

The April 7<sup>th</sup>, 2009 regular meeting of the Town Board of the Town of Halfmoon was called to order by Supervisor Wormuth at 7:00 pm in the A. James Bold Meeting Room at the New Town Hall, 2 Halfmoon Town Plaza, with the following members present:

Melinda A. Wormuth, Supervisor  
Regina C. Parker, Councilwoman  
Paul L. Hotaling, Councilman  
Craig A. Hayner, Councilman  
Mary J. Pearson, Town Clerk  
Lyn A. Murphy, Town Attorney  
Matthew J. Chauvin, Deputy Town Attorney

Not present - Walter F. Polak, Councilman

The Town Board Workshop was held in the Board Room at 6:15 pm; no action was taken. The Supervisor led the Pledge of Allegiance.

At 7:00 pm the Supervisor opened the public hearing for the Expenditure from Town Water Capital Reserve Fund. The Town Clerk read the notice of public hearing:

*Please Take Notice that pursuant to the Town Law of the State of New York a public hearing will be held by the Town Board of the Town of Halfmoon at the Town Hall, 2 Halfmoon Town Plaza, in the Town of Halfmoon on the 7<sup>th</sup> day of April 2009 at 7:00 pm or as soon thereafter as the matter may be heard to consider and discuss and to hear all persons interested in the proposed expenditure from the Water Capital Reserve Fund for the Water Department to implement water infrastructure improvements.*

*Please Take Further Notice that upon conclusion of the public hearing the Town Board shall take up and consider a formal Resolution for the expenditure of funds from the Water Capital Reserve Funds in the not to exceed sum of \$1,077,000, subject to permissive referendum and all relevant statutes and regulations.*

*By Order of the Town Board of the Town of Halfmoon, New York.*

Supervisor Wormuth requested that the Town Attorney provide highlights of this expenditure. She stated this is utilize money that we received from Congresswoman Gillibrand's office. She stated initially we applied for a grant request that would allow access to money in order to design a water line as an alternative water source from Troy into Halfmoon and, by the time it was awarded EPA decided to participate in that project and pay for that waterline. She stated we were told these funds could be transferred to other infrastructure projects and there were several on the books.

Town Attorney Murphy stated the project identified by the Board and the Director of Water with regard to the receipt of this money includes the rehabilitation of the Brookwood Road water tank, the replacement of the Button Road water line and the installation of additional water main on Button Road and the installation pressure reducing valve station. She stated they have all been identified and would have needed to have been completed at expense 100% to the Town and this grant is enabling the Town to do at a much reduced cost and in much more timely manner.

Henrietta O'Grady, Church Hill Road, asked the amount of the grant and asked what work will the project include. She asked for a breakdown on the cost of each section.

Attorney Murphy stated the total amount of the grant \$477,000 and the Town has to match 55% an stated it will nr for the rehabilitation of the Brookwood Road water tank, the Button Road water main replacement, the installation of an additional water main on Button Road and the installation of a pressure relief valve system. She stated the Town's existing water treatment plant delivers water to the Werner Road storage tanks and due to the elevation differences water leaves the plant at a certain PSI and that PSI needs to be reduced prior to it getting there.

Supervisor Wormuth stated the engineers put it together in a package to maximize the grant and as we let the bids they will be put out in sections because it will be a not to exceed amount but we wanted to get the maximum in for the grant utilization.

Mrs. O'Grady asked what the Brookwood Road tower project consisted of.

Mrs. Murphy stated it is recoating the inside of the tank which has degraded 60% since it was last done and is necessary to ensure the quality of the water. She stated they also need to repair the cathodic protection system.

Mrs. O'Grady stated she thought the tank was just repainted not to long ago

Mrs. Murphy stated it was painted not to long ago and it did degrade since 2000 quicker than expected but they had divers in and they identified as a need.

Supervisor Wormuth stated they looked at all the tanks and this is the one most in need and they have new technologies they use for de-scaling and repainting them and hopefully will give us a longer life time.

There being no further questions the Supervisor closed the public hearing at 7:08 pm.

#### RESOLUTION NO. 78

Offered by Councilwoman Parker, seconded by Councilman Hotaling, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

WHEREAS, the United States Environmental Protection Agency (EPA) FY 2008 Appropriations Act contains a Congressional earmark of \$477,000 for the Town of Halfmoon Water Infrastructure Improvements,

AND WHEREAS, the Town Board did conduct a public hearing on April 7, 2009 to consider the expenditure from the Town Water Capital Reserve Fund for Water System Infrastructure Improvements (including rehabilitation of Brookwood Road water tank, replacement of Button Road water main, and installing pressure reducing valve station),

AND WHEREAS, the Town Board after conducting the public hearing and having heard no opposition thereto, did pass a resolution authorizing the expenditure in the sum not to exceed One Million Seventy-Seven Thousand (\$1,077,000) to be used for Water System Infrastructure Improvements,

NOW THEREFORE BE IT RESOLVED, as follows, that:

1. The expenditure from Town Water Capital Reserve Funds account for an amount not to exceed Six Hundred Thousand (\$600,000) for Water System Infrastructure Improvements.
2. The expenditure of Water Capital Reserve Funds is approved subject to permissive referendum.
3. The final price shall be determined based upon bids received by the Town of Halfmoon.
4. This resolution will take effect upon posting and publishing of the Resolution as required by law and expiration of the referendum period.
5. The Town Clerk is directed to post and publish a copy of this resolution as required by law.

Supervisor Wormuth stated the next item is a resolution recognizing April 19<sup>th</sup> as the 40<sup>th</sup> Anniversary of the Clifton Park-Halfmoon Public Library. She stated we will have a representative from the Town Board there at their festivities.

#### RESOLUTION NO. 79

Offered by Councilman Hayner, seconded by Councilman Hotaling, Adopted by vote of the Board: Ayes: Wormuth, Polak, Parker, Hotaling, Hayner

WHEREAS, on April 19, 2009 the Clifton Park-Halfmoon Public Library will be celebrating forty years of service to the community; and

WHEREAS, the Town Board of the Town of Halfmoon recognizes all of the wonderful services provided by the Public Library to our citizens and all who utilize the Library; and

WHEREAS, the Clifton Park-Halfmoon Public Library stands as a testament to current and past leaders, trustees, friends and supporters whose sacrifice, hard work and dedication advanced Library capabilities, services and programs,

**NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. That the Town Board of the Town of Halfmoon hereby recognizes the Clifton Park-Halfmoon Public Library for forty years of service to the community.
2. That a copy of this Resolution, be transmitted to the Clifton Park-Halfmoon Library.

#### REPORTS OF BOARD MEMBERS AND TOWN ATTORNEY

Councilman Hayner reported on the 3<sup>rd</sup> Annual Crescent Park Clean Sweep will be April 18<sup>th</sup> from 10 am to 11:30 am at the Crescent Bridge area and, they will be looking for volunteers to come out and help. He stated the Summer Recreation program brochure has gone out in the mail and the resident registration dates are coming up; Saturday, May 9, 16 and 30<sup>th</sup> 9-noon and Wednesdays May 13, 20 and 27 from 6-8 pm.

Councilwoman Parker reported on the town residents Spring Cleanup for 2009 will be April 14, 17, 18, 21, 24, and 25<sup>th</sup> and is limited to Town residents only no contractors and transfer station permits are required and can be obtained in the Town Clerk's office. She stated it is no charge with the exception of tires. She thanked John and his crew for doing a tremendous job working

late days and weekends, Saturday's and Sunday's picking up all the debris from the ice storm. She thanked him for a great job

Supervisor Wormuth stated there are yellow ribbons hanging and for the past few years April 9<sup>th</sup> has been declared as Yellow Ribbon Day and asked that everyone remember our troops and those who are serving overseas and send a prayer to them.

She stated the week of April 26<sup>th</sup> to May 3<sup>rd</sup> is Crime Victims Week and throughout the State there are different services going on to remember those who have fallen victim to a crime also there is a link on our website. She stated there is a candlelight vigil on April 26<sup>th</sup> which is the one Saratoga County is hosting.

She stated the County has also deemed April Autism Awareness month and we should all be aware of that.

The Supervisor stated that May has always been senior month in Halfmoon and the first Board meeting in May is a daytime meeting and the seniors will come over and provide refreshments and they enjoy it.

Supervisor Wormuth opened public privilege for discussion of agenda topics; no one had questions or comments.

#### **DEPARTMENT REPORTS – month of March**

1. Town Justice Wormuth

Total cases - 453

Total fees remitted to the Supervisor-\$47,285.00

Filed.

2. Town Justice Tollisen

Total cases - 483

Total fees remitted to the Supervisor-\$47,959.25

Filed.

3. Senior Express

Total # of Riders- 259                      Total # of Meals- 398

Filed.

4. Building

Total permits -62

Total fees remitted to the Supervisor-\$10,982

Filed.

5. Fire Code

Total permits -27

Total fees remitted to the Supervisor-\$ 654.00

Filed.

#### **CORRESPONDENCE**

1. Received from State of New York Department of Transportation notification of speed limit study for Cemetery Road with determination that a reduction of the 40 mph speed limit is not warranted at this time.

2. Received from Klamsteam Marina and Tavern, 32 Clamsteam Road, Halfmoon, notification of intent to apply for a liquor license.

3. Received from Costanzo's Riverside Restaurant, 405 Hudson River Road, notification of intent to renew their liquor license.

4. Received Town of Halfmoon Annual Financial Report for fiscal year ending December 31, 2008.

5. Received from Town Highway Department notification of summer work hours, Monday through Thursday 6:00 am to 4:00 pm, effective April 6<sup>th</sup>.

6. Received from Hometown Lanes, Inc., 944 Hudson River Road, Halfmoon notification of intent to renew their liquor license.

## **OLD BUSINESS**

### **RESOLUTION NO. 80**

Offered by Councilwoman Parker, seconded by Councilman Hotaling, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board awards bid, opened March 17<sup>th</sup> for Disposal Privilege for Household Garbage, Construction and Demolition Material & Recyclables collected at the Town Transfer Station to low bidder, County Waste and Recycling effective immediately for five-year period, through April 7, 2014.

## **NEW BUSINESS**

### **RESOLUTION NO. 81**

Offered by Councilwoman Parker, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board approves and orders paid all vouchers for all funds listed on Abstract dated April 7, 2009 totaling: \$1,409,604.50.

### **RESOLUTION NO. 82**

Offered by Councilman Hayner, seconded by Councilman Hotaling, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board approves minutes of Town Board meeting of March 3, 2009 as presented by the Town Clerk.

### **RESOLUTION NO. 83**

Offered by Councilwoman Parker, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board approves Change Order No. 5-E, Farina Electric, Inc., Contract 1-E Electrical, Halfmoon Town Park in increase amount of \$11,600 to furnish and install electric wall heaters, radiant ceiling panels and controls in the club house bathrooms.

The Supervisor stated, relative to the next item, she thanks the Finance office who spent quite a bit of time with her going through these contracts and shopping around for insurance. She stated last month the Town's liability insurance was done and we saw large savings and with minor adjustments to the health plan they were able to keep the costs to the Town down and still provide a comprehensive plan for the employees.

### **RESOLUTION NO. 84**

Offered by Councilman Hayner, seconded by Councilman Hotaling, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board authorizes entering into contract with Capital District Physician Health Plan for employee medical insurance and enter into a contract with Delta Dental of New York Inc. for dental insurance effective April 1, 2009 through March 31, 2010 and authorize the Supervisor to execute said contracts, per approval of the Town Attorney.

Supervisor Wormuth stated, relative to the next item, that they modified a section of the Town handbook recently and listed how, if overtime is to occur, with fiscal concerns about the budget there are certain steps that need to be put in place. She stated one of the things inadvertently left out when they listed by department some departments that were exempt during emergency situations, highway when it was snowing, and often the code enforcement office gets called out in the middle of the night if there is a structure fire to deem a building safe so this allows them to

go do their job and just report to her in the morning as opposed to waking her up at 2:00 am to ask if they can go look at it. She stated it will also cover our parks department who is responsible for the maintenance of Town facilities and if a tree should fall or if it is icy and they need to come in and have it ready they can do that and notify her about the overtime afterward.

#### RESOLUTION NO. 85

Offered by Councilman Hotaling, seconded by Councilwoman Parker, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

WHEREAS, the Town Board of the Town of Halfmoon has determined that the current policies for the employees of the Town of Halfmoon need to be clarified regarding the use of sick time, working outside of established business hours, and the removal of Town documents from Town property; and

WHEREAS, the Town Board of the Town of Halfmoon recognizes the importance of providing a comprehensive handbook for town employees detailing any changes to the policies regarding employees; and

WHEREAS, the Town Board of the Town of Halfmoon is ever cognizant of the need to maintain the work day/work week normal hours of operation as established to best serve the needs of the community; now, therefore, be it

RESOLVED, that the Town Board of the Town of Halfmoon hereby modifies section VII. Operational Policies subsection A of the Town of Halfmoon Employee Handbook to mandate that any employee working outside the normal hours of operation as established periodically by the Town Board must receive prior authorization from the Town Supervisor to be compensated for the hours worked. This notification shall not apply to the Highway, Code Enforcement, Parks or Water Department Employees responding to emergency situations which occur outside of the normal hours of operation;

Councilwoman Parker stated, relative to the next item, that she is really glad we are doing this and people are tired of having telephone books thrown anywhere on their property and finding them in the springtime.

Supervisor Wormuth stated this would prohibit or at least outline how phone books can be delivered within the Town so they are not just thrown on property causing damage.

#### RESOLUTION NO. 86

Offered by Councilwoman Parker, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board sets a public hearing for April 21 at 7:00 pm regarding regulation of distribution of telephone books in the Town of Halfmoon.

#### RESOLUTION NO. 87

Offered by Councilwoman Parker, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board awards bid, opened March 20<sup>th</sup>, for Colonial Green Drainage Improvements to low bidder, Peter Luizzi & Brothers Contracting Inc., Albany, NY in the total bid amount of \$964,771 per the review and recommendation of the Town engineers and subject to review of the Town Attorney.

#### RESOLUTION NO. 88

Offered by Councilman Hotaling, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board approves the April 2009 Water Report for water usage as submitted by the Director of Water.

RESOLUTION NO. 89

Offered by Councilwoman Parker, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

**WHEREAS**, the Hudson River Valley Greenway has designated the Town of Halfmoon’s Hudson River Waterfront Park as part of Greenway’s Blue Trail System,

**BE IT RESOLVED**, that the Town Board authorizes to Town Supervisor to submit a funding application to the Hudson River Valley Greenway, Water Trail Grant Program in the amount not to exceed \$35,000.

RESOLUTION NO. 90

Offered by Councilman Hotaling, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board authorizes the Supervisor to enter into a COBRA Administrative Services Agreement with First Niagara Benefits Consulting, as per the review and approval of the Town Attorney.

RESOLUTION NO. 91

Offered by Councilman Hotaling, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board authorizes entering into a service contract with General Control Systems to provide quality labor and supervision to maintain the control systems installed at the Water Treatment Plant in the annual amount of \$9,995 subject to review and approval of the Town Attorney.

RESOLUTION NO. 92

Offered by Councilwoman Parker, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board approves Change Order No. 2-C, Kingsley Arms, Inc., General Construction, Halfmoon Town Park in the increase amount of \$19,135 for installation of 1,040 linear feet of 2” HDPE natural gas line connecting the National Grid main in NYS Route 146 to the Park Maintenance Building.

RESOLUTION NO. 93

Offered by Councilman Hotaling, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board authorizes the Supervisor to make the following Transfer between Appropriations and Creation of Appropriations.

A resolution is needed to create the following budget amendment of appropriations and revenues in the Special Revenue Fund for engineering fees for on site quality inspections. These funds are developer’s monies held in escrow by the Town in a regular checking account and used for the payment of costs for that particular project. This resolution is necessary to comply with proper accounting procedures as set forth by NYS Department of Audit and Control.

Debit:                Estimated Revenues                25-510                \$5,395.00  
                                 Subsidiary: 25-4-2189 Home &Community Services    \$5,395.00  
Credit:                Appropriations                25-960                \$5,395.00  
                                 Subsidiary: 25-5-1440.40 Engineering Contractors Inspections    \$5,395.00

Information Only: The above was derived from the following breakdown of charges to be paid on the April Abstract for engineering and related fees:

NAME	AMOUNT
Infinigy Prof Office Bldg	\$205.50
Glen Meadows PDD	557.00
Halfmoon Village/Yacht Club	664.00
Werner & Searles Subd	727.00
Swatling Falls	530.00
Harvest Church	398.00
Abele PDD	384.00
Moorings of Halfmoon	\$1,929.50
TOTAL	\$5,395.00

DEBIT: Estimated Revenues                30-510   \$4,245.75  
Subsidiary: 30-4-2680.00-Insurance Recovery-\$4,245.75

CREDIT: Appropriations 30-960 \$4,245.75  
Subsidiary: 30-5-8310.40 – Administration Contractual-\$4,245.75

DEBIT: Estimated Revenues 10-510 \$200  
Subsidiary: Community Gift Contributions 10-4-2705 - \$200

CREDIT: Appropriations	10-960	\$200
Subsidiary: Character Counts – Contractual	10-5-7989.4	- \$200

A resolution is necessary to create the budgetary appropriations for the approved Water Infrastructure Improvements: 1) Rehabilitation of the Brookwood Road Water Tank, 2) Replacement of Button Road Water Line, 3) Installation of Additional Water Line on Button Road, and 4) Installation of a Pressure Relief Valve Station. Project budget for the four Infrastructure Improvements and inclusive of engineering and all other consulting services is \$1,077,000. The financing for this project will be a US EPA FY 2008 Appropriations Act grant in the amount of \$477,000 and the balance from Water Capital Reserve Funds.

Debit:	Estimated Revenues	35-4-511	\$1,077,000
	Subsidiary:	35-4-3089 - \$477,000 NYS Grant – Legislative	
Credit:	Appropriations	35-5-962	\$1,077,000
	Subsidiary:	35-5-8340.24 - \$1,077,000 Trans & Distribution-Cap. Outlay	

Transfers from Appropriations:

From Account	To Account	Amount	Reason
20-5-9060.80 Employee Benefits Medical Ins.	20-5-9055.80 Employee Benefits Disability Ins.	\$100	Transfer of appropriations needed within own budget to cover disability insurance for 2009 for Highway

Offered by Councilman Hayner, seconded by Councilman Hotaling, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board increases the Recreation department petty cash fund to \$500.00 to offset amount necessary for last minute adjustments and authorize the finance office to cut checks in advance for children who have signed up for trips in the Summer Recreation program to facilitate payment to the trip site, effective May 1<sup>st</sup>.

The Supervisor opened public privilege for discussion of non-agenda items. The Supervisor stated that following public privilege she will request executive session with the Board and the Town Attorneys to discuss a personnel issue and, will notify if any action is taken, then the meeting will be adjourned.

Henrietta O'Grady, Church Hill Road, mentioned, because of her recent disability she has had to come in Town Hall several times and the outside button to enter into the front door isn't working and the door is extremely heavy.

Supervisor Wormuth stated we would look into that first thing in the morning.

Mary Baldi stated she owns Dolce and Biscotti Bakery at Towne Center Plaza, Route 9, and she is having issues with the signage requirements in the Town and the fact that she has a small sign they put out to encourage people to visit the Bakery because they cannot read the existing signage that is in place. She stated it is due to the fact that it is an old sign that DCG has up and with people traveling too quickly on Route 9 they can't possibly stop. She stated because the Plaza does not sit parallel to Route 9 there is no shot of any of the stores to be able to slow down. She stated when she puts her little sign board out near the road it makes all the difference in the world getting people to come in the Plaza and has increased her sales almost triple from when she started. She stated it also has increased sales to everybody in that Plaza because of the spin off from people coming in to go to the Bakery and then make stops at the other stores. She stated they are requesting they be able to leave their signage out there until the Board can come up with a more appropriate requirement regarding signage on a property such as theirs. She stated she understands it is grandfathered in because of the way it is designed. She stated if they are not allowed to keep the sign she will not be allowed to stay in business because once the signs go down the sales drop 50-60% and they are a brand new business. She stated she brought on additional people because of the increase in sales because of the sign and, she will have to let them go. She has received numerous phone calls that people cannot find the Plaza because the sign is too far from the road. She had her marquee sign redone since they moved in to make it larger but it doesn't help with the sales because people are looking for the word Towne Center and, they can't read it. She asked that they be allowed to continue to post their sign so they don't go under.

The Supervisor stated they hear her concerns and commented that the A-frame sign they are using is in the State right-of-way and becomes a health and safety issue for traveling the road. She stated they couldn't authorize them to place something in the State ROW.

She stated she has heard from her Town Planning department that they are trying to work with her and perhaps the owner of the Plaza about redoing the whole Town Plaza Center Plaza sign in order to get her more visibility and get what she is looking for.

Ms. Baldi stated they are not presenting that to any of the people in the Plaza and they are a new company and she doesn't have the time or the luxury to wait 6 months to a year to go through all the Town approvals and they will be out of business.

The Supervisor stated she heard about this issue relative to her store and her concerns from one of her employees last week and since that time she has asked the Town Attorney to put together a draft of the new sign ordinance that may or may not address some or all of her concerns but it is before the Board this evening in draft form and she has asked for comments back by the next meeting. She stated they could present that publicly and hold a public hearing and try to get things done in short order.

Ms. Baldi stated, she is not allowed to keep her sign out and when they travel up and down Route 9 from Clifton Park through Halfmoon there are a number of these signs on the roadway. She stated if it is said she can't put it out temporarily she understands that because the ROW is 15 feet off the road from the property line and asked if she can she put the sign near the Town Center Plaza sign itself because that allows more visibility.

Attorney Murphy stated the Sign Ordinance, as it currently stands, would not permit any type of A-frame sign at all. She stated this Board does not have the authority to somehow subvert that sign ordinance and allow her to do what she is asking to do. She stated she should seek counsel in order to have her rights explained more clearly but, one way she could address the issue is to apply to the building department for an application for an A-frame sign, which they will have to deny the application because it is not allowed and, she could go before the ZBA and seek a variance. Attorney Murphy stated the grounds upon which variances are granted are quite stringent and she, in no way, is assuring her she would be granted one, but that would be a method she could go forth. She stated this board couldn't just make an exception to a law.

Supervisor Wormuth stated this Board does have concerns and they have talked about finding ways of changing our sign ordinance to make sure that they are allowing people to be able to promote their business in a way that is good for them. She stated they understand how hard the economy is and some of the Plaza's that don't have problems the rent is higher because they face different ways. She stated there was also a time when Route 9 looked like it was littered with all the signs that were out and, that is how the Town got to the point of having a sign ordinance to try to control it for the visual aspects. She stated the Board is willing to take a good hard and quick meaningful look at our sign ordinance to see what, if any, changes can be made and they are trying to balance it. She stated there are people who don't want to see signs when they drive, its distracting and causes accidents but they understand her concerns and are willing to do what they can to address them.

Ms. Baldi stated there are existing signs still out there and she was told three times her's had to be removed and there are a-frame signs on other establishments in Halfmoon. She asked why they are allowed to stay up.

The Supervisor stated our enforcement is done in a fairly routine and regular manner so if they haven't been there yet they will be and someone may be receiving fines.

Tom Fron asked if a new business is defined, 6 months or a year or is it from the time they started putting the sign out there. He stated you notice people hold signs on the road and asked if there is an ordinance against someone in front of the property holding a sign.

The Town Attorney stated it is 30 days from the opening of the business and the ordinance allows for grand opening-type signs. She stated we do not have an ordinance that directly prohibits somebody standing in front of the property but if they are in the ROW it could be enforced. She stated we do have an ordinance that prohibits portable signs and would be argument. She stated there are people being cited or cautioned and they do sweeps periodically.

Brendan Lyons, Vosburgh Road stated eight months ago the Town Board received a letter from the neighborhood association regarding Lucarelli Brothers Construction and their encroachment into land behind them, the Greg Mills property. He stated the talked to the building office and asked where that is in the process and some people are here tonight for an update and why there has been no action or final determination.



Town Attorney Murphy stated there has been a final determination and his letter was received and Mr. Lucarelli was contacted and there was a detailed listing of questions he had to answer with regard to property lines, the commencement of his business and what the exact business was. She stated he provided the information to the building department and a determination was made that what is going on is a pre-existing non-conforming use. She stated it has been sometime since she has looked at it but there was an issue with boat storage, that no longer occurs on the property, an issue with the landscaping company which doesn't occur on the property so the only business there currently is the gravel business, which has been there.

Mr. Lyons stated the issue for them is not Lucarelli's nine-acre parcel and they have no questions about the operation of that land, he has encroached into the Greg Mills land which is residential property and is not grandfathered in pre-zoning as use as a commercial enterprise. He stated his question is even though he has a commercial operation and is now in the process of trying to acquire the Mills land he doesn't think he can attach a property to a pre-existing use and claim that it is a pre-existing use. He stated the Mills land is zoned residential so his use in his understanding is in violation of the Town Zoning Law.

Attorney Murphy stated the inquiry was made with regard to the business, the size of the business and the property as to which it is on when that was created and commenced. She stated they were provided a date by Mr. Lucarelli that the entire thing even the part he is saying is on someone else's property pre-existed zoning and there is no proof to the contrary. She stated if we had proof that the expansion had been done after zoning was passed then it would be an expansion of a pre-existing non-conforming use and he would have to go forward. She stated if he wanted to make it bigger, buy property and expand he would most likely have to go forward with a PDD and an expansion of the pre-existing non-conforming use. She stated his documentation showed that all of it was in existence prior to zoning and nothing was ever provided to the Building department that controverted that.

Mr. Lyons stated he admitted to the building department at one point when they called him on the issue of the boat storage that he had run a commercial enterprise and always used an adjacent parcel that is not his and is residential land and has never received a permit for it or any baseline ruling to indicate he had a commercial enterprise in that property and asked if Mr. Mills has had any input on this.

Attorney Murphy stated it is her understanding that Mr. Mills represents Mr. Lucarelli and therefore has not made an objection to him being on that property. She stated they are documenting that it has been there and have aerial photos from previous times and every photo shows it has been there and, no one has ever come forward to say this has been an expansion. She stated should that occur Code Enforcement would investigate what was being claimed and go forward with that.

Mr. Lyons stated they provided aerial photos to the building department probably from the late 90's. He stated if the Lucarelli parcel is set aside he doesn't see how if he is zoned residential there is nothing on record to indicate that the land that is residential was ever used for a commercial purpose.

Attorney Murphy stated it is almost like a resumption of innocence as there is nothing showing that it wasn't used for that. She stated if it was there prior to zoning they are all labeled with a pre-existing non-conforming use. She stated if they had evidence that is not accurate then code enforcement would act upon that evidence. She stated if that property gets transferred and moves more onto that property any of that would be an expansion of a pre-existing non-conforming and code enforcement could act upon it.

Mr. Lyons stated when Mr. Lucarelli came in a few years ago for a variance to construct a building on his property he came before the ZBA and the members said they actually walked the site and there was a discussion. He stated he was asked if he was going to buy that land and he said yes he is buying the land behind him which indicates he knew it wasn't his. He stated he has encroached and it has increased in scope. He stated he thinks there is an issue with a commercial enterprise having sneaked onto residential land.

Attorney Murphy stated she doesn't believe he sneaked on and believes the ZBA asked the questions because he was already there and asked why he was there if he doesn't own the property and the response was that he was going to buy it. She stated if Mr. Mills isn't removing him from the property and he has been there prior to zoning the Town is limited in its enforcement of pre-existing non-conforming uses. She stated she would be happy to re-pull the file and re-look at his concerns because it at least eight months ago when it was addressed.

Mr. Lyons stated their hope is that if the Town could see fit and take the step of giving him a cease and desist order on the Mills land so he could then come before the Zoning Board to prove his case before them that use of that land predates zoning. He stated that Mr. VanGuidler indicated that during the surveying of Summit Hills he discovered that Lucarelli had encroached

into Mills land and, according to him without Mr. Mill's knowledge. He stated when he talked to Mr. Mills he indicated he didn't know Mr. Lucarelli was on his land.

Attorney Murphy stated that is contrary to what they have been advised and would be happy to look into that but it is in direct contradiction to the information the code enforcement was advised and can be easily verified. She stated an encroachment is a civil issue between two properties owners and existing prior to our local regulations that doesn't mean we can then step in and settle a civil issue. She stated she would pull the file.

Mr. Lyons asked if the final determination is in written form and asked if he could have something in writing so they would have something to bring an appeal to the ZBA.

Attorney Murphy stated she is not sue they write it up but they sent Mr. Lucarelli a list of questions and he wrote back a letter responding to the questions and she was provided a copy of that letter and it addressed the concerns raised in Mr. Lyon's letter. Ms. Murphy stated she would advise he seek his own counsel on that issue because she cannot give him legal advise but she would be happy to pull file.

Mr. Lyons stated he knows something has changed and build department let them know that Mr. Lucarelli and Mr. Mills are in the process and he thinks Mr. (Robert)Chauvin are trying to close a sale to buy that land so he can attach is pre-existing use to it.

Attorney Murphy stated there is nothing that he can do that expands a pre-existing non-conforming use. She stated if there is a civil issue between two properties owners as to whose business is being conducted on whose property that is not a Town issue. She stated the issue is whether or not the business existing prior to the creation of the ordinance and everything we have at this point says that it has. She stated she would contact Mr. Mills herself to determine if there is a change in circumstances

Deputy Town Attorney Matthew Chauvin, stated neither himself nor his father had anything to do with any purchase or sale of property between Greg Mills and John Lucarelli in this parcel being discussed.

Mr. Lyons stated that was information they received from the building department.

Steve Watts stated the information received was that the property was being sold and the deed filed.

Mr. Lyons asked if there is a determination is it something that could be put in writing.

Attorney Murphy stated they would not be changing the procedure. She stated she cannot give legal advice and encourages him to seek legal counsel with regard to these issues.

There being no further comments the Supervisor requested the Board enter into executive session for discussion of personnel matter.

#### RESOLUTION NO. 95

Offered by Councilwoman Parker, seconded by Councilman Hayner, Adopted by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner

RESOLVED, that the Town Board enter into Executive Session for discussion of a personnel matter.

There being no further business to discuss or resolve the meeting was adjourned at 8:20 pm.

Respectfully submitted,

Mary J. Pearson  
Town Clerk

