

Minutes of the Community Development Agency held by the Town Board of the Town of Riverhead at Town Hall, Howell Avenue, Riverhead, New York on May 1, 2018, 2:00 p.m.

PRESENT:

Laura Jens Smith	Chairwoman
James Wooten	Member
Jodi Giglio	Member
Timothy Hubbard	Member
Catherine Kent	Member

ALSO PRESENT:

Diane Wilhelm	Town Clerk
Robert Kozakiewicz	Town Attorney

Resolution #6

Member Giglio: “Ratifies “Motion” to extend the Time for Q&E Comment Period for CAT, Extends Public Comment Period and Closes the Q&E Hearing of CAT, so moved.”

Member Hubbard: “And I second it.”

Chairwoman Jens Smith: “At the pleasure of the Board can we allow the public to come up and comment before we have a vote? Is there anybody who wants to come up and address the Board on this?”

John McAuliff: “Good afternoon, John McAuliff from Riverhead and a member of the Coalition against EPCAL Housing. I want to make a couple of quick comments about the responses by, that came in just on Friday and just were posted I guess this morning and they’re very quick.

One is, it seems that within the responses if they don’t like a question they ignore it, don’t answer it and I site two examples. The Board asked list current and prior debt involving monetary defaults, bankruptcies or foreclosures.”

Chairwoman Jens Smith: “John, I’m just going to hold you for a second. This is just for comment on the Resolution 6 which is Ratifies motion to extend the time for the Q&E comment period for CAT and extends the public comment period and closes the Q&E hearing of CAT. The resolve is that the public comment period for the Q&E hearing is extended only until May 4th and that the Q&E hearing for CAT is deemed closed as of May 4th so we’re taking comments on that and at the end of the CDA meeting.”

John McAuliff: “Ok, I’m sorry. Just let me say then in response to that is the question for us is whether by then the Ethics Board will have ruled on the complaint about recusal because we think that is an important time factor that ought to be (inaudible) as to when the vote actually takes place.”

Angela DeVito: “Good afternoon, Angela DeVito, South Jamesport. The thing about closing it on May 4th, as John had just pointed out not all the questions have been answered. If we don’t receive answers to those questions will it still go ahead and be closed on May 4th because that’s still a piece of the public record that is not there for us to be able to comment on?”

Chairwoman Jens Smith: “Once the hearing, the public comment, there will no longer, according to this if it is accepted than as of May 4th there will be no further public comment accepted and there will be no further questioning back and forth with the applicant. The hearing will be closed, the record will be closed and then they will just move forward with a decision.”

Angela DeVito: “I would ask that that be held, be a little bit more fluid because if you have not gotten a complete response to all of the questions back from the applicant, it stills remains an incomplete public record so therefore as part of the public although we have been trying to meet the deadlines for submitting and asking questions and such, May 4th cuts it off for us. Where we don’t have that complete record in order to be reasonable and responsible with our comments, thank you.”

Chairwoman Jens Smith: “Thank you. Alright then, can I have?”

Member Wooten: “Call for the vote?”

Chairwoman Jens Smith: “I’ll ask for a discussion. This resolution, the way it is written it ratifies a motion to extend the time period. The Board made a move by a motion at the last meeting that we received advise from our attorney and then we voted on the resolution so the way this is written it is saying that that resolution, that motion was not done properly and according to our attorney it was done properly so this I do not believe is written appropriately to move this resolution forward so I would ask that this resolution be tabled until we have it written correctly.”

Member Giglio: “What is incorrect about it?”

Chairwoman Jens Smith: Bob, would you like to address?

Member Wooten: “You can’t, first off you have the first and second on an active motion and then make a motion to table it.”

Chairwoman Jens Smith: “Well we’re having a discussion.”

Member Wooten: “Ok, as long as you don’t make a motion.”

Robert Kozakiewicz: “I would suggest you go into Executive Session. I was asked to comment at the last meeting as to whether a motion would be sufficient. As far as legalities and whether there is deficiencies just let me say that the Q&E hearing, which was the subject of that motion, in my mind was a hearing so that like any hearing that’s held before the ZBA, Planning Board, Town Board, when a hearing is finalized it’s not uncommon or not contrary to our practice to have a motion to keep the meeting open and set it for a separate date alternatively keep the

meeting open, hearing open or have a motion to close the public hearing. We don't generally notice CDA meetings. We do notice Q&E meetings but the Town Board has a procedure every year to set the Town Board meeting dates. So the CDA meetings are not separately noticed however the resolutions are made part of the packet in order to give the public an opportunity to be heard through open meetings as well. So, to that extent I think the resolution incorrectly (inaudible). I think that there wasn't a requirement that was separately noticed. I think there was a motion that was properly put forth. The Town Board did move out of the Town Board meeting and moved into the CDA made a motion with respect to an ongoing public hearing. That's my opinion as counsel. I don't see a problem with you ratifying that action however subject to the resolution being cleaned up just simply say that you're ratifying a prior motion."

Chairwoman Jens Smith: "So this is the recommendation of the Town Attorney that we do not move forward with this motion, with this resolution?"

Member Wooten: "I think this was more of a clarification of what transpired."

Member Giglio: "The only person who had a copy of the resolution when you called it off the floor was yourself, not even the Town Attorney or the Town Clerk had it and it's still not on line."

Chairwoman Jens Smith: "Well we did it at a work session. It was what we discussed at a work session and the motion could be made as a verbal motion at the Town Board meeting and we asked for the advice of our town attorney. The town attorney did agree that we could do it that way. It was voted on and accepted by the Board."

Member Giglio: "It wasn't in the packet so anybody that wanted to maybe come and speak about the CDA resolution would not have known that it was being (inaudible)."

Chairwoman Jens Smith: "It wasn't a resolution, it was a motion which is not the resolution so you can motion (inaudible)."

Member Giglio: "Is there a difference between a resolution and a motion that the Town Board votes on?"

Robert Kozakiewicz: "Let me answer the question by not directly answering it. Under New York State Town Law, Section 63; Town Board can act by resolution, by motion, by local law. You're authorized to take efforts and make steps by motion, you do it all the time. Whenever you're in a Town Board meeting you move to move out of a Town Board meeting and move into a CDA meeting, So to say you can't move by motion is something that is permitted. Furthermore, it is not uncommon for the Board, in fact you did it at both the end of the first day of the Q&E hearing and the second day of the Q&E hearing you broke, you reconvened, you made a motion. So again, with respect to a public hearing that's being held, I really don't see where, let me rephrase that. There's not a problem, it's an action that's not authorized by state statute. Furthermore, the 2013 Town Board rules that were adopted by this Board under rule, I think it's five or six, when you talk about debatable motions, it reads a debatable motion is a motion in and of itself. So that recognizes New York State Town Law #63 that the Town Board can act by motion on matters where it's appropriate to do so. So again, while I have no objection to a resolution that simply says

ratifies a motion made on April 17th to extend the period of time for Luminati to respond, i.e., by April 27th and then makes the other resolve (inaudible) I don't have a problem with it. I just think the first couple of whereas set forth an incorrect statement with regard as to whether the Town Board can act by motion and whether there were deficiencies, that's my only concern."

Member Giglio: "(Inaudible) the second and third whereas, right?"

Robert Kozakiewicz: "If those were the ones that make that reference, yes"

Chairwoman Jens Smith: "I'm sorry, say that again."

Robert Kozakiewicz: "If those were the ones that make that reference to it, yes and I think you can, by motion also, extend it so the words attempted to, I think the word attempt should also be deleted. I don't have the resolution in front of me so. So, on the first whereas, on April 17th, the Town Board adopted a motion, get rid of attempting. On the second whereas I would delete that entire whereas. The third whereas a motion does not need to be put in writing so again that whereas could be entirely stricken and the third whereas similarly would be able to be removed so with those changes and if the Town Board still desires to move forward with Resolution 6 as the Town of Riverhead Community Development Agency, no objection from myself."

Chairwoman Jens Smith: "(Inaudible) still in discussion here? I would also like to have the date changed from May 4th. I think this is a very important decision for the town to make. I think not leaving it open for public comment at least until the next Town Board meeting I think is a disservice to the community. We just received a file from CAT that is about a couple of inches thick and I think that it's only appropriate that we allow the community the time to respond to that. We had said at every single meeting and at every single discussion that we have had about this project that we would leave it open for public comment and give them time to respond after we receive the responses from Calverton Aviation and Technology. I know for myself that I have been reading through it and I, we have left it open to Calverton Aviation and Technology that we may have more questions after receiving their information back. I would like to be able to go through it thoroughly. I would like to be able to consult with our financial people here in town. I would like to be able to consult with our attorneys that we have to see if there's any additional questions that we would like to have from the responses that we received late Friday afternoon. So, I don't think that we should set the public, you know, the close of the public hearing date on May 4th. At the very least I think that we just leave it open until the next Town Board meeting which I believe is the 16th of May."

Member Kent: "I think this is too important a decision to be railroaded through like this. I think we need more time. We just received a huge amount of things to read."

Member Wooten: "In all fairness I read a lot of what came in and a lot of it's redundant (inaudible) in the first (inaudible). I mean, I haven't been through the whole thing, but I can tell you a lot of it was repetitious. My only concern is, I think by the next Town Board meeting, I mean me personally, I think give it another week and a half, give it to the 11th prior to the Town Board meeting and be ready to vote on it at the next Town Board meeting."

Chairwoman Jens Smith: “I mean, this is a deal that’s twenty years in the making. I don’t thing we need a week.”

Member Wooten: “I know, there is the Q&E hearing. There’s so much more that goes beyond this Q&E so much more with due diligence, there’s so much more that has to happen.”

Chairwoman Jens Smith: “But the due diligence (inaudible).”

Member Wooten: “That may not happen because they haven’t had the chance to (inaudible).”

Chairwoman Jens Smith: “The due diligence is not on our part; the due diligence is on the purchaser’s part.”

Member Wooten: “That’s very true and that may turn out to be.”

Chairwoman Jens Smith: “And the contract will be, the decision will be made.”

Member Wooten: “We’re moving on five months now. I never had a Q&E that lasted five months.

Chairwoman Jens Smith: “And we’ve had several Q&E’s that people have agreed to and the last Q&E we had with Luminati and we gave them use of the runway and we all know how that turned out.”

Member Wooten: “Well this isn’t Luminati.”

Chairwoman Jens Smith: “No but this is a very important deal for the town and I think, you know, as you said yourself that you read through most of it but you haven’t gotten through all of it. So I think it’s a disservice to not be able to have the time to digest it.”

Member Wooten: “I definitely know I will.”

Chairwoman Jens Smith: “Well do you think, right now you’re saying by the 4th which is what Friday?”

Member Wooten: “Yeah, Friday.

(Inaudible)

Member Hubbard: “I disagree with what you said. There is due diligence on our part and on their part, not just on their part.”

Chairwoman Jens Smith: “What’s the difference, (inaudible)?”

Member Hubbard: “As far as us as a Board there’s hundreds of due diligence that we have to do for this, that we have done for this.”

Chairwoman Jens Smith: “No, no, no; I’m saying after the Qualified & Eligible, Jim was referring to after the Qualified & Eligible.”

(Inaudible)

Chairwoman Jens Smith: “Yes, that’s not on us. We will have said we completed our due diligence and that we’re comfortable moving forward.”

Member Hubbard: “The information we received has been posted on line as of this morning?”

Chairwoman Jens Smith: “I believe all of it is up there now.”

Member Hubbard: “Ok, today being May 1st I have no problem going with May 4th. I think that’s plenty of time. We’ve had plenty of time for this going on back and forth. The same questions keep being asked over and over again because (A) people either don’t like the answer or they don’t feel it’s being answered satisfactorily to them. That doesn’t mean the question wasn’t answered and I find that in a lot of my reading it’s the same question. A couple of words changed around, it’s the same question, the same answer is given back and that is what the answer is. Like it or don’t like it but that’s what it’s going to be. You’re not going to get anymore out in my opinion.”

Chairwoman Jens Smith: “I think this is about public comment period. This is giving the public the ability to comment to give them two weeks to look at (inaudible).”

Member Hubbard: “But the same questions I’m receiving from the public are the same questions that have been addressed in the Q&E.”

Chairwoman Jens Smith: “I don’t want to (inaudible) on the new information.”

Member Hubbard: (Inaudible) I’m ready to move forward with this on the floor, and use the 4th as the date.”

Chairwoman Jens Smith: “Any other discussion?”

Member Kent: “I’m still willing to finish reading and due my due diligence. I think this is being pushed through. I think the Board is (inaudible).”

Chairwoman Jens Smith: “And at the very least wait until the Ethics Board meets because I think that was another question that the public brought up and that was the validity of all of us to sitting up on the Board to vote on it. I think as a Town Board doing our due diligence when the community has brought something before the Ethics Board that I think that we should at least wait for the response for that before we close the hearing.”

Member Hubbard: “And that may very well happen before we close on the Q&E. That has nothing to do with closing the hearing.”

Member Wooten: “That’s right and if that has not transpired between now and (inaudible).”

Member Hubbard: “It has no bearing (inaudible).”

Member Wooten: “We’re going to have to table this until it does. That’s just the way it is. I agree with you there.”

Chairwoman Jens Smith: “Any further discussion? Ok, we have a first and second.”

The Vote: “Kent.”

Member Kent: “Absolutely not, I vote no.”

Vote Continued: “Hubbard, yes as amended; Giglio, yes as amended; Wooten, absolutely; Jens Smith.”

Chairwoman Jens Smith: “I think this is a horrible decision not to give the community more than two days to comment on this project when we just received the answers so I vote absolutely not.”

Diane Wilhelm: “Resolution adopted.”

Chairwoman Jens Smith: “Can I have a first and second to close the CDA meeting and to come back into a town board meeting and then to close the town board meeting? I’ll strike the close. First and second to close the CDA meeting and go back into a town board meeting.”

Member Giglio: “I make a motion we close the CDA meeting and go back into the town board meeting.”

Member Hubbard: “Second.”

Chairwoman Jens Smith: “First and seconded. Vote please.”

The Vote: “Kent, yes; Hubbard, yes; Giglio, yes; Wooten, yes; Jens Smith, yes. The CDA meeting is closed and the Town Board meeting is reopened.”