

Minutes of a Public Hearing held by the Town Board of the Town of Riverhead at Town Hall, 200 Howell Avenue, Riverhead, New York, on Thursday, April 11, 2002, at 11:00 a.m.

**Present:**

Robert Kozakiewicz,	Supervisor
Edward Densieski,	Councilman
James Lull,	Councilman
Barbara Blass,	Councilperson
Rose Sanders,	Councilperson

**Also Present:**

Barbara Grattan,	Town Clerk
Sean Walter, Esq.,	Town Attorney
Bruce Johnson,	Fire Marshal

Supervisor Kozakiewicz called the meeting to order at 11:15 a.m.

Supervisor Kozakiewicz: "I'm ready. Let the record reflect that the time of 11:15 a.m. has arrived. This is the time and place for a public hearing with respect to Chapter 54 involving reputed owner, Lloyd Harris.

Public Hearing opened: 11:15 a.m.

Barbara, would you read the affidavits of publishing and posting, please?"

Barbara Grattan: "I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, Riverhead, New York on April 11, 2002, at 11:00 a.m. regarding Chapter 54, property owned by Lloyd Harris, located at 30 Helene Street, Riverhead. Is it Helene or Melene?"

Supervisor Kozakiewicz: "Melene Street. Chris, are you here for Harris? Okay."

Barbara Grattan: "It says 30 Helene Street."

Supervisor Kozakiewicz: "Okay. Let the record reflect that Fire Marshal Bruce Johnson is present as well as Christopher Kent-Christopher E. Kent, and, Chris, do you want to put your appearance on the record?"

Christopher Kent: "Christopher Kent, 1 Union Square, PO Box 1538, Riverhead, for the Harris family."

Supervisor Kozakiewicz: "Thank you. All right."

Sean Walter: "Do you want me to just go through like a trial or- "

Christopher Kent: "If I could make an application first though. There is a lot of issues involved here- "

Supervisor Kozakiewicz: "Yeah, we've got to get this on the record, Chris. So, if you would."

Christopher Kent: "This property is- yes, this property is in title to a Lloyd Harris who is presently incarcerated. There are many- there is a civil- potential civil forfeiture proceeding that might also be involved with this case.

There is also a first mortgagee who has interest in the property."

Supervisor Kozakiewicz: "Do you- can you put that mortgagee on the record? I'm not sure if we have that information. Can you share that with us?"

Christopher Kent: "Yeah. The mortgagee, and I don't know if they were put on notice of this hearing today because- "

Supervisor Kozakiewicz: "Well, that's why I'm asking because if they weren't- "

Christopher Kent: "Yeah, their interest might also be- it's not required, but their interest- you could obviously see what their interest might be in the property. They might want to foreclose and do the renovations themselves. So I would undertake to contact them if we could have an adjournment for two, four weeks. I would also undertake to contact the District Attorney's office and see what their interest is in the forfeiture proceeding that they're undertaking."

Sean Walter: "I think- Sean Walter, for the record. I think the only way the town would be interested in even considering an adjournment is if the place was vacant or you were undertaking immediately to evict any tenants through the Sheriff's Department- just for the Sheriff's Department."

Christopher Kent: "We- the Harris family is prepared to serve them. It's not vacant now. I was told by the Building Department that they were attempting to have the premises vacated."

Sean Walter: "Well, we've attempted to have them vacated but as you know, Chris, you need the Sheriff to actually do that and we would- "

Christopher Kent: "So far- as far as I know, you've given them notice to leave, they haven't left. The town would have to proceed in Supreme Court in order to eject the family- in order to eject the tenants. We can proceed and I will put on the record today that I will serve them with a 30 day notice. That's the best we can do because I don't believe they're in arrears in rent. I will undertake to do that immediately if that's what you're requesting as far as a condition of the adjournment. I will go forward with the service of a- of the notice necessary- of the 30 day notice which is necessary to commence a summary proceeding."

Sean Walter: "I think that would be the only way that I would recommend to the Board that any adjournment be granted due to the extreme life, health and safety issues of the structure."

Christopher Kent: "Okay. I would ask for a copy of the reports or papers so that we can possibly undertake to make corrections to the premises. I don't foresee that as being done though because that would mean they'd have to incur an expense."

I also want to put the mortgagee on notice. The mortgagee is Steven Patterson (phonetic) and his attorney is Shepard Sheinberg. I have spoken to Mr. Sheinberg about this. He asked that we make an appearance today, put it on the record and see if we can adjourn it for two to four weeks but possibly have some answers in that time. Maybe we'll recommend that you go forward."

Supervisor Kozakiewicz: "Right."

Christopher Kent: "But there is an interest. His client does have an interest holding a mortgage on the property."

Supervisor Kozakiewicz: "Well, I don't see us going four weeks given what I understand to be the conditions out there as far as being occupied presently and that there are some very immediate concerns and life threatening situations I guess."

What I guess we could do, do you want to proceed with just putting the evidence in and then we can hold off as an alternative? Or do you want to- what's your recommendation counsel? Or do you need a recess? Can Shep appear in two weeks? Would the mortgagee be prepared to appear?"

Christopher Kent: "I will contact- I will contact him today and I will provide Sean with the information as to whether he can appear in two weeks or not."

Supervisor Kozakiewicz: "And if he can't, we would proceed without him. I mean, we've got to put it on the record."

Christopher Kent: "If he can't, we may- I may appear and I may provide testimony or present evidence as to what the parties would like to- how the parties would like to proceed in the matter."

Councilwoman Sanders: "But does that two weeks extend the 30 days? Then in two weeks we'll be discussing another 30 days?"

Supervisor Kozakiewicz: "No."

Christopher Kent: "No. I will serve- "

Supervisor Kozakiewicz: "No. No. My understanding is and let's just make sure that's clear. You will issue the 30 day notice."

Christopher Kent: "We will issue the 30 day notice to the tenant."

Councilwoman Sanders: "Effective today?"

Christopher Kent: "But this being April 11<sup>th</sup>, just to let you know 30 days is not 30 days. Thirty days in this case will probably be June 1<sup>st</sup>."

Supervisor Kozakiewicz: "This was a month to month tenancy?"

Christopher Kent: "Yes."

Supervisor Kozakiewicz: "And it started the 1<sup>st</sup> of the month, do you think?"

Christopher Kent: "I don't know that for certain."

Supervisor Kozakiewicz: "Okay."

Christopher Kent: "But most tenancies begin the 1<sup>st</sup> of the month- "

Supervisor Kozakiewicz: "Right."

Christopher Kent: "-- to the 30<sup>th</sup> of the month. The way a 30 day notice works is you have to give one full period notice. So in this case, the period would be May- the month of May."

Councilwoman Sanders: "May 1<sup>st</sup> to May 30<sup>th</sup>?"

Christopher Kent: "Right. So even if we served it today, the earliest we could demand the tenants to vacate the premises would be May 31<sup>st</sup>."

Supervisor Kozakiewicz: "Which is obviously a problem unless we can get something else cooking or working in the meantime."

Sean Walter: "I would say we proceed in two weeks. Put the mortgagee on notice and proceed in two weeks and that would be the end of it."

Christopher Kent: "Okay."

Sean Walter: "Maybe the tenants will be vacant- maybe the place will be vacant at that time. And you also have an issue of civil forfeiture that you're going to address in two weeks."

Christopher Kent: "Ah, that's- well, at least I'll provide the town with information regarding the civil forfeiture."

Sean Walter: "Okay."

Supervisor Kozakiewicz: "Who have you been speaking with in the District Attorney's office with respect to that issue?"

Christopher Kent: "No, I haven't been. I've been speaking to Anthony Lapinta (phonetic) who is representing- "

Supervisor Kozakiewicz: "Prosecutor?"

Christopher Kent: "-- Mr. Harris."

Supervisor Kozakiewicz: "Oh, okay."

Christopher Kent: "-- as a defense counsel."

Supervisor Kozakiewicz: "Okay. And he believes that a civil forfeiture proceeding has already been commenced or he doesn't know?"

Christopher Kent: "No. He is aware of a civil forfeiture proceeding but not on this premises. So we have to find out if they're going to expand the civil forfeiture proceeding to include this premises."

Supervisor Kozakiewicz: "And that's being done by the Suffolk County District Attorney's Office?"

Christopher Kent: "Suffolk County District Attorney's Office."

Supervisor Kozakiewicz: "Okay. All right."

Christopher Kent: "So that may be some other information for the town if that's going forward. But, again, the mortgagee has an interest- "

Councilwoman Blass: "I think he also has a little bit of responsibility, don't you think?"

Christopher Kent: "Right. Yes. I don't even know if the mortgagee was put on notice about this. I spoke to Mr. Sheinberg about it and he was not aware of it."

Supervisor Kozakiewicz: "All of the Chapter 54, I know that we don't require it, but I believe it would be advisable to put that person on notice in light of the fact that they do have a pecuniary interest in the property."

Christopher Kent: "That's correct."

Supervisor Kozakiewicz: "Correct. All right. I agree with that. Unless there's objection by the Board, we will entertain that request for a two week adjournment. That date would be April 25<sup>th</sup>- is that when- "

Councilman Lull: "Mr. Chairman, can I ask a question?"

Supervisor Kozakiewicz: "Sure."

Councilman Lull: "To the Fire Marshal. What does two weeks mean to you for this?"

Bruce Johnson: "For the record. Bruce Johnson, Fire Marshal for the Town of Riverhead. The tenants were put on notice immediately following our inspection and we not only gave them the notice, but we explained to them the dangers of remaining in this structure. So they are certainly cognizant of the risk and that they're continuing to occupy at their own risk.

I think in fairness that whether we proceed civilly or if we proceed in superior court, you know, given the backlog of things that we have, probably, you know, we're going to be getting to that May 1<sup>st</sup> date either route."

Councilman Lull: "What is the traditional procedural proof that you have that you have served them with this information?"

Supervisor Kozakiewicz: "You post- "

Bruce Johnson: "Yes."

Supervisor Kozakiewicz: "Which would- which would be part of our proof when- "

Councilman Lull: "Okay, right."

Supervisor Kozakiewicz: "-- we undertake the hearing as to the posting and the mailing. That would be something that I would ask the witness to testify to and to put forth as a record. And I'm sure Counsel, once he's had a chance to look at that, may not object to that, hopefully, won't object to that issue."

Christopher Kent: "I would like to- "

Supervisor Kozakiewicz: "I mean- I don't know."

Christopher Kent: "Unless- "

Supervisor Kozakiewicz: "Is that something that you could consent to today in return for an adjournment? That the property as far as the individual owner, Harris, was properly posted and service was made."

Christopher Kent: "I would consent- I would stipulate- "

Sean Walter: "Stipulate."

Christopher Kent: "-- on the record that the- that the owner to the extent possible received notice of this proceeding by service upon Betty Harris- "

Supervisor Kozakiewicz: "Okay."

Christopher Kent: "-- who actually was the person who contacted me and asked me to appear here today because she could not appear."

Supervisor Kozakiewicz: "Okay. Very good."

Christopher Kent: "But I do have a question of the town and I don't know if Mr. Walter if he'd like to respond to this. Were the tenants served personally with notice under I guess Chapter 68. Is that the right- "

Sean Walter: "I'm going to defer to Bruce Johnson. He's handing you the papers."

Bruce Johnson: "Yes. I'll provide counsel with copies of the papers and, you know, I'm prepared to testify that on February 22<sup>nd</sup> when we posted the house that we also- I personally spoke with the tenant, at least one of the tenants, and explained to her the reason why we were posting the order to vacate, suggested that she begin immediately looking for alternative residence because of the structural instability of this house. So, you know, I'm willing to put that on the record, she was made aware and she was given access to the order to vacate."

Christopher Kent: "Has anyone from the town gone back to the premises to see if the tenants have vacated?"

Bruce Johnson: "We have not inspected recently. No."

Christopher Kent: "One last note. One last note. I see on the notices that they are directed to Betty Harris. Betty Harris does not have any interest in 30 Melene Street other than being the mother of Lloyd Harris."

Sean Walter: "Well, that's what I wanted to clear up the stipulation. We would want the stipulation to be that the owner is Lloyd Harris and that he has been served."

Christopher Kent: "I don't know if he's been served. I believe that he was served by mail and the mailing was to Betty Harris. I started off my comments by stating that Lloyd Harris is incarcerated."

Sean Walter: "Right."

Christopher Kent: "If you'd like to serve him personally, he's easy to find and- "

Supervisor Kozakiewicz: "Are you sure about that?"

Christopher Kent: "Yes."

Sean Walter: "You coming here as attorney for Lloyd Harris. That's what we're looking to do is have you stipulate- "

Christopher Kent: "I'm here. I've been asked to appear on behalf of Betty Harris."

Supervisor Kozakiewicz: "So you're not appearing for Lloyd? So you can't stipulate on his behalf that service- "

Christopher Kent: "I have not- Betty Harris actually came to see me, provided me with a copy of the notice and asked me to come here on her behalf."

Sean Walter: "Then let's proceed with the hearing then."

Christopher Kent: "Well, how- do you have proof of service on Lloyd Harris then today? We might be able to remedy that in two weeks unless you served him like I said at the facility. The service that I see was at 533 Osborn Avenue which is the address of Betty Harris."

Sean Walter: "This was published and posted pursuant to Chapter 54 of the code of the Town of Riverhead."

Christopher Kent: "Okay. I would repeat my application though. If you can give us two weeks, we might be able to settle a lot of the issues by giving the mortgagee notice. I believe the mortgagee- "

Supervisor Kozakiewicz: "We have no problem with giving the mortgagee notice. I think what we're trying to avoid as far as an issue here and it sounds as if you do not- you're not here to represent the interests of Lloyd, you're here to represent, as you say, the interests of Betty who is his mother. And that puts us in a

little bit of a bind because our proof, I believe, is going to be that there was a publishing and there was a posting and we would proceed against Lloyd to the effect- extent we can. Unless we can get some- go ahead, Barbara."

Barbara Grattan: "The publication is incorrect. On the pages that are here, it's 30 Melene Street- published, it's 30 Helene Street. The location incorrect."

Christopher Kent: "Who's listed as the owner?"

Barbara Grattan: "Oh, what have I got here? The owner, Lloyd Harris, 533 Osborn Avenue. Location is 30 Melene."

Bruce Johnson: "Just also for the record, the records that we have at Town Hall Building Department and the Assessor's records and also the rental file list Lloyd Harris at 533 Osborn Avenue and the rental applications list Lloyd Harris care of Betty Harris at the same address."

Sean Walter: "All right. I think real simply what we'd want to do for the two week extension is to consent to service on behalf of Lloyd Harris and that you would undertake to bring an eviction proceeding to anybody on the premises. Otherwise I think we would just proceed with the hearing today."

Christopher Kent: "I would consent to the service."

Sean Walter: "Okay."

Christopher Kent: "And notice of the hearing here today."

Sean Walter: "Okay."

Christopher Kent: "I would also undertake a stipulation today on the record that I will serve a 30 day notice- or we will have a 30 day notice served upon the tenants within the two week period. I will also contact the counsel for the mortgagee and I will contact the defense attorney, Anthony Lapinta, to check on the status of the civil forfeiture proceeding."

Sean Walter: "Thank you."

Supervisor Kozakiewicz: "I would also ask if it's feasible, once you speak with Mr. Lapinta, the defense attorney, if the name of

the Assistant District Attorney can be provided to our Town Attorney's Office so that they can also follow up in order to verify whether any civil forfeiture proceedings may or may not be commenced by the Suffolk County District Attorney's office. Do you want to add to that?"

Sean Walter: "I just want to add one thing. You are consenting to service on Lloyd Harris for the premises known as 30 Melene-M-E-L-L-E-N-, M-E-L-E-N-E Street, Riverhead, New York, correct?"

Christopher Kent: "That's correct."

Sean Walter: "Thank you."

Supervisor Kozakiewicz: "All right."

Councilman Densieski: "Barbara, was that typographical error due to the newspaper incorrectly?"

Barbara Grattan: "No."

Councilman Densieski: "We posted it wrong?"

Supervisor Kozakiewicz: "All right. With that said, is there an objection to the two week adjournment? All right. Anybody? Okay, Sean?"

Sean Walter: "No objection."

Supervisor Kozakiewicz: "Okay, all right. So your application, Mr. Kent, is granted and that will be two weeks. Thank you."

Barbara Grattan: "I didn't have the resolution yet."

Sean Walter: "What's the date?"

Supervisor Kozakiewicz: "I would say the 25<sup>th</sup> if it's 14 days."

Sean Walter: "Yeah."

Supervisor Kozakiewicz: "Same time. 11:00 a.m. So that would be adjourned- the application for the adjournment granted to the date

of April 25, 2002, 11:00 a.m. Thank you."

Public Hearing adjourned to April 25, 2002

*Barbara Grattan, Town Clerk*

Public Hearing opened: 11:32 a.m.

Supervisor Kozakiewicz: "Okay. We have one other one. Since the time has arrived, let's call the next public hearing. Let the record reflect the time of 11:32 a.m. has arrived. And this is a second Chapter 54. Barbara, would you read the affidavits of publishing and posting with respect to this matter."

Barbara Grattan: "I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, Riverhead, New York on April 11, 2002 at 11:30 a.m. regarding a Chapter 54 property owned by Benjamin and Ida- what is this- Surgue, located at 22 Lewis Street, Riverhead."

Supervisor Kozakiewicz: "Okay. Sean, are we still entertaining an application on this one? Please come forward so we can get your appearance on the record. Yes. Yes. Okay. For the record, the witnesses present are Bruce Johnson, Fire Marshal, and we don't have your appearance on the record so if you would please provide us your name and address."

Ida Sugrue: "My name is Ida Sugrue, 120 Moriches Middle Island Road in Riverhead."

Supervisor Kozakiewicz: "Okay. And can you spell the last name so we have it on the record the correct way?"

Ida Sugrue: "Yes. S-U-G-R-U-E."

Supervisor Kozakiewicz: "Okay. You are representing the property owners or you are the property owner?"

Ida Sugrue: "We are the owners. Yes."

Supervisor Kozakiewicz: "Okay. And you are asking for time today from this Board on this Chapter 54?"

Ida Sugrue: "Yes. Well we thought-- that we have a building permit pending or a pending building permit and we purchased this

property in September and, hopefully, to work on it this spring."

Supervisor Kozakiewicz: "Okay. That application has been made to the Building Department? There's a pending building permit application?"

Ida Sugrue: "Yes."

Sean Walter: "I'd like to offer the building permit application into the record."

Supervisor Kozakiewicz: "Okay."

Sean Walter: "Mr. Johnson, can I just draw your attention to what is known as the building permit application? Are you familiar with this application, sir?"

I just want to draw your attention to the building permit application."

Bruce Johnson: "Do you need to swear me in first?"

Sean Walter: "Oh, I'm sorry. Your appearance for the record."

Bruce Johnson: "Okay, Bruce Johnson, Fire Marshal for the Town of Riverhead."

Sean Walter: "Would you raise your right hand, Mr. Johnson? Do you swear to tell the whole truth and nothing but the truth, so help you God?"

Bruce Johnson: "Yes, I do."

Sean Walter: "Thank you. I draw your attention to the building permit application in front of you."

Bruce Johnson: "I have it."

Sean Walter: "Are you familiar with that application?"

Bruce Johnson: "Yes, I am."

Sean Walter: "Can you describe to the Town Board what that application is?"

Bruce Johnson: "Yes. That's an application to restore this house. It's written for new windows, sheetrock, insulation, repair carport, vinyl exterior and new heater and gas hot water heater."

Sean Walter: "And what property is that for?"

Bruce Johnson: "That is for the property designated as #22 Lewis Street, tax map number 105-02-011."

Sean Walter: "And that is known as a building permit application?"

Bruce Johnson: "That is correct."

Sean Walter: "I offer the building permit application as Exhibit 1."

Supervisor Kozakiewicz: "I assume you have no objection to that piece of evidence being put into the record?"

Ida Sugrue: (Inaudible)

Supervisor Kozakiewicz: "Okay, all right."

Sean Walter: "I believe there's one other letter from Richard Podlos I'd like to- "

Supervisor Kozakiewicz: "Okay. There's a second letter that says what? Why don't we- "

Sean Walter: "Is there a second letter from Richard Podlos?"

Bruce Johnson: "Yes, there is. On April 9<sup>th</sup>, after our residential inspector, Mr. Podlos, reviewed the preliminary plans and the application, he sent the letter which I provided copies with, basically requiring additional plans to show the exact specifications of the work and the alterations and the restoration to be done to the house. And that is the last thing that's required, I believe, before the permit will be issued to commence work."

Sean Walter: "I'd like to offer that letter from Richard Podlos as Town's Exhibit No. 2."

Supervisor Kozakiewicz: "Allowed."

Ida Sugrue: "Oh."

Supervisor Kozakiewicz: "Yeah, okay. Now just so the records reflect, on our page we have the spellings, S-U-R-G-U-E. It's S-U-G-R-U-E, correct?"

Ida Sugrue: "That's correct."

Supervisor Kozakiewicz: "Okay. And you did receive notice of the proceeding today. Obviously you are here, you were served in the mail. Is that correct?"

Ida Sugrue: "Yeah. I didn't know whether it was going to be on the calendar or not because we did, you know, apply for the building permit and so I honestly didn't know whether it was going to be here but we decided that maybe we better show up."

Supervisor Kozakiewicz: "Okay. So there's no question in your mind. You are consenting to the service, but what you're doing here today is asking us to allow this to be held over so that you can get the building permit from the town Building Department and undertake the work which I assume you are prepared to do right away?"

Ida Sugrue: "Certainly."

Supervisor Kozakiewicz: "Okay."

Ida Sugrue: "That's the purpose we bought it for."

Supervisor Kozakiewicz: "Okay. Is there any objection from the Building Department with respect to an application for an adjournment on this one? How much time are we looking at, guys?"

Bruce Johnson: "I would be comfortable with three months, if that's enough time for- "

Ida Sugrue: "To complete the work?"

Bruce Johnson: "To commence the work."

Ida Sugrue: "To start the work?"

Bruce Johnson: "Yes."

Ida Sugrue: "That's fine."

Supervisor Kozakiewicz: "Okay. Okay. So we're talking about a three month adjournment. I don't have my calendar handy-dandy in front of me. Is there anybody that has a calendar? So we're talking May, June, July. Our first work session in July."

Councilwoman Blass: "That would be the 11<sup>th</sup>."

Supervisor Kozakiewicz: "Okay. So that would be July 12<sup>th</sup>- "

Councilwoman Blass: "The 11<sup>th</sup>, the 11<sup>th</sup>."

Supervisor Kozakiewicz: "Okay. July 11, 2002, and that would be 10- 11:00. Any objection to that, Town Board? Okay. All right. So that would be July 11, 2002, 11:00 a.m. Nothing further, adjourn this Chapter 54."

Meeting adjourned

*Barbara Lutton*  
Town Clerk