: “I’ve also seen deer in your neighborhood too and I wouldn’t want to move any deer out of neighborhoods that they thrive in.”

Maureen Tobin: “They come right up on the patio John, we love them, they’re not afraid.”

Supervisor Walter: “Alright is there anything else? Thank you. Ok, how are you doing Sir?”

Tom Tobin: “I’m Tom Tobin, New Castle Court. The property in question will remain RC?”

Supervisor Walter: “Yes.”

Tom Tobin: “Ok, then the four homes that you refer to to be built on that will have to be sold to people fifty-five years or older?”

Supervisor Walter: “No.”

Tom Tobin: “Why not, it’s RC.”

Supervisor Walter: “I don’t think that homes, that’s if you’re building a retirement community. Bob what is, pull out.”

Tom Tobin: “How could you build a non-retirement community on?”

Councilwoman Giglio: “You can only get the increase density through the purchase of the development rights.”

Tom Tobin: “I’m not interested in that Jodi, the development rights are not the issue.”

Supervisor Walter: “I’m going to get the answer. Are single family homes permitted in that zoning district?”

Tom Tobin: “But the owner would have to be a senior citizen, wouldn’t they?”

Supervisor Walter: “Just hold on.”

Tom Tobin: “Well are they retiring at age thirty this year or something?”

Supervisor Walter: “There are more than one use in zoning districts.”

Tom Tobin: “But this is RD.”

Supervisor Walter: “It doesn’t matter. There are more than, you can have more than retirement communities probably. Alright, somebody’s got to have an answer.”

Robert Kozakiewicz: “Its 108-117.1 the uses, and the residents RC, residents RC district retirement community following permitted or special permitted uses one family dwelling units either attached or detached designed to provide limited accommodations for persons fifty-five years of age or older.”

Supervisor Walter: “I think there are other RC uses than that.”

Tom Tobin: “Thank you. Now going on that premise I hardly think we’re going to have to worry about pools and children making noise back there. Am I wrong? Jodi, am I wrong?”

Councilwoman Giglio: “He’s saying single family homes are permitted so single family dwelling.”

Tom Tobin: “To be occupied by fifty-five or over.”

Robert Kozakiewicz: “Fifty-five or over, yeah.”

Councilwoman Giglio: “But our code defines single family dwelling/”

Tom Tobin: “Well then you’re contradicting, here we go again. You’re contradicting yourselves. Single family dwelling in an RC as I understand it, please I’ll be corrected if I’m wrong. Bobby, you just read it off, has to be occupied by fifty-five or older. Isn’t that correct?”

Robert Kozakiewicz: “Any other questions? I agree.”

Tom Tobin: “We good.”

Robert Kozakiewicz: “Yes.”

Supervisor Walter: “Yeah, do you have any other questions Sir?”

Tom Tobin: “No.”

(Inaudible)

Supervisor Walter: “Thank you. Would anybody else like to speak?”

Leslie Bay: “Just one quick question. I’m a little ignorant on this so forgive me. My name is Leslie Bay and I live at Stoneleigh Woods. Why would it be necessary for this community to ask for variances or changes regarding sewers, etc., based on the current law when you’ve already made a decision that it doesn’t apply to them?”

Supervisor Walter: “Say that again.”

Leslie Bay: “Well you had stated that because of the June 2012 changes this property was mapped prior to that so they have to abide by the rules placed prior to that.”

Supervisor Walter: “Right.”

Leslie Bay: “One of those was not sewers, correct?”

Robert Kozakiewicz: “Correct.”

Leslie Bay: “Now you have to have sewers. So why would they have to request or why would there even be a discussion as to whether there would or would not be sewers for them since they’re going by the prior law?”

Supervisor Walter: “That’s what we’re trying, they’re not going by the prior law. We changed the code because what we anticipated being built here.”

Leslie Bay: “Right.”

Supervisor Walter: “Not this parcel.”

Leslie Bay: “right, I understand.”

Supervisor Walter: “Was a continuum of care assisted living.”

Leslie Bay: “I understand. I understand why you changed it and I sort of understand why you’re saying they don’t have to go by those rules.”

Councilman Wooten: “Well they do unless this code’s extended. They would have to. Under the new code they would have to.”

Leslie Bay: “That’s right (inaudible).”

Councilman Wooten: “This public hearing is going to change the law to allow prior to be prior.”

Leslie Bay: “Alright. So you’re just going to allow potentially that it will go back but it’s not set in stone yet.”

Councilman Wooten: “Right, exactly, it’s not set in stone.”

Leslie Bay: “Thank you.”

Supervisor Walter: “Does anybody else wish to be heard tonight? Go ahead Charles, Mr. Cuddy.”

Charles Cuddy: “I want to answer Councilwoman Giglio’s question about the TDR’s. They were purchased in 2010, some earlier actually, some in 2008 so we’ve had those TDR’s at this point for six to eight years and all twelve had been purchased at that time.”

Councilman Dunleavy: “How many were there?”

Charles Cuddy: “Twelve.”

Supervisor Walter: “So if we don’t amend this code then we would have to allow you, release you from those TDR’s.”

Councilwoman Giglio: (Inaudible)

Charles Cuddy: “That’s certainly what we would be asking, yes. I just want to point one thing out and I think everybody has to recognize this. Stoneleigh Woods and Sunken Pond, and I appeared for both of them, have four units to an acre. Three of the four units as Councilwoman pointed out had to have TDR’s. There’s nothing in this application that’s any different from Stoneleigh Woods has or Sunken Pond has. The units are exactly the same; they’re four to an acre. We did it in Stoneleigh Woods, we did it in Sunken Pond so there’s very, very little here that’s different. We still have to have exactly the same hearings. We have to have a site plan hearing, we have to have a special permit hearing and we have to have a variance hearing. We’ve done all those with the other applications, we’ll do them here. So, the only thing that changes is that when we had the original hearing we were talking about, as the Supervisor said, assisted care. We weren’t talking about this and no one recognized that this could happen and that’s what happened.”

Councilman Dunleavy: “Are you going to have any club house or any club house or recreational facility for these people?”

Charles Cuddy: “Probably not anything of significance at this point.”

Supervisor Walter: “I’m going to play this in my mind because I made the mistake. The only permitted use here in retirement community is continuum care or, you can’t have a single family resident in there?”

Robert Kozakiewicz: “I will read what 108-117.1 says. Its five enumerated uses. The first of **Subsection A** is 108-117.1 uses: *In the residents RC district, retirement community no building, structure or premises shall be used or arranged or designed to be used and no building from here shall be erected, reconstructed, altered or occupied unless otherwise provided in this chapter are special permitted uses. Subsection A: One family dwelling units either attached or detached,*

designed to provide living accommodations for persons fifty-five years of age or older. So that's not a continuum care."

Supervisor Walter: "Ok, what's the last use?"

Robert Kozakiewicz: "**B**: *Independent, congregate living residences*, **C**: *Assisted living retirement community*, **D**: *Continuing care retirement community* and **E**: *Accessory uses*."

Councilman Dunleavy: "This Town Board wasn't around when this was approved. This was approved because of our tax rates with the school district and they figured if we made these retirement communities that the school district wouldn't be burdened with the kids and raise the school taxes up. So that's why this was enacted because fifty-five years or older wouldn't have kids attending school and I think that's basically why this was enacted so one family houses cannot be built with children and it can only be built with people fifty-five and over."

Supervisor Walter: "So here's the problem, if we don't do this you all may love this idea but there are no uses for this property and we lose that litigation. The town cannot zone away all uses. We're not allowed to do that, we're not. They bring litigation against us, we lose that because your lot is too small. We're requiring fifteen acres. If the little owners don't hook up to a sewer plant because we don't have sewer plants running over there and there's no sewer lines over there so I think the court gives us a hard time with that and in the end I think we're going to be in trouble and so this is a bad situation because it's not going to be nothing folks, it's never going to be nothing. We're going to do something so whether they sue us but I can't bring single family homes because I thought single family homes were permitted so you can't."

(Inaudible)

Supervisor Walter: "Ok, nobody, does anybody else wish to be heard tonight? Ok, I'm going to close the public comment portion and leave it up for written comment until January 29th. Stay tuned and see what happens with this one. Thank you folks."

**Public Hearing Closed at 7:28 p.m.
Left Open for Written Comment until January 29, 2016 at 8:25 p.m.**

COMMENTS ON RESOLUTIONS

Supervisor Walter: "Alright does anyone wish to be heard? Sal what have you got?"

Sal Mastropaolo: "Sal Mastropaolo, Calverton, Resolution 46. I don't understand why this authorizes substitution of both in the title and *now therefore be it resolved*."

Supervisor Walter: "The Town Attorney was."

Robert Kozakiewicz: "I had handled the case."

Supervisor Walter: “We were doing it in-house.”

Sal Mastropaolo: “Alright but we never, past practices we never say substitution, we just say authorize the law firm of.”

Supervisor Walter: “Well we usually.”

Robert Kozakiewicz: “Take the word out.”

Sal Mastropaolo: “I was just wondering you know if you need.”

Robert Kozakiewicz: “You don’t have to say it.”

Sal Mastropaolo: “It implies you already assigned it to a law firm and now you’re substituting that law firm for another law firm.”

Supervisor Walter: “We did. We assigned it to the Town Attorney’s office and now.”

Sal Mastropaolo: “Alright. In the second *whereas* just add an “s” on defendant, in the third line on behalf of all the named defendants and that’s it.”

Supervisor Walter: “Alright anyone else wish to be heard on resolutions? Alright let’s take up the resolutions.”

Angela DeVito: “Resolution 53, I just have a point of information. The town is giving up or selling four point two six of its Pine Barrens credits is that right?”

Supervisor Walter: “We’re not selling.”

Robert Kozakiewicz: “Somebody’s buying them from a property and then those credits are being transferred to the town.

Angela DeVito: “But that diminishes the Pine Barren credits that the town has.”

Supervisor Walter: “That’s a good thing.”

Angela DeVito: “That’s a good thing for it?”

Robert Kozakiewicz: “Yeah.”

Supervisor Walter: “We want to have, it creates a market for town credits and the development goes west.”

Robert Kozakiewicz: “I understand this particular parcel is down to about twelve Pine Barrens credits so.”

Supervisor Walter: “We don’t have a lot left probably under sixty.”

Angela DeVito: “What is a GPD?”

Councilwoman Giglio: “Gallons per day.”

Angela DeVito: “So that’s what the Pine Barrens credits represent, gallons per day?”

Councilwoman Giglio: “Yup, one Pine Barrens credit is three hundred gallons per day.”

Angela DeVito: “Thank you.”

Supervisor Walter: “Alright, anybody else wish to be heard on resolutions? Alright Diane, call the resolutions.”

RESOLUTIONS

Resolution #43

Councilman Dunleavy: “Larry’s Lighthouse Marina Water Capital Project, so moved.”

Councilman Wooten: “Second.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes, Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted.”

Resolution #44

Councilman Wooten: “Amends Policy for Transfer of Funds, so moved.”

Councilwoman Giglio: “Second.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted.”

Resolution #45

Councilwoman Giglio: “Authorizes Town Clerk to Publish and Post the Attached Notice to Bidders for Street Lighting and Traffic Signal Maintenance Repair Parts, so moved.”

Council Hubbard: “Seconded.”

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted."

Resolution #46

Councilman Hubbard: "Authorizes Substitution of the Law Firm of Smith, Finkelstein, Lundberg, Isler and Yakaboski, LLP in the Civil Action Entitled Vinland Commons, LLC v. Building Department, Et Al. and Authorizes the Supervisor to Execute a Retainer Agreement, so moved."

Councilman Dunleavy: "And seconded."

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio."

Councilwoman Giglio: "As amended to include "s" at the end defendants, yes."

Vote Continued: "Wooten, yes: Dunleavy."

Councilman Dunleavy: "I guess you guys are too busy to handle this, the Town Attorney's office. I vote yes."

Vote Continued: "Walter, yes. Resolution adopted."

Resolution #47

Councilman Dunleavy: "Authorize the Town Clerk to Publish and Post Public Notice of a Public Hearing to Consider a Change of Zone Petition from Genrac Associates Regarding Premises at Mill Road, Riverhead, so moved."

Councilman Wooten: "I'll second."

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted."

Resolution #48

Councilman Wooten: "Authorizes the Supervisor to Execute an Agreement (Thomas Parris), so moved."

Councilwoman Giglio: “And seconded.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio.

Councilwoman Giglio: “The gentleman who plays the music at the Senior Center and he does a fantastic job, yes.”

Vote Continued: “Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted.”

Resolution #49

Councilwoman Giglio: “Authorizes the Supervisor to Execute Lease Renewal Agreement Authorizing the Town to Lease a Vehicle from Suffolk County Office for the Aging for Transportation Services for Elderly Residents, so moved.”

Councilman Hubbard: “Second.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes, Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted.”

Resolution #50

Councilman Hubbard: “Authorizes the Supervisor to Execute a License Agreement with Broadcast Music, Inc. (BMI), so moved.”

Councilwoman Giglio: “Seconded.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy.”

Councilman Dunleavy: “I’m still trying to figure out where this music is played. When I call Town Hall and I’m waiting isn’t it supposed to play then?”

Supervisor Walter: “No, when Tommy Parrish plays music.”

Councilwoman Giglio: “Teen Idol.”

Councilman Hubbard: “Or anything on stage.”

Councilman Dunleavy: "I vote yes."

Vote Continued: "Walter, yes. Resolution adopted."

Resolution #51

Councilman Dunleavy: "Adopts a Local Law to Amend Chapter 101 Entitled "Vehicles and Traffic" of the Riverhead Town Code (101-13. Parking Time Limited. D. Three Hours), so moved."

Council Wooten: "Seconded."

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted."

Resolution #52

Councilman Wooten: "Authorizes the Supervisor to Execute an Agreement with the Riverhead Business Improvement District Management Association, Inc., Regarding 2016 Calendar Year Events and Services, so moved."

Councilwoman Giglio: "Second."

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted."

Resolution #53

Councilwoman Giglio: "Authorizes the Supervisor to Issue a letter to the Suffolk County Department of Health Services Allowing the Use of Pine Barrens Credits Originated from Property Located in Riverhead (4000 Vets Highway LLC), so moved."

Council Hubbard: "Seconded."

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Dunleavy, yes; Wooten, yes; Walter, yes. Resolution adopted."

Resolution #54

Councilman Hubbard: "Appoints Town Attorney, so moved."

Councilman Dunleavy: “And seconded.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted.”

Resolution #55

Councilman Dunleavy: “Authorize the Supervisor to Execute a Professional Services Agreement with Suffolk Online Advertising, so moved.”

Councilman Wooten: “I’ll second.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted.”

Resolution #56

Councilman Wooten: “Accepts Resignation of Member from the Recreation Advisory Committee (Nicole Williams), so moved.”

Councilwoman Giglio: “Second.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard.”

Councilman Hubbard: “I’m on the Recreation Committee and we had a meeting the other night, actually last week and the entire committee recommended George Gabrielsen. He’s been a member of the committee for many years and he’s done an excellent job so, yes.”

Vote Continued: “Giglio, yes; Wooten, yes; Dunleavy.”

Councilman Dunleavy: “I think Ms. Williams has been on it a long time, she’s done a great job so I vote yes.”

Vote Continued: “Walter, yes. Resolution adopted.”

Resolution #57

Councilwoman Giglio: “Appoints Member to the Recreation Advisory Committee (George Gabrielsen), so moved.”

Councilman Hubbard: “Seconded.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes, Giglio, yes; Wooten, yes; Dunleavy.”

Councilman Dunleavy: “I have to vote yes. He did a great job on that committee when he was there before he was a Councilman and I hope that he gets lights for our ballfield in Calverton, yes.”

Vote Continued: “Walter, yes. Resolution adopted.”

Resolution #58

Councilman Hubbard: “Authorizes Town Clerk to Publish and Post Notice to Bidders for Sensus Water Meters and Accessory Equipment or Reasonable Equivalent for Use by the Riverhead Water District, so moved.”

Councilman Dunleavy: “And seconded.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy yes; Walter, yes. Resolution adopted.”

Resolution #59

Councilman Dunleavy: “Awards Bid for Water Service Materials Rebid, so moved.”

Council Wooten: “I’ll second.”

Supervisor Walter: “Moved and seconded. Vote please.”

The Vote: “Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted.”

Resolution #60

Councilman Wooten: “Appoints Custodial Worker I to the Buildings and Grounds Division of the Town Engineer’s Department (Beatrice Caccioppo), so moved.”

Councilwoman Giglio: “I’ll second.”

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted."

Resolution #61

Councilwoman Giglio: "Pays the Bills, so moved."

Councilman Hubbard: "Seconded."

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution adopted."

Resolution #62

Supervisor Walter: "Alright we have one to take off the floor. We talked about this. This is to amend Tom Kruger's contract to let him use some of his compensatory time since they were working like a hundred hours a week over the summer trying to get water so everybody could water their lawns and if I can get a motion to take it off the floor."

Councilman Dunleavy: "I make a motion we take Resolution #62 off the floor for consideration, so moved."

Councilman Wooten: "I'll second."

Supervisor Walter: "Moved and seconded as to take Resolution 62 Authorizing Supervisor Thomas Kruger's Employment Contract off the floor."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy, yes; Walter, yes. Resolution 62 is taken off the floor."

Councilman Dunleavy: "Authorized Supervisor to Amend an Employment Contract (Thomas Kruger), so moved."

Councilman Wooten: "I'll second."

Supervisor Walter: "Moved and seconded. Vote please."

The Vote: "Hubbard, yes; Giglio, yes; Wooten, yes; Dunleavy."

Councilman Dunleavy: "I'll tell you what, this gentleman works a lot during the summer to keep our water going on hot days and we only gave him to January 31st to use his comp time for the summer and it's only six months so we're going to extend it to February 29th. We're

going to give him another month so he can use some of the comp time that he has for keeping the water going in the Town of Riverhead so I vote yes.”

Vote Continued:

“Walter, yes. Resolution adopted.”

GENERAL COMMENTS

Supervisor Walter: “Alright, does anyone else wish to bring any matter before the Town Board? Did you want to bring something up before the Town Board? Come up to the podium. Could you state your name and hamlet?”

Pauline Sandman, President of the Mobile Manufactured Homeowners Association of Suffolk came to the podium to speak. She said they hold their meetings in Town Hall the third Saturday of each month and they have members from the many mobile home parks in Suffolk County. She also stated that the group is a private association not a public association and prior to the meeting there were two people giving handouts outside the building. She wanted to know if the handouts were derogatory in nature towards certain Board members what steps the Homeowners Association Board can take against the people involved in this matter. She feels since they are a private association if there are people degrading the association or any of the Board members the Homeowners Association Board does not have to allow them into the meeting if they are not paid members. Supervisor Walters advised Ms. Sandman to have a conversation with the Town Attorney’s office. He did add though that it was legal for anyone to hand out leaflets outside the door of Town Hall.

Supervisor Walter: “Does anybody else wish to be heard tonight?”

Councilman Dunleavy: “I make a motion that we close the Town Board meeting, so moved.”

Supervisor Walter: “And seconded, all in favor aye, opposite, abstentions. Town Board meeting is closed. George you’re official done.”

Meeting Adjourned at 8:44 p.m.