

The September 1, 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 with the following members present:

Melinda A. Wormuth, Supervisor  
Walter F. Polak, Councilman  
Regina C. Parker, Councilwoman  
Paul I. Hotaling, Councilman  
Craig A. Hayner, Councilman  
Mary J. Pearson, Town Clerk  
Lyn A. Murphy, Town Attorney

Not present: Matthew J. Chauvin, Deputy Town Attorney

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. Councilwoman Parker offered a moment of silence to remember Art Chouiniere who was dedicated to his community and we just lost.

At 7:02 pm the Supervisor opened the Public Hearing for the Cardin Residential PDD Amendment. She stated this was originally before the Board for approval in 2005 and what has happened is the extension was not acted upon before the legislation expired. She stated in order to extend it the Board is required to hold a public hearing. She stated there are no changes in the legislation and if anyone wants they can provide a presentation and opened the hearing for comments. No one wish the notice read; no comments from the public; the hearing was closed at 7:03 pm with no comments or questions from the Board.

Attorney Murphy recommended that the motion to amend provide for an expiration date at the Boards choosing for one or two years from today's date with an option to review without further public hearing together with a negative declaration. She stated one has already been prepared by Clough Harbour and nothing has changed that would affect the Boards previous Neg Dec determination.

Councilman Hotaling recommended a two-year extension.

#### RESOLUTION NO. 196

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

#### AMENDMENT - XLIII Section 166-558

WHEREAS, a proposal has been submitted for an amendment to the Planned Development District Legislation known as Cardin Residential Planned Development District, proposing to amend the time period during which construction must occur, and

WHEREAS, an application has been received proposing to modify Article XLIII, Section 166-558 to amend the period for commencement of construction for two (2) years from the date of the passing of this amendment and to permit the Town Board, to modify or extend this provision as it deems fit without need of an additional public hearing, upon request of the applicant prior to the expiration of the two year period, and

WHEREAS, the amendment to the local law does require a public hearing, and

WHEREAS, the Town Board has reviewed the proposed amendment and the letter application, and

WHEREAS, the proposed amendment is in accordance with the originally adopted Local Law, and

WHEREAS, the proposed amendment does not change the determinations set forth in the initial SEQRA review process,

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Town Board has considered the environmental impacts in accordance with the SEQRA process and has determined it to be appropriate to reaffirm the negative declaration filed when this Planned Development District was initially approved.

2. That the proposed amendment of the Local Law and the provisions for the commencement of construction for two (2) years, be and the same hereby is approved.

3. That Section “5” of the Local Law previously adopted, be and the same hereby is amended as follows:

“Section 5” This Amendment shall be deemed automatically revoked and void, and the previous regulations and laws shall obtain, if within two (2) years from the effective date of this Amendment to the Local law, commencement of the construction of Cardin Residential Planned Development District has not begun, or if after construction has begun, unless substantial progress continues without undue interruption thereafter, or if the development is not complete within four years of such approval. As to the area within which a building or buildings have been constructed pursuant to this Local Law there shall be no voiding of the Amendment and as to said area and building or buildings, this amending Local law shall continue in full force and effect and the area zoned by this Local Law shall be the area within which said building or buildings was or were constructed pursuant to this amending Local law. For proper cause shown the Town Board of the Town of Halfmoon may, upon such terms and conditions as it deems proper, extend either the two (2) year period or may waive the requirement that substantial progress shall continue without undue interruption. Any such extension of time or waiver may be made by the Town Board without a public hearing. In the event no application is made to the Planning Board for final site plan approval within two (2) years of this amendment, or substantial progress is not made on said application within two years thereafter, this Local Law shall be deemed automatically revoked and the previous zoning shall apply.

#### **REPORTS OF BOARD MEMBERS AND TOWN ATTORNEY**

Councilman Polak reported the Town transfer station fall clean up dates: September 15, 18, 19, 22, 25 & 26<sup>th</sup>. He stated the special collection for Household Hazardous Waste would be held at the Clifton Park transfer station on September 26, applications are available in the Town Clerk’s office.

Councilman Hotaling reported that on October 3<sup>rd</sup> the Halfmoon Rec department and Halfmoon Celebration would be having a Fall festival community day at the Town complex. He stated there will be games for kids, business tent and hayrides and more info will follow.

Councilwoman Parker reported there would be a ceremony to honor the victims of 9/11/01 at 9/11/09 at 6:30 pm at the Abele Memorial Park and the public is invited; she stated the new Town park is almost finished.

Councilman Hayner reported that he thanks Mara Sweeter and the recreational staff for another successful summer camp season. He stated Mara has provided the Town Board with a summary of the 2009 camp season: 687 campers; 32% were new to the program this year; 34 campers came on scholarship; they enjoyed special visits from Scotia-Glenville Traveling Museum, Adirondack Tae Kwon Do, the Puppet People, Star-lab and Noah’s Ark. He thanked “Pizza Plus”\_who delivered to each site this year a low cost delicious lunch. He stated this year they provided over 200 campers with summer lessons in babysitting, CPR certification, ceramics, tae kwon do, soccer and swimming; also a community service project and they created Birthday Boxes which, was an idea from Home Bureau, and shoeboxes were filled with cake mix, frosting, tablecloths, birthday candles, a card and a small gift for children whose parents could not afford to give their children a Birthday party and they donated over 40 boxes to CAPTAIN.

Supervisor Wormuth stated under Correspondence, it is with deep sadness, that we have received a letter of resignation from Mara Sweeter who has worked for the Town for over twenty years and, is moving on with her teaching goals for the Mechanicville High School and as the Director of their math program and, they wish her well.

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

## **DEPARTMENT REPORTS – month of August**

### **1. Town Justice Wormuth**

Total cases - 314

Filed.

Total fees remitted to the Supervisor -\$33,575

### **2. Town Justice Tollisen**

Total cases - 403

Filed.

Total fees remitted to the Supervisor -\$44,625

## **CORRESPONDENCE**

1. Received letter of resignation from Mara Sweeter, Town Recreation Director, effective December 31, 2009.

2. Received from Phelan Brothers Caterers, PBC Restaurant, Inc. notification of intent to renew their liquor license.

## **OLD BUSINESS**

### **1. Presentation – Plant Road Residential PDD**

Supervisor Wormuth stated this project has previously been before the Town Board and referred to the Planning Board and was with them quite an extensive period of time working through some of the finer points and getting input from the public. She stated the project did receive a positive recommendation from the Planning Board and is now back before this Board for a presentation and then set the public hearing.

Gordon Nicholson, Landscape Architect, Environmental Design, stated he has been involved in this project for 3 years and has Wendy Simino with him who performed the traffic study and is the reason it took almost a year to get back before the Planning Board. He stated it was their understanding the traffic on Plant Road, the southern and northern intersections with Route 146 were of significant concern to the Town Board as well as the Planning Board.

He stated the major design changes in the project are that they reduced the density from 190 to 150 units and includes 110 units of conventional town homes and 40 senior condominium units. He stated it was suggested by the Planning Board that they revise the original location which was on the east side of Plant Road and move the Seniors where they will have reasonable access and close proximity to the Clubhouse and the swimming pool and won't have to cross Plant Road. He stated they have illustrated a multi use path along Plant Road and throughout the project and the roads in the project will be privately owned and maintained by a Homeowners Association and a condominium association and they submitted examples of those offering plans to the Planning Board. He stated those are character elevations of the types of units they are proposing both for the senior condominiums and the town homes.

He stated there was significant discussion at the Planning Board was Mr. DeVoe's concern along the southern property line for the potential impact to his orchard as well as the orchard impact to the residential units. He stated the resolution to that was a 100 foot undisturbed buffer strip along the southern property line and they had discussions with Mr. DeVoe about deeding maybe 40 feet of the property along the southern property line to Mr. DeVoe so he could maintain and own it thereby the residents wouldn't be immediately adjacent to the property. He stated they also think it is of significant importance that the vegetation not be cleared. He stated they have, to date, dealt with the Army Corp of Engineers and have done a delineation and they have signed off; NYS DEC has signed off on their delineation of wetlands; performed a Phase 1 and Phase 2 cultural resource study and SHIPO has signed off; US Fish & Wildlife has signed off on any potential endangered species; NYS Natural Heritage has signed off on any endangered species on the site. He stated they would be connecting to the Saratoga County Sewer; extending the Town of Halfmoon water up and into the site; using on-site storm water management with a discharge to a drainage corridor.

Wendy Simino, Creighton Manning engineering, stated they did their initial study in 2007 and came up with a new expanded scope with similar intersections but includes additional future growth in the area. She stated they looked at the three intersections at the northern end of Plant Road, two east and west legs and the Old Plant Road intersection and the Route 9/Plant Road intersection south of the project. She stated the study based on this project did not show that this project itself would require any mitigation individually but they knew the Town was concerned with the road and based on the growth patterns and the development in the area. She stated the

initial study included 8 other developments that were nearby and close enough that they were affecting the study area intersections but they wanted to look one step further that if the growth continues in the area where the focus should be for future improvements. She stated they looked at another five larger parcels based and there was over a million square feet they added in to the ten year growth scenario. She stated when they reanalyzed their intersections they did find that there were capacity needs, an additional lane at the southern end of Plant Road would be required in the future, at the northern end there had been talk about straightening the end of Plant Road to not have the squegged intersections and that would be needed. She stated they found that with the substantial growth major there would be some major widening on Route 146 that would be needed in the future even with that connection. She stated they did a connector road between Route 9 and Plant Road, which was part of plan for future potential, and they looked at a partial connection.

Supervisor Wormuth asked Mr. Nicholson what, if any, of the improvements is the applicant willing to include as part of this benefit in the public benefit.

Mr. Nicholson stated the two of the most significant concern is the turning lane at the southern end of Plant Road and possibly creating a "T" intersection where Plant Road comes in at the north because now it is a triangular intersection. He stated they don't know the cost but they are willing to contribute on a per unit basis dollars for it to be done in the future or to undertake one or both of those depending upon the cost. He stated to date they haven't received strong indications of what Planning Board's preference would be other than the turning lane at the southern end.

Supervisor Wormuth stated the Board is requesting and asked if he would bring in seven or eight copies of the current map that reflects the changes. She stated the Planning Board has done an excellent job in providing them with a summary but the Board wants some time to digest.

Councilman Polak indicated the area on the map and asked if it will actually hold water; Mr. Nicholson stated they will create a pond with a clay liner and is currently a wetland and they think it would make a nice aesthetic feature for the entrance to the project. He stated it would include a bubbler to keep the water clean. He stated it would be completely maintained by the Homeowners Association.

Councilman Hotaling stated he mentioned in the back where the runoff will be and asked where it will drain to; Mr. Nicholson stated it will drain through the property to the south and is currently a stream and according to storm water management regulations cannot exceed the amount of runoff that that leaves the property before development. He stated the runoff would be managed on site and released over a period of time.

Councilman Hotaling asked if they had emergency services look at this project; Mr. Nicholson stated not yet. Supervisor Wormuth stated that would be part of the planning process and final site and they could get them involved now for comments and adjustments.

Councilwoman Parker asked if she is correct that the roads were not going to be turned over to the Town and that the HOA will be totally responsible for the upkeep; Mr. Nicholson stated that was correct and there will be blanket easements across the property for water, sewer and storm water management, which will be the complete responsibility of the Homeowners Association; Councilwoman Parker asked if the roads will be built to Town specifications; Attorney Murphy stated they have to be built to a standard that can withhold the pressures put on them by the emergency vehicles and the planning board is consistent enforcing those regulations but may not be built to Town spec's but they have to withhold the weight of fire trucks.

Mr. Nicholson stated the road carriageway and the pavement itself is being designed to Town specifications so it will meet the emergency services support requirements and the only difference correct blanket easements is they don't have the 60' right a way which is normal with a Town road; Councilwoman Parker asked, because not HOA's have lasted in our Town what will they do them; Mr. Nicholson stated they don't think it will and will have to speak with the Attorney; Attorney Murphy stated what they have done since having HOA's going bankrupt, all the HOA's filed and allowed by this Board have required that the payment of the HOA fees acts as a tax lien on the property and if they don't pay their fees the land is foreclosed upon therefore is an absolute motivator to participate.

Councilman Hayner asked that the multi use path be described; Mr. Nicholson stated it runs along outside the right-of-way on Plant Road and will be plowed, owned and maintained by the HOA and in some of the studies done by the engineers they were looking for cross pedestrian as well as vehicular access to Route 9 and is not sure the Planning Board and Mr. DeVoe want the multi-use path but they are willing to do that.

Mr. Nicholson stated something important to mention that Mr. DeVoe requested they look at is they will have notification in all the deeds to all the buyers that an active apple orchard and farming operation is adjacent to the southern property line and typical day and nighttime farming activities include noise from equipment, light, wind machines, spraying herbicides, pesticides, fertilizers, and the use of seasonal farm workers. He stated this is just so someone can't come back to the Town at a later date and say nobody told them this would be utilized.

Supervisor Wormuth asked if the Planning Board looked at the possibility of leaving room for a future connection to the adjacent should it ever develop so that traffic could access out onto Route 9 in the future; Mr. Nicholson stated access to the south they can work in and probably work in access to the west. He stated they had shown on southern property 6,000 square feet and there is a 100' wide strip that goes directly out to Route 9 that there are no plans for and they cut a corner so a Town road could be put in their or if Mr. DeVoe develops his property that may be a point when the Town requires a road extension through there. He stated they could make the connection to the west of the property and work with Clough Harbour to determine what would best meet the road extension needs and also the southern property line and the northern property line; Supervisor Wormuth stated she was asking if it was something that was looked at for future growth and it wouldn't be looked at by the Board doing on an involuntary basis for any landowner.

Councilwoman Parker asked if the trail is only on the west side of the project and not the east side; Mr. Nicholson stated that is correct.

The Supervisor stated the applicant has requested the Board consider setting a public hearing; Councilman Polak answered the second meeting from tonight will give the Board a chance to review the material they have coming.

#### RESOLUTION NO. 197

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

RESOLVED, that the Town Board sets a public hearing for the proposed zoning change for Plant Road Residential Planned Development District for October 6, 2009 at 7:00 pm.

#### **NEW BUSINESS**

#### RESOLUTION NO. 198

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

RESOLVED, that the Town Board approves and order paid all vouchers for all funds listed on Abstract dated September 1, 2009, totaling \$899,512.07.

#### RESOLUTION NO. 199

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

RESOLVED, that the Town Board appoints A. Dale LaBounty as member of the Board of Assessment Review for a term effective October 1, 2009 through September 30<sup>th</sup>, 2014.

#### RESOLUTION NO. 200

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

RESOLVED, that the Town Board approves minutes of Town Board meeting of August 4, 2009 as presented.

#### RESOLUTION NO. 201

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

RESOLVED, that the Town Board authorizes payment of \$1,500 to the Association of Towns for membership dues for 2010.

#### RESOLUTION NO. 202

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

RESOLVED, that the Town Board appoints Brian Selig as Highway Department Laborer at Grade 2, Step Base, effective immediately.

*Supervisor Wormuth stated that Brian is present and introduced him.*

Councilwoman Parker asked, relative to the next item, if this is because the road is sinking; Supervisor Wormuth stated there has been some movement of the bank which was done and there is still money left in the project to provide for some additional stabilization and Clough Harbour has done a proposal and this is outside the original scope of work done by Rifenburg and there won't be additional bonding or monies because it did come in under budget; Attorney Murphy stated unforeseen circumstances have occurred and Rifenburg has gone back with Clough Harbour and they are working pursuant to their original contract and this is a change order to the original contract.

#### RESOLUTION NO. 203

Offered by Councilman Hayner, seconded by Councilman Hotaling, Approved by vote of the Board: Ayes: Wormuth, Parker, Hotaling, Hayner Abstain: Polak Carried.

RESOLVED, that the Town Board approves change order in the not to exceed amount of \$110,000 for Rifenburg Construction to do the remediation work necessary to ensure the stabilization of Brookwood Road, as proposed by Clough Harbour & Associates.

Supervisor Wormuth opened public privilege for discussion of non-agenda items.

Bruce Tanski, Clifton Park, stated he wondered if the Town Board has given any consideration to doing something at the new Town park for some of the well known Town's deceased, such as John Ceremuga, Regina's son, Dick Lee and Mr. Chouiniere and he has a lot of big rocks at Fairway Meadows and he would deliver them if they wanted to put a plaque on them. He stated if they wanted they could form a committee to see whose names should be included; Supervisor Wormuth thanked Mr. Tanski.

Dan Chouiniere, Harris Road, stated first he wants to say thank you to the Board and people in the community who passed their sympathy to him and his family on his Dad's passing.

Mr. Chouiniere stated the reason he wants to speak is because last week a stray dog appeared on Harris Road and one of his neighbors called the Sheriff department and they notified the animal control officer. He stated the assistant animal control officer said he showed up early in the morning and around noontime he saw the dog laying in the middle of Harris Road and tried to

corral it but it ran up the road and came back down the road but he couldn't get near it. He stated at 7:30 pm the dog was again in the middle of the road and would not leave the road. They called 911 and demanded help because of the traffic hazard and it was quite an ordeal. He stated the assistant animal control officer continued to try to get the dog and then gave up and said he had enough, and would come back when it gets hit. He stated it was a dangerous situation with motorcycles and vehicles. He stated in the morning the dog had been hit and they called the Sheriff department, they attempted to call the animal control officer and could not reach them and then they called Clifton Park Animal Control Officer and he showed up and took care of the dog. Mr. Chouiniere stated he was extremely upset by the situation and embarrassed this happened in his Town; he spoke to Beth, Halfmoon Animal Control officer and she pointed out there were problems. He stated he is not here to complain about anyone individually but hopefully to set in motion something that can be done in a situation like this when the animal control officer is not able to work on their own. He stated he looks at this as a tragedy because anybody could have been hurt or killed and stated he would gladly be part of a citizens committee to look into things like this that happen and Beth told him things like this have happened in the past.

Supervisor Wormuth stated she heard there was an incident but did not hear the details and will spend some time with both of our employees discussing them. She stated we do have a mutual aid agreement with Saratoga County Animal shelter and they will look into it and the Board will take under consideration all of his comments and look at the possibility of having a different backup plan or at least a more organized one to prevent this from happening in the future.

Mr. Chouiniere stated it was around 9:00 pm and he isn't sure anyone at the animal shelter could be reached; Supervisor Wormuth stated it is suppose to be a 24 hour system in effect on all days.

She stated she would report back to the Board on what's in place to prevent something like this from happening in the future.

There being no further business to discuss or resolve, on motion by Councilwoman Parker seconded by Councilman Polak the meeting was adjourned at 7:45 pm.

Respectfully submitted,

Mary J. Pearson  
Town Clerk

