

The January 17, 2006 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 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, Rodney Smallwood, Executive Assistant to Supervisor; Stephen Watts, Building & Development Administrator; Laurie Sullivan, Deputy Town Clerk; Lisa Perry, Secretary to Supervisor; John Pingelski, Working Supervisor; Beth Abramson, Animal Control Officer.

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.

Supervisor DeCerce stated the first item on the agenda was a public hearing for Route 146 Zoning. He stated the Board decided they needed more information therefore it was pulled off this agenda. He stated there will be another committee meeting within a couple of weeks and at the next meeting they will finalize the hearing date. He stated in addition to publishing the notice they are planning on making sure all the residents along Route 146 within the overlay district receive a letter indicating the date of the public hearing.

The Supervisor opened the public hearing on the Dog Ordinance at 7:05 pm.

Lyn Murphy, Town Attorney stated a while ago the Board was approached by several concerned citizens together with our Animal Control Officer regarding deficiencies in the existing Local Law. She stated based on a lot of work with the Board and the animal control officer they have reached and proposed a Local Law which takes the Town Law and updates it so it is in compliance with the New York State Law. She stated it also provides some of the various penalties for enforcement that the local court Justices have been asking for. She stated some of the new restrictions involves habitually loud barking dogs; dogs at large; dogs that cause damage to property; dogs that injure other people or other dogs (except for working police dogs) or dogs that habitually run along side vehicles and bicycles. She stated this local law takes the New York State statute and makes it enforceable by our Town employees and enables the Town Courts to assess the fines they felt were necessary in order to ensure compliance and prevent things from happening rather than react to things as they happen.

Supervisor DeCerce stated his office takes a number of calls and it's frustrating to say help is needed and there isn't an ordinance that allows any help to individuals. He stated when there are situations and people are waiting for someone to show up who doesn't, there is no way for us to do something about it.

Bill Lemner, 104 Smith Road, asked if there is a limit on the amount of dogs that have to be raised by someone raising police dogs to be considered to do that.

Attorney Murphy stated police dogs are exempt from the prohibition about causing injury to a person or chasing a person down due to the nature of their police work. She stated it doesn't involve the regulation of raising the police dog but involves the dog's actions while performing their duties as a police dog. She stated they can't be "off-duty" and cause injury.

Mr. Lemner asked if there is going to be any enforcement as to the amount of dogs one person is allowed to have and run freely on their property. He stated when you walk past their home the dogs run out into the road. He stated a neighbor raises German shepherds and they are in a fenced in area but at times they are allowed out and unfortunately it's when you're taking a walk. He stated they have spoken to the dog warden on many occasions. He stated there has been 3-4 dogs out at one particular time and one dog will approach from the front and before you know it you get nipped in the leg and he is told if they didn't break skin there is nothing you can do about it. He stated when you call the warden they give them a warning and that's it. He asked what can be done to stop these dogs from roaming freely and stated these dogs are trained to attack in German and when together they are like pack dogs and will attack.

Attorney Murphy stated she doesn't have personal experience with German Shepherds and this is not breed specific, however it does prohibit dogs from being "at large" and, as described would be a violation and would be enforceable by the Animal Control Officer. She stated a leash law was in existence but there was difficulty in the interpretation of some of the qualifying behaviors and the new legislation gets rid of the problem and creates a dog being "at large" a violation. She stated there was some vagueness in the local law that existed before based on the necessary intent that has to be established by the owner of the animal and they removed that portion. She stated there is a series of fines that increases per each offense and if there are formal violations within a one year period it is possible the animal could be seized and removed.

Mr. Lemner asked about the noise from the animals early in the morning.

Mrs. Murphy stated there is a prohibition in the statute that prohibits dogs from engaging in loud barking or howling to annoy or alarm another person. She stated the Animal Control officer is available 24/7 and would respond.

Mr. Lemner stated he spoke with a neighbor at 65 Smith Road and, on occasion she takes her daughter to ride her bike in the new development and when she walks in the road the dogs come right out at her and, he heard that they need two signatures to have this put to a stop.

Attorney Murphy stated that is not correct and there may be confusion with regard to the barking ordinance they do ask for more than one witness to the event because barking can be subjective. She stated it would not be necessary with what he is describing. She asked if they are running a kennel.

Diane Lemner, 104 Smith Road, stated they called the Animal Control Officer when the kennel was put in place because they didn't know if it was going to be a business or how many of the 5 or 7 or 8 dogs were licensed. She stated they have been a nuisance for years and then the kennel went in she called about the barking which seemed to stop but then started again and she did have to get another signature. She stated she doesn't want to have to drag her neighbors into a complaint on another neighbor so again they are living with this. She stated she does not walk down the street that way and they are let loose to get some exercise and when you're on the street the dogs come to you and they are trained police dogs and very mean and they are trained to attack.

Attorney Murphy stated they can have the dogs loose on their own property but not out on the street.

Ms. Lemner stated they did call the Animal Control officer for the barking noise and did need to get a second signature in order to complain. She stated they are a nuisance and worse in the summer than winter. She stated they called the Zoning Department to see if they were in violation for having this building. She asked if this was a business because there are decals on his truck regarding buying a German Shepherd.

Mr. Lemner stated he is surprised a business is allowed in a residential area and having dogs so close to other homes.

Attorney Murphy stated they will look into that and the specifics of their situation and what they are dealing with.

Henrietta O'Grady, Church Hill Road, stated she has had children bitten by German Shepherds on two separate unprovoked instances many years ago and she can't forget it and would be for anything that would keep an animal on their own property and she is very much in support of this. She stated she is also concerned about animals that bark consistently at all hours of the day and part of the night and would hope this would be stopped by this new ordinance. She asked to hear the section on that prohibition:

Attorney Murphy read the following: "it shall be unlawful for any dog in the Town of Halfmoon to engage in loud howling or barking so as to habitually or regularly annoy, alarm or bother any person; barking at an intrusion or a disturbance shall not constitute a violation of this Local Law".

Mrs. O'Grady stated that is fair however, they have a neighbor who has a dog that barks, as they have been told, at only deer, the deer must be out all day long and half the night and she can't accept that and doesn't believe it is because of deer and is very annoying to the neighbors.

Phil Koziol, 3 Stage Run, stated he hasn't seen the ordinance and stated the usual problem with an ordinance is a lack of definition asked if the ordinance is being expanded or setting up a whole section of definitions.

Attorney Murphy explained our Local Law was old so they updated it to be consistent with Ag & Markets Law and what it provides for in Article 7. She stated they are both tightening up definitions that existed and adding additional definitions.

Mike Stiles, Route 9, stated they have a dog and what would happen if someone was trying to make entry and the dog bites them would that consistent being taken away and quarantined because he was protecting the property.

Animal Control Officer Beth Abramson stated if the dog is not up to date on his rabies shots the dog is required by State Law to go to the shelter for quarantine and if it is up to date on its rabies it is quarantined on its property.

Mr. Stiles stated a dog can be very close to a person they live with and be very protective and if someone makes an entry the dog reacts the way he should react and he wants to be sure nothing would happen to that dog and it would not be fair to the dog because he is just doing his job.

Mrs. Abramson said what concerns him is that the dog would be considered a dangerous dog and that would not happen because if someone is breaking into your home there are provisions in both the State and local law that the dog has a right to defend his people, himself and his puppies. She stated that is not the same as a dog running loose and biting a child in the street where the child has every right to be but the dog does not.

John Higgins, Cary Road, asked if it specifically says in the ordinance that if the dog is on the owner's property it can be loose. He commented that he is in favor of the ordinance.

Mrs. Murphy stated there is a definition for "at large" which defines specifically what qualifies as being "at large".

Tom Murray, Harris Road, asked how they will control a barking dog, if a dog is communicating or a raccoon comes around and the dog barks.

Supervisor DeCerce stated he gets calls at times for incessant barking and there was one person who called saying the barking lasted all night long and he couldn't sleep and it was an accurate complaint and we had no teeth to stop it.

Attorney Murphy read a section of the ordinance that reads "engage in loud howling or barking so as to habitually or regularly annoy alarm or bother any person" and is not a one time occurrence.

Mr. Murray stated he is for the ordinance and one dog will start barking and then others will start. He stated it is a broad area to fine someone and its characteristic of a dog to bark when another dog walks by.

Phil Koziol stated maybe there should be consideration of the duration to define excessive barking.

Attorney Murphy stated it is difficult to legislate in that manner and the Animal Control officer has discretion with regard to what is appropriate and what isn't appropriation. She stated it is not the Town's goal to over-regulate but to provide a tool when it's an obvious problem.

Mrs. Abramson stated generally there is a 10-15 minute window for a dog to quiet itself after someone goes by and this is a tool for use with an incessant barking dog. She stated there is still the two household requirement for a complaint on barking.

There being no further questions the Supervisor closed the hearing at 7:30 pm.

Councilwoman Parker asked about Section 5, Dog Licensing Fees and stated they decided to make a change.

Attorney Murphy stated initially it was proposed that the Town would enact a licensing fee of \$10.00 in addition to the statutory fee required by Ag & Markets. She stated after reviewing with the Town Board individually it was suggested the legislation proposes the fee be reduced to \$2.50 and seniors over the age of 65 be exempt. She stated additionally the local fee will not apply to any re-licensing of the same dog that occurs within the same year due to updated rabies vaccination in accordance with the new Ag & Markets laws. She stated this law mirrors the Ag & Markets law and does include farm animals and could be enforced by both entities.

Councilwoman Parker thanked Beth and Lyn for all their hard work on this new law.

Supervisor DeCerce thanked everyone who did so much work on this and listened and did some adjustment and stated the work that was done by counsel, the Animal Control office and the Clerk's office. He stated this will need to be explained to residents by the Clerk's office.

## RESOLUTION NO. 22

Offered by Councilwoman Parker, seconded by Councilman Polak adopted by Vote of Board:  
Ayes: DeCerce, Polak, Bold, Parker, Wormuth

### **LOCAL LAW NO. 1-2006 OF THE TOWN OF HALFMOON**

"A Local Law to restrain the running at large and barking of dogs in the Town of Halfmoon, and generally regulating dogs and dog owners' responsibilities".

**Section 1. Purpose.** The Town of Halfmoon, New York, finds that the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property and created nuisances within the Town. The purpose of this local law is to protect the health, safety and well-being of persons and property by imposing restriction and regulations upon the keeping or running at large of dogs and the seizure thereof within the Town.

**Section 2. Authority.** This local law is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law.

**Section 3.** The title of this local law shall be **"Dog Control Ordinance of the Town of Halfmoon."**

#### **Section 4. Definitions.**

(a) **"Owner"** means any person who owns, harbors, maintains or keeps any dog. In the event any dog found in violation of this ordinance shall be owned by a person under eighteen years of age, the owner shall be deemed to be the parent or guardian of such person (or the head of the Household in which said person resides).

(b) **"Own"** means maintains and keeps including the providing of food or shelter to any dog.

(c) **"At large"** means any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be at large if it is: (a) leashed and under the supervision and control of the owner or other responsible person; (b) a police work dog in use for police work; (c) Working detection dog; (d) working therapy dog; (e) working search dog; or (c) accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.

(d) **"Aggressive dog"** means a canine, or canine crossbreed which has bitten, attacked, or inflicted injury on a person, companion animal as defined in subdivision five of section three hundred fifty of the Agriculture and Markets Law, farm animal as defined in subdivision four of section three hundred fifty of the Agriculture and Markets Law, or domestic animal as defined in subdivision seven of the Agriculture and Markets law, or without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death.

(e) **"Vicious dog"** means a canine, or canine crossbreed which has killed a person or inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of a bodily function; or which continues to exhibit the behavior which resulted in a previous finding by a court that it is an aggressive dog, provided that its owner has been given notice of that finding.

(f) **"Police work dog"** Aggressive dog and Vicious dog do not include a police work dog as defined in subdivision eighteen of Article 7 of the New York State Agriculture and Markets Law.

#### **Section 5. Dog License Fees.**

(a) Pursuant to the authority of the New York State Agriculture and Markets Law Article T, each dog licensed in the town shall pay an animal fee of \$2.50 in addition to the statutory fee required by the Agriculture and Markets Law. Persons over the age of 65 shall be exempt from the Town fee of \$2.50 for the first dog licensed for each calendar year. The Town fee will not apply to any re-licensing of the same dog that occurs within the same year due to updated rabies vaccination.

(b) The license fee enacted herein shall not apply to any guide dog, hearing dog, service dog, war dog or police work dog.

(c) An additional \$5 surcharge shall be assessed on all dogs who are identified for licensing during the enumeration process. This fee shall be collected at the time of licensing and is in addition to the fees detailed herein.

**Section 6. Restrictions.** The owner of the dog shall be responsible when a dog violates any restrictions contained herein. It shall be unlawful for any dog in the Town of Halfmoon to:

(a) Be at large  
(b) Engage in loud howling or barking so as to habitually or regularly annoy, alarm or bother any person; barking at an intrusion or a disturbance shall not constitute a violation of this Local Law.

(c) Cause damage or destruction to property or commit a nuisance by habitually defecating or urinating on public property or on premises of a person other than the owner of such dog unless the owner of said premises has given permission, or scavenging through refuse upon the premises of a person other than the owner of such dog, unless the owner of said premises has given permission therefore.

(d) Commit an overt act which causes a person, who is peaceably conducting himself in any place where he may lawfully be, to be placed in reasonable apprehension of bodily harm, when the dog has the apparent ability to inflict such harm.

(e) Habitually chase or run alongside of motor vehicles or bicycles.

#### **Section 7. Dangerous or Vicious Dogs**

(a) Any Animal Control Officer who has reason to believe that a canine, or canine crossbreed within the Town of Halfmoon is an aggressive dog or vicious dog shall apply to a magistrate of the Town for the issuance of a summons requiring the owner or custodian, if known, to appear before the Town Court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The Animal Control Officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the Animal Control Officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is an aggressive dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized.

(b). No canine, or canine crossbreed shall be found to be an aggressive dog or vicious dog solely because it is a particular breed. No animal shall be found to be an aggressive dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties at such at the time of the acts complained of shall be found to be an aggressive dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or protecting offspring, shall be found to be an aggressive dog or a vicious dog.

(c). All dogs determined to be aggressive dogs shall be returned to their owner only after proof is provided to the town that the owner is eighteen years of age or older and who presents satisfactory evidence of the animal's current rabies vaccination, if applicable, and evidence that the animal is and will be confined in a proper enclosure, is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed, that their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property.

(d). While on the property of its owner, an animal found by a court to be an aggressive dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found by a court to be an aggressive dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(e). If the owner of an animal found by a court to be an aggressive dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(f). After an animal has been found by a court to be an aggressive dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal is loose or unconfined, bites a person or attacks another animal, is sold, given away or dies, or has been moved to a different address.

(g). The owner of any animal which has been found by a court to be an aggressive dog who willfully fails to comply with the requirements of this section shall be guilty of a violation punishable by up to \$500 and/or 90 days in jail together with forfeiture of the aggressive or vicious animal.

**Section 8. Disposal of Dead Animals.** It shall be the responsibility of the owner to remove and properly dispose of a deceased animal within twenty-four (24) hours of the animals' death.

#### **Section 9. Animal Care- In General.**

(a) An owner or person having charge or custody of an animal shall provide their animal with adequate wholesome food and water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering.

(b) An owner or person having charge or custody of an animal shall not endanger the health of the animal by placing or confining the animal in a manner that would expose the animal to excessive heat, lack of food or water, or any other circumstances as may cause injury or death to the animal.

#### **Section 10 Confinement of Animals in Motor Vehicles Prohibited**

(a) Any person who confines an animal in an unattended, enclosed vehicle where the outside temperature is 70 degrees or greater, and the interior of the vehicle is not provided with conditioned air to maintain an internal temperature of 80 degrees Fahrenheit or less, shall be guilty of a violation punishable pursuant to Section 16 of this law.

(b) Any person who confines an animal in an unattended, enclosed vehicle so as to cause the animal to suffer from heat stress, shall be guilty of a violation punishable pursuant to Section 3 of this law. The Animal Control Officer or other officer shall have the authority to remove any animal found in an enclosed vehicle that appears to be suffering from heat stress. The animal shall be provided immediate veterinary care. The animal

owner or custodian shall be responsible for all expenses incurred during the removal of the animal or its subsequent treatment and impoundment.

**Section 11. Enforcement.** This local law shall be enforced by any Animal Control Officer, dog warden, dog control office, peace officer, Deputy Sheriff, or New York State Trooper, when acting pursuant to his special duties, or police officer or other authorized town employee acting in the employ of or under contract to the Town of Halfmoon.

**Section 12. Seizure, Impoundment, Redemption and Adoption.**

(a) A dog may be seized, pursuant to the provisions in section 118 of the Agricultural and Markets Act for violation of this local law.

(b) Every dog seized shall be properly cared for, sheltered, fed and watered pursuant to Section 118 of the Agricultural and Markets Act for a redemption period of not less than five days.

(c) Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fees set forth in section 118 of said Article.

(d) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subdivision (c) of this section whether or not such owner chooses to redeem his or her dog.

(e) Any dog unredeemed at the expiration of the appropriate redemption period, shall be made available for adoption or euthanized pursuant to the provisions of Section 118 of the Agriculture and Markets Law.

**Section 13. Complaint** Any person who observes a dog in violation of this local law may file a complaint under oath or an affirmation with a Justice of the Town of Halfmoon or with the Animal Control Officer, Dog Warden, Dog Control Officer, Deputy Sheriff or the New York State Trooper, specifying the nature of the violation, the date and time thereof, a complete description of the dog, including, for example, the breed, the approximate size, color, markings and distinguishing characteristics, and the name and residence, if known of the owner of the dog. Such complaint may serve as the basis for enforcing the provisions of this local law, except that two complaints, each originating from separate households, shall be required as the basis for enforcing the provisions of Section 5(b) hereof.

Upon receipt of the signed complaint by the Town Justice, the Town Justice may summon the alleged owner or other person harboring said dog to appear in person before him or her. If the summons is disregarded, the Justice may permit the filing of information and issue a warrant for the arrest of such person.

**Section 14. Appearance Ticket.** Any Animal Control Officer, dog warden, dog control office, peace officer, Deputy Sheriff, or New York State Trooper, when acting pursuant to his special duties, or police officer or other authorized town employee acting in the employ of or under contract to the Town of Halfmoon, observing a violation of this local law in his presence or receiving a complaint pursuant to Section 8 of this local law shall issue and serve an appearance ticket for such violation.

**Section 15. Penalties.** Any person convicted of a violation of this local law, except as detailed above in section 7, shall be deemed to have committed a violation and shall be subject to the following fines:

(a) A fine of not more than Fifty (\$50.00) Dollars for the first conviction of a violation of this local law.

(b) A fine of not more than Seventy-five (\$75.00) Dollars for the second conviction of this local law within one year of the first conviction of a violation of this local law.

(c) A fine of not more than Two Hundred Fifty (\$250.00) Dollars for the third or additional convictions of a violation of this local law within one year of the first conviction of a violation of this local law, and/or up to 15 days in jail.

(d) In the event of four (4) or more violations within a one year period, the court shall be empowered to order the dog seized by the Animal Control Officer pursuant to the provisions of the Agricultural and Markets Act and to either have the dog made available for adoption or be euthanized if not adoptable.

**Section 16. Separability.** Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

**Section 17. Repealer.** This local law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of Halfmoon insofar as they are inconsistent herewith and they shall be, upon the effective date of this ordinance, null and void.

**Section 18. Effective date.** This local law shall take effect ten (10) days after its publication and posting according to law.

The Supervisor opened the public hearing for the Arlington Heights PDD at 7:36 pm.

Gordon Nicholson, Landscape Architect for Environmental Design Partnership LLP, representing Belmonte Builders for Arlington Heights stated this PDD was originally approved by the Town in 2000. He stated it consisted of approximately 25 acres of land and 50 building lots. He stated the applicant proposed this in advance of the Prospect Meadows development and with that success Belmonte Builders felt that the market was right for another application. He

stated the difference between this application and the original is they have approximately one more acre of property, four less building lots and approximately  $\frac{3}{4}$  more of an acre of open space on the project. He stated they are preserving approximately  $3\frac{1}{2}$  acres of open space corridor on Farm to Market Road and is consistent with the GEIS. He stated the applicants are proposing to contribute \$2,000 a unit times 46 units to the Town in furtherance of the GEIS Master Plan. He stated there will be a connection to Saratoga County Sewer District and Town water, on site storm water, on site storm water management and an on-site Homeowners' Association which will maintain the sidewalks, streetlights and maintenance on each building lot. He stated there is a 30' limited clearing buffer along the property line. He stated there is a landscaped boulevard entrance. He stated the reason the application is back before the Town is that the original approval was conditioned upon a wetland crossing and, the original PDD had a three year sunset provision and the applicant was not able to secure approvals from the Army Corp for it, therefore it expired.

Rosemarie Wysocki, Farm to Market Road, stated when this came before the planning Board she had a lot of concerns and she wants to be sure they were addressed. She stated one concern was the farmland on the adjacent property doesn't get flooded. She stated there is a 30 foot buffer but that won't take care of all the land that is covered with houses and streets but she understands they are making an effort and will direct the stormwater. She asked what they will build there to keep it from naturally moving.

Mr. Nicholson stated there will be an enclosed drainage system in the streets and the storm waster will be picked up and directed to a stormwater management basin on the property and discharged to the drainage corridor. He stated it is conceptual and they are showing a location for the stormwater management assuming the Town Board approves the PDD legislation it will go back to the Planning Board for complete detailed engineering and there will be more detailing on the design of the basin. He stated the State and Federal Stormwater Management Guidelines requires that the amount of drainage that leaves the property in an underdeveloped stated can't be exceeded after the project develops. He stated they provided a drainage easement to a drainage corridor and the detailed engineering will be submitted and, he entertain comments or concerns when they get to the Planning Board. He stated they are asking the Town Board to approve the land use legislation for this project.

Ms. Wysocki asked who establishes the Home Owner Association. She stated she hopes everyone will be aware that the farmland is farmed. She asked is trails are planned.

Mr. Nicholson stated the builder the builder does that and the builder is responsible for it. He stated there are no trails planned for the site. He stated there will be an on site sidewalk system on both sides of the road.

Ms. Wysocki stated she has asked the Town Board before about the speed limit on Farm to Market Road and asked if it could be done again.

Supervisor DeCerce stated he has asked to check on the date of the last request.

John Higgins, Cary Road, stated he went to the meeting a few years ago when the Right to Farm Law came up and it was decided it wasn't necessary. He stated he wants to make sure that the Town of Halfmoon does see that farming is a business in the Town and that the right to farm is still established in the Town of Halfmoon.

Supervisor DeCerce stated they will research the status of this law and bring it back to a meeting but he has been assured we have a law.

Diane Lemner, 104 Smith Road, asked where is development is going in. She asked if there is potential that flooding will damage the Wysocki farm land. She stated she has had flooding on her property from developments.

Mr. Nicholson indicated on the map where the entrance to Kingsbrook Estates is.

Mike Stiles, Route 9, stated he is not opposed to growth but in that area east of Farm to Market going north there are four major water corridors and when there is a major change is made through there it runs towards them. He stated the problem is the effluence that runs through and it needs to be watched and controlled so the poison doesn't affect the people who live.

Ed Rucinski, Staniak Road, stated with the topography of the land all the effluence will wind up in the Dwasskill through the creek that runs behind Sysco. He asked if anyone has thought about the effects on the protected trout stream.

The Supervisor closed the hearing at 7:50 pm.

Mr. Nicholson stated there is a 30 foot wide clearing restriction along the western property line. He stated they normally propose for that is they cant clear trees over a certain size or you can't clear any trees but you are allowed to maintain trees that have fallen down or damaged. He stated in some instances the Planning Board suggest that you do not clear any trees over 6" or 4" in diameter.

Mr. Nicholson commented that some of the area requires any disturbance so if they want it to remain forever wild they would be able to do that. He stated they would suggest a certain amount of flexibility for maintenance.

Rex Grathwal, Farm to Market Road stated the buffer zone at the property line was discussed at the Planning Board hearing and he asked for it to be included on his property line and he was informed they would look into it and he wonders why its on the left side and not the bottom side.

Councilman Bold asked if the area of the storm water management is part of the PDD

Councilman Polak suggested that a copy of these minutes with discussion of the PDD be sent to the Planning Board.

Offered by Councilman Polak, seconded by Councilwoman Wormuth adopted by Vote of Board;  
Ayes: Polak, Bold, Parker, Wormuth Abstain: DeCerce

## REPORTS OF BOARD MEMBERS AND TOWN ATTORNEY

Supervisor DeCerce stated the security cameras will be fitted with transcribing units very soon.

Councilwoman Parker reported on the Dog Ordinance public hearing and again she thanks those involved for their hard work.

Supervisor DeCerce reported that the County adopted Local Law 06 authorizing the Board of Supervisor to make application for re-designation of certain areas within Saratoga County as



Empire Zone. He stated the Town of Halfmoon has 166.55 +/- acres in that and is described as at the top of Ted Bailey's hill.

Supervisor DeCerce opened public privilege; no one had questions or comments.

John Higgins, Cary Road, commented on the public hearing that was cancelled. He stated he made a suggestion to the Board that if the zoning on someone's property is going to be changed he suggested that the property owner be notified in writing by the Town. He stated it is presumed that the property owner would know about it by reading about it or attending meetings. He stated the elderly may not be aware and if someone zoning is going to be changed that the purported property owner be notified in writing. He stated he wanted to propose that to the Board as a suggestion for future zoning changes.

Supervisor DeCerce stated that was one of the caveats that he preceded the explanation of cancelling this. He stated they are going to make it a point to notify all the individuals who are within the range of the overlay district.

Mr. Higgins stated he is saying if there is an actual change that is approved by the Town Board that the property owner be notified in writing.

Councilman Polak stated they will also have the opportunity to make their comments in writing if they are unable to attend the public hearing

#### **DEPARTMENT REPORTS- month of December**

1. Town Clerk  
Total fees remitted to the Supervisor \$ 6,731.16  
Filed.
2. Town Justice Tollisen  
Total cases – 231 \$22,375.00  
Filed.
3. Town Justice Wormuth  
Total cases – 305 \$24,270.00  
Filed.

2005 Year End Report submitted by: Town Justice Wormuth; Town Justice Tollisen; Town Clerk

#### **CORRESPONDENCE**

1. Received from State of New York, Department of State notification of receipt and filing of Local Law #7-2005, A & M Sports; Local Law #8-2005, Fellows Road; Local Law No. 9, Adam's Pointe.
2. Received from State of New York Department of Transportation notification of School Speed Limit Study for Pruyn Hill Road and determination to establish a 20 MPH school speed limit on Pruyn Hill Road for a distance of approximately 1,040 feet and recommendation that consideration be given to the use of a crossing guard at the marked crosswalk.

#### **NEW BUSINESS**

##### **RESOLUTION NO. 24**

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 the Supervisors Report for month of December 2005 as presented.

##### **RESOLUTION NO. 25**

Offered by Councilwoman Parker, seconded by Councilman Bold 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 January 17<sup>th</sup>, 2006, totaling: \$304,540.36

#### RESOLUTION NO. 26

Offered by Councilwoman Parker, seconded by Councilwoman Wormuth adopted by Vote of Board: Ayes: DeCerce, Polak, Bold, Parker, Wormuth

RESOLVED, that the Town Board authorizes one additional Town employee to attend the Association of Towns 2006 Training School & Annual Meeting in New York City on February 19-22 and authorize payment of \$100.00 registration fee.

#### RESOLUTION NO. 27

Offered by Councilwoman Parker, seconded by Councilman Polak adopted by Vote of Board: Ayes: DeCerce, Polak, Bold, Parker, Wormuth

RESOLVED, that the Town Board authorizes Town employee Scott Houle to work as MEO for Town Highway Department, only as necessary, retroactive to January 1, 2006

#### RESOLUTION NO. 28

Offered by Councilman Bold,, seconded by Councilwoman Parker, adopted by Vote of Board: Ayes: DeCerce, Polak, Bold, Parker, Wormuth

RESOLVED, that the Town Board approves the January 2006 Water Report for Water Usage as submitted by the Director of Water.

#### RESOLUTION NO. 29

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

RESOLVED, that the Town Board approves \$750.00 stipend for the Clifton Park-Halfmoon Memorial VFW Post #1498 for the year 2006.

#### RESOLUTION NO. 30

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

RESOLVED, that the Town Board appoints Edward Peck as member of the Trails Advisory Committee effective immediately through December 31, 2006.

Councilman Bold reported on the next resolution, stating the contract we have with Fraser for the design of the Town Park does not have the traffic assessment report and when they visited with DOT in Schenectady in December the DOT representative requested that we conduct this assessment review. He stated they informed him it would be a prerequisite to obtaining any approvals or permits from DOT. He stated it is not being done as a direct contract with the Town but is a contract with Fraser and is an amendment to the contract with Fraser. He stated the proposal is in the lump sum amount of \$3800 but there is a concern DOT will require addition items. He stated he conferred with Attorney Chauvin and he recommended the not to exceed amount be stated.

#### RESOLUTION NO. 31

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

RESOLVED, that the Town Board approves amendment to J. Kenneth Fraser & Associates Contract for Town Park to accept proposal from Greenman-Pedersen, Inc. to perform a Traffic Assessment Report for this project in the not to exceed amount of \$5,000, and further

RESOLVED, that said amendment be subject to review of Town Attorney and further authorize the Supervisor to execute said amendment.

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

There being no further business to discuss or resolve the meeting was adjourned at 8:15 pm.

Respectfully submitted,

Mary J. Pearson  
Town Clerk

1/17/2006

