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Minutes of a Town Board Meeting held by the Town Board of the Town of Riverhead at Town Hall, 200 Howell Avenue, Riverhead, New York, on Tuesday, April 20, 2004, at 7:00 p.m.

Present:

Philip Cardinale,	Supervisor
Edward Densieski,	Councilman
Barbara Blass,	Councilwoman
Rose Sanders,	Councilwoman
George Bartunek,	Councilman

Also Present:

Barbara Grattan,	Town Clerk
Dawn Thomas, Esq.,	Deputy Town Attorney

Supervisor Cardinale called the meeting to order at 7:00 p.m.

Supervisor Cardinale: "And to begin, I'd like to begin with the Pledge of Allegiance. Rob, would you lead us, Rob Pike."

(At this time, the Pledge of Allegiance was recited, led by Rob Pike)

Supervisor Cardinale: "The Labor Management Committee has a presentation. Would you like to go down and participate in that?"

Before we start the meeting tonight, we wanted to (inaudible) Labor Management Committee make the Employee of the Quarter presentation. This comes with a proclamation which is my job and I will read it and then some kind words will be said by the other members here and I think you'll tell them about that- benefit that they get a day off- "

Madelyn Sendlewski: "Oh yes, a day off with pay and a \$100 savings bond."

Supervisor Cardinale: "So there is substance to this as well as kind words."

Proclamation is to the Employee who was selected. Is Janice here? Would you come up, please, Janice. And her son, John, would you come up? Chief. Janice is an employee of the Police Department and has been for seven and a half years.

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I will read the proclamation in honor of Janice, Employee of the Quarter, and then pass it on to the others.

Janice, Whereas the designation of Employee of the Quarter is an honor bestowed upon an employee who has excelled, an employee who goes beyond the call of duty, an employee who consistently performs beyond expectations, and that person is Janice Seus.

Whereas, Janice has been employed for seven and a half years by the Police Department as an account clerk with the Juvenile Aid Bureau and has done an outstanding job during that period; and

Whereas, Janice is truly a valuable employee (inaudible) matters concerning children, dealing with coaches, parents, players and all aspects of the PAL Program and always willing to lend a helping hand to her co-workers;

Whereas, Janice lives in Wading River and is very busy at home keeping up with her son John, who is a high school senior, nonetheless continues to perform for our town in an exemplary fashion at work.

Be It Resolved, that I, Philip Cardinale, Supervisor, do hereby congratulate Janice Seus this day, the 20th of April, and I attach the (inaudible) seal and I want to congratulate you.

And they have some other kind words they want to say about you. And then you get to talk."

Lt. Pat Mulcahey: "I'm Lt. Pat Mulcahey. On behalf of the Labor/Management Committee I'd like to congratulate you. Janice works for me since January. I can say that she does everything that's said on there, on the proclamation, is true. She does a great job and I'm very proud to say that she works for me in that capacity. Thank you. And the Chief would like to say a few words."

Chief Hegermiller: "First, I'd just like to thank the Committee for choosing such a fine employee. I'd just say, you know, Janice has been with us since about the end of '96. She's with the Juvenile Aid Bureau. She's an outstanding employee and her co-workers over there, I want to say that she's the glue that holds JAB together so if I could think of one thing that I'd like (inaudible) that her outstanding quality is that she's an outstanding employee and she always is looking for work to do. It's amazing.

She does a lot of work and it spans the whole gamut. She

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handles JAB, she handles PAL, she helps with the (inaudible) orders, she does summonses, she does all grant work that we have to do. She's truly does a great job.

So with that, again, I want to thank the Committee and say that this is my opportunity to adequately thank Janice for all the work that she's done. Congratulations."

Unidentified) "You get a day off from work and a \$50.00 savings bond. One hundred."

Supervisor Cardinale: "I was going to negotiate for you."

Janice Seus: "I just want to thank the Labor Committee for their selecting me. Lt. (inaudible) couldn't be here tonight for nominating me; Chief Hegermiller for being my boss (inaudible), my co-worker and everyone on the Town Board. Thank you very much."

Supervisor Cardinale: "Let's see. Before we begin the meeting proper, I just want to note with regret and sorrow the passing of two people in the last week, one is Geraldine Civiletti, the mother of a former Councilwoman and present newspaper woman, and the other was just recently, yesterday I guess, Vicki (inaudible), the BID- what is her- director?"

Councilman Densieski: "Executive Assistant."

Supervisor Cardinale: "Executive Assistant to the BID, the Business Improvement District, who suddenly passed away yesterday. So a moment of silence in their memory and then we'll get going.

Barbara, would you ask- would you like us to approve the minutes of the April 6th meeting?"

Barbara Grattan: "I would like that very much."

Supervisor Cardinale: "Why don't we start with that. Would somebody offer the minutes for approval and a second, please?"

Councilwoman Sanders: "So moved."

Councilman Densieski: "Second."

Supervisor Cardinale: "Moved and seconded. Minutes of the April 6th meeting are being offered for approval. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski,

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yes; Cardinale, yes. The minutes are approved."

Supervisor Cardinale: "Okay. Would you tell us about the collections and reports, please?"

Barbara Grattan: "Sure. Under Reports."

REPORTS:

Tax Receiver	Total collection to date is \$48,681,865.46
Juvenile Aid Bureau	The monthly report for March
Bid Reports	Grit and screen removal which was opened on April 8 th - one bid was received from REM Earth Care

Barbara Grattan: "That concludes Reports."

Supervisor Cardinale: "The Applications, please."

APPLICATIONS:

<u> </u> Special Events	Church of the Harvest - July 24 th , 12 p.m. to 5 p.m. East End Arts property
May	Central Suffolk Hospital - 7 th , 8 th and 9 th , a garden show
	Darkside Productions - Oct. 1 to Oct. 31, the haunted house
Parade Permit	Riverhead Fire Department - May 14 th , 6 to 7 p.m.
Site Plans	Cellular Telephone - affix antennas on existing water tank
	Kent Animal Shelter - expansion
	Suffolk County National Bank

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Ostrander Avenue, ATM
installation

Peter Danowski, Jr., Roanoke
Ave., parking lot,

landscaping

drainage

Barbara Grattan: "That concludes Applications."

Supervisor Cardinale: "Correspondence, please."

CORRESPONDENCE:

Richard Wines

Regarding the location of the
public restrooms downtown

Barbara Grattan: "That concludes Correspondence."

Supervisor Cardinale: "Thank you. And we have public hearings scheduled to commence at 7:10; two others, I guess one other following. The 7:10 hearing is on the consideration of a proposed local law to amend Chapter 14 of the Town Code entitled Community Preservation. Dawn, you can clarify but I believe this was to correct a long standing typographical error where we misstated the- we had a transcription error, I believe, that this is addressing, where it said 150 and should have said- it said 250 and it should have said 150."

Dawn Thomas: "Yeah. This is just to correct- yes, that's right, it's a correction of a typographical- as well- and that's the same with the 7:15 public hearing. It's just a continuation of some amendments that we made to Chapter 52. We had omitted inadvertently one (inaudible) change and- "

Supervisor Cardinale: "So both of the hearings tonight are technical in nature correcting typographical errors of the past.

So on the 7:10 hearing, it's 7:18. I'm opening it up."

Public Hearing opened: 7:18 p.m.

Supervisor Cardinale: "For any comment, if any, in regard to that public hearing. If there is no comment on that rather straightforward correction, we'll call it 7:19 and we'll close that hearing."

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Public Hearing closed: 7:19 p.m.

—

Supervisor Cardinale: "The 7:15 hearing is the next hearing. That is also a correction of a typo in the Chapter 52 of the town code, Building construction. We'll open that up at let's call it 7:20."

Public hearing opened: 7:20 p.m.

Supervisor Cardinale: "And is there- is there any comment on that not particularly earth shattering public hearing?"

Going once, twice, three times. So we'll call a halt to this hearing, too, but we wanted to get it out- we had to do this to get opportunity for public comment and we have. So we'll close it at 7:21."

Public Hearing closed: 7:21 p.m.

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Supervisor Cardinale: "That does it for public hearings tonight but don't- we have one more apparently. I thought it was too good to be true. And I should say something for the public and also for the- this is going to be brief tonight, public hearings obviously. However, on Monday, starting at 2:00 in this very room and then following is an informational hearing on the new residential zoning codes consistent with the master plan and then we're going to go from 4:00 until whenever on the hearing of each of the six- is it six Barbara?"

Councilwoman Blass: "Six or seven."

Supervisor Cardinale: "Six or seven- "

Barbara Grattan: "There's eight."

Supervisor Cardinale: "Or eight residential codes that have been written and proposed to implement the master plan. They'll begin at 4:00 and follow in sequence and so we're looking forward to people coming on Monday, April 26 at 2:00 for the informational hearing and at 4:00 for the beginning of the public hearings to voice

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their questions and concerns and see what is happening with their residential property under the new zoning code implementing the master plan passed November 3rd.

The next and final which is not listed apparently in the public hearings, but is a special- because it was actually an adjournment from an earlier date, from April 20th, at the request of the applicant."

Public Hearing opened: 7:23 p.m.

Supervisor Cardinale: "It's special permit petition of Martin Rosen for a wireless communication tower and we do have some action, folks, at this public hearing. And- would you indicate your name, please and your relationship to the application."

Joseph G. Nemeth, Jr.: "My name is Joseph G. Nemeth, Jr. and I'm a member of the firm of Pinks, Arbite, Boyle and Nemeth (phonetic), 140 Fell Court, Hauppauge, New York, and I represent the applicant, Martin Rosen, in his application for a special permit for a telecommunications facility.

I have an affidavit of posting, an affidavit of mailing which I will- "

Supervisor Cardinale: "Very good. If you would."

Joseph G. Nemeth, Jr.: "I also have some--"

Supervisor Cardinale: "Okay. Before you go on just in case you say something (inaudible), she'd like to swear you in which is required for the hearing."

Joseph G. Nemeth, Jr.: "Sure."

Dawn Thomas: "Mr. Nemeth, do you swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?"

Joseph G. Nemeth, Jr.: "Yes, I do."

Supervisor Cardinale: "Thank you."

Joseph G. Nemeth, Jr.: "I also have some booklets which will be the basis of what I have to say this evening. I think it makes it easier; we could move through the material faster. I have one for

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each Town Board member and one extra, so- "

Supervisor Cardinale: "Great."

Joseph G. Nemeth, Jr.: "-- if I could give those out. "

Barbara Grattan: "What is your last name, again?"

Joseph G. Nemeth: "Nemeth. It's spelled N-E-M-E-T-H."

Barbara Grattan: "That's what I thought."

Supervisor Cardinale: "Okay. You are sworn in and ready to go."

Joseph G. Nemeth, Jr.: "Very good. I'd just like to introduce a few of the people who are here with me tonight for this presentation. Martin Rosen, would you stand up? Martin is my client; he's the applicant. He is a ham radio operator, a licensed operator. He's the owner of the tower in question and he's the owner of the land with his wife upon which the facility is located.

Harvey Stark (phonetic). Harvey Stark is a structural engineer, has a Masters in Civil Engineering from the City University of New York, worked as a structural engineer for New York State DOT in the bridge division, and designed several structural steel works for bridges and office buildings.

Dr. Melvin Ocean. Dr. Ocean is a professor of engineering, science and physics employed by the College of Staten Island University of New York. He's the holder of an FCC radio telephone license and a specialist in radio frequencies.

Howard Iko. Howard is an amateur radio operator who has an amateur radio license and a commercial radio license. He owns several telecommunications facilities in Orange County and he works for the Port Authority as a radio technician.

Jeff Forkas. Jeff is an advanced class amateur radio operator and he's involved in amateur radio emergency services.

I may call them; you may have questions for them, so I thought that it would be worthwhile to introduce them.

So now I'd like to just start with the presentation and as I mentioned I think probably the easiest way to get a handle on this is

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to go through the booklet. I'd like to start by directing your attention to the first page, there's a number in the lower left hand corner and if you lift that up, you'll see a photograph of the tower.

Now this is something of a unique application. This is a tower that is in place. We're not seeking a special permit to build a tower. This tower has been there for five years since 1999 and this is what the tower looks like and this is what the tower has looked like for the past several years. And as we go on I'll explain to you exactly why we're here for a tower that is already in place.

To give you an idea of where the tower is located, if you'd flip the page to number two, this is a blown up excerpt of the tax map. You can see four thin lots. You'll see the Long Island Sound in the upper right hand corner and you'll see on the lower part Key Span. That's property that actually is owned by the State of New York and from reading the newspaper, I understand the State is taking part of that 500 acre parcel and selling roughly half of it at a price of about \$13,000 an acre to farmers who are giving up any development rights.

At the upper part of the piece of paper, you'll see the reference to Maidstone. That's the Maidstone Condominium complex which is directly to the west. To the south, which is on the left hand side of the page, you see the word greenhouses. Those are the Van deWetering greenhouses.

These are the properties that border our property. Now our property is the one that has the little "x" on it. It's this long, thin piece that has the lot number 3.2; the designation 2.6 acres and the "x". The "x" marks the spot where the tower is located. So, again, the property is bounded by all this vacant land now owned by the State of New York, by the greenhouses on the south, by the Maidstone community on the west, and by the Long Island Sound on the north.

The property immediately to the east of my client's property is vacant land. The property immediately to the west is vacant land that's owned by Mr. Rosen's wife individually. The property to the west of that which is the lot 3.4, was vacant land but it was transferred about a year ago and a substantial attractive house, I understand, has been built towards the Sound on the bluff providing a nice view of the Sound.

If we turn the page again you'll notice that I have a reminder to pull out an aerial photo which we have. This is an aerial photo

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that was taken probably- was in the year 2000 or the year 1999? This was taken immediately after the tower was built and you can see- and I'll hold this up so everyone can see it, you'll see the denuded area to the west. The tower is this black spot here. This obviously is the Sound. Key Span- it was Key Span then, it's New York State now to the east. These are the greenhouses and this was cleared at the time in anticipation of building the Maidstone community. So this is what - if anybody is interested, this is what it looks like."

Supervisor Cardinale: "We have an easel here if you'd like to place the picture on for the public. We have an (inaudible)."

Joseph G. Nemeth, Jr.: "Okay. The next thing that we have is the site plan which is page four, the site plan that had been presented to the Zoning Board about a year ago. That's how long we've been at this process. And in the lower right hand corner of the lot within that little circle, it says see tower setback detail, etc. That's where the tower is located. That's consistent with the tax map drawing that I showed you before.

Turning to page five now, we get into a quick history on the tower. It turns out that in May and June of 1999, Mr. Rosen's then attorney, Charles Cuddy, wrote to Adam Grossman, the Town Attorney, phoned him and as a result he received a letter indicating that the tower that was envisioned which was a ham radio tower, there was a federal preemption which meant that there wasn't any special permit that was required and, hence, Mr. Grossman, if you look at this letter, indicates that he's going to authorize the Building Department to issue a building permit.

If you turn the page, you see the building permit on page six. This is a building permit that was issued June 4, 1999 to Mr. Rosen for a ham tower.

Shortly thereafter, my client- oh, the following page shows the site plan that was submitted with the building permit application. You'll notice page seven, the site plan is stamped by the building department and initialed and dated June 4, 1999. This shows the basic location as to where the tower currently is.

So, then, following the construction, if you turn to page eight, my client received a certificate of occupancy dated August 18, 1999 for this tower, indicating radio tower ham operated.

Then my client received an inquiry in September and October and November from one or more beeper companies who wanted to go onto the tower. And they were advised by my client to check with the Building

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Department to see if there was any zoning or special permit or anything of that sort that might be necessary.

So one of them from Page Net, his name is Richard Higg (phonetic), on November 3, 1999, wrote to the Building Department saying that he had heard that nothing special was necessary from the town in the way of zoning or of permitting to install their equipment. I refer you to the second paragraph of the letter- third paragraph, I'm sorry. And he received a letter back, the following page, November 17th from the Building Permit Coordinator saying that she concurred with his conclusion and that nothing was necessary.

Subsequent to that, beepers went on the tower; they're still on the tower. There were leases with four beeper companies. At this point as time has progressed actually, we're down to three beeper companies and those beepers are there. As I said, this tower has been there with these beepers and ham equipment. It's a combination now. It went from being a ham tower exclusively to a ham tower with beepers and that occurred in let's say December of 1999.

There are a number of antenna on the tower. We can identify them if you're interested. We have photos, we have whatever you need in that regard.

Then surprisingly, at least surprisingly to my client and to me when I learned of this, on February 8, 2001, which is a little bit more than a year after the beepers went on the tower and more than 18 months after the C of O was issued, Mr. Rosen, out of the blue, received a letter from the Building Department Administrator named Leroy Barnes, revoking his building permit and his C of O without any indication as to the reason.

I was not involved in this case at the time; Charles Cuddy was. And what happened thereafter was there was an application to the Zoning Board for a variance that was turned down. My client was then advised to make an application for a special permit. He attempted for the most part to put it together himself. While he was working on this over a period of a month or two or three, he suffered a heart attack and never progressed it and before he knew it, he was issued a series of summonses. More than 100 summonses were issued.

Mr. Cuddy then- these were summonses incidentally for operating a tower without a building permit or a C of O because even though it had been issued to him, it was taken away. So then Mr. Cuddy on his behalf brought an Article 78 proceeding and that was ending when our firm was called in to help out and I sat down with Mr. Cuddy, learned

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that the Scott DeSimone from the Town Attorney's office was assigned to the case.

I met with him and I inquired was there any way out of this mess short of going into, you know, continuing this litigation which could last a long time with consequences that could not be predicted for either side.

He suggested, look, he said you should have gone for a special permit, why don't you do it now and why don't we arrive at some sort of a settlement sum that you could pay at the end of the day if you proceed with the process that he contended all along we should have proceeded with, the process of getting a special permit. So that's what we agreed to do. And that's why we're here tonight.

Now it turns out that the first step in that process was going to the Zoning Board because at that time we were no longer properly set back according to the way the zoning code read. So we needed a variance. And we proceeded with a hearing. In fact, we had two hearings as I recall before the Zoning Board.

And they questioned us about every relevant aspect. We drew diagrams of the location of the tower in relation to buildings. We contemplated fall zones. We talked about the strength of the steel, the strength of the anchoring and so on and so forth. Ultimately they decided that they would give us the variance and that variance is located at page 11, the setback variance, signed by the Chairman on April 29, 2003, the Chairman of the Zoning Board.

Once we finished that, we actually filed our application for a special permit and the first step, of course, was to get the referral from the Planning Board. Well the Planning Board called us in for a hearing and we appeared before them and they ultimately recommended to the Town Board that the special permit application be approved. And their recommendation was issued December 19, 2003. It's shown at page 12 in the booklet and that's the history.

So here we are. We're happy to be here. It's been more than a year to get here and now I can go through the different items that we submitted as part of our application in whatever depth you wish.

One of the first things is on page 13, it shows an excerpt from the zoning map and by the description of the hatch marks, you'll notice that we're in a part of town that is zoned Business A which would permit such a tower. Okay? The so called Key Span/New York State property is zoned Industrial B. The greenhouse property to the

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south is zoned Agricultural A and the property to the west is also zoned Business A, which incidentally, permits the condos and single families which is consistent with the use there now.

Another part of our submission is on page 14. As required by the zoning ordinance, we show you a map showing the location of the tower, it's in the upper left hand corner, it's marked number 1, it says Rosen tower and all the towers that are within 25,000 square feet, none of which belong to Mr. Rosen incidentally. Tower 2 is a LIPA tower standing 300 feet plus tall. It's about 1.9 miles to the east. To the immediate west by 2.4 miles, there's an AT&T pole standing about 100 feet. And to the southwest, there are two towers. There's a LIPA tower/pole, 3.2 miles from the Rosen tower and that's about 100 feet, and then 4.8 miles, also to the southwest, is a cable tower about 300 feet tall.

Next thing that we submitted as required is an affidavit of my client indicating that this tower is suitable for co-location. Now, in fact, a large part of this tower is ham. There are leases with three companies comprising approximately five beepers that are currently on the tower and we have been approached by AT&T and we have a lease with AT&T and AT&T wants to go on the tower but couldn't be here tonight. So it is suitable.

AT&T as I understand it contacted us; we didn't contact them so this is a perfect location for co-location which is consistent with the Riverhead zoning code.

Page 16, my client submitted an affidavit which addresses why this is a particularly good location for ham radio operation, for beepers and also for cellular. Obviously you can't have a tower any place, this is zoned for it. But it is unique being close to the Sound and in his affidavit he indicates that he can open ham bands, ham radio bands to the east and make a significant contribution to the 440 megahertz band as well the two meter bands.

The use of the tower has been lauded by both the weather people and also by the Red Cross and we have letters to demonstrate that that we have with us today.

As far as beepers, it's proved quite useful to these beeper companies because they wanted to go on the tower and as I say AT&T wants to go on the tower.

Then I have a number of photographs showing the visibility of the tower, okay, and these are contained at pages 17 through 22.

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Page 17, you can see kind of a dim view of the Rosen tower as seen from the Maidstone Landing in the dead of winter. Notwithstanding the fact that there are no leaves on the trees, it's a little hard to actually see the tower from that particular vantage point.

Page 18, the tower is every so slightly more visible in another photo taken from Maidstone. Page 19 is probably where it's most visible. This is taken from a hill inside Maidstone. Page 20 is a view of the tower from Sound Avenue looking down the right of way that my client and those other owners of the vacant land use to access their property.

Then I have a photo of the AT&T monopole in Northville which is 2.4 miles to the west and that's on page 21 and that's quite visible. Page 22 is a photo of the cable tower which is right next to the McDonald's in Riverhead which is quite visible. So that's all that we did trying to give you an idea of what this looks like from different perspectives.

Incidentally as an aside, I don't know if this is relevant to your consideration, but I did a little bit of homework on transfers of property and everything and property values and so on, and the entire Maidstone development was sold out after the tower was already there and property values between the first sales and the current resales have risen dramatically. I have deeds to prove it. I can go through that with you if you care to. Enormous, enormous gains in values.

The next thing that we have and I'm not really too qualified to talk about this but I have the affidavit of Professor Ocean who is here with us tonight in which he talks about the frequencies that Mr. Rosen operates at and also concludes that the radio frequency emissions from the tower are at least 200 times below the limit considered acceptable by the FCC for continuous human exposure. In other words, there's no health risk whatsoever here.

That is the main part of the presentation. There is one other issue that I wanted to discuss with you, if I could, and that's an issue that happened back at the Zoning Board. The Zoning Board gave us the variance, but they gave it to us with a qualification and the qualification stated that there could be no other antenna, whether they be ham or cellular or beeper, added to the tower without a special permit.

At the time when that came out, Mr. DeSimone and I discussed the proper handling of that and it was felt that it was important to keep

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this application moving and not to slow the process down because the main part of our application was accepted, the variances were accepted, and we were in a position to go forward. But he suggested at that time that I bring this up to the Town Board because I believe and I think I can prove that the addition of antenna on an existing tower pursuant to you own code is allowable without an application for a special permit. All that's required is a site plan.

And from what I understand, this- there's a section in the code and, in fact, it's located at page 25 here. It says at page 25, Section 108-215A of the Riverhead zoning code states under permitted uses, the following uses are deemed to be permitted use and shall be subject to site plan but shall not be subject to a special use permit and I've cut out a lot of the verbiage, but you can cross check this, of course.

Number 3, the location of additional new antennas on existing towers so long as the same are in compliance with the following, the following has no applicability to his case.

I've consulted with the Building Department, I've consulted with Planning. I've been told that they were very, very surprised by the inclusion of this qualification in the Zoning Board decision that would require us to come back for a special permit. In fact, with respect to ham radio, ham radio is- has a certain kind of preference because of its backing by the federal government, its usefulness for emergencies and so on and so forth.

And the crux of this is that the way it's been interpreted by the federal regulations is that the towns need to make a reasonable accommodation to the ham operator and I would submit that allowing the ham operator in particular to put antenna on a tower for ham purposes which a little stick antenna can hardly be seen without the need for a special permit is a reasonable accommodation.

To require him to go through the process which is indeed a lengthy process, it took me a year to get before you, would not be appropriate. In fact, tonight and I don't know much about this application, but I noticed there was a reference in your agenda to- it was under site plan and it had to do with the additional of antenna to existing tower and it's not up for a- it's not up for a special permit hearing. So I think if I'm interpreting that correctly, that validates the point that I'm making.

So what I would ask besides allowing Mr. Rosen to have a special permit for his facility as is where is, just as it is, which is what

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we asked for in our special permit application, I would also ask you if it's within your authority to conclusively state to us that it is not necessary every time an antenna breaks and he wants to go our and fix it or he wants to put another one in a different location to change the frequency, that he has to come back before you. Okay? And by the same token, I think that would even include the addition of cellular. I submit that all that would be necessary is the submission of a site plan."

Supervisor Cardinale: "I have a question. In regard to the- apart from the issue of the special permit for the antennas, you are making application for a special permit now for the tower."

Joseph G. Nemeth, Jr.: "Right."

Supervisor Cardinale: "And I understand the history of this. But there's a criteria set forth in the statute by which the Board judges applications for special permit which you may wish to address. But I haven't heard anything yet."

Dawn Thomas: "There are additional special permit requirement under the wireless communications code I was going to bring to your attention."

Supervisor Cardinale: "Yeah. In other words, I understand the history of this now which is very helpful but you are here before us to obtain a special permit on a tower and I get the whole thing that you're arguing that there really was not any deliberate violation. It was simply a succession of events which you've outlined.

But once you're here and acknowledging that you need a special permit there is a criteria within both the wireless statute and I guess that's the applicable one, within this statute, that you have to establish in order for us to grant a special permit."

Joseph G. Nemeth, Jr.: "Well, may I ask you what that is because I thought that I had- we had researched it and submitted everything that was necessary."

Supervisor Cardinale: "I'm going to ask- well, I haven't seen anything but what you've just mentioned in this booklet, but if you can look at- the Town Attorney has it, I believe, in front of her."

Dawn Thomas: "Yeah. I think Mr. Nemeth is fairly familiar with this wireless communications code. Just on 108-216."

Joseph G. Nemeth, Jr.: "I don't have- unfortunately I didn't

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bring- I brought everything else, but I didn't bring a copy of the code. What issue is it that we should be addressing?"

Dawn Thomas: "Well, I think you may have it in your packet, but the Board may be interested in hearing testimony on the issue or the requirement that you must demonstrate to the reasonable satisfaction of the Town Board that no existing tower, structure or alternative technology not requiring the construction of a new tower can accommodate the proposed antenna. It deals with our co-location issue which is really the primary focus of our statute, to make sure that we don't have an excessive number of towers."

Joseph G. Nemeth, Jr.: "See, this is a little bit of a unique case because we're not proposing any antenna. I mean everything is there."

Dawn Thomas: "I understand that. But the premise of the statute and I'm sure you've discussed this with Mr. DeSimone, and nauseam probably at this point, but the purpose of our statute is primarily to preclude the proliferation of towers throughout the town."

Joseph G. Nemeth, Jr.: "Right."

Dawn Thomas: "And the Town Board wished by implementing this statute to maintain control- "

Joseph G. Nemeth, Jr.: "Sure."

Dawn Thomas: "-- over where they are located instead of having them be placed arbitrarily- "

Joseph G. Nemeth, Jr.: "Well, we submit that this is a unique location. I have the affidavit of Martin Rosen which is included in this package. It's at- and I'll give- I'll have testimony in a minute for you. It's page 16, the compliance and suitability affidavit of Mr. Rosen which maybe I glossed over too quickly in my discussion. But it points out the uniqueness of this for ham radio purposes, the uniqueness of this particular location- "

Dawn Thomas: "I don't think our- right, I understand your concern about ham radio operation, but that's really not the issue here. The issue is for wireless communications, not including ham radio."

Joseph G. Nemeth, Jr.: "So beepers."

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Dawn Thomas: "If he had a ham radio tower as an accessory use to his residence which is really how it normally occurs- "

Joseph G. Nemeth, Jr.: "Right."

Dawn Thomas: "-- not on property outside his normal residence, then we could discuss ham radios but I don't think that's the issue here."

Joseph G. Nemeth, Jr.: "Well, he has his residence there."

Dawn Thomas: "The issue really has more to do with his wireless communications facility which he needs to demonstrate is in compliance with the statute."

Joseph G. Nemeth, Jr.: "Which is the beepers."

Dawn Thomas: "And the cellular attachments. Correct."

Joseph G. Nemeth, Jr.: "There are no cellular attachments."

Dawn Thomas: "But you intend to put cellular attachments on there."

Joseph G. Nemeth, Jr.: "We intend to put cellular attachments and we'll give you- I will give you someone who in a moment is going to talk to you about why this is- if I am understanding you correctly, why this location is particularly good for the beeper use and why it's good for the cellular."

Dawn Thomas: "I'm not really interested in that. I think as I mentioned more- had this been done correctly, had the tower come to the Board prior to it being constructed- "

Joseph G. Nemeth, Jr.: "Right."

Dawn Thomas: "-- the applicant still has to demonstrate- would have had to at that time demonstrate to the Town Board that this is- that this- the applicant could not accommodate his needs by placing his equipment on an existing tower."

Joseph G. Nemeth, Jr.: "Right."

Dawn Thomas: "So we're backing into this now."

Joseph G. Nemeth, Jr.: "Okay, I understand."

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Dawn Thomas: "So that's really what he needs to demonstrate to the Town Board."

Joseph G. Nemeth, Jr.: "Okay. Well, I'll point out first of all and then I'll call somebody that we have the inventory of existing towers and there's no particular tower that's anywhere close to this. Okay. And now I'll- "

Dawn Thomas: "And just so you're aware, in the past this Town Board has required an environmental impact statement. Be prepared on exactly that issue. So."

Joseph G. Nemeth, Jr.: "Okay. Let me just- let me just say that I reviewed this material and shared it with Mr. DeSimone because he was, quite frankly, the guiding force in trying to bring this mess to a conclusion and not have it go on and, you know, be in the courts for a couple of years. So we- I submitted everything to him for his review and apparently it was satisfactory because I didn't hear anything, or at least I assumed that, hopefully, not wrongfully.

But let me- "

Dawn Thomas: "I just wanted to make sure you understand that it's not the Town Attorney's role to correct or verify or request supplementation of your information as an attorney representing an applicant."

Joseph G. Nemeth, Jr.: "Okay. Let me see if I can have one of our witnesses. Who would be the best person to address this? The question has to do with the beeper aspect or the potential cellular aspect of the tower. If you were putting up the tower today, why is this location special? Why can't you go on some other tower that is preexisting in the Town of Riverhead and accomplish what you're now accomplishing. Not so much from a ham standpoint but from a beeper standpoint and the potential cellular use. Okay?"

Unidentified: "They all are related."

Joseph G. Nemeth, Jr.: "Why don't you come here. You need to be sworn in."

Supervisor Cardinale: "Yeah, would you swear in the witness, please?"

Dawn Thomas: "Mr. Rosen, you swear that the testimony you are

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about to give to be the truth, the whole truth, and nothing but the truth, so help you God."

Martin Rosen: " I do."

Dawn Thomas: "Thank you."

Martin Rosen: "If anybody understands radio frequency you would understand why this particular location is very unique for a ham operator. Elevation meaning ground elevation above mean sea level is vital. Radio waves travel "x" amount of distance and are affected by many various things. Northville oil tanks stand below 160 feet. Cellular, which we have none but I want to explain something to you there.

I, as a ham operator, can transmit and I don't, up to 10,000 watts of power, megawatts. But we don't do that. We use 100 watts, 200 watts. But what we need is height. This antenna, this stick antenna.

For amateur use, there are two basic antennas. There is what's called a beam antenna, just a stick, a line with points. This is a highly directional antenna. If one- if a ham would transmit with just 10 watts of power, it will go 10 times further than what a stick antenna is but a ham will give up- back radiation. When I say radiation, don't think as radiation that's going to kill somebody. It's the radiating pattern between a beam pointing and a stick that's doing 360 degrees. It don't have the power that a beam does.

You ask why is this site so good for a ham. It's got height. I asked and I got permission to put a 140 foot tower up on top of a 200 foot plus elevation, which would give me phenomenal range. I forgot about Northville oil tanks and the hill.

I went back and I requested permission to put 20 more feet on because I had a major problem going west into Manhattan, Nassau. I got permission. Now they say, I got it wrong. Whatever the case is, I added the 20 feet to make it 160. I didn't mean to do anything illegal.

Now, I did go to the town. It helped. Guess what? I still can't get over Northville. They're still higher than me. No problem.

Now we come to cellular and this is why I said I was most qualified. Actually, maybe (inaudible), but I'm going to give it a shot for you. Cellular works on no power. When I say no power,

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you're talking about miliwatts of power. It's nothing. All it's got to do is transmit one, two miles away to a cell site. We all know what cell sites are. But that cell site isn't like a ham tower. It's only going to go for two miles, three miles, 'til it hands off to the next cell site.

Why is this location so good for AT&T? If you look on your pictures there, there's a map depleting the deficiency- yeah, of AT&T."

Joseph Nemeth, Jr.: "It's on page 14, shows you the location of the other towers."

Martin Rosen: "You don't have to be a rocket scientist. I know the frequency they're on. I know the frequency Nextel is on. You know, I'm not a dummy. I would like to bring your attention if you would, on behalf of cellular now, which I have nothing to do with at this point, and I never seeked out cellular. But I'm not stupid.

The LILCO tower, by the way, I think it's closer to 400 feet in height, which is two miles east of my tower, Bell Atlantic, Nextel, I think they're all on there except AT&T. Why I don't know, you'd have to ask them. But a car passing that tower is good 'til about abreast of my tower, maybe a half a mile to Pier Avenue or more. Before that mobile has got to hand off to another cell site. There are no other cell sites there. This is why it's ideal for AT&T.

Now beepers, what page is the beeper radiation values?"

Dawn Thomas: "Can I just interrupt you for one minute, Mr. Rosen?"

Martin Rosen: "Certainly."

Dawn Thomas: "I'm sorry. I'm just reading your affidavits. I have two questions primarily. Number one, the address of 5792 Sound Avenue, Northville. That's the address of this tower, correct?"

Martin Rosen: "Yes, ma'am."

Dawn Thomas: "Okay. And you are indicating that that's your business address on your other affidavit that's attached to the application. Is that correct?"

Martin Rosen: "Well, what do you mean a business address? My home is there."

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Dawn Thomas: "You're swearing- "

Martin Rosen: "But somebody- "

Dawn Thomas: "I- just let me finish my question, if you don't mind."

Martin Rosen: "Go ahead. Certainly."

Dawn Thomas: "You swore under oath that as a part of your application, that your business address is 5792 Sound Avenue. Do you live at that address?"

Martin Rosen: "Yes, I do."

Dawn Thomas: "Is that your primary residence?"

Martin Rosen: "I wouldn't say- it's very close to it."

Dawn Thomas: "No, no."

Martin Rosen: "Go ahead."

Dawn Thomas: "Is it your primary residence? Are you a resident of the Town of Riverhead? That's my question."

Martin Rosen: "Yes, I am."

Dawn Thomas: "You are?"

Martin Rosen: "Absolutely."

Dawn Thomas: "And you don't have another- are you registered to vote in the Town of Riverhead?"

Martin Rosen: "I would assume so. Am I registered?"

Dawn Thomas: "And your driver's license indicates that you live in the Town of Riverhead?"

Martin Rosen: "Do I have a card stipulating that? No."

Dawn Thomas: "No."

Joseph G. Nemeth, Jr.: "Let me, if I may, address that point."

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Dawn Thomas: "If you don't mind, I just have one other question."

Joseph G. Nemeth, Jr.: "Do you want any further testimony on the issue of his business address?"

Dawn Thomas: "I would like to know why he's swearing under oath that this is his business address and then I want- and then I have some other questions that are related- "

Martin Rosen: "But it is."

Dawn Thomas: "-- the next question I have is it's your business address and if you could tell the Board what your technical or educational background is that supports your testimony regarding cellular towers or even your personal experience would be helpful so that they can understand, you know, where you're coming from."

Martin Rosen: "More than happy to."

Dawn Thomas: "Thank you."

Martin Rosen: "I've lived to the ripe old age of 63, yeah, I've had a couple of heart attacks. My radio experience actually started when I was 25 years old. I was a radio man in the United States Navy. I had two or three TV repair shops and much to my credit I build the first CB radio in Long Beach before it became out. So I have quite an extensive knowledge. While I never went to college for it, I have extensive on the job training. I assume they know that. I also have, it's been stated, I have a FCC amateur radio license, W0MMR, for the record. Can I answer a question about why the business address is one and the same?"

Dawn Thomas: "Oh, I would be very interested to hear that."

Martin Rosen: "Certainly."

Joseph G. Nemeth, Jr.: "Why don't you let me do that."

Martin Rosen: "Okay."

Joseph G. Nemeth, Jr.: "The reason that 5792 is the business address, we have to look at what's on the site. Indeed there's a small cottage, not a full blown house on the bluff by the water. There's a garage and then you have the tower. You have a 160 foot tower, you have two sheds beneath the tower, all part of this

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application. One shed is relegated to the ham equipment. Another is relegated to the beeper business. This is the only location at which Mr. Rosen operates his business. He owns no other tower. He has no other shop with his equipment in it with the exception of his car which moves around and so in fact he operates his business from this location. And this is where the leases for the beepers emanate from.

So Mr. Rosen believed and I concurred or you can look at that the other way, I believed and he concurred that it was appropriate for him to indicate that this was his business address.

Does he sleep in the house? He sleeps in the house. Does he sleep in the house every night? I don't know. If you care, we can go there."

Dawn Thomas: "I'm more interested in that because it sort of goes to the ham radio tower operation which is typically accessory to a residence. So I'm wondering just how it was that he applied for a permit for a ham radio tower as an accessory use to a residence but never intended it to be- "

Joseph G. Nemeth, Jr.: "You know, there's a long history of changes in the law here in Riverhead regarding ham towers. Okay?"

Dawn Thomas: "I would- "

Joseph G. Nemeth, Jr.: "And we have that- "

Dawn Thomas: "-- I would take a different opinion on that."

Joseph G. Nemeth, Jr.: "-- we have that history. In fact- "

Dawn Thomas: "I'm very familiar with the status and history of the law."

Joseph G. Nemeth, Jr.: "Okay. But addressing the issue of why this is unique, as I said, unsolicited AT&T came to Mr. Rosen. I have been working closely with the law firm that represents AT&T Wireless. They believe and unfortunately they couldn't be here tonight but they have told me as recently as yesterday that they definitely want to pursue this. They believe that this location is unique and they want to go on this tower. And I think- and they have entered into a lease with us."

Dawn Thomas: "And my other question, and maybe Mr. Rosen can answer this better, I think the goal of the ordinance is clear and I

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guess he would need to establish that if his ham radio application and tower was not originally constructed as an accessory to a residential use there, then could he have located his ham equipment on the 300 foot tower on the LILCO property and likewise could the other carriers locate on that other tower. And that's really the gist of the legislation, to preclude the proliferation of towers and because this tower is already constructed, we have a difficulty dealing with that issue, number one.

And number two, I think he still has the same burden of proof as every other applicant has so that's really what I'm getting at. And if he can establish that through expert testimony and explain to the Town Board as other applicants have done why his equipment could not be located on another tower, then I think he would have met his burden. If he can't do that, he may have an issue with receiving a special permit for his equipment and tower."

Joseph G. Nemeth, Jr.: "Well, actually, and what I heard him say regarding the cellular phone and if he had located on one of these other towers that the signal becomes weak as he runs from- as he drives from east to west from the LIPA tower, it is essential that his tower pick up and strengthen that frequency."

Dawn Thomas: "And it's your application, Mr. Nemeth, then and if you feel that Mr. Rosen's testimony as expert background and opinion support that conclusion sufficiently that's your determination and your- and that's your decision."

Joseph G. Nemeth, Jr.: "Well, I believe that it does. I'll see if I have anyone else available because I may not have anybody available to add anything to it at this point."

Dawn Thomas: "Okay."

Joseph G. Nemeth, Jr.: "But I also ask the Board to consider the fact that AT&T did approach us. I mean I know I'm harping on that point- "

Dawn Thomas: "I really don't think that that's relevant."

Joseph G. Nemeth, Jr.: "-- but they have a lot of expertise and they could go on any tower that they want that has any space available and yet the chose this tower."

Dawn Thomas: "And maybe they can fill the Board in more if you want to continue the public hearing, that's your choice. It's your

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application as I said."

Joseph G. Nemeth, Jr.: "Let me see if there's anyone else who wants to- is there anyone else who has anything to say about the issue of the beepers (inaudible)."

(Some inaudible discussion among the Board members)

Joseph G. Nemeth, Jr.: "I believe, excuse me."

Supervisor Cardinale: "Yes."

Joseph G. Nemeth, Jr.: "We have two more people from our team speak on that point. This is Professor Melvin Ocean."

Dawn Thomas: "I need to swear you in."

Joseph G. Nemeth, Jr.: "I'm sorry."

Dawn Thomas: "We need to swear you in. Do you swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?"

Melvin Ocean: "Yes."

Dawn Thomas: "Thank you."

Melvin Ocean: "I think I ought to address the notion of the necessity of the tower to provide cellular and beeper communications given your idea that it's not necessary and there are sufficient towers elsewhere. Apparently that's what I heard."

Dawn Thomas: "I didn't say that. That's your- it's what the code requires and you need to establish that and prove it to the Town Board, to their satisfaction."

Melvin Ocean: "Yes. I don't know the code myself or when it was written. The point is this. Cellular communications is rather special. The best way I can point out the problem is when you are trying to use your cell phone talking to somebody and all of a sudden they say I can't hear you. I can't hear you. And then you drop out of site. And then at some other time, maybe after a mile or so, a half mile, all of a sudden, you can connect again.

What the cell companies do, namely AT&T, Sprint whoever is in the business, is to try to provide a service. In order to provide

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that particular type of service for the general population which, of course, has proliferated into millions of cell phones, in order for it to work properly there has to be many cell sites. Because not only is it a question of distance, but when a cell site gets crowded with too many cell phones, you need to divide it up into additional sites. So actually this is what this is all about.

Mr. Rosen has this particular antenna which he erected to satisfy his ham requirements. He is receiving inquiries from cell companies because they view it as a good inclusion in their antenna patterns to provide better communications for all concerned. That's what it comes down to.

My only interest in here is I provide basically the environmental aspect, to provide information to you that the radiation itself from the site is benign. It should be almost self-apparent, but we did the document.

Now, so that's my testimony not now to address this apparently considered redundancy of this site. It's not. If it was redundant, AT&T would have made inquiries and I suspect others will also, if it's able to improve communications on the north fork. Now I don't know what else I can tell you."

Supervisor Cardinale: "Let me comment since I got this started about the criteria, okay. I don't think this is going to work if we're here all night. Let me read the statute and then you'll get it.

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town Board that no existing tower, structure or alternative technology not requiring the construction of the new tower or structures can accommodate the applicant's proposed antenna."

Melvin Ocean: "Okay."

Supervisor Cardinale: "So what it amounts to here as far as we're concerned, the tower doesn't exist. Okay? Because you're asking for a special permit to construct; we know it's there. But we- you have to establish- and normally the very testimony that you're struggling for is provided by AT&T. And that they've done these studies and that this is the only place they can locate and they can't go to this tower or that tower or the other tower, and once they go through that little exercise, they say they've proved their case. So you may have to have AT&T come in here and establish what we're looking for is just- that's the criteria for better or

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worse."

Melvin Ocean: "I understand. Let me point out one thing originally having to do with Mr. Rosen's problem regarding his ham radio frequencies. Ham radio antennas are rather large. You may have seen individuals who put them on top of their homes. They're almost as large as the house. A commercial tower that exists would not have him, would not have him. And in order for him to operate successfully as he pointed out there's a reason why he felt a necessity to build a tower to put his ham equipment on it so that he can use ham radios. So maybe that will help.

Of course, being that it's there, all of a sudden it's stirring a lot of interest and people who view it as a good site to put their equipment on."

Supervisor Cardinale: "I understand."

Melvin Ocean: "Okay?"

Supervisor Cardinale: "Thank you."

Melvin Ocean: "Okay."

Supervisor Cardinale: "Councilwoman Blass: "I have a question."

Supervisor Cardinale: "Yeah, you had a question."

Councilwoman Blass: "Yeah- "

Supervisor Cardinale: "Oh, of this last gentleman."

Councilwoman Blass: "No. Mr. Nemeth."

Supervisor Cardinale: "Mr. Nemeth, she has a question for your next witness."

Councilwoman Blass: "I just wanted to address your issue about not requiring a special permit based upon the condition that was imposed by the Zoning Board of Appeals and I was reading their determination and it says in #8 that the applicant has agreed to the condition. Is that a misrepresentation or- that is a misrepresentation?"

Joseph G. Nemeth, Jr.: "That is. In fact when I got the decision I immediately called the legal department and I said where

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did this come from. It was never discussed. It was not agreed. To be even more to the point, immediately after it occurred, our firm started yet another Article 78 proceeding. Scott DeSimone is aware of that. The agreement was start the proceeding so that we wouldn't be limited by the statute of limitations, be precluded by it, so we started it with the agreement of the Town Attorney on that very issue. We stayed it pending the resolution of everything. Okay? So that's clear indication that I never agreed to it."

Councilwoman Blass: "Thank you."

Supervisor Cardinale: "Yes. And you have another witness I understand."

Howard Iko: "Do I need to swear in or anything?"

Dawn Thomas: "Yes. Your name?"

Howard Iko: "Howard Iko."

Dawn Thomas: "Mr. Iko, do you swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?"

Howard Iko: "I do."

Dawn Thomas: "Could you spell your last name, please?"

Howard Iko: "I-K-O. I know we've gone on at length and I want to for brevity keep it short and also I think keep it simple because I was a former schoolteacher and if you explain things simply enough, everybody gets it. Apparently we're not getting it here.

The tower was built originally as a ham radio tower. I was involved with Marty for over five years on this project. I have eight simulcast transmitters. A great portion of the equipment that's on the tower, in the building as far as the antennas are concerned, are related to my operation. And this is where the tower started in the first place because other people came along and requested to use that tower, it was previously approved as an amateur radio tower, does not change the basis of why the tower was built in the first place.

As far as the location is concerned, I have two residences. My mother recently passed away. I'm the only living heir. I have that home, too. So I- basically I have the equivalent of the two residences. I live there some of the time and (inaudible) because I

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work down in Jersey City. My actual home with my family is up in Orange County. I believe for Marty this is the same thing. This is a recreational retirement type of thing and his goal was to use the facility to further his ham radio hobby and his interest."

Supervisor Cardinale: "Yeah, but this is a test for myself to make sure I get this. If this were a ham radio tower, we wouldn't be here. Is that correct?"

Howard Iko: "As far as I can see- "

Supervisor Cardinale: "That is correct, right?"

Howard Iko: "-- it's federally preempted under PRB1."

Supervisor Cardinale: "That's correct. So you can go- you don't have to be here. You can use that tower forever as a ham radio tower apparently, absent her investigative skills as to how this happened in the first place. But you're here because you want to use it as another kind of tower."

Howard Iko: "No. My understanding is that if we attempt to make any changes on antenna systems- "

Supervisor Cardinale: "That's correct."

Howard Iko: "-- to do any repairs or maintenance that relate to the ham radio part, we have to come back for a permit. Now- "

Supervisor Cardinale: "Not from us."

Howard Iko: "-- were involved in- after 9/11- "

Supervisor Cardinale: "Not from us. We didn't put that as a condition. We're just hearing a very- "

Howard Iko: "-- I can't see that as being a condition because it's federally preempted. We have to maintain that system."

Supervisor Cardinale: "Okay."

Howard Iko: "It is necessary."

Supervisor Cardinale: "But you do understand you can go home now and run your ham radio. We're talking now about something else which is the ability or the special permit for this tower to operate

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as a cellular or beeper tower. If you don't want to do that, we shouldn't even be here. We can go onto the next matter of business. And if you do want to do that, you have to prove the criteria in the statute and the Town Attorney has indicated I think correctly that that criteria has not yet been reached."

Howard Iko: "Okay. Well, I can speak as an expert witness on the factor of the beepers as well and somewhat to the cell phone."

Supervisor Cardinale: "I don't see how anyone in this place can talk as an expert if they haven't read the statute yet."

Howard Iko: "You read it to us."

Supervisor Cardinale: "I know. But you must have a great memory because I don't even remember what I read. But you would have to have someone from AT&T come in and have their testimony directly relate to the statute."

Howard Iko: "I work for Arch Wireless (phonetic), the same company that's on that tower. I know why they put the equipment there. I was involved in it."

Supervisor Cardinale: "Okay, well, give it a go."

Howard Iko: "It's very similar to the cellular operation. You have a specific area or footprint that's covered. Today's modern cellular phones are hand held phones. When they first started out they were trunk mounted units that were huge and that was primarily because of the type of duplexer that was used. Today you can do the same thing with ceramic duplexers at miliwatts but you can't go more than a few hundred feet away from the site and that's why they need the site."

Supervisor Cardinale: "Thank you. I understand the concepts. It's clear."

Howard Iko: "Okay."

Supervisor Cardinale: "Mr. Nemeth, you probably- if you get anybody on that you wish tonight, I'd be glad to continue it to give you an opportunity if you want to put on any other testimony. We're concerned with just what I said."

Joseph G. Nemeth, Jr.: "Well, I just want to- "

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Supervisor Cardinale: "108-216."

Joseph G. Nemeth, Jr.: "-- I want to be perfectly frank. I mean we're trying to- we're trying to resolve a messy situation and I want to do it in a way that makes the Town Board feel comfortable. If you- if you feel that we have supplied you with enough information considering the very unusual circumstances of this case, maybe we could end the hearing after we take anybody else's input who is not part of the Rosen team.

If not, and if you feel that you want to give me a strong indication that I should come back another day with AT&T, we'll be guided by your judgment. We just want to bring this nightmare to an end. This has gone on for five years and I have done everything in my power to work as closely with this town to get this situation cleared up as I possibly can. So that's really the way I feel about it."

Supervisor Cardinale: "Yeah. We need to cover the record consistent with the current statute. The only other thing I'd like to have a little bit more information on is in 2001 after- there was that letter sent that, hey, you're in violation- "

Joseph G. Nemeth, Jr.: "Right."

Supervisor Cardinale: "-- you indicated out of the blue, was there any communication between Mr. Rosen and the town, because I wasn't here at the time, indicating- well, I guess I was. Yeah, I was just leaving. (Inaudible) Late in 2001, you said it came out of the blue, the violation #11."

Joseph G. Nemeth, Jr.: "In other words the revocation of the building permit."

Supervisor Cardinale: "Yeah. What preceded that?"

Joseph G. Nemeth, Jr.: "Preceded or- "

Supervisor Cardinale: "What- preceded it."

Joseph G. Nemeth, Jr.: "Preceded it. Correct me if I'm wrong. Did anything precede the revocation of the building- was there any notice given to you that it was coming down the pike?"

Martin Rosen: "Yup."

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Joseph G. Nemeth, Jr.: "And what was that? Just- you're talking to the Board."

Martin Rosen: "I understand. I was looking for your Building Department."

Supervisor Cardinale: "Leroy Barnes."

Martin Rosen: "Yeah, he left already."

Supervisor Cardinale: "Right."

Martin Rosen: "Leroy Barnes sent me a letter stating that the so called, it hurt because I had a very close- "

Joseph G. Nemeth, Jr.: "What did it say?"

Martin Rosen: "-- your so called radio- ham radio tower, is hereby revoked, your building permit, and your CO is hereby revoked."

Supervisor Cardinale: "I have the letter."

Martin Rosen: "It was something to that effect. Okay? You have the letter there I think."

Supervisor Cardinale: "Yes. But before that, did- why did it- why was it- why did it come to his attention that--"

Martin Rosen: "I don't know."

Supervisor Cardinale: "Was that- "

Martin Rosen: "You were involved at the very beginning."

Supervisor Cardinale: "This is in February of 2001. I'm trying to remember whether- I'm really asking- "

Martin Rosen: "No. Until Leroy sent me that letter- "

Supervisor Cardinale: "But then it was a ham radio- you had it as a ham radio operation."

Martin Rosen: "Well, absolutely."

Supervisor Cardinale: "But you then put some beeper things on it."

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Martin Rosen: "Yes."

Supervisor Cardinale: "And that's the problem."

Martin Rosen: "After that is when Leroy sent me the letter and then Leroy- "

Joseph G. Nemeth, Jr.: "However, that was 18 months later."

Martin Rosen: "And not only that but when Leroy sent me this letter, I came into him within two days. Leroy, what is this? He said this is you? He didn't know, unless he was lying. He says he didn't know anything about it. Scott put this in front of him and said sign it."

Supervisor Cardinale: "Okay. I guess the- I guess I will be able to understand it by reading the full record. I'll ask- the Town Attorney will- I guess what we should do is take whatever evidence we have now and we can indicate through the Town Attorney if we feel that we would be helped by further evidence."

Joseph G. Nemeth, Jr.: "Okay. I appreciate that. Fine."

Supervisor Cardinale: "Okay. So then at least you'll know."

(Some inaudible discussion among the Board)

Joseph G. Nemeth, Jr.: "Shall I remove this or do you think you might need it?"

Supervisor Cardinale: "You can leave that up there, I guess, for the moment. I think there's one other individual that- I wanted to get one clarification, Mr. Nemeth.

In regard to- I know it started as a ham radio tower and in '99 the- Sharon- in 2001 you got the letter from Sharon. Did the initial beepers that went up after its initial use as a radio- a ham radio tower, was that approved by the town initially and then revoked? Is that what happened? Or were they- or was the town simply never informed that the beepers were going up?"

Joseph G. Nemeth, Jr.: "The town was informed by virtue of those- of that correspondence which I directed your attention to."

Supervisor Cardinale: "That's right."

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Joseph G. Nemeth, Jr.: "This is the sequence in a nutshell. Application, June of '99."

Supervisor Cardinale: "Right."

Joseph G. Nemeth, Jr.: "Gets approved for a building permit for a ham tower. Tower goes up, C of O is issued August of 1999."

Supervisor Cardinale: "Right."

Joseph G. Nemeth, Jr.: "Three months later. In the autumn, October, November, beepers start contacting my client. My client refers- "

Supervisor Cardinale: "Yeah, that's what I thought."

Joseph G. Nemeth, Jr.: "-- those letters. The beepers then go on after November."

Supervisor Cardinale: "Yeah, they fail to pick that up. I see that."

Joseph G. Nemeth, Jr.: "Right."

Supervisor Cardinale: "There was some confusion about it. So you got bad advice initially from the Building Department."

Joseph G. Nemeth, Jr.: "Whatever. Right."

Supervisor Cardinale: "And I'm just really asking then is that was in '99?"

Joseph G. Nemeth, Jr.: "Right."

Supervisor Cardinale: "But then in 2001, you get this letter which- "

Joseph G. Nemeth, Jr.: "From Leroy Barnes."

Supervisor Cardinale: "-- reverses themselves. That was about 14 months thereafter, November '99 to February. Did anyone have- did your client have any communication with the town wherein they advised that, hey, we have made an error in assuming that simply because the ham radio is legal, that the antennas are legal without further action?"

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Joseph G. Nemeth, Jr.: "You're asking my client if there was any communication during that 14 month period- "

Supervisor Cardinale: "Yes."

Joseph G. Nemeth, Jr.: "-- after the beepers went on and before the Adam Grossman letter- "

Supervisor Cardinale: "Correct."

Joseph G. Nemeth, Jr.: "-- which was in February of 2001. Any advance notice (inaudible)."

Supervisor Cardinale: "Leroy Barnes letter. Yeah. I'll let your attorney ask the question, Mr. Rosen."

Joseph G. Nemeth, Jr.: "The tower went up in July and August of 1999. You got your C of O August 18 of 1999. In November, there was the inquiry- November of 1999 regarding the beepers. The Building Department says you don't have to go for a special permit. The beepers go on December of 1999, maybe January of 2000. From that point to February of 2001, when you get this letter saying your building permit and your C of O are revoked- "

Martin Rosen: "From Leroy."

Joseph G. Nemeth, Jr.: "From Leroy."

Supervisor Cardinale: "Right."

Joseph G. Nemeth, Jr.: "Did you have any notice that that was coming down the pike?"

Martin Rosen: "Absolutely not."

Supervisor Cardinale: "Okay. Thank you for the clarification. I appreciate that. And we have one other individual who has indicated a desire to speak and the anyone from the public wishes to speak. Mr. Kohanim."

Mr. Kohanim: "Good evening, ladies and gentlemen, Mr. Supervisor, Madam Clerk. My name is (inaudible) Kohanim. I'm the neighbor to the east of this property, the property that Mr. Nemeth glossed over fairly quickly."

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Dawn Thomas: "Sir, just before you continue, I need you to be sworn."

Mr. Kohanim: "Certainly."

Dawn Thomas: "Will you state your name?"

Mr. Kohanim: "M-E-H-D-A-R-D, last name, Kohanim, K-O-H-A-N-I-M."

Dawn Thomas: "Do you swear the testimony you are about to give to be the truth, the whole truth, and nothing but the truth, so help you God?"

Mehdard Kohanim: "I do."

Dawn Thomas: "Thank you."

Mehdard Kohanim: "To begin with, my brother and I who's also in this room purchased this property sometime back in 1985. We have owned it since then. Mr. Nemeth referred to it as a vacant lot of land. My lot of land is two acres. It's 800 feet deep and it's 100 foot wide. What the applicant's counsel did not tell you was that this tower is located maybe 10 or 15 feet from my property line.

What he also didn't tell you is that I don't know what fall lines he's- what fall lines they're talking about, but if this thing, which is 160 foot, ever falls into my property, it will land anywhere on my property. It actually would cross my property and would go into the LILCO property which is to the east of my property.

The basic question that I think this entity should really think about is the fact that this tower is a bad seed and it should be gotten rid of. It should never have been constructed and it should just be gotten rid of at this point. This tower was built without anybody giving me or my brother or anybody else any notice that a 160 foot tower was going to be constructed 15 feet from my property line.

They talked about the fact that this is a great location and you know something, this is a great location. That's why I purchased the property back in 1985. That's exactly why we purchased it. There was very little there. There was no noise, there was no tower there, there was pristine nature. That's what was there. When we bought the property, none of these greenhouses that the Van deWeterings have were there. There was one building in front, maybe 1,500 feet from our property line on Sound Avenue back then.

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Now we have no problem with what they have done with their property but this tower was built improperly. There was no notice given, they bypassed the town regulations, they brought this phony little \$5.00 license that they get from the FCC and they basically said that this license preempts every rule that this town has with reference to height restrictions on a construction. That's what they basically did.

Now they hand- before I got here, Mr. Nemeth said that he had sent notices to people. The only notice that I ever received and I mean ever from July of 1999 when they purchased this property, the only notice that I have ever received about this tower is a notice that I received on April 8 of 2004 from Mr. Nemeth's office telling me that there was a meeting that had been adjourned to today. I didn't know about the original meeting but I got a letter on April 8th telling me there's going to be a meeting on April 20th on this matter. That's the only notice I've ever gotten. I've gotten no notice from the town. I've gotten no notice from Mr. Nemeth, his office, or Mr. Rosen. Ever.

When Mr. Rosen initially purchased this property and my first instance of going to my property was the startling fact that there was a tower 160 feet tall that I could see while I was driving down Sound Avenue when I was miles away from my property.

Mr. Nemeth brought out and has given you some booklets with some pictures on it. He's saying, oh, you know, when you look at the pictures you really can't see the tower. What is he trying to hide an elephant? Is it easy to hide an elephant? I could take some pictures that prevents people from seeing the tower as well as it could be seen on any sunny day or cloudy day.

They also talked about the fact that the Maidstone condominiums have been all built after the fact that the tower went up. And I submit to you that that condominium plan which was owned by the DeSimone Company (phonetic) 15, 20 years ago, has been in the stages of going up for a very, very long time.

And the fact of the matter is my property, for example, is in much closer proximity than the property of just about anybody else who may be in his room or out of this room. My property sits 15 feet from this tower and I was never given notice to even come and talk to a Board about the fact that somebody is going to build a tower next to my property.

By the way, there was a time that this tower had many more

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antennas on it and when you went by, it would just not look like a tower anymore, it had a hand, legs, a torso. There were so many antennas sticking out of this thing that you couldn't see- you couldn't miss this tower for miles.

Additionally, my- they might have said that the property values have not gone down because of this but I could submit to you that the property values all over the United States have gone up in the past couple of years. However, I had a real estate broker who brought a buyer for my property. And you know what they said to me? They said we're not going to buy your property because you have a tower that's going to give me cancer in five years. And you could- you could take that for all it is but the tower is right on top of my property. It sits right on top of my property.

When Mr. Rosen purchased this property, he told me he was in the trucking business and he was using the tower to talk to his trucks all over the country. I don't know whether that's true or not. He also told me that he lived in Oceanside back then. I don't know if it's true or not.

I want to tell you another thing. When we bought that property in '85, my father was still alive and for many years there was a special reason why we bought that property. Because that property sits on a 200 or 175 foot cliff. What my dad used to do was to go sit on the cliff and look out into the water. That's all that he did. And the reason for that was that that property, you look over the water, there used to be very, very little noise, very little destruction with life.

If you go by that property right now, it looks like a high maximum security prison. Underneath the tower, there's an engine room. The noise is on- I don't know what it is. I don't know what it is because I don't go there because once you get close to the tower, sirens go off. Emergency lights go off. There's cameras looking into my property and looking into the street which is owned by me partially. There's sirens going off. If I want to go into my property, his sirens go off.

Am I living- is this a prison for me? Is this a property that I could enjoy? I don't think so, sirs. I really don't. And there's noise pollution and the fact that every time you want to go into your own property, you're afraid that this thing is going to fall on you one day.

I don't know what he's doing in there. I have no idea how he

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constructed it. All I know is that he bypassed every regulation, every system, everything he can do to basically avoid the requirements that are required by this town to construct that tower and now he's telling the town, oh, you know, we have the tower now. It's there and because it's there, we're going to forget why it's there. Now we could add all sorts of cellular, beepers, anything that we want because the tower is there. And I agree with the town, I believe there should be nothing added to this tower and additionally I think the tower should be taken down.

I have nothing further. What I do have is that I like to be- if there's ever a meeting or anything regarding this tower, I'd like to be informed. Because so far I haven't been informed. And I think I'm entitled to be informed because if this thing ever falls, it's going to fall on top of my property and it will definitely injure my property. Thank you very much."

Supervisor Cardinale: "Thank you."

Joseph G. Nemeth, Jr.: "May I address the Board, please?"

Supervisor Cardinale: "Please."

Joseph G. Nemeth, Jr.: "Okay. First and foremost I want to say that this gentleman was notified of the appearance before the Zoning Board of Appeals. We can prove it. I didn't bring my entire file, I'd need a truck. It's in the Town Clerk's office. I have it. I can prove that we sent the notice certified mail to the last known address of the taxable owner of that property. We did it for the Zoning Board as required and if it was required or the Planning Board, we did it and it's clear.

What happened back in 1999, I don't know if notice was required or not so I can't speak to that.

As to the issue of where this tower is going to fall, I cannot tell you how extensively this was discussed before the Zoning Board. We presented a fall zone map which I have a copy of here which showed the fall zone of this tower, but first we got the documentation and expert testimony to the effect that this type of tower does not fall. It bends in the middle. Okay? It bends at its weakest point. We have a letter from the manufacturer of the tower which is part of the material that was presented to the Zoning Board and I believe I have it in my papers today although it's not in your booklet. So this tower is not going to fall. It's going to bend in half like this.

If it should fall, however, we determine fall zones and the fall

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zones obviously since this tower is set back a short distance from this gentleman's property line, which distance incidentally was approved by virtue of the variance from the Zoning Board, the Zoning Board was very careful to determine the fall zone. The fall zone, if it should fall which we submit is impossible, could fall over the southern end of his property. Part of our presentation was the presentation of a subdivision map for this property which showed the probable location of anything to be built on this property. And this is a copy of that subdivision map."

Supervisor Cardinale: "I-- Mr. Nemeth, although I understand the natural inclination to respond to attack, it really- none of this is relevant to what we have to do under the statute."

Joseph G. Nemeth, Jr.: "Okay."

Supervisor Cardinale: "Because the ZBA had to deal with and did deal with apparently those issues. I have a question, however, in regard to the central contention. In '99 our then Town Attorney indicated after discussing this and reviewing the research, I am authorizing the Building Department to issue any and all necessary permits to your client who wishes to erect a ham radio tower on the above referenced parcel."

Am I to understand that everybody here agrees that if you want to produce a ham radio tower to the sky, to the heavens, 500 feet for that matter, you can do so without any regulations because it's an amateur ham radio tower? Because that's the- that's the strange thing about this whole case."

Dawn Thomas: "We do have regulations on ham radios in the wireless communications- "

Supervisor Cardinale: "Then why was it that this letter in June of '99 was sent stating that in response to your letter after researching the issue and the federal code, I have concluded that federal law preempts local regulation of ham radio operators who wish to erect towers to transmit or receive who are federally licensed amateur radio operators? And then he goes on, based on the foregoing, I am authorizing the Building Department to issue all necessary permits. That was it. This guy apparently did not get any notice and in theory they could have built- under this theory that he's advancing, they could have built a 500 foot tower 15 feet from his property."

Dawn Thomas: (Inaudible)

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Supervisor Cardinale: "That's what I wanted to hear. So this whole thing was wrong from the beginning?"

Dawn Thomas: "And we did amend the code subsequently to correct that issue but nevertheless- "

Supervisor Cardinale: "It was wrong from the start then. His question really his how come some guy built a big tower next to my house and nobody told me about it. And nobody did tell him about it."

Dawn Thomas: "No."

Supervisor Cardinale: "So apparently somebody just sent a letter and then they went ahead and built a 160 foot tower. That would also irk me. "

Joseph G. Nemeth, Jr.: "Well, it's interesting to note that the certificate of occupancy was issued on August 18th. On August 17, 1999 this Board amended the wireless regulations which were much more sparse back then, the regulations were."

Supervisor Cardinale: "I remember that, yes."

Joseph G. Nemeth, Jr.: "And the regulation was amended to the effect that an amateur tower without regard to any specific height limitation could be built without a special permit. The reason why that didn't help Mr. Rosen was is that although this Town Board, your predecessors, adopted this the day before the C of O was issued, it did not become law until it was filed in Albany until September, two weeks later. Had that been filed two weeks earlier, this would have been valid without any question whatsoever. It was just a matter of timing. And I have the text of that law someplace.

Again, that was changed, once again, later on. It's been changed several times. So this ham and wireless law in the past five years has been amended back and forth putting in height restrictions and at that point it was taken out for a period of time and they went back in and so on."

Supervisor Cardinale: "I can hardly- "

Joseph G. Nemeth, Jr.: "Anyway, we're here today to try and clear all this up so we don't have to continue litigating this thing and he doesn't have to receive tickets and so on.

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One comment on price. The property two doors down, same configuration as this gentleman, was vacant land, was sold a year ago for \$485,000. I have the deed to prove it. It did not stop the buyer from buying the property at that price and it did not stop him from constructing a very elaborate beautiful house. And where did he construct it? Nowhere near the fall zone. He constructed it in the only obvious place to construct a nice house on such a property, on the bluff. Which is more than 300- more than 300 feet from the most exaggerated fall zone.

If this tower just fell over, all 160 feet of it, it would still be over 300 feet from where anybody would want to put their house because of the beautiful view. And that was the evidence and I have the site plan here with the fall zone. That was the evidence that was presented to the Zoning Board. This is the subdivision map which even shows the old subdivision which shows the probable location of houses and I even supplemented it with a letter from a broker who said the highest and best use of the property would be for a house and of course the house would be by the bluff. So- "

Councilman Densieski: "Was that tower constructed by your client or by the manufacturer?"

Joseph Nemeth, Jr.: "Well, the tower was built by a manufacturer called Rome Industries and it was built in sections and it was put on the site by, you know, people who do these things, the foundation and then the sections were put together. There might have been seven or eight 20 foot sections, I believe. And then subsequent the antennas were on and we have photos of the antennas if the Board wishes to see that. As I said, these haven't changed within the past several years."

Supervisor Cardinale: "Thank you. If there is- I don't want to extend the hearing if I could avoid it, but if you'd like to make comment, make it, and then I'm going to leave the hearing open for- I'm going to leave the hearing open in any event."

Mehdard Kohanim: "I just wanted to address one issue brought up by counsel for the movant. He described that if-- the property which is he's talking about which was sold for whatever amount, \$485,000, was to the west of the tower. By that, what he's really referring to, is really the tower is on the south- southeast section of Mr. Rosen's property. That property is about 100 feet wide. The next lot over is a vacant lot which is owned by Mr. Rosen's wife. The next lot over is the property that was sold for \$485,000."

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When he says if the tower falls, it will land 300 feet from wherever a house is constructed on that property, what he's really saying is that if the tower falls this way, over the remainder portion of his property and the remainder portion- and the whole of Miss Rosen's property, then it would land 300 feet from that house. He's not talking about my property. My property is 15 feet from his property, from the tower. It's not 200 feet from the tower.

Additionally, it does not make any difference whether that price is \$485,000 or \$5,000,000. The fact of the matter is he doesn't even know how much I paid for this property back in 1985, '86. He has no idea. Okay? I submit that \$485,000 for that property is not enough and I think that property is worth a lot more money for what it was, which was a property next to the LILCO land which we have always known that property is going to stay a nature preserve. And that's what there are going to do to it, just like counsel said. They're basically going to preserve that and they're going to sell the development rights on that property. And this property would have been a property that would have stayed pristine as nature would want it over there as opposed to have a 160 foot tower with all sorts of equipment and sirens and other things around it.

Thank you very much."

Supervisor Cardinale: "Thank you. Any other comment? Yes, ma'am. You want to come forward. You need to come up here and be sworn in. Yeah, it's just required to the recording that you speak into the mike and be sworn in."

Dawn Thomas: "Can you state your name, please?"

Christine Bonn: "My name is Christine Bonn."

Dawn Thomas: "And do you swear that the testimony you are about to give to be the truth, the whole truth, and nothing but the truth, so help you God?"

Christine Bonn: "I do."

Dawn Thomas: "Thank you."

Supervisor Cardinale: "Yes."

Christine Bonn: "When we first got a copy of the notice, as the gentleman stated, we didn't receive a notice of the first meeting, okay? This is the only notice we got and that's why we came

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down here tonight to find out what was going on and actually we got a petition from a lot of the residents here just to get a postponement for 60 days to find out what was going on.

And from what I understand is Mr. Rosen seems to be presenting this as a permit for a ham tower or whatever radio station. But in actuality he's looking to come in the back door and actually add cellular equipment on there.

We're within a couple of hundred feet of this tower and I know that all of the residents, that's what our main concern is, is that we do not- "

Supervisor Cardinale: "Where do you live- where is your home located?"

Christine Bonn: "Number eight, Maidstone Landing."

Supervisor Cardinale: "Oh, you're in Maidstone."

Christine Bonn: "(inaudible) Circle."

Supervisor Cardinale: "Thank you."

Christine Bonn: "And it seems- I don't know if I understand this correctly, but he's asking for a permit with no qualifications to add additions on which seems to me that his basic idea is to add a communication tower here for cellular."

Supervisor Cardinale: "I think that's a fair- he would like to add- he would like to legalize this tower for other than ham radio use is a fair statement."

Christine Bonn: "Exactly. I think it's not being honest with the community because especially asking that no other permits have to be requested. So in other words, AT&T comes to him and Verizon comes to him, he could add as many of these communications stations- "

Supervisor Cardinale: "I think it's clear, is it not, Dawn, that we do not have the power to grant that relief if we wanted to? That would be the aspect that he discussed about not having to come back. The Zoning Board of Appeals can grant relief from their decisions; we can't. So is that an accurate statement?"

Dawn Thomas: (Inaudible)

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Supervisor Cardinale: "Oh, we have this. You're writing that, the statute itself, yeah. Additional antennas might not need a special permit application as this is but would need site plan so- which is a lesser degree of scrutiny."

Christine Bonn: "Well, I don't understand all of the- "

Supervisor Cardinale: "I don't either so join the crowd. It's a very complicated case."

Christine Bonn: "But my concern is, we as a community, do not want this gentleman to get permission to put up whatever he wants to on the basis that it's just a ham radio."

Supervisor Cardinale: "I understand. I'm going to leave this hearing open until the next Town Board hearing once anybody else who wants to talk tonight talks."

Christine Bonn: "And- I'm sorry."

Supervisor Cardinale: "And give you an opportunity to put in written material or to come with your lawyer or to come with your neighbors and at the next meeting which is what- May- the first week in May, May- well it's the 20th so maybe it's May 4th, is that may be right?"

Councilman Densieski: "Yes, it is. The 4th."

Christine Bonn: "But as the gentleman said if we could all be advised when the next meeting is."

Supervisor Cardinale: "May 4th, Tuesday, Jill, May 4th at 7:00 p.m. in this room."

Christine Bonn: "I have these petitions here signed by- "

Supervisor Cardinale: "Would you give that to the Town Clerk here? Please, next speaker, would you come up. Yes, sir. Your name and- "

Unidentified: "Should I be sworn?"

Supervisor Cardinale: "Please."

Dawn Thomas: "Yes, could you state your name?"

Mehran Kohanim: "Mehdard Kohanim, (inaudible)."

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Barbara Grattan: "Okay, could you just spell that."

Mehran Kohanim: "M-E-H-R-A-N. Last name, K-O-H-A-N-I-M."

Dawn Thomas: "Sir, do you swear the testimony you about to give will be the truth, the whole truth, and nothing but the truth, so help you God?"

Mehran Kohanim: "Yes, I do."

Dawn Thomas: "Thank you."

Mehran Kohanim: "Again, going back to what my father started, I think Mr. Rosen got away with murder. He (inaudible) a \$10.00 application for a ham radio operator and he ended up with a 160 foot tower. I don't believe that we would find anything that large anywhere in this town that was built or erected without this Board's approval at least.

I don't know how he did it but he did it and somehow he got away with it. There's always time to make a wrong right and I think this is the time. It's not that the change of venue supposedly changing from a ham operating antenna should be granted to Mr. Rosen. I think it's time for this Board to seriously look at what happened here and see into it that this tower is brought down.

The tower- this tower does not belong to where it was put in. There's so many vacant lots in Suffolk County and in particular, even close by to where my property is, where they could have put a- AT&T thinks this is such a great site for their antenna. There's places that are vacant lots, agriculture properties where they could put an antenna and do whatever they want to do.

It does not have to be right in front of my property. One of the things I wanted to mention is if this tower would ever come down knowing that this property is on a 75, 80 foot bluff, if I would ever to build a house on this property, it has to be probably 50 foot or more away from the bluff and considering a 160 foot tower coming down, it would land right- it would slice basically the house in half.

This tower does not belong to this location. It was not and it should not be allowed to be operated not even as a cell site or anything else like it.

I think Mr. Rosen knew exactly what he was doing when he started

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putting up this site. One of the questions I want to ask him is when did he sign the contracts with the beeper companies? Was it before he put up the antenna and applied for the permit or was it after it?

Next thing is Mr. Rosen is absolutely right. This is a beautiful great property and I agree with you 100% but only to enrich yourself. By putting up this antennas, Mr. Rosen could profit close to \$500,000 a year and by that I mean AT&T's sites are rented and that's something that could be researched to make sure that I'm not making a mistake. AT&T sites similar to Mr. Rosen's are rented close to \$100,000 a year and knowing that a lot of companies don't want to spend the money to put up antennas like this, they would sign separate leases and since this tower is tall enough to entertain as many as 10 cell companies not only AT&T, Verizon, Sprint, Nextel, every other cell company could come in and rent from Mr. Rosen and put up their antennas and operate it.

Besides that, every cell site that you see in Long Island or anywhere else with an antenna that size has a building down below it that's an operation center or whatever it's called. And if this site would ever be approved for a cell site, the next thing I'm going to see 15 foot from my property line is a shack right on the road where actually we own, we have a road which is owned by us and Mr. Rosen. Actually we own the road from the Main Road, Sound Avenue, coming up to the property.

Now we have to deal with the ugliest piece of garbage that I could have ever erected in front of my property. Now he wants to change it into a cell site and I guarantee you the next thing he's going to apply for is a building right below it. Not only that he doesn't have one, he's got a couple of shacks right now with all those cameras and sirens and stuff but that's beside the fact.

Again, going back to the time when Mr. Rosen applied for this application to put up an antenna for a ham radio, he's been in contact with my brother once or twice and I know for a fact that this particular antenna was being used for business and that should be investigated. This was not a home based on the town code, I believe. It was not used as a-- what you call- "

Supervisor Cardinale: "Ham radio."

Mehran Kohanim: "Ham radio operation of a- I think he mentioned he's been doing this for his hobby. This wasn't his hobby; it was used for his business and I don't think it's going- it's not going to be difficult to prove it."

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Again, I don't want to take too much of your time, I have a lot to say, but this antenna should be brought down for our sake and everybody else's. It shouldn't have been here and if it wasn't- if they had not put it up, we weren't here today to talk about changing it to a cell site. Okay? And hopefully in the next meeting, we would get proper notices."

Supervisor Cardinale: "Thank you. Is there anyone else that has any comment? All right. I would like to take comment from the public and then I will let you finish and we've got to get on to other business. Yes, come up, please. Yes."

Frances Messina: "I'm Frances Messina."

Supervisor Cardinale: "Would you be sworn- the Town Attorney will swear you in."

Dawn Thomas: "Do you swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?"

Frances Messina: "I do."

Dawn Thomas: "Thank you."

Frances Messina: "I just have one comment. They're stating that the site should be used for cell site because, you know, that's about where it dies out. I've asked everybody here tonight that's in my community, which is Maidstone Landing, I have no problem with my cell phone. I can hear, you know. I get good reception and everybody else here tonight has said that they've got good reception so I don't know why we need a site right there. Thank you."

Supervisor Cardinale: "Thank you. Yes, Mr. Nemeth."

Joseph G. Nemeth, Jr.: "I just want to express to the Board that it troubles me that Mr. Rosen's neighbors makes these inflammatory, off the cuff comments, most of which have no factual basis. I wish that Mr. Rosen's lease with AT&T was for a half million dollars a year. The fact of the matter is it's for a very, very small fraction of that. I don't want to reveal it to the Board unless the Board insists upon it but it is a minuscule fraction of that and I'm not sure that how much Mr. Rosen makes from this tower is really relevant to the consideration of the issue."

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Besides that, I did want to put to rest, and this is the only other thing I'm going to say, I want to put to rest this fall zone issue because this was, you know, this is also a potentially inflammatory point. The distance between whichever way this tower could fall on the neighbor's property, this neighbor who just testified, the nearest point between it and any possible house even a house that's set 100 feet from the bluff, would be 313 feet and here's the picture and I'd like to submit this to the Board.

The red line indicates the distance. So what I'm trying to say is if this tower just fell over like that, all 160 feet and fell in a direction pointing to the bluff, the top of the tower laying on the ground, not to mention it physically can't do that, at least because of the way the structural steel is designed. But let's assume that it did that regardless. Flat on the ground, the point of the tower would be 313 feet from this proposed residence, which residence you can see on the diagram is set back not 50 feet from the bluff, but in my example, 100 feet. And this was considered at extraordinary length by the Zoning Board."

Supervisor Cardinale: "Thank you. One last comment and then I'm going to adjourn it to the next session for any further comment and I hope to be able to close it. If anyone wishes to have written comment, they can also produce it during that period. Yes?"

Mehdard Kohanim: "Thank you, Mr. Cardinale. I just wanted to point out to the Board about seven or eight years ago, I think, I received a letter from this town which advised me to come to a meeting, there was a meeting with reference to setback line from the bluff.

Before that meeting, I was under the impression that you could build very closely to the bluff itself. At that meeting it was determined that there's a setback line of at least 100 feet from the edge of the bluff. That is my understanding of where a residence can be built on my property closest to the water.

But that is not the point (inaudible). The point I'm making is that this is preposterous as far as I'm concerned because what I'm hearing counsel for Mr. Rosen say to this Board is that somebody else without any notice to me, without my knowledge, can determine where I could play, where I could build on my property, where I could walk on my property, where I could plant tress on my property, where I could put a playhouse for my children.

And that's what he's saying that I cannot do it anywhere on that

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fall zone because he has considered this and his engineers that have been paid by him and his consultants that have been paid by him, have determined that if this thing ever falls, it will fall 300 feet from my property. How does he tell me, how can he tell this Board where I could construct an improvement on my property?

I think it's against anything American for anybody to stand up here and say to this Board that they could determine where I can make an improvement on my property that I paid for with my money.

Thank you very much."

Supervisor Cardinale: "Thank you. Yes, sir? What I think- please come up and be sworn in."

Burton Meyer: "Good evening, Mr. Supervisor. My name is Burton Meyer (phonetic). I'm part of the group from Maidstone Landing."

Supervisor Cardinale: "Would you raise your right hand and she'll swear you in."

Burton Meyer: "32 Big Pond Lane in Maidstone Landing."

Dawn Thomas: "Sir, do you swear the testimony you are- "

Burton Meyer: "Yes, I do."

Dawn Thomas: "-- about to give to be the truth, the whole truth, and nothing but the truth, so help you God?"

Burton Meyer: "I do."

Dawn Thomas: "Thank you."

Supervisor Cardinale: "Yes."

Burton Meyer: "I'm coming here kind of extemporaneously. I received a registered letter during the week about this hearing tonight. The only- my concern is I've spoken to not all my neighbors, and we have like 82 families up in Maidstone Landing, some of them are still in Florida. My wife and I just came- returned from Florida. I've been coming out here on the north fork over 50 years. I had a summer home in Southold at Mattituck on Sound Avenue and I don't know- I don't have- I haven't done a big research on this thing but when my neighbors told me about the tower and the Mr. Rosen, it rang a bell for me and I'm going to have to do my homework whether

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this is the same Mr. Rosen that had erected a tower down on Sound Avenue in Mattituck, it was in the Suffolk Times, that was just taken down, that the Southold Board had thoroughly investigated this issue with this tower.

Evidently this- and I don't know this is the same Mr. Rosen, but that he had filed for a ham, same type of thing, and evidently it was just a pack of lies and everything else and I guess they did an investigation and the last week or so, maybe two weeks ago, that tower now has been taken down and they're out of business.

So I will do my homework with my neighbors from Maidstone Landing and I can sympathize with this gentleman over here and we will do our research the same as you and I think that maybe you should, you know, speak with Southold. They'll be able to assist you maybe in this if this is the same Mr. Rosen and we will come to a satisfactory conclusion.

Thank you, Mr. Supervisor."

Supervisor Cardinale: "Thank you. Okay, absent any other comment, as I indicated I- "

Councilman Densieski: "Phil, excuse me. I hate to- "

Supervisor Cardinale: "Yes? Go ahead."

Councilman Densieski: "-- prolong this but I would like to ask a question- this gentleman brought the point up. I believe the attorney or Mr. Rosen testified that they're not involved with any other cell sites or something similar to that. Is that correct?"

Joseph G. Nemeth, Jr.: "That is correct. I don't have any particular background on the Mattituck tower. I knew that there was a tower. I also know that the tower is not there which is why I said that Mr. Rosen does not own any other tower. Today he does not own any other tower."

Councilman Densieski: "Okay. So that tower is down."

Joseph G. Nemeth, Jr.: "I don't know whether it came down yesterday or two weeks ago or a month ago. Okay. But as of tonight, he doesn't own any other tower."

Councilman Densieski: "Okay. Would it be fair to say as of a month ago, was that the same Mr. Rosen?"

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Joseph G. Nemeth, Jr.: "The Mattituck?"

Councilman Densieski: "Yes."

Joseph G. Nemeth, Jr.: "Yes, yes, it's the same individual. Yes."

Councilman Densieski: "Thank you."

Supervisor Cardinale: "All right. The one other question, technical question, Mr. Nemeth is there was in this document you gave us an indication of line of tower easement and part of it stretches onto various properties other than your client's. Do you mean an easement in a legal sense or is that just supposedly showing us that that's the fall line?"

Joseph G. Nemeth, Jr.: "Let me see if I can just look at a copy of that."

Supervisor Cardinale: "This was a question raised by one of my Board members and I wanted to get clarification."

Joseph G. Nemeth, Jr.: "No. That is not an actual easement. At the time we were considering this with the Zoning Board, as I said they looked into this in great detail. They started pointing in the direction of maybe possibly having acquiring an easement in this direction or that direction but at the end of the day we proved to them that this type of tower does not fall, it bends.

In fact, I showed photographs of this very tower in Riverhead, next to McDonalds, God forbid that tower ever come down because it's in the wrong place. It would fall right on McDonalds and it would fall on the trailer park. I travel to Hauppauge every day, 350 foot towers right along the expressway, same type of construction. If they ever fell down, a lot of people would be killed. Okay?

It was based upon evidence presented that the Zoning Board opted to give the setback without the requirement of the easement."

Supervisor Cardinale: "Yes. Thank you very much. Mr. Meyer, you don't have to do much research now. Apparently- I would like to find out a little more about that situation and I will look into that."

Burton Meyer: "I went past there the other day, that tower was

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taken down (inaudible). But I understand when they took it down, it fell on one of the neighbor's (inaudible)."

Supervisor Cardinale: "I'm afraid you won't be heard on the- that was my only concern. We will look into the similarity of fact pattern."

Councilman Densieski: "Phil, I hate to do it to you again, but I would like to ask one more question."

Supervisor Cardinale: "Yeah, to Mr. Meyer?"

Councilman Densieski: "I believe to either the applicant or his counsel."

Supervisor Cardinale: "Go right ahead."

Councilman Densieski: "For the record, are you the partner, owner, any other corporate names? Do you have any other holdings in any other towers anywhere in any other form, whether it be a partnership, a corporation, sub-corporation, or even as a private individual? Just for the record."

Joseph G. Nemeth, Jr.: "You're asking Mr. Rosen whether he has any ownership interest in any other towers?"

Councilman Densieski: "Yeah. In any- "

Joseph G. Nemeth, Jr.: "You're not asking whether I'm a partner of his?"

Councilman Densieski: "No, no, no, sir. I'm asking if he has any other affiliations with any other towers maybe in a corporate name or any other affiliations."

Joseph G. Nemeth, Jr.: "Mr. Rosen has no ownership interest in any other tower. He has a lease of space on a tower in Oceanside, okay. In other words, he leases space just as a beeper company leases space on this. He doesn't own that tower."

Councilman Densieski: "Is that for ham use?"

Joseph G. Nemeth, Jr.: "Is that for ham use? He does not own that tower in Oceanside and the tower in Mattituck is not in operation. It's down."

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Councilman Densieski: "Okay, thank you. Appreciate it."

Supervisor Cardinale: "Okay. I'm going to leave this hearing open to the next Board meeting on May 4th at 7:00 p.m. I'd like to- anyone who wishes to submit written material should do so during that period. If there's any other material- any other witnesses that the applicant or anyone else wants to submit, we need to hear that on May 4th. And I'm going to adjourn the hearing to that date."

Mehran Kohanim: "I have a question."

Supervisor Cardinale: "Yes, sir."

Mehran Kohanim: "Mr. Rosen submitted some documents to the counsel, to the Board. I was wondering if the public can get a copy of what was submitted to you. I don't know whether that's possible."

Supervisor Cardinale: "Yeah, you can- the- I'm going to give the Town Clerk my copy. She'll make a copy for you."

Mehran Kohanim: "Thank you very much."

Supervisor Cardinale: "And then if- now you- the question I guess is, you know what you could do? Let me just see my notes. You're going back to wherever you're going back to, right? Why don't you just take- I'll take my notes, you take the whole thing. I can get a copy tomorrow from my Board members."

Mehran Kohanim: "Thank you very much."

Supervisor Cardinale: "Thank you."

Mehran Kohanim: "One other question that I had. There's certain people who testified on behalf of Mr. Rosen. Is there anyway that we could obtain their residences or business address or telephone numbers so we could conduct some kind of a inquiries of who these people actually are?"

Supervisor Cardinale: "They are referenced in there. The addresses and if you don't have an address or phone number, the Clerk probably will have a name and address from the swearing in on the tape."

Mehran Kohanim: "Thank you very much."

Public Hearing left open until May 4, 2004

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Supervisor Cardinale: "Okay. How do you like that? The first two were quick. I had visions of a 9:00 dinner at home. How are the Knicks doing? The Knicks and the Nets are well into their game at 9:20. Okay, we have comment now for anything related to the resolutions we're about to consider. Then we'll do the resolutions. Then we'll take general comment and then we'll go home.

So comment on the resolutions. In the back, please come up. Yeah, I didn't think I'd last."

Bud Kenneth Papish: "My name is Bud Kenneth Papish, whoever she is, she left."

Supervisor Cardinale: "She can't take anymore. That's the Town Attorney. You don't have to be sworn in now."

Bud Kenneth Papish: "They're digging a hole on Sound Avenue and I just want you to know that stagnant water brings mosquitoes and mosquitoes bring West Nile. I know because I lost a mare, two mares in fact, in 1999 to West Nile. One was worth \$150,000 if she was worth a nickel. The other was getting kind of old. She had a little foal alongside of her, she went down."

Supervisor Cardinale: "Who's digging the hole?"

Bud Kenneth Papish: "Somebody's digging it and they're carting that dirt out of there like crazy."

Supervisor Cardinale: "What location is it at, Bud?"

Bud Kenneth Papish: "Right by National- Adam Gatz' farm there and across from- "

Supervisor Cardinale: "By National Golf Course?"

Bud Kenneth Papish: "Yeah."

Supervisor Cardinale: "On the north or south side of Sound Avenue."

Bud Kenneth Papish: "It's on south side of Sound Avenue."

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Supervisor Cardinale: "By National- across from Gatz on the south side."

Bud Kenneth Papish: "Well Gatz owned that farm they built the golf course."

Supervisor Cardinale: "On the south side."

Bud Kenneth Papish: "Yeah."

Supervisor Cardinale: "And I will ask the- Mark Kwasna to tell me what's going on, that's the Highway Superintendent over there and if he doesn't know, maybe the town engineer will."

Bud Kenneth Papish: "I hate to say it but right next to me they- that's how they pay for these golf courses, by digging the dirt out and selling it."

Supervisor Cardinale: "Rick Hanley is here. Rick, do you know anything about that location?"

Rick Hanley: "I believe that's the condominium map of Aquebogue Golf that was approved just last year so they're probably in the process of cutting their road and- "

Councilman Densieski: "Did they pay the town a fee for removal?"

Rick Hanley: "They did. If they exported material they did. I can't tell you right here and there- are they exporting material?"

Bud Kenneth Papish: "Who counts the loads that go there?"

Rick Hanley: "That's all part of the resolutions."

Bud Kenneth Papish: "I've watched it- on three different golf courses. I know a little bit."

Rick Hanley: "It's a excavation permit, he has to make it."

Supervisor Cardinale: "Would you explain to the public because it's a question, Rick, what is the procedure for assuring that as Ed was asking that the sand is paid the \$2.00- the fee is paid for removal of- at \$2.00 per cubic yard of sand and topsoil? Or just sand?"

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Rick Hanley: "All exported minerals."

Supervisor Cardinale: "All- yeah, would you explain how- the public often asks that question. Would you explain it to them?"

Rick Hanley: "Sure. Whether or not it's a site plan approval by the Town Board, a subdivision map by the Planning Board, or a condominium map by the Planning Board, any exportation of materials off site, not excavated and stockpiled, but excavated and exported, must make an application for an excavation permit to the Building Department.

The engineer that's working on the job must certify the amount of the material that's coming out and the fee is based upon- or the total amount is based upon the engineer's certification of material. There have been instances where this Board has asked for a monitor to ensure that the applicant has not exceeded that total volume of material.

If you'd like, I will check the resolution of the Planning Board tomorrow with respect to this particular one and see what they said about that, about a monitor or not."

Supervisor Cardinale: "Yeah. I'm glad to have it on the record as to what is supposed to occur. We'll make sure that it's occurring in this instance."

Rick Hanley: "Right. Okay."

Supervisor Cardinale: "And we'll look into it, Bud."

Councilwoman Blass: "And in any event, if I could just add, Rick, is an as built required at the end of the job to certify that no more than a certain amount was indeed removed?"

Rick Hanley: "We take an as built on every subdivision at the end of the project."

Councilwoman Blass: "Right."

Rick Hanley: "Right."

Councilwoman Blass: "So there would be that opportunity."

Rick Hanley: "There would be a second opportunity, yes."

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Councilwoman Blass: "Thank you."

Rick Hanley: "Yes."

Bud Kenneth Papish: "I'd just like to know how's the sump coming."

Supervisor Cardinale: "The one you were asking about a month ago?"

Bud Kenneth Papish: "Yeah."

Supervisor Cardinale: "What's the location of that?"

Bud Kenneth Papish: "It's on Reeves Avenue."

Supervisor Cardinale: "You know, I don't know, and one of the things I don't understand is- I appreciate all you people who are here, but the ones that aren't here- what are the ones you need? Kenny- is Kenny here?"

Councilman Densieski: "He was."

Councilwoman Blass: "He's been here."

Supervisor Cardinale: "Good, God bless him. The sump located at Reeves Avenue- "

Bud Kenneth Papish: "Reeves Avenue."

Supervisor Cardinale: "You want to know what the progress is. And I do, too, and we may have a wait here because I'm not hearing from Kenny. And I hope Kenny is the guy because he's our town engineer."

Bud Kenneth Papish: "I've got one other thing- "

Supervisor Cardinale: "It might be Mark Kwasna, too. He's the Highway Superintendent."

Bud Kenneth Papish: "The VFW, I'm a member there, and they took down all these names down that was in Pulaski Street."

Supervisor Cardinale: "Yes."

Bud Kenneth Papish: "My name was up there, my brother's name-

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he got- he was a test pilot, he died. He was a fighter pilot."

Supervisor Cardinale: "They took them down?"

Bud Kenneth Papish: "They took it down. It says In Memory Of. There's a big stone there, that's it. I'm going to write to- "

Supervisor Cardinale: "You know about that? No?"

Councilman Bartunek: "Didn't you- was this the same gentleman that was here?"

Bud Kenneth Papish: "Same guy."

Councilman Bartunek: "That was discussing this before?"

Supervisor Cardinale: "Yes."

Councilman Bartunek: "I thought at that meeting that I explained that I think the letters were behind a glass and later a plexiglass."

Bud Kenneth Papish: "Yeah, that's right. But where are they?"

Councilman Bartunek: "As I remember the letters just started falling off of the memorial. And then- "

Bud Kenneth Papish: "I'll tell you about when it happened."

Councilman Bartunek: "Probably about 30 years ago."

Bud Kenneth Papish: "I'd like to find out exactly the date. It was before the Viet Nam War."

Supervisor Cardinale: "That's a long time ago. Do- can we get them back on?"

Councilman Densieski: "I think Paul and those guys are working on it."

Supervisor Cardinale: "Yeah, that's what I understood."

Bud Kenneth Papish: "Yeah, I heard that, too."

Supervisor Cardinale: "Would you like to help, Bud?"

Bud Kenneth Papish: "Me? I'll do my thing here, not up

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there."

Supervisor Cardinale: "But that's not going to help us get those names back up there."

Bud Kenneth Papish: "I'll get them back, don't worry."

Councilman Densieski: "It's an honest effort by Paul Leszczynski and his crew."

Supervisor Cardinale: "Paul Leszczynski is making an honest effort and- "

Bud Kenneth Papish: "I talked to Paul."

Supervisor Cardinale: "Okay."

Bud Kenneth Papish: "You know. He hasn't got a chance."

Supervisor Cardinale: "I didn't say an effective effort. I said an honest effort."

Ken, can you give a status on the sump at Reeves Avenue for Mr. Papish? Is it a sump on Reeves Avenue?"

Ken Testa: "There isn't."

Supervisor Cardinale: "All right, that's a good status. Find out what he's talking about."

Ken Testa: "I believe the Highway Superintendent is considering building one on Reeves Avenue. I'm not sure exactly where you're referring to."

Supervisor Cardinale: "Yeah, okay, so he's handling that project."

Bud Kenneth Papish: "Between Doctor's Path and Roanoke."

Ken Testa: "Between Doctor's and Roanoke."

Bud Kenneth Papish: "I took a guy there and showed it to him. (Inaudible)."

Councilman Densieski: "You know, is Dave here? Dave was the one (inaudible) originally."

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Ken Testa: "I think Mark is working on it."

Councilman Densieski: "Mark? Okay."

Supervisor Cardinale: "Mark- "

Ken Testa: "Kwasna."

Supervisor Cardinale: "Okay. Highway Superintendent, if you will- you see that lovely young lady in black over there? Bud, if you will give her a phone number, I will get an answer for you from the Highway Superintendent who has absented himself, a wise man he tonight."

Bud Kenneth Papish: "Yeah, wise, I'll tell you right now."

Supervisor Cardinale: "A wise man. He's home having dinner."

Bud Kenneth Papish: (Inaudible)

Councilman Bartunek: "Mr. Papish, what's your telephone number?"

Bud Kenneth Papish: "At home, it's 298-4572."

Supervisor Cardinale: "Now watch all the crank calls you're going to get now. Yeah. Thank you. He is going to call you tomorrow, right George?"

Councilman Bartunek: "Yeah."

Supervisor Cardinale: "Good."

Bud Kenneth Papish: "Okay."

Supervisor Cardinale: "And so is everyone else who heard your number. Okay, next comment on the- actually that was not a comment on the resolutions but what the heck I had forgotten."

Anyone have a comment on the resolutions? Great. Good. Do you- if you promise to keep your comments very limited, we could- should we do the resolutions and then take general comment? Okay. All right, we'll do this very quickly. Resolutions. Andrea, we have a CDA resolution, if you come up. We are now adjourning the meeting of the Town Board."

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Meeting adjourned: 9:30 p.m.

Meeting reconvened: 9:31 p.m.

Supervisor Cardinale: "We're moving to the town meeting and may we have the first resolution?"

Resolution #302

Councilwoman Blass: "This resolution is a budget adoption for the 2004 Sound Avenue resurfacing project. So moved."

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders."

Councilwoman Sanders: "It just so happens today Councilman Bartunek and I were at the Middle School and we were addressing some of the youth groups there and one of the young ladies asked us when we were going to make some road improvements on Sound Avenue. So it's just-- "

Councilman Bartunek: "It's very timely."

Councilwoman Sanders: "-- it's very timely, this resolution, and I'm sure she'll be happy to hear that we adopted it. Yes."

The Vote (Cont'd.): "Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #303

Councilwoman Blass: "This resolution accepts the resignation of an Auto Mechanic III from the municipal garage. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski."

Councilman Densieski: "Yeah, I'd like to thank Tom for his 19 years of service to the Town."

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The Vote (Cont'd.): "Cardinale."

Supervisor Cardinale: "Yes. And thanks."

Barbara Grattan: "The resolution is adopted."

Resolution #304

Councilman Densieski: "Amends Resolution #245 awarding- which is the award of bid for food. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #305

Councilwoman Sanders: "A budget adjustment for the animal shelter fund. So moved."

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #306

Councilman Bartunek: "This appoints beach attendants, concession stand operators to the Recreation Department. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #307

Councilwoman Sanders: "Appoints a beach attendant/concession stand operator II to the Riverhead Recreation Department. So moved."

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Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, abstain; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #308

Councilwoman Blass: "Appoints lifeguards to the Recreation Department. So moved."

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, abstain; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #309

Councilman Bartunek: "Appoints lifeguard Level VI to the Riverhead Recreation Department. So moved."

Councilwoman Blass: "Well, I think we need to pull this resolution because this is a duplicate. This individual is included on the prior resolution, so as a stand alone it's not necessary."

Supervisor Cardinale: "Okay. Let's make this a motion to withdraw."

Councilman Bartunek: "I make a motion to withdraw Resolution 309. So moved."

Councilman Densieski: "Second."

Supervisor Cardinale: "Moved and second motion to withdraw as duplicative. Vote, please."

The Vote: "Bartunek, yes; Sanders, abstain; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is withdrawn."

Resolution #310

Councilwoman Sanders: "Appoints a Waterfront Coordinator Level I to the Recreation Department. So moved."

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Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #311

Councilman Densieski: "Appoints water safety instructors to the Riverhead Recreation Department. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, abstain; Blass."

Councilwoman Blass: "Yes. And I just want to indicate then that the subsequent resolution, the next one, will be pulled for the same reason the prior one was pulled. So before we get to that point, my vote on this is yes."

The Vote (Cont'd.): "Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #312

Councilman Densieski: "Motion to withdraw 312. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded to withdraw. Vote, please."

The Vote: "Bartunek, yes; Sanders, abstain; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is withdrawn."

Resolution #313

Councilwoman Blass: "This resolution appoints two laborers to the Sanitation Department. So moved."

Councilman Bartunek: "And seconded."

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Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #314

Councilwoman Blass: "Approves the request for an extension of a medical leave of absence. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #315

Councilman Densieski: "Authorization to publish an advertisement for a portable asphalt milling/trenching machine with a transport trailer."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #316

Councilwoman Sanders: "Authorizes the Town Clerk to publish and post a help wanted ad for a seasonal custodial worker in the Buildings & Grounds Department. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #317

Councilman Densieski: "Calverton Sewer District budget

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adjustment. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #318

Councilwoman Sanders: "Budget adjustment for the general fund. So moved."

Councilman Densieski: "So moved."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #319

Councilwoman Blass: "Budget adjustment for the PAL program. So moved."

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #320

Councilman Densieski: "Accepts a cash security of Traditional Links LLC for a training building. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #321

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Councilwoman Sanders: "I'd like to amend the title of the resolution to read authorizes the Fire Marshal to attend this conference and in the body of the resolution, any time it refers to inspector, to change it to Fire Marshal. I believe we don't have a fire inspector."

Supervisor Cardinale: "That's right. Okay. It's moved as amended. Seconded please."

Councilwoman Blass: "Seconded as amended."

Supervisor Cardinale: "Moved and seconded as amended. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #322

Councilwoman Blass: "This accepts the 5% security bond of Mill Pond Developers LLC for buildings 9 through 12 inclusive. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #323

Councilwoman Sanders: "Adopts a local law to repeal and replace Chapter 113A entitled Marina Regulations of the Riverhead Town Code. So moved."

Councilwoman Blass: "And seconded."

Councilman Densieski: "Discussion."

Supervisor Cardinale: "Yes."

Councilman Densieski: "A couple quick questions."

Supervisor Cardinale: "Sure."

Councilman Densieski: "Did we determine how much the over

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night fee is going to be?"

Councilwoman Blass: "We're not setting that."

Councilwoman Sanders: "This is not the waterfront- the river front."

Councilman Densieski: "Well, I know it's not the river front but when you look in here, it says the river front. The river front dock shall be (inaudible) and, for transient docking, I'm curious who is going to be collecting and are transients going to be expected to truck over to the Recreation Department to pay their fee? If somebody comes down from Connecticut, do they have to go to the Rec Department to pay their \$8.00 or whatever it is?"

Councilwoman Sanders: "No. There will be someone who is a seasonal employee who will be circulating among the different facilities to see if there is anybody there that needs or requires a permit."

Councilman Densieski: "Okay. Is that going to be a new position or is this something- "

Councilwoman Sanders: "No. I think it's going to be the- the responsibilities are going to be incorporated into someone that we were going to hire seasonally. When you say it's a new position, I don't- "

Councilman Densieski: "So this person- "

Councilwoman Sanders: "-- can you be more specific?"

Councilman Densieski: "Yes. So we're going to get a seasonal person and we're going to give him a vehicle, we're going to let him ride around from the various transient points, which I think there are two here, downtown and East Creek, to collect the fees and we don't even know how much the fees are yet. Is that correct?"

Councilwoman Sanders: "That's correct. I believe it came up at work session and there was discussion as to what we were going to charge for transient fees and there was a request made for additional information from maybe some of the surrounding slips and I received that information today.

I didn't get a chance to read it thoroughly but one of the recommendations were from one of the local marina operations as they

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charge \$3.00 a foot per day regardless of how long they stay. And we were going to suggest that we do \$25.00 a day, \$50.00- no, \$150 for the week and then there was a monthly charge. But we haven't had an opportunity to bring that back to work session yet because we haven't had one since the last work session."

Councilman Densieski: "So aren't we putting the cart before the horse by having a person with a vehicle that we're going to pay and give them a vehicle to go to the docks to check and see if anybody is there and we don't even know how much we're going to charge them? Isn't there are a possibility that we're going to lose money by having a seasonal person with a vehicle to check transient dockage which there may be none?"

Councilman Sanders: "This person will have other responsibilities so if we were only paying a person just to do that, then I'd say- and you don't know what it is yet, then I'd say well, maybe you have a point. But this person will have additional responsibilities."

Councilman Densieski: "Okay. So this seasonal person is going to have a car, he's going to collect cash from boaters- transient boaters. Is that correct?"

Supervisor Cardinale: "Only those that are overnight docked there."

Councilwoman Sanders: "That's correct."

Councilman Densieski: "Okay. All right."

Councilman Bartunek: "I have another comment that I discussed with Rose a little bit earlier. I would like to suggest maybe amending this A- section A113-3A."

Supervisor Cardinale: "Yes."

Councilman Bartunek: "It should be worded waste material from the bilge holding tank or tanks or toilets. I would include the terminology holding tanks in there."

Supervisor Cardinale: "Okay, so the change, George, would be at 113-3?"

Councilman Bartunek: "Yes. You would have- yes- "

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Supervisor Cardinale: "And that's at A?"

Councilman Bartunek: "-- and it would be from the bilge, holding tanks, or toilets."

Supervisor Cardinale: "Okay. So the addition of holding tanks."

Councilman Bartunek: "Right."

Supervisor Cardinale: "Okay. We'll do that and it's noted. And is there another point that you'd like to make in addition or- "

Councilman Bartunek: "No."

Supervisor Cardinale: "Any other discussion or suggested amendment to this resolution? Yes."

Councilman Densieski: "My only comment is that I don't think- I'm all for the marina regulations part, I agree with that wholeheartedly."

Supervisor Cardinale: "Right."

Councilman Densieski: "I disagree with the charging of transients. I don't think we're there yet as a tourist town. I think you're going to discourage more people to come than actually collect fees that we're going to have a person drive around in a car. And we don't even know how much we're going to charge yet. I think it's premature to vote on these things without knowing any of those things.

And I'd like to know also how much is this seasonal person with this car that they're going to be driving around with, how much is that going to cost us? We're doing this supposedly to raise revenue and cover costs. I'm not 100% sure that we will do that.

I think we should be focusing on encouraging boaters as a destination to come to Riverhead. I think we should roll out a welcome mat for them, and not chase them away with a \$25.00 fee. Riverhead just isn't that fancy yet."

Councilwoman Sanders: "I agree that we should be enticing as much tourist as possible, whether it be in the downtown area or any other area that we can supply services to but not at the expense of the taxpayers of the Town of Riverhead. They should pay their own

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way."

Councilman Densieski: "Well, then we're going to consider charging tourists for flowers that they look at, sidewalks that they walk on."

Councilwoman Sanders: "If you would like to consider that- "

Councilman Densieski: "I have the floor, Councilwoman Sanders. I have the floor. Please allow me to speak."

Councilwoman Sanders: "If you would like to consider that, then propose that."

Councilman Densieski: "I have the floor, please allow me to speak, Councilwoman."

Councilwoman Sanders: "Go ahead."

Councilman Densieski: "Thank you. I think it's a mistake. Because I think we're going to start to charge people for the flowers that they see on the side of the sidewalks, the sidewalks that they walk on, the overhead lights that they see at nighttime. That's my opinion. Now I'm done speaking. Thank you."

Supervisor Cardinale: "Any other comment (inaudible) question or clarification of schedule? We're going to actually schedule our fees in another section. So we'll have a further discussion of this, Ed, at a work session."

Councilman Densieski: "Thank you."

Supervisor Cardinale: "Okay. So that discussion having been had, let's have a vote on this resolution."

Councilwoman Sanders: "It has to be moved as amended."

Supervisor Cardinale: "Okay. The moving party in this is let's see if I can fine- is Councilwoman Sanders."

Councilwoman Sanders: "Move as amended."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and amended; seconded as amended. Vote, please."

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The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski."

Councilman Densieski: "I would love to vote yes on the marina regulations. I think they're well done and I think they're comprehensive. But I certainly can't vote on charging people dockage downtown. We don't even know how much we're charging them yet. We've got a guy riding around with a pad collecting cash. It's not ready to be voted on and I'm going to vote no."

The Vote (Cont'd.): "Cardinale."

Supervisor Cardinale: "I believe there will be a further discussion to confirm the fees and the schedule. The-- what this does do correctly as Ed points out, it is an opportunity to discuss it because we have here the Town Board shall establish fees in a different schedule."

We'll discuss that a little further but I'm going to vote yes on this resolution."

Barbara Grattan: "That resolution is adopted."

Resolution #324

Councilman Densieski: "Approves the application of Central Suffolk Hospital. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass."

Councilwoman Blass: "Yes. I would just like to mention this is for a plant sale and a garden festival for Central Suffolk Hospital, 7th, 8th, and the 9th of May. Yes."

The Vote (Cont'd.): "Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #325

Councilman Densieski: "Approves the application of Speed World FX for a car show. So moved."

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Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #326

Councilwoman Blass: "Amends Resolution #1079 of 2003 which authorized the Supervisor to enter into an agreement with Electrical Inspectors, Inc."

Supervisor Cardinale: "Moved- "

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #327

Councilwoman Sanders: "Authorizes the Supervisor to execute stipulation of settlement of a class action grievance. So moved."

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #328

Councilman Densieski: "Establishes a policy for waiver of fees for use of town of Riverhead showmobile. So moved."

Councilwoman Blass: "Discussion."

Supervisor Cardinale: "Yes."

Councilman Bartunek: "Yeah, and second."

Supervisor Cardinale: "Moved and seconded. There is a

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discussion for an addition here. I think we had discussed at the work session and--"

Councilwoman Sanders: "And add a Resolve."

Supervisor Cardinale: "We'd like to add a second Resolve or suggest that it read, Resolved, that set up and break down fees will be charged to all users. Resolved, that set up and break down fees will be charged to all users. So we're going to be waiving the usage fee but the Engineering Department is ascertaining what the cost is to us to deliver it and take it away, set it up, break it down, bring it back. That we will charge to our users."

That being said, that addition being made- "

Councilman Bartunek: "Second as amended."

Supervisor Cardinale: "Seconded as amended. Can we have a vote?"

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #329

Councilwoman Sanders: "Authorizes the retention of the law firm of Sinnreich, Safar & Kosakoff, LLP in connection with Supreme Court litigation entitled Lorraine Melk Vyas a/k/a Tony Reins v. Town Justice Allen M. Smith. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #330

Councilwoman Sanders: "Authorizes Town Clerk to post and publish public notice of public hearing to consider a proposed local law for an amendment to Chapter 101 entitled Vehicles & Traffic of the Riverhead Town Code, no parking fire zone lanes. So moved."

Councilwoman Blass: "And seconded."

Councilman Densieski: "Discussion."

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Supervisor Cardinale: "Yes."

Councilman Densieski: "I see there's quite a list here of people. Do these people get notified that their residential businesses in this or not? I'm just curious."

Supervisor Cardinale: "Well, that's an excellent question. I guess- I think it would be wise to do that."

Dawn Thomas: "Other than in a newspaper, they wouldn't."

Supervisor Cardinale: "Other than in a newspaper, they would not?"

Councilwoman Sanders: "And that's it?"

Councilman Bartunek: "A good idea to mail- "

Councilman Densieski: "I think it would. I did call a couple of these people today and none of them knew about it."

Supervisor Cardinale: "Of course, they'll know it when they get (inaudible)."

Councilman Densieski: "Yeah, that's what I'm concerned about."

Supervisor Cardinale: "Would you- can we add then to this Resolve at the end, that the Town Clerk shall provide a certified copy to those entities affected?"

Barbara Grattan: "Thanks."

Councilman Densieski: "Yeah, more work for Barbara."

Supervisor Cardinale: "At the locations indicated?"

Councilman Densieski: "Thank you, sir."

Supervisor Cardinale: "Thank you."

Barbara Grattan: "Thank you, Eddie."

Councilman Densieski: "Sorry, Barbara. We didn't vote on it yet, either."

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Barbara Grattan: "What?"

Councilman Densieski: "We didn't vote on it."

Supervisor Cardinale: "May we have- as amended with that Resolve clause, could we have a vote?"

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted.

Resolution #331

Councilman Bartunek: "Reappoints four existing members and appoints one new member to the Riverhead Town Landmarks Preservation Commission. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted.

Resolution #332

Councilwoman Blass: "This resolution releases the irrevocable letters of credit in connection with the subdivision entitled Village at Wading River. These are Water District key money park and rec fees. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted.

Resolution #333

Councilman Densieski: "Releases the utility payment bond in connection with the condominium project entitled Silver Village, Water District key money. So moved."

Councilman Bartunek: "Seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

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The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted.

Resolution #334

Councilman Bartunek: "Resolution and consent approving the dedication of highways known as Fox Trail Court, Peacock's Path, Peacock Court and two recharge basins Fox Meadow Estates. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted.

Resolution #335

Councilman Densieski: "This is a resolution calling for a public hearing to amend an order for Millbrook Gables development lateral water main for the Riverhead Water District. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted.

Resolution #336

Councilwoman Sanders: "Authorizes the Town Clerk to advertise for bids for the Aquebogue Golf Resorts Section I Riverhead Water District. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted.

Resolution #337

Councilman Bartunek: "Authorizes the Town Clerk to publish and

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post notice to bidders for annual maintenance for diesels and generators for use by the Riverhead Water District. So moved."

Supervisor Cardinale: "Moved and seconded."

Councilman Densieski: "Second the motion, I'm sorry, I was reading. Second the motion."

Supervisor Cardinale: "I'm sorry. Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #338

Councilman Densieski: "Authorizes the Town Clerk to publish and post notice to bidders for calcium hypochlorite tabs for use by the Riverhead Water District. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #339

Councilwoman Sanders: "Authorizes the Town Clerk to publish and post a notice to bidders for water meters for use by the Riverhead Water District. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #340

Councilman Bartunek: "This extends a bid contract for quick lube maintenance for the Riverhead Water District. So moved."

Councilman Densieski: "Second the motion."

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Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #341

Councilman Bartunek: "Authorizes the Supervisor to execute lease agreement with Omnipoint Facilities Network 2, LLC a/k/a T-Mobile. So moved."

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #342

Councilwoman Sanders: "Order calling for a public hearing for miscellaneous improvements to district facilities in the Riverhead Water District. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #343

Councilwoman Blass: "This resolution is an order calling a public hearing in connection with the well rehabilitation at Plant #5 of the Riverhead Water District. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #344

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Councilwoman Sanders: "Authorizes the Town Clerk to advertise for bids for the NF Golf Resort Section 1 Riverhead Water District. So moved."

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #345

Councilwoman Sanders: "Awards bid for police uniforms. So moved."

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #346

Councilman Bartunek: "Authorizes the Chief of Police to submit a grant application. So moved."

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #347

Councilman Bartunek: "This also authorizes the Chief of Police to submit a grant application for buckle up safety. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

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Resolution #348

Councilwoman Sanders: "Scavenger Waste District budget adjustment. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #349

Councilwoman Blass: "Authorizes the Supervisor to execute a retainer agreement with Lamb & Barnosky, LLP for legal services. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek."

Councilman Bartunek: "The only question I had was the wording of the last sentence, I guess, it's the fourth section there."

Supervisor Cardinale: "Yes."

Councilman Bartunek: "LLP. If you read that, Phil."

Supervisor Cardinale: "Be it Resolved-- "

Councilman Bartunek: "On notification that-- "

Supervisor Cardinale: "-- the rights and obligations of Raines & Pogrebin- presently in effect shall be assigned to and assumed by the law firm of Lamb & Barnosky effective upon notification that Richard Zuckerman has joined that firm but in no event later than March 1. Yeah, that-- "

Councilman Bartunek: "Little wording is backwards. It should be that he should be informed no later than March 1, 2004. Is that correct?"

Supervisor Cardinale: "No, it says effective upon notification

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that Zuckerman has joined that firm. We have received notification that he has joined the firm but we're trying to relate back to March 1, 2004."

Councilwoman Sanders: "Continuing him on a month to month basis."

Supervisor Cardinale: "Exactly. We pick him up at the point that he joined the firm. This would really be a three month extension because March, April, May-- it's either June 1st or June 30th that the retainer agreement ends."

Councilman Bartunek: "Okay."

Supervisor Cardinale: "Okay?"

Councilman Bartunek: "It would take a lawyer to explain-- "

Supervisor Cardinale: "To understand that."

Councilman Bartunek: "I appreciate that."

Supervisor Cardinale: "Okay. So it's moved and seconded and I guess it's a vote we're looking for."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #350

Councilman Densieski: "Appoints employee to a part time weekend position on a rotating basis for yard waste facility. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #351

Councilwoman Sanders: "Approves change order with H2M in connection with Middle Road sewage pump station improvements and authorizes Supervisor to execute change order. So moved."

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Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #352

Councilwoman Blass: "This resolution corrects Resolution #285 for the construction of Well #11-2, the contract in connection with the Riverhead Water District. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #353

Councilwoman Sanders: "Authorizes the Supervisor to execute a grant application for Justice Court assistance program for a metal detector. So moved."

Councilman Bartunek: "Seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #354 and #355

Councilman Bartunek: "Ratifies stipulation of settlement 4.20., Resolution 345. So moved."

Councilman Densieski: "354."

Councilman Bartunek: "354, excuse me."

Supervisor Cardinale: "Moved and seconded. Vote, please."

Councilwoman Sanders: "And seconded."

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Supervisor Cardinale: "I'm sorry. Moved and seconded now. Vote, please."

(Some inaudible discussion among the Board members)

Councilwoman Sanders: "I take back that second."

Supervisor Cardinale: "Yeah. This is- we're just trying to clarify whether this is one we wish to table. What does this relate to?"

(Some inaudible discussion among the Board members)

Supervisor Cardinale: "Okay. So we're holding on this because- this is the one we were holding on, yes. Okay."

Councilwoman Blass: "And does that hold true for the next one as well?"

Supervisor Cardinale: "Yeah. This is a tabled motion because we're waiting confirmation of this resolution, so we may be able to pass in on Thursday if we have a special session."

Councilwoman Sanders: "And 355 as well?"

Councilwoman Blass: "And the next one as well?"

Supervisor Cardinale: "And 355 is similarly tabled."

Councilwoman Sanders: "So we need a motion to table."

Supervisor Cardinale: "A motion from someone and a second."

Councilwoman Sanders: "So moved to table Resolutions 354 and 355."

Councilman Bartunek: "And I'll second that."

Supervisor Cardinale: "Moved and seconded. May we have a vote to table 354 and 355?"

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolutions are tabled."

Resolution #356

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Councilwoman Blass: "Oh yes, thank you. This resolution accepts the resignation of a town employee. So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #357

Councilman Densieski: "Appoints- "

Councilwoman Sanders: "Do they have the right 357? Did you replace the correct 357 in everybody's package?"

Barbara Grattan: "Yes, I did."

Councilwoman Sanders: "Thank you."

Barbara Grattan: "I hope so."

Councilwoman Sanders: "Well, it has dates."

Councilwoman Blass: "You have dates?"

Supervisor Cardinale: "Yes. I have effective April 21 and ending May 25."

Barbara Grattan: "You've got it."

Councilwoman Sanders: "And ending- thank you."

Councilman Densieski: "Appoints a consultant to the Accounting Department. So moved."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted."

Resolution #358

Barbara Grattan: "Resolution #358 to pay bills."

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Councilwoman Blass: "So moved."

Councilwoman Sanders: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolution is adopted.

Supervisor Cardinale: "And that is that. I motion to adjourn and oh, I forgot, I have to ask another question. Would anyone like to make comment in the audience? I think the only people in the audience are people on our staff. And, therefore, we have no comment other than- "

Councilman Densieski: "Other than good night."

Supervisor Cardinale: "Are you waving good night, Tom, or do you want to comment?"

Councilman Bartunek: "Good night, Tom."

Supervisor Cardinale: "Oh, Tom does have a comment. Tom has a final comment. Tom is actually our videographer, a very quick comment."

Tom Lossandro: "Yes. Tom Lossandro, Baiting Hollow. You know, something that I don't like to talk about and it's just my nature and that's politics. But when it comes to putting- "

Councilman Bartunek: "You came to the wrong place, Tom."

Tom Lossandro: "-- you know, Riverhead first, you know, I'm all for that. And something that I would like to suggest to you, Mr. Supervisor- "

Supervisor Cardinale: "Yes."

Tom Lossandro: "-- for County Planning- "

Supervisor Cardinale: "Yes."

Tom Lossandro: "-- there's three people that I had in mind and I think it would be a wise choice for you to contact these people. One would be Ron Hourary (phonetic); two would be Dave Cullen

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(phonetic) who I believe works in your office and also Art Binder. All three of them I feel are very qualified to handle the position for County Planning. So what you do with it, you know, should be entirely up to you solely and I'm sure the town out of those three could pick one."

Supervisor Cardinale: "Good. I'm encouraging applications. I appreciate your suggestions, I'm encouraging applications. We'll be discussing it at the- that subject, I guess, on Thursday at the work session. So thank you."

Tom Lossandro: "Okay."

Supervisor Cardinale: "That having been the only comment generally, we are going to adjourn."

Meeting adjourned: 10:05 p.m.