

The October 3, 2006 regular meeting of the Town Board of the Town of Halfmoon was called to order at 7:00 pm by Supervisor DeCerce at the Town Hall on Harris Road with the following members present:

Kenneth J. DeCerce, Supervisor
Walter F. Polak, Councilman
A. James Bold, Councilman
Regina C. Parker, Councilwoman
Melinda A. Wormuth, Councilwoman
Lyn A. Murphy, Town Attorney
Mary J. Pearson, Town Clerk

Also present: Frank Tironi, Director of Water; Lisa Perry, Secretary to Supervisor

The Town Board Workshop was held in the Board Room at 6:15 pm; no action was taken. The Supervisor asked, seven year old, Billy Sousie to lead the Pledge of Allegiance.

The Supervisor stated that Mrs. Parker reminded him to offer a moment of silence for the five children killed in the Amish schoolhouse in Pennsylvania.

At 7:05 pm the Clerk opened the following bids for sale of 1999 Parks Department Ex-Mark Mower:

<u>BIDDER</u>	<u>TOTAL BID AMOUNT</u>
1) Michael Hickok, 9 Breski Lane, Clifton Park	\$ 905.00
2) Eugene Phelps, 177 Pruyn Hill Road, Mechanicville	\$1009.99
3) Kevin Mabie, 57 Swift Road, Voorheesville	\$ 723.06

The Supervisor referred the bids to Councilman Bold, Attorney Murphy and the Parks department for their review and recommendation back to the Board.

At 7:10 pm the Supervisor opened the public hearing for the Amendment to the Comprehensive Plan for the “Town Center” Concept. He stated that John Behan, Behan Planning Associates is present to discuss the concept. He stated a notice of public hearing was published. He stated there was a committee working on this and, in January 2005, the Town sent all the residents information postcards informing them and inviting them to a community workshop and a second workshop in October 2005. He stated this time we didn’t, therefore he would like to conduct the public hearing and adjourn to the next meeting to allow time to get a mailing out.

Attorney Murphy stated a map details the area where the notice was received and, for the record, requested if the Board wants to this notice to be sent to the area detailed on the prior notices. The Board concurred that is what they would do.

He stated there were a number of people who worked with the committee and they met quite a number of times and some are here this evening. He stated the Capital District Transportation Committee gave us \$66,000 to do this study and Deb Stacey and Sandy Misiewicz were assigned and, his assistant Dick Lee took the responsibility of being the lead person for the work that was done on this study. He stated Councilman Bold, Town Planner Jeff Williams, Rodney Smallwood, Matt Shea, Burrill Burke, Debbie Curto and Paula Berkowitz worked on the committee. He stated the committee also included Saratoga County Planning, New York State DOT and Behan Planning Associates.

John Behan, Behan Planning Associates, stated this plan was identified by the Towns 2003 Comprehensive Plan and is intended to refine the Town’s future land use vision for the Halfmoon Center. He stated the project is partly funded through a grant awarded to the Town from Capital District Transportation Committee’s Linkage planning program. He stated development of the plan began with a review of the Towns previous efforts, the Comprehensive Plan and the CDTC Linkage program and the 2002 Transportation Improvement Program proposal for road improvements. He stated input from the community landowners, the business community and suggestions by the plan advisory committee were integral components to the development of the Town Center. He stated Route 9 is in the vicinity the study area and is a built up corridor consisting of a wide mix of uses and the study area is Route 9, Route 236 and Route 146. He stated the study area is defined by the roads and development patterns that surround it and the existing land uses, development, roads and traffic issues will help inform

decisions and concepts to be developed in later stages of this planning process. He stated the study area is best characterized as undeveloped, wooded and rural with small scale residential properties along Fellows Road and Plant Road. He stated there is an orchard operating near Route 9 north of Wal-Mart. He stated there is a wetland located in the center of the study area and two small streams that could present a challenge for any future road design. He stated the majority of the area is zoned R-1 Residential and Comprehensive Plan recommends a "hamlet theme" for development and redevelopment and would include commercial, service, residential, municipal facilities, community gathering areas. He stated the "Country Hamlet" vision is characterized as a walkable, pleasant center for the community with an interconnected road and pedestrian system as its foundation. He stated small scale commercial and residential uses within walking distance will help create a small neighborhood and community. He stated businesses could include professional offices, small convenience businesses. He stated the area is located close to the major retail, office and other commercial areas of Halfmoon and serves to welcome residents, shoppers, visitors and workers to the town center. He stated access to this area is provided from the west via the cross-town connector at Route 9 towards the northern section of the study area with the potential for a secondary access point at Sitterly Road. He stated to the east the connector links with Plant Road at a small scale roundabout which will help reduce speeds along that route.

He stated the Town has the opportunity to make planned decisions on growth opportunities. He stated through the process with landowners they will identify conservation interests and updates. He stated they will coordinate all trail, pedestrian and bicycle amenities with local and regional support groups. He stated the new street connections will improve the overall connectivity of the Town. He stated the primary new street connection proposed is the Cross Town connector, connecting the proposed mixed use town center with the Halfmoon Hamlet area in the vicinity of the intersection of Route 236 with Fellows Road. He stated there is an additional connection to Route 146 proposed to further improve the utility and connectivity of the corridor. He stated the connector is a primary feature to provide access to the internal portions of the study area and the initial phase of establishing improved street connectivity. He stated the intersection with Plant Road and Route 146 could be a single lane roundabout which could be attractively landscaped to form a landmark and contribute to the aesthetic design. He stated the country hamlet area is envisioned as a community center of civic facilities and gathering places.

He stated another idea is to create a Park and preserve area and be a tree lined rural boulevard with amenities for bicyclists and pedestrians. He stated this is an opportunity to make something like this happen but it won't without the community's support and the Town Board leading that.

George Hansen, Plant Road, stated he lives in the center of this study area and he participated in both workshops. He stated the plan incorporates most of the plans and comments heard at those meetings and he would recommend the Town Board adopt this as part of the Town Master Plan. He stated he is in favor of this.

Lucy Healy, Plant Road, stated she doesn't understand how a roundabout on Route 9 would alleviate traffic to the extent that it would be easier to get to the other side of Town.

Mr. Behan stated they did some initial traffic analysis and there would still be traffic and it would be best answered in a future step. He stated the Town could see and experience the round-a-bouts in the area.

Herb Tinger, Stage Run, stated he thinks this is a great concept and looks forward to it. He questioned the proposed nature trails, from the Town Hall to Route 9 and it shows a lot of open space and asked about acquiring the land that would be needed asking if the Town Board would use eminent domain to acquire the land.

Supervisor DeCerce commented that this Board and the Planning Board have begun implementing some of this and what we do is talk to the builders and ask them to offer up some of the property for open space. He stated there are also other programs involved and the County and the State have grant programs available for open space. He stated he doesn't see the Town putting out a lot of money for open space and sees the individuals coming into the community wanting to develop as helping very strongly to make this happen.

Councilwoman Wormuth commented as we have large portions of land developed they look for easements or donations of land and public benefit. She stated they have the Trails Master Plan which lays out the trails areas in the Town. She stated she has never heard this Board as an open discussion is that they are looking to take people's land through eminent

domain to provide this type of activity. She stated they get great cooperation from the builders and developers as well as individual landowners who have been very generous in supporting the trails. She stated she doesn't have the understanding that adopting this would put the Board in a position to be taking land from people in order to allow this to happen.

Councilwoman Parker commented that she is totally against roundabouts and would hate to see one at Route 9 and 146 and would be a nightmare. She stated she is against a larger GEIS area and she voted against the first one. She stated it is a nice vision but she is concerned about who is going to pay for it and she would hate to tax our residents. She stated she likes the hamlet atmosphere but she is concerned about the people who live off Plant Road right next to this but what is more important is that she does not want to burden the taxpayers.

Councilman Bold stated he concurs with the comments and eminent domain is way out on the list and he can't envision a scenario where we would proceed with eminent domain. He stated they will have to use patience when working with the development of the process.

Councilman Polak commented that in being involved with the Town for the last 28 years they have never ever taken land by eminent domain and it wouldn't even be in their category to do that. He stated the citizens have become involved with working on these trails at no cost to the Town. He stated this concept is no more than the Master Plan and is just a vision to use as we proceed with development.

Herb Tinger stated the connector that was explained as a nature preserve will be on a road with no development and if there is no development how do developers donate the land.

Supervisor DeCerce stated we've asked developers to help us in other particular areas. He stated this is a concept and doesn't have the detail or the actual fact of where it is going to go.

Discussion followed regarding open space.

Henrietta O'Grady, Church Hill Road, stated she was an observer at the information meetings on this concept. She stated it appeared that many people thought the ideas were good and it is her belief that this kind of plan will help alleviate not just future traffic problems but today traffic problems that we now experience along Route 9. She stated walk-able and integrated neighborhoods are very appealing.

On motion by Councilwoman Parker, seconded by Councilwoman Wormuth the public hearing for the Town of Halfmoon "Plan for Halfmoon Center" was adjourned at 7:50 pm to the Town Board meeting of November 9th, 2006 to provide sufficient time for mailing of resident notification. Adopted by vote of Board: Ayes: DeCerce, Polak, Bold, Parker, Wormuth

The Supervisor introduced Carl Klossner, Superintendent of Waterford-Halfmoon School District.

Mr. Klossner introduced the Board members present. He stated their district opened to 914 students and they are a K-12 building and have everyone in one building on 41 acres and have everything right there. He stated he was hired in 1999 and he was directed to create a school that was more in tune of promoting the educational process. He stated they have administrators to oversee all of the areas and K-4 has 338 students, 5-8 and 9-12 have 288 students in each. He stated all of their grades have three sections, one in elementary that has four, class size average is 20-25 and the upper grades have more. He stated last years graduation, 92% of class graduated from the school (58 out of 63 students) 72% graduated with a Regents diploma or higher. He stated they have all the mandated courses and have worked diligently over the last few years to improve those courses. He stated they also have honors classes and have created some senior science electives. He stated they looked at the building structurally and a number of years the buildings were not upgraded and in 2000-01 they had a number of building projects approved. He stated they started with a new library, parking lot, six classrooms added on, a bus garage, ADA compliance projects and, a new wing. He stated the student growth rate over the last few years is between 1 and 2% and there is minimal growth in the community.

He stated they have a number of students who live in Waterford or Halfmoon and the boundary line goes down the middle of the property. He stated they created a policy that people in Waterford or Halfmoon have the right to attend the Waterford-Halfmoon School for no tuition if they live outside the boundary of the Waterford Halfmoon School System. He stated they put

together a number of steps and process and ask people to register with them in their open period from April to June. He stated they set a goal and a range for all the classes and at the end of the registration period they do a lottery draw. He stated they cannot provide transportation if outside the district and they will not create new programs and burden the taxpayers. He stated they have approximately 85 Halfmoon students in their district right now that are outside their boundaries. He stated they invite them in and expect them to be good citizens and, if not they also invite them leave.

Councilwoman Parker thanked them for the quality of education they provide to the students of Halfmoon.

Councilwoman Wormuth asked what they do to service students within the district who have special education needs.

Mr. Klossner stated they do anything they have to, and if they have to establish a program they have to do it which follows the Law. He stated students that are not in their district they won't create a program that they wouldn't normally have created for their students.

REPORTS OF BOARD MEMBERS AND TOWN ATTORNEY

Councilman Polak reported on the Fall Clean Up at the Transfer Station which will be again this weekend.

Councilwoman Wormuth reported that the Fourth Annual Duathlon will be October 15 and the registration deadline is October 6 and the forms are available here or on the website. She stated there will be a Halloween Breakfast on October 29th at the Senior Center and the annual Tree Lighting Ceremony will on December 7th at the gazebo. She stated the six-week Learn to Ski program deadline for signing up is November 9th. She stated at the next meeting she will have information on the Christmas Parade to report.

Councilwoman Parker reported that the Town will be having the Thanksgiving Baskets and they are collecting the items for the less fortunate and they will be looking for volunteers to deliver on November 18th.

Councilman Bold commented on the Ground Breaking Ceremony that was held last week for the new Town Hall. He stated he appreciates the good press coverage. He stated a great deal of topsoil has been piled up and the stakes are all out and the excavation for the footings will start very soon.

Supervisor DeCerce stated he appreciates everyone who attended and it was a very nice ceremony.

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

DEPARTMENT REPORTS – month of August

1.	Building				
Total Permits	-	71	Total fees remitted to the Supervisor	-	\$13,879.00
Filed.					
2.	Fire Code				
Total Permits	-	24	total fees remitted to the Supervisor	-	\$ 810.00
Filed.					

month of September

1.	Town Justice Wormuth				
Total Cases	-	303	Total fees remitted to the Supervisor	-	\$25,278.00
Filed.		—			
2.	Town Justice Tollisen				
Total Cases	-	314	Total fees remitted to the Supervisor	-	\$33,565.00
Filed.					
3.	Building				
Total Permits	-	73	Total fees remitted to the Supervisor	-	\$15,080.00
Filed.					

4. Fire Code
Total Permits - 21 Total fees remitted to the Supervisor - \$ 750.00
Filed.

CORRESPONDENCE

1. Pursuant to Town Law, the 2007 Tentative Town Budget submitted to the Town Board on October 3rd

Supervisor DeCerce read the following from the highlights of the Budget message.

“The Halfmoon Town Board continues to maintain financial stability. Solid budget management, affordability and conservative fiscal policies are the foundation for financial stability.

The Tentative Town Budget for 2007 operations has been finalized with financial stability the priority. No Town General Tax for the 28th consecutive year and no Highway Tax for a the 22nd consecutive year is the highway of the Town of Halfmoon’s budget.

The overall operating Budget for 2007 totals \$13,332,365”

2. Received letter from Halfmoon Historical Society requesting, when the new Town Hall is built, that the existing Sheriff Office building be used to establish a Historical Society home to display items of historical interest to the Town.

3. Received from Town Planner notification of Planning Board positive recommendation to the Town Board for the amendment to the Oakbrook Commons PDD.

4. Received letter from Mechanicville City School District extending their sincere gratitude for securing the crosswalk and flashing lights in front of their school campus

5. Received letter of resignation from Glenn Waldron as a member of the Halfmoon Senior Citizen Association Board of Directors, effective immediately.

6. Received letter of resignation from A. Richard Lee as a member of the Halfmoon Senior Citizen Association Board of Directors, effective immediately.

7. Received letter of resignation from Kenton Wengert, Jr. as an Alternate on the Halfmoon Planning Board due to additional time demands with his job.

NEW BUSINESS

RESOLUTION NO. 242

Offered by Councilwoman Parker, Seconded by Councilman Polak: Adopted by roll call vote:
Ayes: DeCerce, Polak, Bold, Parker, Wormuth

RESOLVED, that the Town Board authorizes the renewal of the Turf Mobile Home Park license for the 2006-2007 licensing year, per approval of Director of Code Enforcement.

RESOLUTION NO. 243

Offered by Councilman Polak, Seconded by Councilwoman Wormuth: Adopted by vote of Board: Ayes: DeCerce, Polak, Bold, Parker, Wormuth

WHEREAS, the contracts for construction prepared by Butler Rowland Mays, LLP authorize the Town's agent's to issue change orders for the construction of the new Town Hall; and

WHEREAS, it is the Town's policy not to permit any change orders to be authorized except by order of the Town Board of the Town of Halfmoon;

WHEREAS, the Town Board recognizes the need to address change orders for the new Town Hall promptly so as to reduce the expenses associated with delays in construction;

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

- 1. That in connection with all construction contracts for the new Town of Halfmoon Town Hall, no change order will be authorized by the Town agents unless approved by actual meeting of the Town Board of the Town of Halfmoon, or, if less than \$10,000.00, unless approved by Change Order Committee created by the Town Board consisting of Butler Rowland Mays, LLP, Councilman James Bold, Deputy Supervisor Mindy Wormuth, Director of Code Enforcement Gregory Stevens, Town Clerk Mary Pearson. This committee will have the ability to approve, with a majority of the committee agreeing, change orders for the new Town Hall if it is necessary to approve said change order prior to a Town Board meeting so as not to delay construction or cause delay/ damage charge in the opinion of the Town engineers. Any such approvals will be the review and approval of the Town Attorney.
- 2. That the committee provide a report detailing the change order at the next Town Board meeting following the approval.
- 3. That a copy of this resolution shall be forwarded to the Town Hall Architects, Butler Rowland Maps, LLP and the Town engineers, Clough, Harbour and Associates, to be entered upon their records.

RESOLUTION NO. 244

Offered by Councilwoman Parker, Seconded by Councilman Bold: Adopted by vote of Board:
Ayes: DeCerce, Polak, Bold, Parker, Wormuth

WHEREAS, a letter of resignation was received from Court Officer Matthew Reilly effective immediately, it is therefore

RESOLVED, that the Town Board appoints Gregory Burke as Court Officer to be paid \$11.78 per hour worked effective immediately through 2006.

RESOLUTION NO. 245

Offered by Councilwoman Parker, Seconded by Councilman Bold : Adopted by vote of Board:
Ayes: DeCerce, Polak, Bold, Parker, Wormuth

RESOLVED, that the Town Board authorize the Supervisor to make the following Creation of Appropriations:

A resolution is needed to increase appropriations for the construction of Capital Project for the new Town Hall and site improvements and the new Town Family Park Facilities in the amount of \$1,200,000 for a new project total of \$13,061,400. This increase will be paid for from the General Fund Unappropriated Fund Balance and there will be no new debt created for the Capital Project.

Debit:	Unappropriated Fund Balance	H599	\$1,200,000
Credit:	Appropriations	H960	\$1,200,000
	Subsidiary: Buildings & Parks		
	H1620.2	\$600,000	
	H7110.2	\$600,000	

The following creation of appropriations is needed in the Water Fund based on money received from Sale of Equipment. This creation is for additional monies to purchase meters and repairs of meters.

Debit:	Estimated Revenues	F510	\$13,000
	Subsidiary: F2665 – Sale of		
	Equipment - \$13,000		
Credit:	Appropriations	F960	\$13,000
	Subsidiary: Transmission & Distribution		
	Capital Outlay – Meter Purchases		
	F8340.20 - \$7,000		
	Contractual Expense		
	F8340.20 - \$6,000		

RESOLUTION NO. 246

Offered by Councilman Bold, Seconded by Councilwoman Wormuth: Adopted by vote of Board: Ayes: DeCerce, Polak, Bold, Parker, Wormuth

RESOLVED, that the Town Board authorizes the Supervisor to execute agreement with Tyler Technologies Inc. for financial software for Town departments in the not to exceed amount of \$78,110 , and further

RESOVLED, that said resolution be per review and approval of the Town Attorney.

RESOLUTION NO. 247

Offered by Councilwoman Parker, Seconded by Councilman Polak: Adopted by vote of Board:
Ayes: DeCerce, Polak, Bold, Parker, Wormuth

RESOLVED, that the Town Board approves and orders paid all vouchers for all funds listed on Abstract dated October 3, 2006, totaling: \$5,408.52

RESOLUTION NO. 248

Offered by Councilman Bold, seconded by Councilwoman Wormuth: Adopted by vote of Board:
Ayes: DeCerce, Bold, Parker, Wormuth Abstain: Polak

RESOVLED, that the Town Board approves proposal from Clough Harbour & Associates for Extra Work Authorization for the Brookwood Road Improvements Wetland Mitigation and Monitoring to prepare and submit a wetland mitigation plan in the not to exceed amount of \$47,600 and Land Appraisal and Acquisition Services as outlined in the New York State DOT procedures in the not to exceed amount of \$24,000, subject to the review and approval of the Town Attorney.

EXHIBIT A

WETLAND MITIGATION

I. SCOPE OF SERVICES

Task 1: Mitigation Plan & Report

CHA will prepare wetland mitigation construction drawings and a mitigation plan report for one site in accordance with the USACE compensatory mitigation guidelines dated January 10, 2005. The report will provide details of the mitigation plan including an evaluation of the functions and values of both the impacted wetlands and the proposed wetland mitigation area.

Groundwater monitoring wells will be installed within the wetland mitigation area and a stormwater analysis will be conducted to provide data necessary for the development of a water budget for the proposed wetlands.

Draft wetland mitigation plans, plan report, and a cost estimate will be submitted to the Client for review. Upon approval, the plans and report will be submitted to USACE and NYSDEC. CHA will make one round of revisions based on agency comments.

II. SCHEDULE OF FEES

For our Scope of Services, Clough, Harbour & Associates LLP proposes to be compensated on a lump sum basis, including all reimbursable expenses, for \$47,600

EXHIBIT B

Section 5 – Right of Way

.01 Abstract Request Map and/or Title Search

RIGHT OF WAY INCIDENTALS

The Municipality will request right of way incidental phase authorization from the New York State Department of Transportation. The request will be made when the Municipality determines that property acquisitions are likely to occur or when it requests Preliminary Engineering phase authorization.

The Consultant will not proceed with any activities in this section without written authorization from the Municipality. The Consultant will meet with the Municipality to review and to discuss the right of way acquisition process.

5.011 Review and Analysis of Right of Way Requirements

The Consultant will undertake an on-going review and analysis of right of way requirements for the project. the review may include:

- Preliminary engineering design
- Preliminary right of way plans and acquisition maps
- County Tax Maps
- Municipal Zoning Regulations and Maps
- Aerial photography
- Other pertinent project information

The analysis may include:

- The number of affected parcels
- The zoning classification for each parcel
- Estimated size of the acquisition
- Potential impacts to improvements

The Consultant will determine the current owner of the affected properties by reviewing public information records at the county tax assessor's office. The ownership will be verified by obtaining and reviewing a copy of the last deed of record at the county clerk's office.

5.012 Title Research

5.0121 For the acquisition of temporary easements, the Consultant will determine property title ownership through county tax assessment records and will verify the ownership through examination of the last deed of record.

5.0122 For permanent easements and fee property acquisitions estimated at \$5,000 or less, the Consultant will perform a Last Owner Title Search. The Last Owner Title Search will be the last recorded deed that conveys a full fee interest to the last owner or owners of record. The Last Owner Title Search will not begin with a deed where the grantor and grantee are in some way related without full consideration having been paid.

5.0123 For fee property acquisitions estimated between \$5,001 and \$30,000, the Consultant will perform a Twenty-Year Title Search. The Twenty-Year Search will start with a deed that conveys complete and indefeasible title, which has been executed and of record at least twenty years prior to the search date. The Twenty-Year Search will not begin with a deed where the grantor and grantee are in some way related without full consideration having been paid.

5.0124 For fee property acquisitions estimated at greater than \$30,000, the Consultant will prepare a Title Abstract. The Title Abstract will start with a warranty deed that has been executed and of record at least forty years prior to the date of the search.

5.013 Title Review and Certification

The Consultant will subcontract with a qualified, NYS licensed attorney to issue Certificate of Title on all fee property acquisitions and obtain title insurance as required. The Consultant will submit the Title Certifications to the Municipality.

5.0131 For real property acquisitions and permanent easements estimated at \$5,000 or less, the Consultant's Attorney will review the Last Owner Title Search and issue a Limited Last Owner Title Certification.

5.0132 For real property acquisitions estimated between \$5,001 and \$30,000, the Consultant's Attorney will review the Twenty-Year Title Search and issue a Limited Twenty-Year Title Certification.

5.0133 For real property acquisitions estimated at greater than \$30,000, the Consultant's Attorney will review the Abstract and issue a Title Certification.

5.0134 The Municipality will acknowledge the receipt of each Title Certification and provide the Consultant, on a per parcel basis, a list of the property owners and other compensable property interests. The Municipality will respond in writing within ten (10) days of receipt of each Title Certification.

5.02 Right of Way Survey

No services required.

5.03 Right of Way Mapping

No services required.

5.04 Right of Way Plan

No services required.

5.05 Right of Way Cost Estimates

The Consultant will provide cost estimates for the right of way to be acquired by the Municipality on all alternatives being considered and will provide updated estimates, as necessary.

5.06 Public Hearings/Meetings

No services required.

5.07 Property Appraisals

For each parcel requiring the acquisition of property rights, the Consultant will conduct a real property appraisal and prepare a real property appraisal report to determine the fair market value of the proposed acquisition.

The Consultant will contact the owner or his/her designated representative prior to completing the appraisal to extend the opportunity to accompany the appraiser during the property inspection.

5.071 Preliminary Property Owner Interview

The Consultant will conduct 1 preliminary interview with each property owner(s) or the property owner's designated representative. Other than absentee property owners, a reasonable attempt will be made to conduct the preliminary contact on a face-to-face basis. Absentee property owners and those local property owners not able to be interviewed face-to-face may be contacted via telephone and certified mail. The purpose of preliminary contact includes:

- Delivery of notices of intent to acquire, if necessary
- Delivery of right of way acquisition brochures

- Explanation of right of way and construction plans
- Informing of right to accompany appraiser
- Determining the need for additional action regarding right of way boundaries, errors and omissions in plans and/or other documents
- Prepare Physical Inspection Report

5.072 Real Property Appraisal Reports

The Consultant will subcontract the services of an appraiser to complete real property appraisals and appraisal reports required for each parcel or ownership indicated on the Right of Way Plan.

The Consultant will insure that all real property appraisals and real property appraisal reports are prepared by qualified appraisers who are, as defined by the New York State Department of State, Certified General Real Estate Appraisers.

The Consultant will insure that all real property appraisals and real estate appraisal reports conform to the Uniform Standards of Professional Appraisal Practice, Standard 1, Real Property Appraisal Development, and Standard 2, Real Property Appraisal, Reporting.

The Uniform Standards of Professional Appraisal Practice contains a Certification of Appraiser. In addition, the Consultant must certify to the following:

"The property owner or his/her designated representative was given an opportunity to accompany the appraiser during the property inspection"

"Any decrease or increase in the fair market value of the real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in estimating the compensation for the property."

The Consultant will provide 1 original bound real property appraisal report with photo copies of photos for each acquisition.

5.0721 For uncomplicated acquisitions of fee property valued at less than \$15,000, the Consultant will prepare a Limited Appraisal Report (LAR). The LAR will consist of a limited appraisal with a restricted use appraisal report as provided for in the Uniform Standards of Professional Appraisal Practice, Standard 1, Real Property Appraisal Development, and Standard 2, Real Property Appraisal, Reporting.

5.0722 For acquisitions of entire real property interests, the Consultant will prepare a Full Take Appraisal Report. The Full Take Appraisal Report will consist of a complete appraisal with a summary appraisal report as provided for in the Uniform Standards of Professional Appraisal Practice, Standard 1, Real Property Appraisal Development, and Standard 2, Real Property Appraisal, Reporting.

5.0723 For partial acquisition of real property valued at \$15,000 or more with no indirect damages to improvements, the Consultant will prepare a Before and After (land only) Appraisal Report. The land only Before and After Appraisal Report will consist of a limited appraisal with a summary or restricted use appraisal report as provided for in the Uniform Standards of Professional Appraisal Practice, Standard 1, Real Property Appraisal Development, and Standard 2, Real Property Appraisal, Reporting.

5.0724 For partial acquisition of real property valued at \$15,000 or more with indirect damages to improvements, the Consultant will prepare a Before and After Appraisal Report. The Before and After Appraisal Report will consist of a complete appraisal with a summary appraisal report as provided for in the Uniform Standards of Professional Appraisal Practice, Standard 1, Real Property Appraisal Development, and Standard 2, Real Property Appraisal, Reporting.

5.0725 For acquisitions of real property valued over \$300,000, the Consultant will prepare two independent appraisal reports. The appraisal report will consist of a complete appraisal with summary appraisal reports as provided for in the Uniform Standards of Professional Appraisal Practice, Standard 1, Real Property Appraisal Development, and Standard 2, Real Property Appraisal, Reporting.

5.08 Appraisal Review

The Consultant will perform a separate review of each appraisal. The Consultant will insure that all real property appraisal reviews are performed by a qualified appraiser who is, as defined by the New York State Department of State, Certified General Real Estate Appraisers. The appraisal review will be completed in conformance with the Uniform Standards of Professional Appraisal Practice, Standard 3, Real Property Appraisal Review, Development, and Reporting.

The Consultant will review the appraisal reports for compliance with state and federal standards. The Consultant will take corrective actions. The review appraiser will:

- Identify and make corrections to mathematical calculations and typographical errors, if necessary
- Assure real property appraisal development and reporting are in accordance with the appraisal subcontract

- Assure real property appraisal development and reporting are complete and meet the Uniform Standards of Professional Appraisal Practice standards
- State the basis for the fair market value conclusion and provide breakdowns adequate for New York State Department of Transportation audit, Federal Highway Administration eligibility review, and for negotiation purposes.

The Consultant will provide the Municipality with the highest approved appraised amount for each property rights acquisition.

5.09 Negotiations and Acquisition of Property

The Municipality will request right of way acquisition phase authorization from the New York State Department of Transportation. The request will be made subsequent to the completion of the environmental determination and the receipt of design report approval, right of way and relocation plan approvals (if required).

The Consultant will not proceed with any activities in this section without written authorization from the Municipality.

The Consultant will meet with the Municipality to review and to discuss the right of way acquisition procedures.

5.091 Just Compensation

The Municipality will establish just compensation for each property rights acquisition. In no event shall the Just Compensation amount be less than the Municipality's highest approved appraisal. Because time is of the essence, the Municipality will provide the just compensation amounts in writing to the Consultant within 10 days of its receipt of the preliminary appraisal reviews from the Consultant.

5.092 Written Offer

The Consultant will prepare a written offer for each acquisition of real property. The amount of the offer will be the amount established by the Municipality as just compensation. The written offer will include the following:

- A statement of the just compensation amount
- Separate indications of the compensation offered for the property acquired and for damages to the remaining property, if applicable (when only a part of the property is acquired)
- A summary statement, which will include:
 - the basis for the just compensation amount
 - a description and location identification of the real property
 - the interest in the real property being acquired
 - where appropriate, the statement will identify any separately held ownership interest in the property (i.e. tenant-owned improvement) and indicate that the interest is not covered by the offer
- Additional information the Consultant and/or the Municipality deems appropriate or required

5.093 Deliver Offer

The Consultant will deliver the written offer, plats, unsigned agreements and releases to the appropriate property owners or his/her designated representative. This meeting will constitute the first of a maximum of 3 contacts with the property owner or his/her designated representative.

The Consultant will meet with the appropriate property owners or his/her designated representative to explain the written offer, plats and unsigned agreements. The Consultant will conduct additional negotiation sessions with the appropriate property owners or his/her designated representative in an attempt to negotiate a settlement.

The Consultant will make all reasonable efforts to contact personally each property owner(s) or designated representative. Absentee and unsuccessful personal contacts may be made by certified mail.

The Consultant will maintain a detailed diary of each substantial contact with property owner(s). The diary will be signed and dated by the person responsible for the contact. The diary entries will be on a parcel by parcel basis:

- Substantial contacts
- Efforts to achieve amicable settlements
- Responsiveness to owners' counter proposals
- Suggestions for changes in plans

The records should include the principal activities undertaken by the agent, such as:

- parties contacted
- date and location of contact
- offers made [dollar amounts]
- counteroffers received
- property owner's comments
- reason(s) settlement could not be reached

5.094 Purchase Agreements

The Consultant will submit real property acquisition documents to the Municipality for recommended action on settlements:

Approval of negotiated settlements

Action on proposed administrative settlements

Referral to the Municipality attorney for initiation of eminent domain proceedings

Because time is of the essence, the Municipality will provide a written response to the Consultant within 10 days of its receipt of the acquisition documents from the Consultant.

5.095 Revisions to Just Compensation

The Consultant will consider any presentations made by the property owner which might affect the value of the property. The Consultant may make recommendations to the Municipality to adjust the written offer. The Municipality may revise the just compensation based on the information provided by the property owner.

The Consultant will document the justification for revising the just compensation.

The Consultant will prepare and promptly deliver a revised written offer to the property owner.

5.096 Administrative Settlements

The Consultant and/or the Municipality may recommend administrative settlements. Administrative settlements are settlements in excess of the Municipality's just compensation determination.

The Municipality will have final approval to authorize administrative settlements.

The Consultant will provide the written justification for the Administrative Settlement. The written justification will include all information necessary to support the settlement; such as:

- The approved offer of just compensation
- A summary of the acquisition agent's record of negotiations
- Reference to all appraisal reports (including the owner's appraisal report)
- Recent court awards and their relationship to the proposed administrative settlement
- A discussion of diverse valuation issues (i.e. probable range of testimony as to fair market value by both parties)
- The trial cost estimate
- The opinion of legal counsel
- The identification of the responsible agency official who has the authority to approve administrative settlements
- The recommendation and signatures of all individuals proposing the settlement

The Consultant will prepare and promptly deliver a revised written offer to the property owner.

5.097 Transfer of Title

The Municipality will not require any property owner to surrender possession of real property before the Municipality pays the agreed purchase price.

5.0971 The Consultant will conduct necessary title curative work. For real property acquisitions valued at \$2,500 or less, the Consultant will clear only the possessory interest. For real property valued at greater than \$2,500, the Consultant will clear all interests in the property. Title curative work may include partial releases of mortgage, lien subordination agreements, and lien satisfactions.

5.0972 The Consultant will perform a calculation to prorate real property taxes for each fee acquisition. The Municipality will establish a policy regarding the prorating of real property taxes.

5.0973 The Consultant will prepare closing documents for each acquisition. The closing documents will include a closing statement, instrument, real estate transfer tax return, real property transfer report and Internal Revenue Service form 1099-S.

5.0974 The Consultant will deliver the title instrument(s) to the title attorney subcontracted by the Consultant for review and approval.

5.0975 The Consultant will schedule and hold the closing. Because time is of the essence, the Municipality will pay the just compensation at the time the property owner(s) signs all required closing documents. The transfer of title to the agency may also require the payment of incidental expenses by the owner, the Municipality, or the Consultant. The Municipality will pay appropriate reimbursable expenses to the property owner(s) and/or the Consultant.

5.0976 The Consultant will promptly file all deeds or conveyance documents in the County Clerk's Office.

5.098 Right of Way Certification

The Consultant will prepare the Right of Way Certificate. The Right of Way Certificate will be prepared at the same time as the completion of the Plans, Specifications and Estimates (P.S.&E.).

The Consultant will prepare all Right of Way Certificates on forms specified by the New York State Department of Transportation.

The Municipality will sign the Right of Way Certificate.

The Consultant will prepare, if necessary, a second Right of Way Certificate prior to the time the Municipality awards the contract.

The Municipality will, if necessary, sign the second Right of Way Certificate.

The Right of Way Certificate will attest to the following conditions:

That all right of way acquisitions, including legal and physical possession and control of access rights, have been acquired, payments made, and right of way cleared in accordance with applicable laws, regulations, and procedures or a full explanation as to why not will be included;

Or that all necessary arrangements have been made (i.e. rights of entry have been received) and that all right of way acquisitions have been undertaken and will be completed for coordination with the construction schedules and that the Municipality will pay the agreed purchase price to the owner or deposit with the court for the benefit of the property owner(s), an amount not less than the approved appraisal of the fair market value of such property or the court award amount;

Or that the Municipality has determined that the completion of the right of way acquisitions is not feasible in advance of the highway construction and notification, identifying the work to be completed concurrently with the highway construction will be provided in the bid proposal;

And that encroachments that may be present in the right of way have been identified and an explanation of who will remove them provided;

And that hazardous wastes that may be present at the site have been identified with information on contractor's responsibility for safe disposal.

5.10 Relocation Assistance
No services required.

5.11 Property Management

No services required
Section 10 – Estimating & Technical Assumptions

Estimating Assumptions

The following assumptions have been made for estimating purposes:

Section 1

- 1.05 Estimate 0 site visit(s)
- 1.06 Estimate meetings during the life of this agreement. (The estimated number of meetings for the Right-of-Way Subconsultant are listed in Section 5 below.)
- 1.07 Estimate 9 cost and progress reporting periods will occur during the life of this agreement

Section 5

- 5.011 Estimate 1 meeting(s) with the Municipality.
- Estimate 0 owner verifications.
- 5.0121 Estimate 0 temporary easement title searches
- 5.0122 Estimate 0 last owner title searches
- 5.0123 Estimate 6 20 year title searches
- 5.0124 Estimate 0 full abstracts.
- 5.0131 Estimate 0 last owner title certifications.
- 5.0132 Estimate 6 20 year title certifications.
- 5.0133 Estimate 0 full abstract certifications.
- 5.03 Estimate 0 meeting(s) with the Municipality.
- 5.05 Estimate 1 right of way cost estimate(s).
- 5.061 Estimate 0 public information meeting(s).
- 5.062 Estimate 0 EDPL public hearing(s).
- 5.071 Estimate 6 Preliminary Property Owner Interviews.
- 5.0721 Estimate 6 Limited Appraisal Reports.
- 5.0722 Estimate 0 Full Take Appraisal Reports.
- 5.0723 Estimate 0 Before & After (land only) Appraisal Reports.
- 5.0724 Estimate Before & After Appraisal Reports.
- 5.0725 Estimate 0 properties requiring two independent appraisal reports.
- 5.08 Estimate 6 appraisal reviews.
- 5.09 Estimate 1 meetings with the Municipality.
- 5.092 Estimate 6 offer packages.
- 5.093 Estimate 6 property owners.
- 5.095 Estimate 3 revisions to Just Compensation
- 5.096 Estimate 0 Administrative Settlements.
- 5.0971 Estimate 0 partial release(s) of mortgage.

Estimate 0 Lien subordination agreements.
Estimate 0 Lien satisfactions.
Estimate 0 miscellaneous title curative issues.
5.0972 Estimate 6 property tax proration calculations.
5.0973 Estimate 6 closing packages.
5.098 Estimate 1 right of way certificates.

Technical Assumptions

Section 5

Assume 5 separate Fee Interests to be acquired from 5 separate property owners for the Brookwood Road Reconstruction Project.
Assume 1 Fee interest and 1 Permanent Easement to be acquired from 1 property owner for the Dunsbach Road Project.
Assume the value of each acquisition is less than \$15,000.

SCHEDULE OF FEES

For the above Scope of Services, we propose to be compensated on a lump sum basis, including all reimbursable expenses, for \$24,000.

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

Laurie Matson, 362 Hudson River Road, stated last month they spoke about the property purchased behind her house.

Attorney Murphy stated Code Enforcement has been to the Briggs property to look at what is going on and a stop work order was issued on Friday. She stated the applicant has been advised that they need to come forward with a revised site plan which details all the concerns expressed by the neighbors. She stated they have received a soil disturbance permit on their own property, which shouldn't affect anyone but if it does they should notify the Town immediately so another stop work order can be issued. Attorney Murphy advised if they require specific information they should contact Code Enforcement.

Supervisor DeCerce stated they are taking action and they will keep moving on this.

Councilwoman Wormuth stated that we have been waiting for a response from DOT on the curb cut they are concerned about and our Town engineers and highway superintendent stated there will need to be some improvements made to Briggs Lane

There being no further business to discuss or resolve the meeting was adjourned at 8:35 pm.

Respectfully submitted,

Mary J. Pearson
Town Clerk

10-3-2006

