

6/01/2004 minutes.

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, June 1, 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 7:20 p.m.

Supervisor Cardinale: "Okay, now it's working. Okay, we're going to start the meeting at 7:20. I apologize for the delay, but as soon as we go through this and get started, I will tell you why it was delayed.

Can we- Vince, could you lead us?"

(At this time, the Pledge of Allegiance was recited, led by Vince Tria)

Supervisor Cardinale: "Okay. To move through the housekeeping matters, could we approve the minutes of May 18, 2004 meeting? Would somebody offer them, please?"

Councilwoman Blass: "So moved."

Councilman Densieski: "Second."

Supervisor Cardinale: "Moved and seconded. Vote on the minutes, please."

Barbara Grattan: "Who seconded that?"

Councilwoman Sanders: "Ed."

Supervisor Cardinale: "Ed."

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Barbara Grattan: "Ed."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The minutes are approved."

Supervisor Cardinale: "Okay, the Reports, Barbara."

REPORTS :

Tax Receiver	Total collections to date was \$61,101,527.12
Town Clerk	Monthly report for May, total collected - \$10,880.53
Sewer District	Discharge monitoring report for April and the scavenger waste influent gallonage report
Juvenile Aid Bureau	Monthly report for April
Water District	2003 annual water supply statement

Barbara Grattan: "That concludes Reports."

Supervisor Cardinale: "Applications, please."

APPLICATIONS :

Shows & exhibition permit	Timothy Hill Children's Ranch Sept. 11, 9 am to 9 pm fall festival
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Polish Town Civic Association
the street fair, August 21

and

22

Site Plans	RJL Associates Holding Company Olde Baiting Hollow Village Martha Clara Vineyard Hector Felix Figueroa American Legion Post
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Altaire Pharmaceuticals Inc.
 First Baptist Church
 Jeffrey Rimland
 Omnipoint Communications
 Little Flower Children's
 Services
 209 East Avenue

Barbara Grattan: "That concludes Applications."

Supervisor Cardinale: "Correspondence, please."

CORRESPONDENCE:

Richard Wines

Regarding TDR math

Petitions

Regarding hazardous traffic
 conditions on Riley Avenue

Regarding the color of the
 street banners in Polish Town

Barbara Grattan: "That concludes Correspondence."

Supervisor Cardinale: "Thank you. We have no public hearings scheduled. However, we do have a public hearing that will be resuming in a moment.

The reason we were delayed is that we received a phone call from counsel who is front of Honorable Thomas Whelan in regard to the zoning statutes that we had anticipated passing tonight. As a result of that call and a temporary restraining order which was issued by Judge Whelan at 6:00, we're not going to pass those statutes this evening. Those numbers are 469, 491 to 501, and 522. Those will be tabled and we expect passed at a special meeting of the Town Board within the next 10 days if we are successful in our appeal to the Appellate Division.

The decision is going to be made available by my Deputy, Jill, to any members of the press that want it. It involves only one property owner and one zone and a challenge to the master plan that was received 100- just before the 120 days expired after it was passed last November. So it was received early in March.

Our counsel Maureen Lichione (phonetic) of Twomey Latham & Shea indicates that it is likely to be reversed by the Appellate Division

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and I would expect to be passing the statutes that were indicated to be passed tonight as I said within the next 10 days.

The Board has concurred and they are going to- they are all of a mind to proceed with that appeal to the Appellate Division.

And if you have any other questions, I'll be glad to answer them after the meeting or whenever you- whenever we're finished here.

That being said, there's a hearing on at- there was a hearing two months ago- a month and a half ago on Rosen, and it was adjourned until tonight. Is there anyone here representing the applicant? We'd like to resume that hearing. It is 7:25."

Public Hearing resumed 7:25 p.m.

Supervisor Cardinale: "Let the record reflect we are resuming that hearing. We'd like to do this as expeditiously as possible because there was an extensive hearing last- six weeks or so ago, and the issues are pretty straightforward in this particular matter.

Counsel for the applicant is about to begin his remarks and then we'll take any remarks from the public about this application regarding use of a antenna. It's an application for a special permit. Yes, go right ahead."

Joseph Nemeth: "My name is Joe Nemeth and I represent Martin Rosen. I'm with the firm of (inaudible)."

(Microphone was not working properly)

Councilman Densieski: "Testing."

Joseph Nemeth: "Testing one, two. Can you hear me? Good. Okay. As I said, I'm the- "

Supervisor Cardinale: "Thank you, Barbara."

Joseph Nemeth: "-- attorney for Martin Rosen."

Supervisor Cardinale: "Before you proceed, we would like to swear you in."

Joseph Nemeth: "Sure."

(From the audience - unidentified) "Can't hear the Supervisor."

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Supervisor Cardinale: "Can you hear me if I swallow the microphone? Okay. I will do that, just for you guys. It may be a positive if you can't hear me. That's been suggested.

Okay. Would you raise your right hand and would you swear to tell the truth, the whole truth and nothing but the truth in your testimony this evening?"

Joseph Nemeth: "Yes, I do."

Supervisor Cardinale: "Thank you."

Joseph Nemeth: "Okay. I appreciate the opportunity to be here at the continued hearing this evening. I'd like to remind the Board and the people in the audience here this evening that this is an application for a special permit for the Rosen tower as is and where is.

This is at tower that has 13 antenna, 8 ham antenna, 5 beeper antenna, and it has two sheds at the base of the tower, one for ham operations, one for beeper operations.

Now, at the last hearing, I had asked the Board for an interpretation of the zoning code to allow Mr. Rosen to put additional antenna on this tower without the need for a special permit. Tonight I'm withdrawing that. I'm withdrawing that request because the Board has indicated that they don't have the jurisdiction to do that and I don't want to muddy the waters.

We're here tonight merely to approve this tower as it's been in place for the past five years.

At the last hearing, the Board inquired why this certificate of occupancy was revoked and why it took 18 months to revoke it, whether there was any forewarning. I don't think I was able to adequately answer those questions.

In the time since the last hearing, I've had a chance to research that and using the little booklet that I've provided, if you would just bear with me for a moment, I would like to direct your attention to Exhibit A. Exhibit A is the exception for ham radio towers. The top paragraph is the state of the zoning ordinance exception for ham towers at the time that Mr. Rosen applied for a building permit.

You'll notice that if you have a ham tower at the time that's

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less than 50 feet and that is a receive only, you don't have to go for a special permit. Mr. Rosen's tower was taller than 50 feet and it was receive and transmit.

Nevertheless, the town attorney based upon what's known as the federal preemption for ham radio in conjunction with conferring with the Town Board, decided that Mr. Rosen nevertheless should have a building permit. So he got his building permit.

If you look at the section at the bottom of the page, that was a change to the ordinance which said that ham towers regardless of height, regardless of whether they were receive only or transmit and receive, are exempt from the special permit requirements.

What happened here was one day before Mr. Rosen received his C of O, the Town Board adopted this particular change in the ordinance at a Town Board hearing which occurred on the 17th of August in 1999.

So you would say- or you might say because I said, well, that means that Rosen's tower is a valid tower because he was exempt from the special permit requirements because he- his tower could be any height. This particular provision remained in the town code even after his certificate of occupancy was revoked 18 months later.

Now, I dug into this a little deeper. I went through the files here at the town and what I found is very, very interesting. There's an affidavit which is shown here at Exhibit C-1, an affidavit from Leroy Barnes. Leroy Barnes wrote this affidavit at the time that Mr. Rosen went to the Zoning Board of Appeals- I'm sorry, the Zoning Board, to get relief because his C of O has been revoked. He was asking the Zoning Board in the year 2002 to reinstate it.

So Mr. Barnes at the request of the town, wrote this affidavit and what it essentially says is that, yes, the town changed the ordinance to allow amateur towers of any height and they did that one day before the C of O was given to Mr. Rosen. However, that particular provision was not filed with the State of New York until several days thereafter.

Therefore, as a technical argument, and those of you who are lawyers could understand this, as a technical argument, Mr. Rosen did not get the benefit of that change in the ordinance because even though it was adopted by the Town Board, it wasn't filed.

Now, what's particularly interesting about this, is that the- if you flip a few pages, you'll see what I mean, Exhibit C-2, even the

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town itself did not think that that change had to be filed in the State of New York because if you look at C-2, I have the section of the code and it says that it was amended August 17, 1999 which was the day before Mr. Rosen got his C of O. Therefore, we submit that this should supply- this should apply to Mr. Rosen, okay. Because it was adopted the day before he got his C of O and it said that amateur towers of any height are exempt from the special permit requirements of the zoning code.

But there's more and that's contained at Exhibit D. Here's an affidavit that I also located from Christopher Kent. As we all know, Christopher Kent is an attorney in the town attorney's office. He's there because of his judgment and his integrity.

Well, in the year 2002, Mr. Kent wrote an affidavit which sheds a lot of light on this issue. What this particular affidavit says is that starting in May of 1999 when Mr. Rosen was about to begin applying for his building permit, the Town Board was already grappling with the issue of amateur towers and evaluating whether or not they should be exempt entirely from the special permit requirement.

And that further, on June 1, the Town Board received a referral from Mr. Grossman, the then town attorney, who felt that the Rosen tower should essentially be treated outside the zoning code because it was an amateur tower.

Mr. Kent goes on to say that the whole- that the whole focus of this change in the code to allow amateur towers of any height to be an exception to the special permit requirements, was not only prospective but retrospective. It was curative as Mr. Kent says. It was designed to solve the Rosen situation.

In fact, if you think about it, it was merely a fluke that the C of O was issued when it had been issued. If it had been issued a week later, there would not even be a technical argument, the kind of argument that Mr. Barnes makes.

Now, what happened here is clear to me now and I hope it's becoming clear to you. Mr. Rosen was fine for 18 months. He was fine under the Villella administration when Mr. Villella, who I don't know, was supervisor. What happened was a new administration came in, some people made anonymous complaints, that's what Mr. Barnes says in his affidavit, and based upon those anonymous complaints 18 months after the C of O was issued, all of a sudden, the new administration starts looking into the facts, finds a technical

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argument, and decides to revoke Mr. Rosen's C of O.

There's one problem with that. The problem is is that the time they revoked his C of O, his C of O was legal because the code said that an amateur tower regardless of height was exempt from the special permit requirements of the code.

Now, you asked me to come here this evening to talk about the provision that says that no new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board that no existing tower can accommodate the antenna. That was the section that I was pointed to and that's the reason- that's the principal reason we're here tonight."

Supervisor Cardinale: "Right."

Joseph Nemeth: "And I want to give testimony on that issue."

Supervisor Cardinale: "Okay. Can I ask you a clarification before you go into that argument, because everything you said up to this point has been in regard to an amateur ham radio tower."

Joseph Nemeth: "Right."

Supervisor Cardinale: "Which has all been interesting. But the application tonight as you were just about to say is in regard to a- allowing the utilization of this tower for commercial and not ham amateur use which apparently occurred without anybody's authorization and you are seeking to legalize by the issuance of a special permit now.

You would agree, I assume, that we would have to- we would have to impose the same standard regardless of the fact that the tower is standing that we would with the antennas on it, that we would if there were no antennas on it and you were seeking now for the first time which you should have done in the first place which was come to us when you're putting up a commercial antenna.

Because everything you say about ham radio amateur antenna makes a great deal of sense to me except that that's not what this hearing is about."

Joseph Nemeth: "If you look at the Riverhead code, and I don't know that much about other codes, but basically this is what happens with your code and if this is not right, I think you should change the code but not, you know, take it out on Mr. Rosen.

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If a ham tower comes in under the code as an exception to the special permit requirements, one then can put antenna on the tower whether they be commercial antenna or ham antenna without the need for a special permit. If you look at- "

Supervisor Cardinale: "If you believe that, what are you doing here?"

Joseph Nemeth: "-- it says it right in your code."

Supervisor Cardinale: "If you believed it, what are you doing here?"

Joseph Nemeth: "What am I doing here? The reason I'm here and I think that's an important point is because there's no way for us to get out of this litigation that I described with you. Rosen has 110 tickets that have been issued against him by the town. We have an Article 78. You have moved to dismiss it. Your motion has been denied. This thing is a big mess.

Rosen is a resident of this town. He lives by this tower. We want to have an amiable relationship with this town. If Rosen wants to put an addition on his house or something, he doesn't want to be, you know, have trouble with the town."

Supervisor Cardinale: "Let me ask you this. Back in- let's- I understand the background now. Give me the link between if it's an amateur tower permissible without a special permit, it's automatically- and a commercial- it's automatically permitted as a commercial antenna without a special permit. Where do you- where in our code to you see that language?"

Joseph Nemeth: "Well, first of all, I have to tell you that your code was changed once again about amateur towers, so it doesn't read today the way it read at the time that the C of O was issued and at the time the C of O was revoked. Okay?"

Today, if you want to put up an amateur tower and be excepted from the special permit requirements, the tower has to be less than 50 feet and the tower has to be at your principal place of business- or it has to be in Business A or Agricultural A. It has to be at your principal place of business or your principal residence. But the code at the time- "

Supervisor Cardinale: "Is that the language you earlier gave

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me, amateur radio- "

Joseph Nemeth: "No. Your code in respect to amateur towers has changed three or four times."

Supervisor Cardinale: "Yeah, but on the applicable point, when he put up his first commercial-- he made that amateur tower into a commercial tower, show me the language that says he didn't need a special permit."

Joseph Nemeth: "At the time he made the- he- let's just recall. He got his C of O in August of 1999. The Board had- "

Supervisor Cardinale: "That was for the amateur tower though."

Joseph Nemeth: "-- the amateur tower. The Board had just changed the exception saying amateur towers of any height."

Supervisor Cardinale: "Right."

Joseph Nemeth: "If you look at Exhibit F- "

Supervisor Cardinale: "Okay."

Joseph Nemeth: "-- Exhibit F here is the status of the code in regard to additional antennas as it reads today and as it read then. And it says that the following uses are deemed to be permitted uses and shall be subject to the site plan approval but shall not be subject to a special use permit, the location of additional new antennas on existing towers. In fact, at your own public hearing on April 20th, you have an item in your agenda- "

Supervisor Cardinale: "Look at the language- look- on F, you just tole me to go to F, and I'm looking at it and it doesn't seem to bear out what you're telling me. It says lawful or approved towers. It says permitted uses. The following uses are deemed to be permitted uses and shall be subject to site plan approval, not subject to special permit use."

Joseph Nemeth: "And it says 3. The location of additional new antenna on existing towers. So the point is is if you have an existing tower, okay, whether it be there because it's excepted from the special permit requirements, such as an amateur tower that falls within the exception, or if you've gone through the special permit requirements because it didn't fit into that window but you want to put additional new antenna on, you don't have to go for a special

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permit."

Supervisor Cardinale: "How is it- "

Joseph Nemeth: "All you have to do is do a site plan."

Supervisor Cardinale: "How is the first commercial antenna an additional antenna when you had no other- how is it an additional new antenna when there's no commercial antenna there in the first place?"

Joseph Nemeth: "You're reading something into the code that's not there. Rosen had eight antenna on the tower at that point. He went to the- he went to the Building Department. You remember my prior- "

Supervisor Cardinale: "Right."

Joseph Nemeth: "-- brochure, and the beeper company went and inquired what was needed. The Building Department said nothing, so they went on. But that was an additional antenna on an existing tower. This doesn't say an existing commercial. It doesn't say an additional ham. It just says additional antenna.

I mean, this is your code, for better or for worse."

Supervisor Cardinale: "Yeah. But it says additional new antenna which- "

Joseph Nemeth: "Well, it is a new antenna. It's not an antenna that was on there. It's an antenna that's going on."

Councilwoman Sanders: "Tower type."

Joseph Nemeth: "Where does it say that?"

Councilwoman Blass: "The same tower type as the existing tower."

Joseph Nemeth: "No. It says provided as long as the same are in compliance with the following. Then it says if you have a tower which is modified or reconstructed to accommodate the co-location of an additional antenna, shall be of the same tower type. This is not a tower that needed to be modified or reconstructed. He took his tower as it was and he took this antenna, he didn't but the beeper company, and they hung it on the tower. Didn't have to do anything to the tower."

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Supervisor Cardinale: "Okay. I understand. I appreciate your pointing it out because it- I understand your point."

Joseph Nemeth: "Anyway, I am here because I want to have this be amicable. I don't want to jump back into this lawsuit. We could do that. I think under the circumstances that I've presented to you and other circumstances that I have, I believe firmly that we could win this case. But that's not the point. The point is to get it right with the town, to correct what I think is an injustice, and to have everybody go home reasonably happy."

So, as I was saying, you wanted me to come here and give testimony to the effect that no new tower shall be permitted unless we demonstrate to your reasonable satisfaction that no existing tower can accommodate his antenna. And I intend to do that.

I have witnesses, I have letters and so on. But first I want to tell you that I think that your application of that section to this case is inappropriate and erroneous. And the reason I do is because this is not a new tower.

This tower has been there for five years. It got there with a building permit. It had a C of O. Not only did it have a C of O, the C of O was there for 18 months before a subsequent administration in this town said something's wrong here and that was because they got anonymous complaints as Leroy Barnes says. So that's the point.

Now without prejudicing our legal position in the event that this doesn't work out and we have to, you know, go back into court, I want to give you the testimony that you asked for to the best of my ability. And- but I want to point out that his has to be to your reasonable satisfaction, not your absolute satisfaction. That's what your code says, reasonable.

And in doing that, we have to emphasize one or the other of two main points. Either that the cost for Mr. Rosen to hang his antenna on another tower is unreasonable or alternatively that there is no other suitable tower. That's what that section says.

So I have witnesses tonight to address that, both from the standpoint of how his ham operations would be impaired and also how the beeper operations couldn't operate, you know, someplace else and why the situation is unique.

First, I just want to address the cost issue. At Exhibit H, I have a calculation that shows that Mr. Rosen spent \$90,000 in 1999

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dollars, constructing this tower. If you deny him his special permit and he has to take the tower down, he's lost that investment. If on the other hand, you say Mr. Rosen find another site to put up your tower, it's going to cost him \$140,000 to relocate it. That's right there in Exhibit H.

Besides that, let's remember that he has leases with beeper companies that he entered into because of correspondence with the town where they said that he didn't have to go to the Zoning Board or Planning Board or whatever, but they could just go on. Under those leases, if his tower comes down, he gets sued. Okay? So the cost just on this basis alone is unreasonable and on this basis alone I think I would submit to you that we met our burden.

But we have more. We have a letter from the American Red Cross at Exhibit I. The American Red Cross says to the town and to us that in times of disaster, Rosen's tower is extremely helpful. That they use it for drills and they use it for simulated emergency tests.

We have a letter from the US Department of Commerce National Weather Service and it's important to point out that the letter that is at Exhibit J has now been superseded by a brand new letter which just came in tonight which is addressed to the Town Board in which they point out that they have this sky warn system and that Rosen's tower plays a key role. They're incorporating the Rosen antennas into a larger system that's going to allow communications to pass through Rosen's antennas and link eastern Long Island with Manhattan with Albany. They're also going to take a link into northern New Jersey. So this is important from the weather standpoint, not only from the Red Cross.

I missed something. Behind the Red Cross letter at Exhibit I, is an interesting article in Newsday that came out in November of 2001, and it talks about how the very important role that ham operators played in the 9/11 situation. And although I hesitate to say this, we're all aware from the news that it is very possible if not likely that there will be some terrorist issues in this country, maybe even this summer. God forbid. But if they should occur, it could be a tower like Mr. Rosen's that provides a key link to Oceanside or up the coast or wherever. His tower is capable of doing this.

We also have a letter at Exhibit K from the National Association for Amateur Radio. They support the tower. And they support this application and ask that the Board grant the special permit application to Mr. Rosen.

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Mr. Rosen incidentally has told me and I extend this offer on his behalf, that he will allow the town if the town is interested to put their emergency services on his tower. And he will do that for free of charge. All right. So I would like the record to reflect that."

Supervisor Cardinale: "Can I ask--"

Joseph Nemeth: "So- "

Supervisor Cardinale: "Can I ask you a question, backing you up a little bit. The permit that was initially obtained to- which resulted in the CO for the radio ham antenna, there was some testimony as to the application for this- the underlying building permit- okay for that that was issued, that this was 100 and some 40 feet tower- "

Joseph Nemeth: "One hundred and sixty."

Supervisor Cardinale: "One hundred and sixty foot tower that was very close to the property line. How did that- the building permit was issued for this without the ZBA?"

Joseph Nemeth: "The building permit was issued ostensibly on the basis that the tower was- had the benefit of the federal preemption for amateur radio. Okay? That's what Adam Grossman's letter says. Christopher Kent's affidavit points out that the discussion on excepting amateur towers of whatever height from the ordinance was ongoing starting even in May before Rosen's building permit was issued.

And this was a dialogue that was taking place between the Building Department and the then Town Board which resulted in the adoption of the amendment the day before the C of O came out which exempted amateur towers regardless of height, regardless of whether they were receive only or receive and transmit."

Supervisor Cardinale: "Yeah. But the application date- the application- here's what I don't understand. Obviously since the CO came out in '99, September, August- "

Joseph Nemeth: "August 18, 1999."

Supervisor Cardinale: "-- the application for the building permit was sometime earlier in June."

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Joseph Nemeth: "Right."

Supervisor Cardinale: "At that time, it was clear that the exemption from special permit, from special permit consideration, was limited to 50 foot towers, but there was never and is not even now, there doesn't exist an exemption from the side yard requirement for a structure. So how did this tower get built right off- a few feet off the line?"

Joseph Nemeth: "Well, a site plan was submitted and it's part of the original material, I have another copy of it, and it showed it, and it was approved, it was stamped approved and signed by the Building Department.

I don't know what the setback requirements were at the time. But let's remember that since that date, Rosen has been before the Zoning Board and he has a setback variance for this tower, a result of two hearings of hard work and he prevailed. Okay? So that argument is by the way at this point."

Supervisor Cardinale: "The- well, you see, I don't know the entire history of this piece."

Joseph Nemeth: "Rosen went to the Zoning Board- this is what I mentioned last time. As part of this process, as part of this settlement that I worked out with the town attorney's office which was go for your special permit, Mr. Rosen, and at the end of the day if you get it, you'll pay a fine and we'll case the litigation on all sides."

Supervisor Cardinale: "Except it was if you get it. But you- and you did succeed in getting the ZBA's cooperation."

Joseph Nemeth: "I did."

Supervisor Cardinale: "And now you're asking for the town's which you're making a special permit application."

Joseph Nemeth: "Right."

Supervisor Cardinale: "But I'm- and I understand your legal arguments and they're very well stated. But what I still don't understand is the fundamental problem here of a neighbor who came last time, the guy next door. Is he here now? Okay. Who said, and it impressed me because you know I've got neighbors, too. That all

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of a sudden he comes up here and 160 foot tower is less than five foot off- into the next property line. Less than five foot."

Joseph Nemeth: "That's not accurate but it is less than 100 feet from the property which was the requirement whatever, you know, going into- "

Supervisor Cardinale: "But he said it's right- I mean if he's right, I just don't understand how that could happen."

Joseph Nemeth: "He's not right. It's maybe 25, 30 feet."

Supervisor Cardinale: "Off of your line?"

Joseph Nemeth: "Off of the line. Right."

Supervisor Cardinale: "But it was- but that does not- that is within- it is a structure which is not accommodated for the side yard requirements in that district is my point. And how did that ever happen?"

Joseph Nemeth: "I don't know, and to be honest with you what the side yard requirements were then but the fact is we have the variance now and, you know, so- "

Supervisor Cardinale: "That may have been a mistake."

Joseph Nemeth: "But the other thing that that gentleman said, he also said that he had no notice of this and that's untrue."

Supervisor Cardinale: "I presume he got notice at the ZBA."

Joseph Nemeth: "He not only got notice of the ZBA, but there's an affidavit in that package here signed by my client and I remembered discussing this with my client and I couldn't think of it at the last meeting because too much was going on, but it's at Exhibit L, I think that's L, yes, Exhibit L.

My client met with him back of the time of the ZBA. The subject of the discussion was, because the Zoning Board was pointing Mr. Rosen in the direction of well, maybe this tower is going to fall and maybe you ought to talk to your neighbors and maybe you ought to see if they're willing to give you an easement over their property in an area where this tower could conceivably fall if it ever fell.

At the end of the day, we convinced the Board that the tower

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wasn't going to fall and so on and so forth and that was not necessary. But I tell you that to point out the nature of the meeting that was had with these gentlemen back at the ZBA.

So the point that I'm trying to make and the only point is that they came here rather blithely telling this Board that they had no prior notice until two weeks before or a week before that hearing. Entirely untrue."

Supervisor Cardinale: "What was the nature of the relief you got from the ZBA, sought and got?"

Joseph Nemeth: "We got a specific distance setback requirement which was what the code required at the time I went to the ZBA. Okay? This tower was admittedly back in 2002 or 2003, was too close to the property line as the code read at that time. So we got the relief to make it legal. The Zoning Board gave us that after going through a very exhaustive analysis of this."

Supervisor Cardinale: "So it was too close to the line when it was built?"

Joseph Nemeth: "We don't- I don't know the answer to that question and I'm not trying to be flip because your zoning code, you know, historically has changed."

Supervisor Cardinale: "Not in that district in that time."

Joseph Nemeth: "I don't know."

Supervisor Cardinale: "But the- in addition to that question, if it was- you sought relief, you got it. But in that section you were earlier citing me that indicated existing towers- "

Joseph Nemeth: "Yes."

Supervisor Cardinale: "-- was your tower legal at the time that you are claiming it was an existing tower?"

Joseph Nemeth: "Well, of course, it was legal."

Supervisor Cardinale: "In the sense that it was- "

Joseph Nemeth: "It was an amateur tower and the code permitted amateur towers of any height at the point that the C of O was revoked."

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Supervisor Cardinale: "Not if it was- not if it didn't have the ZBA relief it needed. That's my question. When did you get the ZBA relief?"

Joseph Nemeth: "Like I said. I don't know what the relief was- we have a site plan that was signed and it's part of the record, it was part of what I presented to you. I have a copy of it here. That was signed by the Building Department that indicated, you know, that the location was fine."

Supervisor Cardinale: "And on the other hand, the Building Department did apparently give you a building permit before they issued the CO, which they shouldn't of anyway. They made a mistake there because they should have sent you to the ZBA at that time. We certainly have a lot of mistakes in this application."

Joseph Nemeth: "This is not- this is not a 100% clear situation."

Supervisor Cardinale: "I understand."

Joseph Nemeth: "Which is why I'm here. Okay?"

Supervisor Cardinale: "Yeah."

Joseph Nemeth: "But in fairness, I mean it's so inequitable to pull the rug out from Mr. Rosen at this point. I'm trying to work with the town. Okay? This is- you're holding him to a standard that should be applicable to someone who is coming here for the first time who didn't put up a tower in reliance upon a building permit and a C of O that was issued by the town. And who would be subject to suit by the beeper companies if they lost their beepers."

Supervisor Cardinale: "Right. Except- I understand what you're saying except here's why I'm not that sympathetic honestly. Because your initial CO says- what does it say? It says radio tower ham operator."

Joseph Nemeth: "True."

Supervisor Cardinale: "So the- although I admit to certain aspects of this being unfortunate from the town's actions as well, what- when he made commercial deals, very significant, substantial as you point out commercial deals, he didn't have a CO. He had a CO for a ham operation."

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Joseph Nemeth: "Actually- don't mistake what I said. These deals are not that lucrative."

Supervisor Cardinale: "Well, I hope they are because we have lucrative deals."

Joseph Nemeth: "These commercial deals are not that lucrative. But what would be a travesty is if he gets sued, he is going to, and these beeper companies have to go on another tower which is not as good and which cost them 10 times more, okay- "

Supervisor Cardinale: "Yeah."

Joseph Nemeth: "-- then Mr. Rosen as you know as a lawyer, Mr. Rosen is going to be sued for the difference between what they're paying him and they have to pay."

Supervisor Cardinale: "Yeah. But before I gave- we- I know exactly what these guys give, about \$3,000 to \$4,000 a month because that's what we're getting."

Joseph Nemeth: "No."

Supervisor Cardinale: "That's what we're getting for the town."

Joseph Nemeth: "That's not true."

Supervisor Cardinale: "But the point- "

Joseph Nemeth: "We don't get that and we can prove that."

Supervisor Cardinale: "Well, you're really ought to not undersell yourself in that case. But for the same antennas, my point is when I was- if you're making a contract with AT&T or an entity of that sort, and you have a CO sitting here saying radio tower ham operator, that kind of dissipates your mantle of good faith in my honest opinion. You didn't have a commercial tower to rent space on."

Joseph Nemeth: "Well, not against the background of the fact that the commercial operator who wanted to go into the town at Mr. Rosen's suggestion said go talk to the town and they did and the town wrote back and said you don't have to do this. We have the letters. You had them last time."

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Supervisor Cardinale: "Okay."

Joseph Nemeth: "Shall I read them to you?"

Supervisor Cardinale: "Yeah, I'm not- Dawn wanted to say something. I really wanted to get to the facts of this so I understand. I understand the gist of what you're saying but Dawn wanted to comment on something."

Dawn Thomas: "I just-- I've collected my thoughts a little bit on this application and what you've been discussing tonight. Initially I'd just like to correct the characterization of our discussions as a settlement because in no way, shape or form has there ever been a settlement. The most that's ever been discussed with our office is our agreement to not request Supreme Court- a Supreme Court injunction requiring you to remove the existing tower while you pursue an application with the Town Board to try to legalize it. That is not a settlement.

That's just- we are holding off to see if you can legalize it. If you're entitled or able to legalize it then, of course, we wouldn't request that it be removed. But that's not- and we've never settled it and we've never- and I sort of- I'm sort of bothered by your insinuation that we've sort of said, well, this is all just a sort of a, you know, broad brush stroke and that you're going to get your approval. We're just going through the motions. That's never been the case--"

Joseph Nemeth: "That's not the insinuation."

Dawn Thomas: "Well, that was the characterization as I heard it and I just want to make sure that it's clear on the record that that's not what we've said or discussed or ever insinuated to you.

Initially, and I think we're all talking about a letter that a town attorney prior to my tenure in that seat issued regarding the preemption of our zoning code with regard to ham radios. That opinion was an erroneous opinion so whatever permits ran from that erroneous opinion were incorrectly issued and the revocation- so, I'm sure you're familiar with the case law that indicates that a town (inaudible) enforcing the law even though it's made an error at some point. So those permits were erroneously issued. You're aware of that.

And I can't remember if this happened or not, but did you ever

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appeal the revocation of the building permit?"

Joseph Nemeth: "It was appealed to the Zoning Board of Appeals and it was within that context that Leroy Barnes sent in his affidavit and Christopher Kent sent in his."

Dawn Thomas: "Right. Well, and regardless of what Mr. Barnes said- "

Joseph Nemeth: "Okay. And that- "

Dawn Thomas: "-- if you'd let me finish my comments. Mr. Barnes' affidavit was in support of the town's position which was that all the prior opinions- that the permit was erroneously issued in the first instance. So that's not motivating. And Mr. Kent's opinion that it was prospectively to be applied the new zoning- the new amendment to the Wireless Communications Act, is merely an opinion. It wasn't codified. So whatever Mr. Kent's opinion was, was simply that. It doesn't bear the weight of a local law which would have been adopted by the Town Board. And had the Town Board intended to make it retroactive, they would have done it. So I want to just make that clear for the record.

So that being the case, if the permit was illegally issued and that it was subsequently revoked, brings me to the point of making it clear from our standpoint that there was never a legal tower at that location under any set of facts.

Moving from that point forward, there was beeper attachments and commercial applications attached to the antenna which require permits from the town and puts you into a whole new category. It's no longer a ham application, it's now a commercial application."

Joseph Nemeth: "I don't agree with that."

Dawn Thomas: "Well, I know you don't agree with it but- "

Joseph Nemeth: "I don't see where you say that just because it's commercial, the addition of additional antenna on existing tower, it doesn't make any- "

Dawn Thomas: "It wasn't an existing legal tower."

Joseph Nemeth: "Existing means existing. It doesn't say legal."

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Dawn Thomas: "Oh. So you can build an illegal tower- let me just take your argument- "

Joseph Nemeth: "It's your code. It's not my code. It's the town's code. You've got to live with what you've got."

Dawn Thomas: "-- I'm just going to take your argument to its logical conclusion and you tell me if it makes sense. Anybody in the town of Riverhead can build an illegal tower and attach up to it later and say, well, it's existing. You didn't catch me. So I can do it. That's absurd. It really is absurd."

Joseph Nemeth: "That's not the context- "

Dawn Thomas: "That's what you just said. I just want to make that clear. So you can go ahead. That's the substance of my comments for now."

Joseph Nemeth: "I have those- I have those letters here that relate to the addition of beepers. There was a letter from Page Net (phonetic) to Sharon Klos November 3,1999 and then a letter back from Sharon Klos to that individual saying that she concurred with his understanding that the town of Riverhead would not require any zoning or permitting to install our equipment on the existing tower that was built for ham radio operator Rosen. Okay. You have those- "

Supervisor Cardinale: "Yes."

Joseph Nemeth: "-- in your prior booklet- "

Supervisor Cardinale: "Thank you."

Joseph Nemeth: "-- but I can give them to you again. But, anyway- "

Supervisor Cardinale: "We have them. Thank you."

Joseph Nemeth: "-- this is, you know, it's not a perfect situation but I think it is somewhat unique. I mean I've heard of building permits being issued erroneously and I've heard even of C of O's but to revoke a C of O at the time that the tower would have been conforming with your code and to revoke it 18 months afterwards when a person is going to be financially hurt is truly unique.

There's another aspect here. Mr. Rosen even with a hybrid tower ham and beeper is protected by the federal- limited federal preemption. The limited federal preemption says that it is incumbent

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upon the tower to reasonably accommodate Mr. Rosen's application which means that you have to treat this a little differently than you do a commercial tower. You have to be a little bit more sympathetic. There has to be a little more give and take. And I think that's particularly applicable here where this tower has been up for five years.

But anyway I do have two witnesses that I'd like to call, one of the ham side and one on the beeper side so that I can give the testimony that you said I should give, you know, treating this as a new tower and showing why it's unique and so on and so forth. That's the way we left off- "

Supervisor Cardinale: "And I think that that's necessary in view of the position stated by the town attorney that there was never- it was just certainly challengeable in court that there was never a legal tower at this site. But I don't see the relevance of the ham testimony. The relevance of the commercial testimony is that you have to establish that as pursuant to the statute which I do not have in front of me, that this particular site is critical, that it be at this site."

Joseph Nemeth: "Well, I'll tell you why it's critical to the ham. Unless the Town Board is prepared to say that if Rosen took his ham tower as it is and pulled those beepers off, he could still have his tower. Okay? If we're prepared to agree on that, then maybe I don't need to give the ham testimony. But if you're saying that I'm coming before you today and the town code says that you can't have a ham tower under the way it reads today unless it's under 50 feet, unless it's at a principal residence or a principal place of business, well, this is a 160 foot tower.

So I'm here for a special permit, you know, trying to prove myself to you, and to do that I don't see any difference as to why I shouldn't be justifying the existence of this location for ham and the fact that Mr. Rosen can't go on some commercial tower someplace else just as I am justifying his existence for these beepers and why these beepers can't be put someplace else."

Supervisor Cardinale: "A special permit under our code presently if I understand it correctly, would not be required for a ham unit."

Joseph Nemeth: "Actually it would. It would because, see, like I said. It was amended again."

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Supervisor Cardinale: "Oh, it was amended back?"

Joseph Nemeth: "No. It was amended not back but differently."

Supervisor Cardinale: "So it was 50 feet. Then it was- "

Joseph Nemeth: "It was 50 feet receive only. Then it was amateur towers are exempt regardless of height. Then it became more or less what it is today."

Supervisor Cardinale: "Which is?"

Joseph Nemeth: "Which is amateur towers less than 50 feet provided that they are at a principal place of business- "

Supervisor Cardinale: "Okay."

Joseph Nemeth: "-- and or a principal residence. So that's where it is today."

Supervisor Cardinale: "I understand. So if you were looking at a new tower, you would have to establish- which tells us folks why the town doesn't get what it should get done if we're so busy screwing around with this statute. Three times we're changing it and we got back to exactly where we were before. So it's pretty funny."

Joseph Nemeth: "No, I mean, just if you allow me a few minutes so we can just get everything on the record here, I have two individuals."

Supervisor Cardinale: "As quick as you can be. Thank you."

Joseph Nemeth: "Okay. Dr. Oshen. Dr. Oshen was here at the last hearing, you may recognize him. He is a professor of engineering science physics employed by the College of Staten Island, City University of New York. He is a specialist in radio frequencies and holder of an FCC radio telephone license and he's going to address briefly the uniqueness of this location and the importance of this tower for Rosen's ham antenna, why his antenna can't be someplace else, why this tower can't be less than 50 feet, that sort of thing."

Supervisor Cardinale: "Thank you."

Dr. Melvyn Oshen: "Ladies and gentlemen of the Board, good evening. I'm prepared to present some testimony, some information

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which, hopefully, will enlighten you on what the people we call ham operators are faced with, why they exist, and what they're trying to do. Okay?"

Dawn Thomas: "Let me just swear you in, sir."

Dr. Melvyn Oshen: "Pardon me?"

Dawn Thomas: "Will you be sworn?"

Dr. Melvyn Oshen: "Yes."

Dawn Thomas: "Raise your right hand. State your name for the record, please?"

Dr. Melvyn Oshen: "My name is Melvyn Oshen."

Dawn Thomas: "Can you spell that?"

Dr. Melvyn Oshen: "M-E-L-V-Y-N O-S-H-E-N."

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?"

Dr. Melvyn Oshen: "Yes. A question has come up pertaining to why Mr. Rosen simply doesn't use a previously existing tower to conduct his ham operation. I think you've got to understand first of all that hams are essentially hobbyists. The federal government saw to it in their wisdom that this was a good thing to organize because ham operators come in handy as a radio communication system in emergencies.

Now the best way to do this is to described how he operates. Now if you were to go over to the site, you would see Mr. Rosen's house and also this tower in his backyard. He has radio equipment in his house. From his house he has cables running over to the tower which connect to his antennas.

In order for his to operate he needs the cables running from the house to the tower because in his radio communication gear he has the ability to change frequencies and as he changes frequencies he changes automatically antennas on the tower. It's really not possible to take all this equipment elsewhere. For instance, mention was named of the Key Span tower who probably wouldn't want to have him anyway, for him to go there. Because it would mean that he has to go along and in order for him to function he has to be with his

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equipment, you know, hard wired to the tower. And that doesn't work out. It just can't be done. That's how hams operate.

The typical arrangement that you see is you are driving along and you see some house with a large array at the top of the house, that's a ham who is functioning in a limited amount of area. What Mr. Rosen has done is he has built a tower, taken his antennas to a higher level so as to be able to communicate over larger distances.

And what he has done is to formulate an entire ham net stretching over the northeast and Long Island including the north fork. Prior to this, the north fork was isolated in the system. This means that Mr. Rosen can get on the air and by using one of the repeaters on the tower transmit to a tower far away and that tower will then rebroadcast and so on so it's easy for him with this tower in place to get on the air and talk to somebody in trouble in Massachusetts or in New Jersey as the towers hand off the transmissions to each other.

So it's not possible for him to simply walk away from this tower and to function the same way he does now. It can't be done. So that's just my testimony for the reason why this tower is necessary right there. Okay?

Now if you have any questions concerning this whole idea?"

Supervisor Cardinale: "No, that's very clear. I thank you."

Dr. Melvyn Oshen: "Okay."

Joseph Nemeth: "Now I have a representative from Arch Wireless. Arch is one of the companies that has several of the beepers that are on Mr. Rosen's tower and Dan Hurley is here with us tonight and he can give some testimony as to why Arch needs to be on this tower."

Supervisor Cardinale: "Thank you."

Joseph Nemeth: "Dan, would you come forward?"

Dan Hurley: "My name is Dan Hurley. I'm a- "

Supervisor Cardinale: "She'll swear you in."

Dan Hurley: "Okay."

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

Dan Hurley: "Dan Hurley."

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

Dan Hurley: "H-U-R-L-E-Y."

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?"

Dan Hurley: "So help me God. We're currently located on Mr. Rosen's tower, Arch Wireless, successor in interest to Page Net who was the original leasee back in 1999. I was informed by our legal department that we were in total compliance, that there was no special permits required by the town and they said that they had affidavits to attest to such.

On April 28th of this year, I was contacted to look for alternate sites in the event that we would have to leave Mr. Rosen's tower. The only available tower that I found, site acquisitions is my specialty on the real estate end, is the Key Span tower which you are familiar with.

I contacted Key Span the beginning- May 5th. I contacted Key Span back on May 5th and I was using the name on the FCC registration, Mr. Frank Moid (phonetic). I made repeated calls to him and eventually made contact on May 11th. He explained to me that they needed a proposal in writing which I submitted via e-mail explaining exactly what we wanted to do.

What we have on Mr. Rosen's tower is two levels. We have two systems operating, a one-way system for alpha numeric paging and a two-way system for text messaging. This requires a certain amount of vertical separation, 10 feet or greater. So on Mr. Rosen's tower, we're occupying I believe 143 and 134, somewhere in that vicinity.

I included that in the proposal to Mr. Moid and he submitted that to a lady by the name of Li Chou (phonetic). Now, this went from the 11th to the 14th. I continued- I was told to contact Li Chou the following Thursday and I repeatedly called her and left messages on the 20th, 24th, 25th. On the 26th, she called me back and referred me to the real estate manager, Kathy Conesta (phonetic) with the head of real estate for Key Span as far as I know. I called her and left a message. I finally got in touch with her on the 27th and she

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informed me that the tower was built by Sprint back in '99, that the rent is yet to be determined, but that a proration of the rent would go to Sprint. So Key Span and Sprint would be getting the rent.

The-I've yet to determine whether there are two available levels available. I was also informed that there is limited ground space due to the fact that the compound cannot be expanded. The area around the compound has been sold and they can't expand.

Our transmitters would require either shelter or floor space in an existing shelter. To date, they haven't come back and given me any message as to whether there is space available.

The rental amounts- she did, however, let me know that the rental amounts would be comparable to the same rental amounts for a cell carrier. We are currently paying Mr. Rosen approximately \$2,500 a month for two levels. As you well know, cell carriers charge in excess of that, our charge in excess of that for one level. So we're looking at multiple, multiplying the costs involved.

At this point we have sites in what we call his tower Northville. We also have sites in Noyak, Southampton, Manorville, Port Jefferson, Selden, and Islip. That covers this area. If we lose this site, it will affect coverage for this entire area and it is crucial for us to maintain this site or a similar site.

I searched the area today and found no other comparable sites other than the Key Span site. I was fortunate enough to be there when one of their representatives was there and did, in fact, was able to view the compound and there is indeed very limited space. And if they do have other carriers that they've already made promises to, I am very doubtful to the fact that there may be space available for our transmitters."

Supervisor Cardinale: "Thank you. I appreciate your testimony. Okay. We have had a lengthy- several hour hearing on an earlier occasion and we're now into this hearing about an hour. I would like to take comment from the public, those of you who wish to testify.

I wanted Dawn to remind us and if she's found it I'll let her do that by reading it into the record. The Board has an extensive voluminous written record on this matter. We have extensive testimony. We have a hearing tonight for the purposes of ascertaining whether the application meets the criteria necessary to obtain the special permit which Dawn will read.

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And I would appreciate it if all comments are directed to only that criteria and not to tangential matters of which there are many in this because we've already that there have been many oddities and one thing I do agree with counsel for the applicant, this is- there are many uniqueness- unique aspects to this matter. So this is the criteria that I'd like people to address themselves to. And then I'll take the first comment."

Dawn Thomas: "Do you want me to go ahead and read it?"

Supervisor Cardinale: "Yes."

Dawn Thomas: "The Town Board shall consider the following factors in determining whether to issue a special use permit in addition to the standards- "

Supervisor Cardinale: "You've got to go right on top of it."

Dawn Thomas: "Okay. The Town Board shall consider the following factors in determining whether to issue a special use permit in addition to the standards for consideration for a special use permit application set forth in 108-3 of the town code.

A. The proposed- the height of the proposed tower.

B. The proximity of the tower to residential structures and residential district boundaries, the nature and existing- and/or proposed uses on adjacent or nearby properties, the site and/or topography, the surrounding tree coverage and foliage, the design of the tower with particular reference to the design characteristics that have the effect of reducing or limiting visual obtrusiveness, the proposed ingress and egress to the property, the availability of suitable existing towers, other structures or alternative technologies not requiring the use of new towers and/or structures.

The Board may waive or reduce the burden on the applicant if one or more of these criteria- if it concludes that the goals of this Article are better served thereby.

Then it goes on- 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 required- not requiring the construction of new towers or structures can accommodate the applicant's proposed antenna.

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An applicant shall submit any information requested by the Town Board related to the availability or suitability of existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any or all of the following.

And then it goes on about engineering, geographic area, the cost or contractual provisions are unreasonable, and that's about it."

Supervisor Cardinale: "All right. So that at any value, I hope it did, just to give a general idea of what we're interested in. Who has a comment? Is there any member of the public that wishes to comment further, I will take it. There is a comment. Yes, sir. Yeah, please do. If you can state your name and be sworn in, please."

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

Dawn Thomas: "Mr. Kohanim, 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?"

Mehrdad Kohanim: "I do. I was here about two months ago when you had the other hearing on this matter. As you know, I own the property immediately to the east of this property which has the tower on it.

The reason I'm speaking is since that hearing, I have determined that the tower is actually constructed 30 feet west of my property line.

As far as there was certain testimony before by Mr. Nemeth, the attorney for Mr. Rosen, and I take special exception to what Mr. Nemeth said. I also would really like to see that affidavit that Mr. Rosen gave with reference to a meeting that he had with me because I have never had any knowledge whatsoever about a Zoning Board of Appeals meeting or hearing concerning this tower. I have never been informed either by the town, either by Mr. Rosen himself.

I did have a meeting with Mr. Rosen I believe some time in 2003. He called me and he came to my office and he met me. He brought a piece of paper to me and he asked me to sign it and I declined to sign it. He also tried to pay me off and I told him that I don't get bought off. This is not an issue that's related to money for me.

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I also want to address another issue. The (inaudible) and stick measures and strategy used by counsel for Mr. Rosen, I believe is quite draconian based on the fact that this is an illegal tower. Mr. Rosen has had this tower up for five years and he has collected rents which we just heard they collect about \$30,000 a year just on the beepers.

And there was also testimony by Mister- by counsel for Mr. Rosen that he had- he spent \$90,000 on constructing this tower. Well, I submit to you, he's probably made more money in the past five years that he ever put in to construct an illegal tower.

He had no right to build this tower, he should not operate beepers out of it, he should not operate ham operator. He should not even be allowed to have a ham operator tower which is more than 160 feet tall.

The fact of the matter is there might have been mistakes made by the town which under the law of this state, this town can correct. Further and most important is that this application and this tower was built on lies and this town should not allow an individual to waltz into town and build whatever he wants and then try to legalize it. This is an application based on lies and if you really reach deep inside and investigate this matter, you will see that it's a pack of lies. That's all that it is.

The lies and the deceit has to stop. He has known that this tower has been illegal since at least the year 2000, so the issue that the tower has stayed up for five years, it's only in his own mind. He has kept it up. If he's going to be prejudiced by this town making him take this tower down, just like the town of Southold made him take his tower down in Southold, it's his problem. He should not benefit because he has built a tower through lies and deceit.

What we should do is to look at his original intent as to why he built this tower and I submit to you any reasonable person will agree that this tower was never built for ham operation. It was certainly and only built- this was basically a horse to (inaudible) and then operate and put tower- put antennas for wireless services, telephones and things like that.

This was a commercial enterprise from the beginning. He has been in this business for many years and that's what he did in Southold, that's what he did in this town.

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With respect to the testimony that the distance of this tower is going to protect the United States from terrorism, I think everybody knows the reaction to that argument, sir.

In ending, I really don't think Mr. Rosen is bigger than this board or the town of Riverhead or all the people who are in this room. And I certainly don't think that the town of Riverhead is any less strong, has any less resolve than the town of Southold. And I think this tower should be brought down. He should be made to bring it down and make the area what it used to be before he built that illegal tower. Thank you very much."

Supervisor Cardinale: "Thank you."

Joseph Nemeth: "Can my client respond to that absolutely slanderous and outrageous allegation?"

Supervisor Cardinale: "Your client can certainly testify at the hearing."

Martin Rosen: "It's my time."

Supervisor Cardinale: "You need to be sworn in, sir."

Martin Rosen: "Please. I do. Completely, more so than my adversary."

Dawn Thomas: "State your name, please."

Martin Rosen: "Martin Rosen."

Dawn Thomas: "Can you spell your last name?"

Martin Rosen: "R-O-S-E-N."

Dawn Thomas: "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?"

Martin Rosen: "I do. I understand, Mr. Cardinale, that I'm not allowed to address my adversaries. So with my back being to them and talking to the Board, I will address them.

First of all, my lawyer did a wonderful job explaining everything. There's one thing that came across wrong to the Board,

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that is cell phones pay \$2,000, \$3,000 a month. Beepers that I have pay \$400 a month. I have four antennas. It gets close to \$2,000. So don't be under the impression my adversaries that I am getting \$2,000 a month or as my adversary said, I made three-quarters of a million dollars last time he was up here.

He also stated that I pay \$5.00 to the FCC and I got a ham license. Let me tell you something, it was \$30.00. But it was also two and a half years of school and studying before I was able to apply for it. Let me tell you something. I'm not a liar, I'm not a cheat and quite to the contrary I never would have brought Mattituck up. Let me tell you. They did and I have tried my best since the last hearing to be able to meet with my neighbors at Maidstone and for whatever reason they saw fit not to meet with me to give me the benefit of the doubt to try and explain and clear the air.

See, I feel sorry for the people at Maidstone, they're under the misapprehension of everything, including me trying to bring cellular into this tower, which is not the case. But it was led by them to think that way.

The fact remains is in 1999, I was much younger and healthier. I owned a trucking business in Oceanside and I did seek out a piece of property in the town of Southold where one Ed Forrester, the Building Inspector, advised the Caldwell Banker Real Estate Agent where I might be able to put up a tower for my trucking business and we were led exactly to the piece of property that my adversary is talking about.

I went back to the Building Department and I asked him are you sure you're going to let me put a 90 foot tower up here in Mattituck between two houses? Well, Mr. Rosen, yes you are because that's no longer a residential property. It's commercial. You're allowed to have a trucking depot there.

I says, okay, fine. With that, I went to contract for that piece of property. And I hope you can all hear me good because I can't look at you, especially my two neighbors to the east. I went back two weeks later after signing a contract of sale to the Building Department. I submitted a building permit for a 90 foot trucking tower, not a ham tower, a trucking tower. It wasn't misleading anybody. Nobody knew I was a ham operator, but it was a trucking tower.

I went in to see Mr. Forrester. He said Mr. Rosen, I'm sorry, I can't accept your application. I was dumbfounded. Why not? We have

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an impending moratorium coming up in 60 days on all radio towers.

Now, I apologize to the Board and everybody else but it's going to take time but for once and for all I want everybody to know the truth, the whole truth, not that I'm a liar, what took place. Ed Forrester, the Building Inspector at Southold, said he can't accept it because there's an impending moratorium in 60 days. A rocket scientist I'm not, but I'm not a dummy. I says, an impending moratorium that's not here for 60 days, why can't you take it now? He says quite frankly, Mr. Rosen, I was told not to accept it.

Now what do you think I felt? I went back and spoke to my attorney, Charles Cuddy. Charles Cuddy's right here in Riverhead. He couldn't understand why. He spoke to Ed Forrester. And as luck would be, for one year we went back and forth. I never wanted to go through all these hearings and zoning and this and that and that and that. And you know something? A year and a half later, they say to me, you know, Mr. Cuddy's right. If you take off 30 feet of that old dilapidated house which was used for drugies, human feces, we're going to let you put your tower up.

So Mr. Rosen went and spent \$85,000 cleaning up a piece of garbage. Guess what? You know who owned this piece of property? A family by the name of Booker. Booker turned out to be seven different men and women scattered through all over the United States and Canada and guess who they hired? May he rest in peace, Judge Saxtein. Well, three months after Judge Saxtein servicing these people calls Charles Cuddy and says these people aren't paying me, Charlie. Guess who paid Booker's salary- Saxtein's? I picked it up. They had to send notices throughout this whole country which turned out to be an estate.

Meanwhile, we finally got the go ahead from the town of Southold to put this 90 foot tower up if I would spend \$85,000 to clean up the place. I did it. Yes, I did it. And I made a junk hole look relatively normal. I went back again, and guess what happened? Charles Cuddy and I went to the next hearing and they denied my application. First they sent me to this property, then they said, okay, after a year, Charlie Cuddy, you're right, and now I spent \$85,000 more and now they say no.

Now I ask you, I went ahead, walked out of that building heartbroken thinking of all the money I spent, and as I walk out they say to me- not me, the amateur community sitting behind me who I never knew was back there, this will not affect any and all amateur operators who are licensed by the Federal Communications Commission.

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No problem. I heard that, I says, you know, I don't really care what they call my antenna, a trucking antenna or a ham tower. They're both the same to me. I'm not doing anything legal- illegal. Okay.

I call Cuddy, I told him I'm a ham operator, he didn't know it. He tells me to go back to the town of Southold, people, my adversaries here, present them with a new application for a 90 foot ham tower. I do that to Ed Forrester. Everybody here, you should have seen the look on his face. He almost died. He says, Mr. Rosen, I have to discuss this with our town attorney."

Supervisor Cardinale: "Not that this isn't fascinating- "

Martin Rosen: "It is. Wait a minute."

Supervisor Cardinale: "But could we move along?"

Martin Rosen: "This town- excuse me."

Supervisor Cardinale: "Yeah.

Martin Rosen: "Mr. Supervisor Cardinale, I beg of you, you may hang me tonight. All my adversaries may but I'm going to have my word. Please. I beg you and I'm doing it in as nice a way as I can. For once and for all, I want Mattituck put to rest. He had a meeting- three meetings- "

Supervisor Cardinale: "It's not really relevant because we weren't going to raise it anyway. We're just considering an application in Riverhead."

Martin Rosen: "Yeah. Well, I've got news for you. I did not do anything wrong in Mattituck. Okay? The bottom line is they saw fit to give me that tower as a ham tower. Their loophole at the end of the day was after they made me spend \$85,000 for cleaning the place up, taking it off, another \$80,000 to put it up, then they come back to me- are you ready for this? See, well, this house has been vacant for more than two years. It has been vacant for 90 years. That means it lost its primary use. It's not a residential piece of property anymore.

Well, we all know that. You sent me here because I'm putting a commercial tower up. But you can't have a ham tower on a commercial piece of property. What next? Give me a break. Hence, we start the litigation with Charles Cuddy.

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Meanwhile, in 1999, I had a heart attack right after Leroy Barnes got through with me. You see why it's important I want the truth to come out? Not because of my two neighbors to the east. I care desperately about the people at Maidstone and I don't want them to think for one minute I did anything underhanded and it hurt me, hurt me deeply last month when that one gentleman at Maidstone got up here and said well, what did Mr. Rosen pull in Mattituck? Now you know. I begged you people to meet with me and you refused to meet with me.

My tower was there before your houses were even conceived in Freedman's (phonetic) head. And now you're suffering with Freedman. I know everything that's going on and I'm going to show you something else and this you can take to the bank. You see that scar, right there? That's my neighbors to the east and you can ask Grattan about it because- and I'm talking about Chief Grattan. Let me tell you why. Okay?

Your property- your property, your pristine piece of property that you have been out here four times in four years, you don't even take care of your pristine property. How did I get this? I chased people off his property one day dumping garbage, me, and because I confronted them, I got ran over. And if you don't believe it, you can go to headquarters and find out. That's your pristine piece of property. That's the kind of rotten neighbors you have. Okay.

I got the message though. I'm going to end it. But listen people, I want you to know something, the people at Maidstone. I'm not here to hurt you. I never lied to you and I'm not lying now. That tower I'm fighting for is for a ham tower with the beepers that are paying me \$400 a stick and there's four sticks, maybe five, I've lost track. But I do not make a half a million dollars a year or three quarters of a million."

Supervisor Cardinale: "Thank you. Okay."

Martin Rosen: "And a liar I'm not."

Supervisor Cardinale: "Thank you. Okay. If there is no further comment, I'm going to close this hearing at 9- a quarter of 9, 8:45, and the Board will deliberate and issue a determination on the special permit."

Public Hearing closed: 8:45 p.m.

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—

Supervisor Cardinale: "We have a series of resolutions on this evening, a few less as I announced earlier than we did when we started. But we want to take comment on the resolutions from anyone that has comment to make. How about- how about, yeah, you, Sal, why not Sal. We'll get right to the- hey, Sal, you don't have to address 469, 491 to 501 and 522."

Sal Mastropolo: "Well, I have some comments on them because there's inconsistencies on the footage between 469 and the whole batch. Are you aware of the inconsistencies?"

Supervisor Cardinale: "Inconsistencies on the footage, did you say?"

Sal Mastropolo: "Yeah. On the footages. The side yards, the back yards."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "You're aware that they don't match?"

Supervisor Cardinale: "Yeah. We were working on that when we received word from the Judge."

Sal Mastropolo: "Okay. CDA Resolution #9."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "There's no schedule A attached."

Supervisor Cardinale: "Okay. Let me just check it. See if we have it. What's it supposed to be?"

Sal Mastropolo: "Well, the resolution says- "

Supervisor Cardinale: "There's a notice of public hearing."

Sal Mastropolo: "-- Schedule A annexed hereto."

Supervisor Cardinale: "Resolution #9."

Sal Mastropolo: "CDA #9."

Supervisor Cardinale: "Oh, here it is. Yeah, the description of the property is not attached."

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Sal Mastropolo: "Right."

Supervisor Cardinale: "This is- this property is- we know the property. We have a survey, we have a description. It is the 1800 square foot piece of sidewalk."

Sal Mastropolo: "Yeah. But I think the notice of public hearing- "

Supervisor Cardinale: "Yeah. It has to have it with it."

Sal Mastropolo: "Okay. Right."

Supervisor Cardinale: "We will make sure it does and it should be on there so I appreciate your pointing it out."

Sal Mastropolo: "Okay. Resolution #453."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "I have a question. Is there a requirement to job post for seasonal workers or is there no requirement for job posting? Because there's no mention here whether this job was posted."

Supervisor Cardinale: "For seasonal workers, there is a posting requirement and there have been interviews. Is that correct?"

Councilman Bartunek: "Yes. We had half a dozen people that we interviewed for this."

Sal Mastropolo: "Well, usually in a resolution you say that the job was posted. And there's no mention in here that the job was posted."

Supervisor Cardinale: "Okay, then, we should- we'll add the position exists and has been posted. Because it has been. I'll make that change when we get to it in the first line, whereas, the position exists and has been posted."

Sal Mastropolo: "All right. I have a question on 469."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "I notice that Residence A-80 the minimum both

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side yards width is 65 and on Residence B-80 it's only 45. Was that on purpose or is that a mistake?"

Supervisor Cardinale: "That's a mistake."

Sal Mastropolo: "Okay."

Supervisor Cardinale: "They are supposed to be consistent and we were working through that because I was concerned about that, too. We told the Planning Board how to correct it but they didn't so we corrected it but we're not going to pass it today anyway."

Sal Mastropolo: "Okay. I think all the rest of my comments are the inconsistencies between the footage on the resolutions and the footage on 469."

Supervisor Cardinale: "Okay. And I will make sure when we get them on for- we may have an intervening meeting and passing them if we're successful and in any event, we'll be talking about it two weeks from now if we have not passed it by then."

Sal Mastropolo: "Okay. That's all the comments I have."

Supervisor Cardinale: "Thank you very much, Sal. Yes, Angela."

Angela DeVito: "Resolution 471. Is that temporary greenhouse on Herricks Lane or is it on Sound Avenue?"

Supervisor Cardinale: "It's on Herricks Lane."

Angela DeVito: "It's on Herricks. Okay. Because the paragraph down below refers to Sound Avenue."

Supervisor Cardinale: "Yes. Yeah, we- the Resolve clause you're talking about. We are- the Resolve clause indicates- "

Councilwoman Blass: "We have a few amendments to this particular resolution and that's one of them."

Angela DeVito: "Okay, a temporary greenhouse."

Supervisor Cardinale: "It will reflect that it's at Herricks Lane."

Angela DeVito: "Yes."

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Supervisor Cardinale: "It's only phase 1 and phase 2 of the site plan that's being approved."

Angela DeVito: "Okay. 475, the grant application, what specific program is going to be used for the- within the- basically dealing with juveniles in the Criminal Justice System? Is there a specific program in mind?"

Supervisor Cardinale: "Yes. I just signed that, in fact, this morning and asked to make sure that this resolution was on. This is for a juvenile program to avoid gang, gang formations. I don't know how much we can do with \$5,000 but whatever we can do, we're going to do."

Angela DeVito: "Okay. Resolution 488, the fees for the usage. How will those fees be applied? Will they go back into maintenance of the river front?"

Supervisor Cardinale: "What resolution is this?"

Angela DeVito: "488."

Supervisor Cardinale: "488?"

Angela DeVito: "Yeah. That's the town river front dock fees that will be collected. Do they go into like the town general fund and then when you do up the annual budget, they get used there or they will, for example, can they be dedicated to maintaining that area, offsetting any costs that are associated with this, with the river front area?"

Supervisor Cardinale: "That's a good question. I'll leave it to- have we addressed that yet, Barbara, Rose, who are both handling this area."

Councilwoman Sanders: "Right. I wouldn't imagine that this and, Jack, correct me because I know he's in the audience. I wouldn't imagine that these fees that we collect here would be handled any differently than any of our other parking permit, docking permit fees. The account that they currently go into is associated with the Recreation Department and I wouldn't imagine- it was not my intention, certainly that these would be for any other purpose and go to any other funds other than where they normally would go."

Angela DeVito: "Okay, so they- but they do go into a specific

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department dedicated fund."

Councilwoman Sanders: "Yes."

Angela DeVito: "Okay. The 489. First of all, I think it's great that we're expanding the locations and would support the application of those establishments that want to sell the annual and daily non-residential beach permits but I would suggest that perhaps they also be asked- there is also a daily permit that restaurant and hotel/motel owners can purchase which is a different cost than an individual permit, so that when they have guests they can give them to use in their cars and then they get them back. I believe it's called something like a transient parking permit- "

Supervisor Cardinale: "Yes."

Angela DeVito: "-- and I don't know if that has ever been enforced or encouraged to be utilized in the town but you may want to include this here also for these four locations to make those available, for those establishments. Because they've never- I've never seen them that I know of at least in the area where I live."

Supervisor Cardinale: "You're talking about the tourists basically."

Angela DeVito: "Yeah, the tourists."

Supervisor Cardinale: "The people who are going to stay at the motels and- "

Angela DeVito: "Yeah. You buy each one. Like if I owned a restaurant I would, for each permit I want I think it's \$75.00 bucks a pop."

Supervisor Cardinale: "Right."

Angela DeVito: "And then I just put it into those people who need permits to be on the streets or use the beaches."

490. There- on the specific property that's listed as 092-3-41 code 414, the Bayview Inn is listed as 414, its description is a hotel. It is also a restaurant and that's a change from the last- from the public hearing posting. It was hotel slash restaurant because there are rooms upstairs that can be rented for this property and then off to the side there is a small building that can also be utilized which would serve as a hotel/motel type arrangement but this

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doesn't specifically- and this would create a loophole. I don't want a loophole down here."

Supervisor Cardinale: "So you're suggesting that- "

Angela DeVito: "Got to put restaurant in there."

Supervisor Cardinale: "Okay. So that to conform it to the posting would read hotel/restaurant. Is that correct?"

Angela DeVito: "Yes."

Supervisor Cardinale: "All right. I'll make that change."

Angela DeVito: "And that's it. Thank you."

Supervisor Cardinale: "Thank you very much, Angela. Any other comment?"

Robert Kozakiewicz: "Good evening, Mr. Supervisor, Town Board members. Last time I waited until the end. This time I'm going to come up a little bit sooner. For the record, Robert F. Kozakiewicz, 431 Griffing Avenue, Riverhead.

I'm here on Resolution 524. In case you glance down, 524 is not one of your resolutions. It ends at 523. But I'm hoping and I'm here to plead my case. And I know that probably the first thing you're going to say is what do we have to do to get rid of this guy so he doesn't keep showing up at Town Board meeting after Town Board meeting. And the answer is give us the resolution we've been asking for.

We've been here before. We were told at a work session we would have a resolution. We relied upon that statement. We were told that we would have a resolution with an opinion issued from counsel and I want to thank the Supervisor for being very honest with me before the meeting in sharing with me the substance of that opinion and what that opinion stated.

And I agree with the opinion. The opinion stated first and foremost does the application comply with zoning and the answer was yes. No question it does. No question it meets the lot coverages; no question we meet the side yards; no question we meet the allowed uses.

For anybody who is questioning what I'm talking about, I'm

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talking about Hartill Contracting, Inc. We've been here; we've asked for the resolution. I have taken the liberty and fortunately I've been able to get a copy of the resolution that was prepared in house by town staff. I didn't take my own liberties with preparing my own resolution but I have a copy of that which I'm going to be prepared to hand up when I finish.

What other benefits are there to taking this up today? You don't have to pay for any further legal counsel opinions. And, Mr. Supervisor, you can appreciate that given what our discussion earlier. And I'm not going to go any further. That in and of itself can be a benefit that you don't have to go any further.

What is it that this Board is being asked to do? You're being asked to approve four units similar to what you did with North Fork Management- what this Board did back in December of 2003. We are asking to be treated similarly. We are the same zoning. We are asking for the same uses. We have demonstrated our compliance with the site plan and as indicated we did rely upon statements made to us by the Board and in particularly yourself, Mr. Supervisor, that we would have a vote.

We understand that the question is whether we complied with the site plan ordinance and just for the record as we discussed before tonight's meeting, you can condition the approval but in this case the conditions are set forth pretty clearly in the statute. They're found at 108-133 which is entitled coincidentally Conditions for Approval. The conditions that you can attach deal with physical compatibility, that's Subsection A, protection of residential areas, Subsection B, C, Parking, D, access and E, lights.

I understand that there's been some discussion with respect to the density of the question of how many units are allowed. And we've had a lot of discussion regarding that. It's not one of the criteria spelled out in 108-133. And even if it were, I would submit to you that under the zoning, the zoning that exists today, June 1st, we comply. We meet it. We're entitled to 80% lot coverage, we're not even close.

As I indicated, there's a lot of reasons why we would like you and hope that you will take this off the floor tonight, not the least which is to get rid of Bob Kozakiewicz, John Hartill, Marty Sendlewski, and Hartill Contracting, but we think it's the right thing to do. We believe it's the right thing to do based upon where we've been, the fact that we believe and submit- we've been in full compliance with the site plan ordinance, we went through the pre-

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application submission, that was done October 7, 2003.

November 10th we applied to the Board and submitted a full application. November 10th- November 12th, this was heard by the Architectural Review Board and received its full approval, and on November, we received a sewer availability letter. December 1st, we received a water availability letter. December 1st the plan was circulated and was filed with the Town Clerk's Office.

I'm not going to say anything more. I am going to take the liberty and hope that you do not have any objection to me handing up to the Clerk six copies of a proposed site plan."

Supervisor Cardinale: "Go right ahead. We have that proposal and that was what, as you know, simulated the discussion and the request for outside counsel to give us a memorandum of law on this which, as you know from our discussion before the meeting, was not adequate to the task and was not responsive to our request.

Unfortunately because the applicant's sister is it, is a member of the town attorney's office we have to rely upon outside counsel to get an opinion on this and also unfortunately this is a split Board on this issue so we need to have everybody- everybody discuss it to see where the three votes will lie.

And the issue really as I discussed, Bob, is the issue of whether considering those state law and those criteria you enunciated, whether considering those criteria and we can approve a site- and we can diminish density or condition any site plan approval on a reduced density, and I haven't gotten a straight answer yet.

What I have said and will commit to do publicly and what I did privately with you earlier this evening, is regardless of what our outside counsel's schedule and intelligence permits him to do, I will do it myself if I have to as an attorney and get an answer- get a determination of this Board by June 15th, which is our next meeting.

If-- it may well be that very resolution or it may be amended without substance, you know, to add language with an approval, but I don't know as I sit here what the vote of the Board is and that's in the affirmative. So if we're going to go affirmative, we'll probably use that one and maybe add some language. We're going to go to a disapproval, we'd have to have a prepared resolution from that counsel.

Either way, we will have a resolution passed, I will commit to

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that as I did privately, by next week. And I apologize to Mr. Hartill because I like things to move swiftly and this is not what happened here but it's a unique application. But we did, of course, give you relief from the moratorium- April 6th."

Robert Kozakiewicz: "I forgot to mention that, April 6th, we did, and again- "

Supervisor Cardinale: "So but I hope- "

Robert Kozakiewicz: "-- we're only halfway there or actually maybe just a quarter of the way there."

Supervisor Cardinale: "And I understand from your discussion this afternoon, just so the Board knows, we have to go up or down on this. We're not- I had offered a resolution on the density of three and that is not acceptable to the applicant and I appreciate that so we'll decide it on that basis."

Robert Kozakiewicz: "Appreciate your comments, Mr. Supervisor, and, again, I want to say that I appreciate, you know, your approaching me before tonight's meeting to share with me the opinion that you received from outside counsel."

This is a nice way to avoid any further legal costs and we would love it and I would ask you to bring it off the floor tonight and if there's anybody who wishes to do that, we would be most appreciative. We'd love to see the vote take place regardless of the outcome so we could finally put this matter to rest. But I understand your point."

Supervisor Cardinale: "Yeah. I'd love to see it voted on today, too, but I think that we'd probably get, let's see, one or two yeses and the rest abstentions tonight. But by the next- by the 15th of June, either way I'll vote and I think George has indicated he wants to vote as well."

Robert Kozakiewicz: "So I can put that down as my last adjournment, the final appearance?"

Supervisor Cardinale: "You can put it down has for sure. We will have a vote on the 15th. Because I'll do the research if they won't do it for me, which I'd hate to do because if I start playing lawyer up here, I'll never get anything done."

I would like to take any other comment on resolutions and if there isn't any, I'll pass or not the resolutions with my Board and

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then I'll take general comment."

Councilman Densieski: "Phil, would you mind a five minute recess before resolutions?"

Supervisor Cardinale: "Sure. I want to get a- do you want to do the CDA and then break? One of my Board members needs five minutes, and then we're going to come back and do the resolutions."

Meeting adjourned: 9:01 p.m.

Meeting reconvened: 9:02 p.m.

Supervisor Cardinale: "Okay, we need a five minute break and then we're going to do the resolutions and then we've going to take general comment."

Meeting adjourned: 9:02 p.m.

Meeting reconvened: 9:12 p.m.

Supervisor Cardinale: "Okay. We're going- we'd like to resume the meeting and take up the resolutions again so if you would."

Councilman Densieski: "Is your microphone working?"

Supervisor Cardinale: "Yeah, I have to actually eat this microphone to make it work. We're going to resume the meeting and go forward with the resolutions. We have Resolution 451, Barbara. We're going to move forward with. This is opening now, or resuming, the regular Town Board meeting."

Resolution #451

Barbara Grattan: "Resolution #451, Councilwoman Sanders."

Supervisor Cardinale: "Resolution #451, Rose."

Councilwoman Sanders: "Yes. Budget adjustment for ADA Adult Program. 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."

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Resolution #452

Councilwoman Blass: "Appoints homemaker to the Senior Citizen Center. 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 #453

Councilman Bartunek: "Appoints seasonal custodial worker in the Buildings and Grounds Department. So moved."

Councilwoman Blass: "And seconded."

Councilwoman Sanders: "Did you want to make the adjustment?"

Supervisor Cardinale: "Yes."

Councilman Bartunek: "Well, this has been posted. You want to say does exist and was posted."

Supervisor Cardinale: "After the first sentence, after the word exists, and has been posted will be deemed added and with that amendment George has offered it."

Councilwoman Blass: "I seconded."

Supervisor Cardinale: "Barbara seconded. Vote, please."

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

Resolution #454

Councilwoman Blass: "Appoints a student intern in the Engineering Department. So moved."

Councilman Bartunek: "And 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 #455

Councilman Desieski: "Approves continued support to the East End Transportation Council's Seeds Study. 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 #456

Councilwoman Sanders: "It's a CDBG Consortium 2004 budget adoption. 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 #457

Councilman Bartunek: "General fund budget adjustment. 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 #458

Councilman Densieski: "General fund budget adjustment. So moved."

Councilwoman Sanders: "And seconded."

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

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

Councilman Densieski: "I had a little problem with that-- wth the (inaudible) closet but I understand engineering requested it, so I'm going to vote yes."

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

Resolution #459

Councilwoman Sanders: "Promotes a provisional senior wastewater treatment plant operator 3A in the sewer department. So moved."

Councilwoman Blass: "And seconded."

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

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

Councilman Densieski: "Yeah. It's Timothy Allen. Good job. Yes."

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

Resolution #460

Councilwoman Blass: "This is a budget adjustment in connection with the Pulaski Street water tank repainting project. So moved."

Councilman Bartunek: "Were we going to try and readjust this?"

Supervisor Cardinale: "Right. This is a matter that was moved. It's not yet seconded. Because we had discussed this at the work session, I discussed it today again with Gary Pendzyk who's ill and not able to be here tonight. He suggested that we table it in order to get a better explanation because he couldn't give me a clear one of what this \$26,000 represents."

Councilwoman Blass: "I withdraw the motion, Mr. Supervisor. I was not aware of that."

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Supervisor Cardinale: "Yeah. So I appreciate that and if we could have a motion to table, we can take it up at the next meeting he told me."

Councilwoman Blass: "Motion to table Resolution #460."

Councilman Bartunek: "And I'll second that."

Supervisor Cardinale: "All right. Moved and seconded to table 460."

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

Resolution #461

Councilman Bartunek: "Ratifies authorization to publish advertisement for television surveillance cameras for EPCAL. 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 #462

Councilman Densieski: "Water well budget adoption. 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 #463

Councilwoman Sanders: "Sets 5% security bond of Elizabeth Strebel. So moved."

Councilman Densieski: "Second the motion."

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 #464

Councilman Densieski: "Approves temporary sign permit of the Christmas Corner Go! The Game Store. 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 #465

Councilman Bartunek: "This approves a temporary sign permit of Richmond Realty. So moved. I guess the issue was resolved?"

Supervisor Cardinale: "Yes. In regard to that, I did get a confirmation from the town Building Department that they discussed this and had gotten assurances that this Richmond Realty is a 100% owned and operated by the owner of this property and accordingly the size of the sign is appropriate.

So with that, I have Bartunek moving it and I need a second."

Councilwoman Blass: "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 #466

Councilwoman Blass: "This resolution authorizes the Supervisor to execute a contract with the New York State Affordable Housing Corporation (AHC) for funding to support the Town of Riverhead Home Improvement Program. So moved."

Councilwoman Sanders: "And 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 #467

Councilwoman Sanders: "Amends the site plan approval of Grumman Air Park Phase II for East End Aircraft L.I. Corp. 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 #468

Councilman Densieski: "Amends the site plan of the Suffolk County National Bank ATM. 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 #469, 491 through 501 and 522

Barbara Grattan: "Now 469 is going to be one that's tabled."

Supervisor Cardinale: "Right. I'd like to have someone move 469, 491 to 501 and 522 together to table."

Councilman Densieski: "Motion to table those resolutions."

Councilman Bartunek: "And seconded."

Supervisor Cardinale: "All right, moved and seconded to table those resolutions. Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. Those resolutions are tabled."

Supervisor Cardinale: "I should point out that we are ready,

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Denise, we are ready to pass this June 1 but we may have to delay a little while but we'll do it as soon as we can and I hope it will be in the next- within the next seven or eight days."

Resolution #470

Councilman Densieski: "Amends amended site plan of the Fleet Bank for handicap ramp. 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 #471

Councilman Bartunek: "Approves site plan of Helen and Emilie Powers temporary greenhouse. So moved. On Herricks Lane."

Councilwoman Blass: "I believe we have some amendments to this before I second it."

Supervisor Cardinale: "Yes. That is- there is an amendment to that. It is at the final paragraph. I have it in my hands. The resolution clause should read Resolved that Phase I and Phase II of the site plan dated February 9, 2004 as prepared by Young & Young, L.S. submitted by Helen and Emilie Powers for temporary greenhouse located at Herricks Lane, Jamesport be and is hereby approved by the Town Board subject to the following. And then there are the conditions that follow, the declaration of covenants and restrictions."

The reason for that is that there is a survey, I have seen it and I have it here. I don't know if the Board got to see it with all that excitement about the zoning statute, but that is the site plan area and we're approving Phase I and Phase II only because the previous Zoning Board of Appeals decision allowed lot coverage of no more than 52.1% and so Phase I and Phase II comply with that but Phase III would be over it and they're going to go back and seek whatever relief is necessary."

Councilwoman Blass: "I will second that motion with those amendments."

Supervisor Cardinale: "Ok. As amended can we have a vote?"

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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 #472

Councilwoman Blass: "This resolution authorizes the Town Clerk to publish and post notice of Scoping Hearing - Special Permit of Tanger Properties. So moved."

Councilwoman Sanders: "And seconded."

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

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

Councilwoman Blass: "Yes. Just a question. Are the draft scope of issues available for review? Okay?"

Supervisor Cardinale: "Yeah. The attached notice is the 6th of July is the hearing date. On or after June 7th- the draft scope of issues will be available June 7th at the Clerk's office."

Councilwoman Blass: "Thank you."

Supervisor Cardinale: "Okay. With that, we have to have a vote, right?"

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

Resolution #473

Councilwoman Sanders: "Declares lead agency and determines environmental significance of sale of Community Development Agency property. 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 #474

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Councilman Bartunek: "Extends site plan approval of Dynamic Radiator. So moved."

Councilwoman Sanders: "And seconded."

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

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

Resolution #475

Councilman Bartunek: "Ratifies submission of a grant application by the Chief of Police. 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 #476 through 487

Councilman Bartunek: "Could I suggest that we- "

Councilman Densieski: "Yes, you can."

Councilman Bartunek: "-- make a motion for approval or a vote on Resolutions #476 through 487, appointing of- "

Councilwoman Sanders: "Different lifeguards, levels."

Councilman Bartunek: "-- lifeguards, recreation personnel for the summer program. So moved."

Councilman Densieski: "Seconded."

Supervisor Cardinale: "Moved and seconded. That's 476 through 487 appointing personnel to our- lifeguards and other personnel to our recreational program. Vote, please."

The Vote: "Bartunek, yes."

Councilwoman Sanders: "Could we just suggest that the first one, however, be-- the heading be changed to indicate it is ratifying

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the appointment. Because it was made back in May and everything else could go."

Supervisor Cardinale: "Okay. With the amendment at 476 to read ratifies instead of appoints."

Councilwoman Blass: "Correct."

Barbara Grattan: "Okay."

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

Councilwoman Sanders: "I don't believe I voted, Barbara, but that was a yes."

Resolution #488

Supervisor Cardinale: "That was a yes from Rose, too."

Councilwoman Sanders: "Yes. I don't think I voted on that one."

Barbara Grattan: "Yeah, you did."

Councilwoman Sanders: "Sets the fees for usage of the town river front dock. So moved."

Supervisor Cardinale: "Moved, seconded please."

Councilwoman Blass: "And seconded."

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

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

Councilman Densieski: "This is a good idea. I just don't think it's a good idea yet. I don't think we're there yet as a tourist destination and we're trying to create a boaters destination. Although I do agree with the \$500 monthly fee, I think we might be jeopardizing potential boaters to come here as destination. I know other places like Stonington and stuff allow people to park a certain time without paying."

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I think we'd encourage businesses and tourist people to come here if we didn't charge them. There's not a waiting list of people looking to get in there and I have a feeling that the monies that we derive aren't going to cover the cost of what it's going to take for the personnel to monitor the situation. If you look down there, a lot of times there's no boats.

So I think this is a good idea. I just don't think it's a good idea yet. I'm going to vote no."

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

Supervisor Cardinale: "Yeah. We had debated this and I think that much of what Ed said (inaudible) otherwise needs to be balanced and I think this does that because we're considerably lower than the commercial but we are charging now for daily, \$25.00; weekly, \$150.00; and monthly, \$500.00 which is considerably less than the commercial. I think they charge 20 or 30 a foot."

Councilwoman Sanders: "I don't remember. I had those figures."

Supervisor Cardinale: "Yeah. They were three times or so higher for the daily. So I think this is good.

I also want to point out, don't get frightened off. You could park at our docks any time you want for free only you can't stay overnight in theory now. So we're trying to blend the views on the Board.

With that, I vote yes."

Barbara Grattan: "The resolution is adopted."

Resolution #489

Councilman Bartunek: "Ratifies authorization for the selling of annual and daily non-resident beach permits and resident and senior resident parking permits by Warren's Bait & Tackle, Fisherman's Deli, Duffy's Deli and Wading River Tackle Center, Inc. So moved."

Councilman Densieski: "Second the motion."

Councilwoman Sanders: "Discussion."

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Supervisor Cardinale: "Yes.

Councilwoman Sanders: "It is necessary that-- Duffy's Deli has two locations, one in Riverhead and one in Jamesport. Is it necessary to specify both locations or can we just be generally, and say Duffy's Deli?"

Supervisor Cardinale: "Is it both locations, Jill?"

Councilwoman Sanders: "Yes, it is."

Supervisor Cardinale: "Yeah. Why don't we just verify-- clarify. If it's going to be at both, it's Duffy's Deli in Route 58 Riverhead and Main Road, Jamesport."

Councilwoman Sanders: "Thank you."

Supervisor Cardinale: "With that amendment, George, you moved it?"

Councilman Bartunek: "Yes."

Supervisor Cardinale: "And Ed is going to- "

Councilman Densieski: "Second the motion."

Supervisor Cardinale: "Seconding. Vote, please."

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

Resolution #490

Councilman Densieski: "Adopts a local law to amend Chapter 101 entitled Vehicles & Traffic of the Riverhead Town Code, No Parking Fire Zones Lanes. So moved."

Councilwoman Sanders: "And seconded."

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

The Vote: "Bartunek."

Councilman Bartunek: "Yes. As amended by Angela DeVito's comment."

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Supervisor Cardinale: "That would be at hotel/restaurant."

Councilman Bartunek: "Hotel slash restaurant."

Supervisor Cardinale: "192-3-41."

Barbara Grattan: "Is that yes, George?"

Councilman Bartunek: "Yes."

The Vote (Cont'd.): "Sanders, yes; Blass, yes; Densieski."

Councilman Densieski: "I think our number one priority job is public safety and I think the entire Board takes it very serious. But I think we're at the point now where we're going overboard.

I'll give you an example. We enacted no parking districts in Phillips Street and Wilson Street and recently we just got a petition from the people on Wilson Street with every single person on the block that doesn't want the signs. I think we're going a little overboard.

I'll give you another example. We're trying to eliminate parking along the curb on the side of the building right here in town hall. Anybody who comes here knows there's not enough parking now and a few weeks ago, we had an emergency here. The fire department came with all the trucks and all the personnel and they got in just fine. I can understand if they wanted to eliminate parking along the building. But along the curb, the garbage truck gets in and out. The fire department got in here just fine a few weeks ago. I think we're going a little bit overboard.

I think this should be done one at a time, not 15 or 20 on a list. I think we just went too far. I'm going to vote no."

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

Supervisor Cardinale: "Okay. I'm going to go ahead and vote yes on this although I listened to what you just said and I'm sure there's some truth to that as well.

I think that now once we've named these and indicated that parking will be prohibited in those areas posted no parking fire; no parking standing our stopping, we now are going to be ascertained of the exact locations and the exact stripings and I'm going to depend

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on the good judgment of the people involved and if I hear otherwise I'm sure I will hear otherwise and somebody will tell me and we'll correct. So yes."

Barbara Grattan: "The resolution is adopted."

Resolution #502

Supervisor Cardinale: "490- what is it?"

Barbara Grattan: "502."

Supervisor Cardinale: "502 because you moved over 491 to 501 we've tabled. Yes. So we have to get there."

Councilwoman Blass: "This resolution approves the application of Martha Clara Vineyards LLC for a harvest festival taking place on October 9th between the hours of 1 and 5. 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 #503

Councilwoman Blass: "This resolution appoints members to the Riverhead Farmland Preservation Committee. 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 #504

Councilman Densieski: "Approves the application of the American Diabetes Association. It's a bicycle ride. So moved."

Councilman Bartunek: "And definitely seconded by myself. I will be participating in this and if anybody wants to contribute to my endeavor to push 60 miles I'll gladly take your money for the American Diabetes Association. So moved. Seconded."

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

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

Councilwoman Blass: "Yes. Good luck, George. I'm sure you'll make it."

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

Councilman Densieski: "Well George says he's going to be 60 but I don't think he looks a day over 59 and a half. Yes."

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

Supervisor Cardinale: "Yeah, I'm going to vote yes. I'd also add that if you pledge a dollar a mile and make a contribution to the Diabetes Association, even I known to be very cheap, will do that. It will help George and it will help everyone."

And one other comment. George left-- somebody did pledge it and they left it up here, Angela, I think. And they left it up here when we took the break earlier and he applauded all of us that when we returned despite the fact that we were all up here, the \$60.00 in cash was still on the table. So we establish-- we got by his honesty test."

Councilman Bartunek: "We don't need the ethics code now."

Supervisor Cardinale: "We decided that the ethics code is not-- we're going to pass it in July but it's not as-- it's not as immediately needed as we thought. The vote is yes."

Barbara Grattan: "The resolution is adopted."

Resolution #505

Councilman Bartunek: "Approves application of Church of the Harvest for a festival, let's see, this is for- "

Councilwoman Blass: "July 24th."

Councilman Bartunek: "-- Appreciation Day for Riverhead town organizations. 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."

Councilman Densieski: "Very nice people. Yes."

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

Resolution #506

Councilman Densieski: "Approves the application of Darkside Productions, Inc. for a haunted house. 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 #507

Councilwoman Blass: "This resolution approves the application of Martha Clara Vineyards for an Oktoberfest to be held between the hours of 1 and 5 p.m. on September 11th and September 12th. 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 #508, 509, 510, 511

Councilwoman Sanders: "I would like to move Resolutions 508, 509, 510, 511, all dealing with approving applications of Martha Clara Vineyards for different events. So moved."

Councilman Bartunek: "And seconded."

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

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

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yes; Cardinale, yes. The resolutions are adopted.

Resolution #512

Councilman Bartunek: "Approves the application for two fireworks permits for the Riverhead Racway July 3rd and August 28th. 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 #513

Councilwoman Sanders: "Amends resolution requesting Suffolk County Greenways Funding for land acquisition to be utilized and maintained for use as a active parkland. 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 #514

Councilwoman Blass: "Authorizes the Accounting Department to make a refund of Community Preservation Money erroneously paid. 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 #515 and 516

Councilman Densieski: "Authorizes the Accounting Department to make a refund of Community Preservation money erroneously paid. So

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moved."

Councilman Bartunek: "And seconded."

Councilwoman Blass: "And the next one, too."

Councilwoman Sanders: "Move both of them."

Councilman Bartunek: "And 516 also."

Councilman Densieski: "515 and 516. So moved."

Councilman Bartunek: "Seconded."

Supervisor Cardinale: "Moved and seconded for 515 and 516.
Vote, please."

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. The resolutions are adopted.

Resolution #517

Councilwoman Blass: "This resolution authorizes the Supervisor to execute an agreement with the Department of the Navy. 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 #518

Councilman Densieski: "Awards the bid for the annual diesel generator maintenance for the Riverhead Water District. #518 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.

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Resolution #519

Councilwoman Blass: "Awards a bid for calcium hypochlorite tablets. 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 #520

Councilman Bartunek: "Order calling for a lease agreement with Cellular Telephone Company d/b/a AT&T Wireless, 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 #521

Councilman Bartunek: "Rescinds resolution requesting the United States Environmental Protection Agency (USEPA) to abandon the proposed designation of dredge spoil disposal sites in Long Island Sound. So moved."

Councilwoman Blass: "And seconded."

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

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

Councilman Densieski: "Yes. This is a very big issue. I'm glad the Supervisor-- did you put this forward, Phil?"

Supervisor Cardinale: "Yes, I did."

Councilman Densieski: "This is a good initiative. It's amazing. You can't get a cable from Connecticut. It's not even an

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oil filled cable to get power to the people on Long Island, yet they're willing to give us their dredge spoils. I support this resolution. Yes."

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

Resolution #523

Barbara Grattan: "Resolution 523, bills."

Councilman Densieski: "Pay bills, so moved."

Supervisor Cardinale: "Second, please."

Councilwoman Sanders: "And seconded."

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

The Vote: "Bartunek, yes; Sanders, yes; Blass, yes; Densieski, yes; Cardinale, yes. Resolution to pay bills is adopted."

Supervisor Cardinale: "Okay. That concludes the resolutions before the town. Can we have any comment now that the individuals wish to make? I have two cards. One is from Kathy Berezny."

Kathy Berezny: "Hello. I'm Kathy Berezny from Riverhead. I'd just like to ask that everyone here in Riverhead to please exercise your democratic and constitutional right and vote on Tuesday, June 15th, at the high school gym from 6:00 a.m. to 9:00 p.m. Thank you."

Supervisor Cardinale: "Thank you, Kathy. Next comment card I have here is from Peter. Peter, could you come up?"

Peter Danowski: "Peter Danowski. Ed Hulse is in the room tonight. I was visited by Ralph Passintino (phonetic) as well, Wildwood Electric. These gentlemen were unaware that you were about to adopt legislation tonight that would have basically put their future plans on permanent hold and I really wanted to speak merely to put on record their request that you reconsider putting their land which is three separate parcels on Fresh Pond in the AOZ zone.

This is land that is not actively farmed. It is not vacant. It is woodland with a gully in it next to high tension wires, not surrounded by residential homes. And so if you are to continue to follow the path of placing them in an AOZ zone, then you will

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eliminate their ability to effectively put new buildings which they had planned putting on this property for commercial purposes.

Wildwood Elective themselves wanted to move their existing business on site into a new building and I just don't know why the town would have chosen to try to change the zoning on this particular parcel. I do know and I've heard the comment before that not everything has to be in the AOZ zone has to be active agriculture but clearly in this particular case, you're not preserving farmland. All you're doing is taking away someone's future use of the property and they clearly purchased this property knowing the zoning allowed them to put their proposed businesses on this location and now you're eliminating that.

Ed was remarking that-- his general counsel is Allen Smith, and at the time of the original draft documents on the master plan, Mr. Hulse was led to believe that, in fact, this was going to remain with the existing zoning. Certainly it wasn't going to be put into a residential zone.

And I do think that one of the problems you face when you don't send personal mailings out to each landowner saying that their land is about to be changed as to zoning category and instead you rely upon newspaper advertisements and public notices which probably the majority of homeowners don't read and you do your best with the general notice, but it certainly doesn't reach a lot of people many times until it's too late.

So I would ask you on the record tonight before you move and I know Phil you made a rather optimistic comment about seven or eight days, if it's within seven or eight days that you do feel you have the right to come back with the proposed resolutions, I would ask you to amend the zoning map to exclude the Hulse, Passintino parcels from the AOZ zone."

Supervisor Cardinale: "Thank you. We're aware of that particular situation. In fact, we did- they did some work on it today, the Planning Board in reviewing it. And we encourage everyone to look at the proposed maps which are available at town hall and ascertain what, if any, impact the new residential zoning will have on your property. Because we'll- everyone that has a comment to make is going to be heard; we're going to consider it; we're going to ask for our Planning Department's professional advice. We're going to make like we don't know who own's the property and try to make a good planning decision."

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Peter Danowski: "I appreciate that comment and I think some people, I think, and I've heard this before, when they hear about the residential components about to be adopted they say they don't have to worry, they're in the industrial zone."

Supervisor Cardinale: "We're aware of that. You're absolutely right on that. I was concerned and still am about that. One thing, since we're going to be passing the commercial zone and the industrial zone by September 30th, if there is an error in regard to a piece that is placed in the residential which shouldn't have been, we will correct it. If we haven't corrected it before we pass the residential, we'll correct it at that time. We'll have another look.

But you are right, because we've been talking residential. And there are certain people that are in industrial or commercial that will become residential and, therefore, they may be thinking we're only doing residential but- "

Peter Danowski: "Absolutely."

Supervisor Cardinale: "-- but they're presently commercial/industrial and I'm very aware of that and I'm trying to figure out what's- I think mail would have been a great idea actually but short of that, we're going to try to accommodate their interests fairly."

Peter Danowski: "Thank you."

Supervisor Cardinale: "A comment by Molly Roach. I have a card."

Molly Roach: "Molly Roach from Riverhead. I wanted to tell the Board that the taxes are terrible. And I guess you knew that. But nevertheless I wanted to ask the Board's support of the revote on the school budget, on the Riverhead school budget on June 15th, not just for the kids but for the town as a whole.

I ask in particular because I was around and I had children in school in '78, '79 when we had austerity and it was bleak for the whole town. It's not really just a school issue. A large part of that big budget is due to the growth in population in the school, a sudden growth where potato fields turn into 600 kids in no time at all.

Another part is really damage control from last year's budget because last year's school budget eliminated 29 rec service people,

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that's teachers and aides who work with kids. At the same time, it rose 13%. This year, you know, we had to put those people back because our kids dropped- the learning dropped, and people had to come back. And we still got that kind of a raise on the original budget.

Now it's been revamped. I think it's been revamped very carefully and I think the good news is that the school board is getting just more and more prudent and more and more, you know, really examining expenses particularly in the last four months.

The school board has become open and really willing to, you know, take the public's comments and the public guidance.

Another wonderful good news is that the school board and the town board are working closer together and maybe this business of population and sudden population growth is something that the school board and the town board can work out.

It certainly was nice that the Supervisor went to Albany with the school, that was nice. But this coming year that the budget represents the reduced budget, I just ask that the town board support- I certainly ask the town board members to vote for the reduced budget and to make all their wives and children do the same. And I think it's going to be a much better year.

There's a small change on the school board and a new member of the school board which will begin in July is a private business person who pays for her own medical and is a very prudent person. So, please work for us on that for the town as a whole. Thank you very much."

Supervisor Cardinale: "Thank you, Molly, for your comments. Good work. Any other- yes, Sal."

Sal Mastropolo: "My opinion is in the paper as to the budget. Three comments. One is off premises signs. They pop up on all the corners. Tonight on the way to the meeting a new sign went up on the corner of Fresh Pond and Sound Avenue advertising the Marketplace at the other end of Fresh Pond."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "And in the spot where it went up is very dangerous, okay, because there's a little bit of arise there and as you come up on that corner if you see that sign and you wanted to go to the Marketplace or something, you may have a tendency to jam on

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your brakes to make the turn. Okay? So I think the town should crack down on some of the off premises signs. They seem to be popping up on a lot of corners pointing to businesses that are not on that site but down the road."

Supervisor Cardinale: "Are all off premises signs illegal? So is this- "

Sal Mastropolo: "This is a folding sign. It wasn't put in the ground."

Supervisor Cardinale: "Right."

Sal Mastropolo: "One of those like teepee signs."

Supervisor Cardinale: "Yeah, so that's- "

Sal Mastropolo: "Now this corner is famous for the signs that point to the apple orchard and such that are down the road."

Supervisor Cardinale: "I see."

Sal Mastropolo: "But this one went up today for the first time."

Supervisor Cardinale: "Okay."

Sal Mastropolo: "You talked about Resolution 488 and I put this in an e-mail to info at Riverhead LI- "

Supervisor Cardinale: "Yes."

Sal Mastropolo: "-- suggesting that the docking permits be sold by the stores on the river front."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "Okay. And you may give them a, you know, a percentage of the revenue that they bring in but it would give people an added incentive to go into those stores and you could post signs, you know, that docking permits can be purchased in the stores."

Supervisor Cardinale: "Yeah. That's actually a good idea. We're trying to get a line by having an individual check each afternoon. I think Ed may be close to the truth when he says there's not going to be a real rush on most of the weekends. If there's one

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or two boats that stay over it's probably a lot. But once we get some boats staying there, yeah, I think it's a good idea."

Sal Mastropolo: "I mean the police are going to- are the ones that are going to have to enforce the parking sticker because during the day you're not going to be looking for the sticker. It's after 5:00- "

Supervisor Cardinale: "That's correct."

Sal Mastropolo: "-- people staying overnight."

Supervisor Cardinale: "Right."

Sal Mastropolo: "So the only reason you would put a temporary employee there is to sell the stickers."

Supervisor Cardinale: "Right."

Sal Mastropolo: "Okay? The other thing that I put in an e-mail which I've since found out since I sent the first e-mail, okay, is that the property to the north of the police station is owned by the town of Riverhead."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "Well, how come we're not looking at that piece of property, okay, for the new town hall, or better yet put the new town hall where the parking lot is now between the town hall and Main Street and take that piece of property and make that parking, rather than trying to stick a building between the two buildings or look at purchasing property elsewhere to put up a town hall?"

Supervisor Cardinale: "Well, the- we are looking at that. We anticipate using that sooner than later probably for parking because we know we're going to need it and I think the idea of connecting the buildings rather awkwardly as you point out is because then we'd have only one security issue. If we have several buildings, we are going to have to secure each of them. So that's really the motivating- "

Sal Mastropolo: "Let me ask you a question. Today I came in during the day."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "And I walked up to the side entrance."

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Supervisor Cardinale: "Yeah."

Sal Mastropolo: "And saw a sign there that says please use the front entrance."

Supervisor Cardinale: "Right."

Sal Mastropolo: "Right. It was locked. Good security measure. So I turned around and I walked to the front entrance and I proceeded to walk right into the front door."

Supervisor Cardinale: "Right."

Sal Mastropolo: "Nobody asked me where I was going or who I was going to see."

Supervisor Cardinale: "Right."

Sal Mastropolo: "They didn't even look up. So what kind of security is that?"

Supervisor Cardinale: "There is none."

Sal Mastropolo: "Right."

Supervisor Cardinale: "In fact, the back door which is supposed to be secured is often on warm days open but hope springs eternal and the thought is that once the new facility is established between this building, the new building, and the police building, there will be security at the front entrance and that will be the only security required."

Sal Mastropolo: "Now you mentioned parking. Why is the curb along Howell Avenue painted yellow? Why don't we have curb parking over there?"

Supervisor Cardinale: "In front of the- "

Sal Mastropolo: "Yeah. This whole section of street from Main Street down is all yellow."

Supervisor Cardinale: "How far down?"

Sal Mastropolo: "At least to the driveway into the parking lot by the police station."

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Supervisor Cardinale: "That's a good question. Because I know they park on that curb when the court is in session because they don't have enough parking in the parking lot."

Sal Mastropolo: "Well, it's all painted yellow which means it's illegal parking. Right?"

Supervisor Cardinale: "Is that recent?"

Sal Mastropolo: "Tonight, when I came in that curb was yellow."

Supervisor Cardinale: "The Fire Marshal- I'll-

Councilman Densieski: "It's a safety issue."

Supervisor Cardinale: "Someone in- I don't recall authorizing that so maybe somebody just got a can of yellow paint. I'll check into it. Has it been that way? Before I got here, I hope. Okay."

Sal Mastropolo: "I mean I would rather use that piece of property to consider putting up the building and turn the curb into curb parking- "

Supervisor Cardinale: "Yeah."

Sal Mastropolo: "Than use that piece of property just for parking."

Supervisor Cardinale: "Does anyone know why that it is precluded to park on that- what does a yellow line mean?"

Councilman Densieski: "No parking."

Supervisor Cardinale: "What does a yellow line mean? All right, I'll look into that, I promise. I park there anyway so I must be illegal. Oh, you don't have enough in width to have parking on both sides? I got it. They alternate. Yes, Marty."

Marty Sendlewski: "Good evening, Martin Sendlewski. I just wanted to provide some information to the Board. I'm not here to rehash things that are past but going back to the issue that we had talked about along the river front."

Supervisor Cardinale: "Yes."

Marty Sendlewski: "There are some other issues that are going

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to come up there with the bike path and a few other projects. So with that being said, I did want to provide one bit of information.

Prior to the hearing, there were a couple good editorials in the paper, one prior to the resolution which said something like very simply stated or something very simple encouraging, you know, trying something that was simple and can be- "

Supervisor Cardinale: "Right."

Marty Sendlewski: "-- rectified real easily. And then one afterwards I guess sort of disappointed that it wasn't tried."

Supervisor Cardinale: "Right."

Marty Sendlewski: "Ironically after that event, in order to get prepared for the mural festival which was held this past Sunday--"

Supervisor Cardinale: "Yes."

Marty Sendlewski: "Last Tuesday, the river front roadway was closed completely."

Supervisor Cardinale: "I saw that, yeah."

Marty Sendlewski: "You know, it was not open to traffic at all. In that happened, what I did was I took the opportunity, I made a lot, I'll give you a copy, will keep a copy on record with the Parking District Committee, of every hour I made trips from McDermott to the circle and then back again. And the average time from McDermott to the circle was 4 minutes and 15 seconds and the average time from the circle to McDermott was an hour and 20- I mean a minute and 20 seconds.

So also one of the trips in the middle of the day, I set up a tripod and I actually set up a video camera and I actually drove for about a half an hour all over Main Street. Ironically not only was it not a problem, but in the future I know that with the bike path there's talk about possibly a light on Peconic Avenue. With the traffic coming from the parking lot on Peconic Avenue, there was virtually nobody waiting to make a left turn to go south on Peconic.

The traffic on Peconic, people weren't nosing in and cutting the line and the traffic on Peconic appeared to actually move smoother with that road closed than it does with it open.

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I made a copy of this, I have a copy of the tape that we'll keep on file. In the future, maybe in a few years or with some of the other projects if there's any discussion about the overall, you know, situation down there, I think it's important. We did have an opportunity to sort of do a test so I took advantage of it."

Supervisor Cardinale: "Yes. I remember that day. I'd like to see that data."

Marty Sendlewski: "Actually, you're on the film. When I was heading westbound, you were heading eastbound."

Supervisor Cardinale: "Yeah. I know, I was down there. I was- and I was watching it myself. I- one of the reasons my vote- that I abstained, was I believe that it is a good idea in many ways and that it could be supported under certain circumstances and I'd like to see the data."

Marty Sendlewski: "Just for the record, I'll leave that with- I don't know if you want a copy now or if I, you know, drop it off at the Town Clerk's Office. Okay."

Supervisor Cardinale: "All right. Good. Thank you."

Marty Sendlewski: "Thank you."

Supervisor Cardinale: "If there is any other comments- "

Ray Dickoff: "Hi. Ray Dickoff, Aquebogue. Mr. Supervisor, last meeting at the senior center, you mentioned about buying the Golding (phonetic) property for parking."

Supervisor Cardinale: "Possibly, yes."

Ray Dickoff: "I heard, well, today they said the deal was pretty much sealed up, you were agreeing on a price."

Supervisor Cardinale: "Well, it's still in negotiation. They have indicated a price that they would take."

Ray Dickoff: "And is the town in agreement on that at this time or are you still negotiating?"

Supervisor Cardinale: "I think it's a fair price. We're going to discuss it at the work session on Thursday more fully but we- it came up in passing last Thursday."

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Ray Dickoff: "Is this price close to \$200,000 more than the appraised value that the library got?"

Supervisor Cardinale: "No. It isn't."

Ray Dickoff: "It's not."

Supervisor Cardinale: "In fact, Ray, it's exactly- as I understand it, it's well, it's exactly \$4,000 less than the appraisal."

Ray Dickoff: "Okay. Then I might have the wrong information then."

Supervisor Cardinale: "I'll mention- "

Ray Dickoff: "Is the town exempt from any kind of a site plan and will this go to public hearing in any way?"

Supervisor Cardinale: "If I had my planning and building people here which unfortunately I don't, I can tell you. Do you know, Barbara? If we buy parking- that area for parking and we then pave it or do what we need to do to get it ready for the courts, incidentally the courts are coming, that's the good news.

Do we have to go through site plan? But there will be a public hearing for the expense- not perhaps for the site plan but we do have a public hearing for the expenditure of money because we want to make sure we're getting a good deal."

Ray Dickoff: "Okay. Because there was a lot with the Hartill site about parking and having him, you know, cut his yield and park in the back of the building."

Supervisor Cardinale: "Yeah."

Ray Dickoff: "Now, right next to him and right across the street from me, you're going to clear the entire property and provide 140 parking spaces."

Supervisor Cardinale: "Yeah."

Ray Dickoff: "So we're very concerned what it's going to look like."

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Supervisor Cardinale: "Okay, I understand."

Ray Dickoff: "And the Board didn't want to see any cars parked over there, they didn't want to see four cars. Now we're going to see 140."

Supervisor Cardinale: "Well, yeah, but it's- but this is, of course, next to the tracks and it's across the street from the court's present parking and that's why it's attractive because it's a short walk from the present area that we've condemned.

But, yes, there will be- there will be a hearing as to the price, to make sure we're getting a proper price, I'm sure. And we're going to make it look as attractive as possible.

We're going to be going forward on the- the courts are beginning construction. They've actually signed incidentally I think I mentioned this to the Board. After we had a work session with Mr. Levy's representative Deputy and Charlie Bartha of the Department of Public Works last Thursday, I did get the facts of the signed contracts going out to the contractors.

They wanted surface parking and are going to get it at the site that we condemned. So you'll probably get a pretty good sense of what, you know, what kind of job we'll do when you see that in the next six to eight months. And then we would anticipate doing a similar job if we go forward with the Golding's site. We have to provide 600 parking spaces and that would provide a quarter of it."

Ray Dickoff: "And those cars will come out on both Osborne and Lincoln or will they just come out on Lincoln?"

Supervisor Cardinale: "I would expect that they would come- well, doesn't that front right on- "

Ray Dickoff: "It fronts Lincoln and Osborne."

Councilman Densieski: "And Swezey, right? Doesn't it go all the way through?"

Ray Dickoff: "No, he doesn't go to Swezey."

Supervisor Cardinale: "You know, we haven't gotten that far. We can certainly use the guidance of the people in the neighborhood and the engineers on that. I would think the biggest issue- the biggest thing would be coming off of Osborne. If you want to come

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off Osborne, maybe exclusively."

Ray Dickoff: "And then you would leave growth up along Lincoln and residential."

Supervisor Cardinale: "Yeah. That would be my initial thought but we haven't thought through that and that's certainly subject to discussion. We want the neighborhood to be not negatively impacted if we go that route."

Ray Dickoff: "Okay, thank you."

Supervisor Cardinale: "Thank you very much."

Meeting adjourned: 10:00 p.m.