

The April 21, 2009 regular meeting of the Town Board of the Town of Halfmoon was called to order by Supervisor Wormuth at 7:00 pm in the A. James Bold Meeting Room at the new Town Hall, 2 Halfmoon Town Plaza, with the following members present:

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

Not present - Walter F. Polak, Councilman

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

Supervisor Wormuth stated that Dr. Oliver Robinson, Superintendent of Shenendehowa School District is present to provide an update on the proposed School Budget.

Dr. Robinson thanked the Supervisor for allowing him to make this presentation tonight. He stated the proposed budget which is scheduled for May 19th, is \$147 million dollars and is an increase in spending of less than one percent. He stated the budget includes \$4.4 million in reductions and restructuring to pave the way for a multi-year fiscal crisis. He stated the reductions are across the board and will impact every major unit of expense including athletics to operations and everything in between. He stated this has been a tough budget year. He stated they always have to balance the growth in the school district with new students and they are looking at between 120 and 140 new students coming in. He stated the increase is less than one percent which is a significant departure from the past. He stated it is not possible to estimate the tax impact but they are looking at less than 2%. He stated they know that 2009-10 budget is going to be tough and they know the 2010/11 is going to be tough and will probably will see another year where they will talk about reductions in budget to deal with the economic issues. He stated there is a lot a talk about economic stimulus and they are trying to tap into those but unfortunately Shen is in a predicament where we are too rich to be poor and too poor to be rich and we are not eligible for a lot of the stimulus funds and they re trying to tap into other resources to minimize the tax impact on taxpayers because they want to progress as a school. He stated there are a lot of major capital projects and now they are doing projects at virtually no cost to the taxpayers. He stated they are looking at approximately 46 layoffs and most will be mitigated by a lot of retirements particularly on the teacher side they are seeing more and more. He stated they are hard reductions to make because they impact people personally but it is a small fraction of the total. He stated they will still be hiring in different capacities because of trying to fill certain positions and they are looking at a two-year budget cycle and perspective knowing that what they do with this budget will impact other years. He stated this is a very austere budget and the contingent budget is about \$151 million using the State calculation and there is about \$147 million so they are already below what the contingent calculation cap would be. He stated there would be more information available within the next several weeks so all the residents will be completely informed.

Councilwoman Parker asked if the decreases in the 2009-10 Budgets due mainly to the administration that is now working at the Capital and the restrictions.

Dr. Robinson stated a lot of it is restrictions on State aid and it being frozen. He stated under Governor Spitzer the State approved a 2-year payment of State aid for schools and shortly later that legislation under Governor Patterson was abandoned and that 2 year guaranteed Shen 3% increase in State aid and is completely off the table right now. He stated essentially they will see a 3 or 4 year span with the same State aid level which will be problematic because State aid is about 28% of their revenue source. He stated if that were restricted it would force them to have a greater burden on thx impact, which they don't want to do and/or reduce expenses.

Councilman Hayner thanked Dr. Robinson for coming tonight. He asked if most of the people that would be losing jobs would be retiring teachers and asked what the other positions are.

Dr. Robinson stated the classified positions are support employees and on the teacher side is 19 teachers slated and they have about 17 retirements and not all will go unfilled because some they have to fill. He stated retirements in the secondary level is where a lot of positions are

being forced and the elementary level is driven by enrollments. He stated with the retirements they will try to mitigate instead of filling positions the staffing would be reduced down by certain numbers. He stated they are seeing maternity leave positions coming in and may end up getting a leave position for a year. He stated they are trying to reduce costs and also be humanistic as many of the people are parents and neighbors and people who live in the community but there will be people not employed by the school district but that won't be worked out until the middle of June after the Budget vote and they are trying to mitigate those damages. Her stated it is a balancing act to provide services the kids need to support their education.

Councilwoman Parker asked what happened to the program "no child left behind".

Dr. Robinson stated the "no child left behind" left the child behind.

Councilman Hotaling asked if he felt he was going to have to over stuff classrooms with cutting teachers.

Dr. Robinson stated at this point he would say no and largely because a lot of the staff reduction is at the secondary level and it becomes a major charge for scheduling. He stated it is truly a change in the dynamics of how they schedule courses. He stated they offer a tremendous wealth of choices in high school and everything from the traditional high school courses to college level courses and kids walk out with four years of college credit. He stated what they will be forced to do is start to really analyze what type of courses they offer and those modifications will happen versus cramming a lot of kids into class. He stated if they have to go through reductions again they would start having a much more adverse impact on class size

Henrietta O'Grady, Church Hill Road, asked, despite the budget constraints and restraints is Shenendehowa thinking about moving to full day kindergarten.

Dr. Robinson stated they can only think about it because they are still trying to contend with the constant enrollment increases and at some point down the road they will have to address kindergarten issues. He stated they are expending their extended day "k" program and is full day for certain population of students where there will be some consistency. He stated full day "K" is tough because it is not funded by the State in State aid and becomes an issue for them because automatically they would need a minimum of 17 new classrooms and a new school. He stated the funding mechanism has fallen by the wayside and working with the curriculum perspective

At 7:23 pm the Supervisor opened the Public Hearing for the proposed legislation for the distribution of Telephone Books; no one wished the notice read. The Supervisor asked the Town Attorney to provide a brief description of this legislation.

Attorney Murphy stated based on communications the Board received from various residents they requested she draft a local law, which in some ways would prohibit the placement and the distribution of telephone directories throughout the Town. She stated the Board has had an opportunity to review the local law and the highlights are that local telephone directory's may not be left in public places, on private property which is uninhabited or vacant, they must be left within 10' of the entranceway of any residential or commercial structure and any distribution must include a notification that provides information to residents as to how to stop the delivery of phone books should they request. She stated there is language which would enable the Town to fine people who violate this ordinance and, if a repeat act over several years the fines continue to increase and the maximum period of incarceration which could be given by the Judge would be 15 days.

The Supervisor stated some of the reasoning behind this and comments heard from the public and the request for this is that we often find that the company's who produce these phone books contract with people to deliver them and they get dumped on dead end streets and get thrown from the edge of the road into peoples driveways during inclement weather in the. She stated people have ruined snow blowers, injuries and different things because of how the phone books have been left and the books become useless if exposed to the weather. She stated they have tried to work with the companies.

There being no further questions or comments the Supervisor the hearing at 7:26 pm.

RESOLUTION NO. 96

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

RESOLVED, that the Town Board adopts the following Telephone Book legislation:

A Local Law to regulate distribution of telephone books in the Town of Halfmoon

BE IT ENACTED by the Town Board of the Town of Halfmoon, County of Saratoga and State of New York as follows:

Chapter 126

Section 126-1. Intent and Purpose.

The Town Board of the Town of Halfmoon finds and declares that the unwanted telephone books have become a waste problem, as well as a litter and nuisance problem. Residents and businesses complain about unwanted telephone books. The taxpayers bear the burden for clean up, recycling and disposal of unwanted telephone books. As the number of telephone directory distributors increases, it has become a serious environmental concern. In the interest of improving the quality of life for our residents, of reducing waste removal and recycling costs to local governments, and of reducing the use of natural resources, the Town Board enacts this Ordinance.

Section 126-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

TELEPHONE DIRECTORY - A publication that lists and publishes the names, addresses, and telephone numbers of telephone customers or the advertisements, products or services of businesses or professional firms by alphabetical category, commonly known as a local telephone directory.

PERSON – Any natural person, firm, partnership, association, corporation, company, public utility or organization of any kind.

PUBLIC PLACE – Any street, sidewalk, alley, public way, public park, public square, public space, public grounds or public building.

Section 126-3. Distribution and Posting.

A. Public Places.

No person shall leave any local telephone directory upon a public place within the Town of Halfmoon. This provision shall not be construed as prohibiting the distribution of telephone directories to persons willing to accept them.

B. Private Property.

(1) No person shall leave any local telephone directory upon any private property which is temporarily or continuously uninhabited or vacant.

(2) Local telephone directories shall be delivered to within ten (10) feet of the entranceway of any residential or commercial structure where it be public or private.

C. All local telephone directories distributed within the Town of Halfmoon shall conspicuously print on the front cover and/or in the Table of Contents, a statement that reads:

“IF YOU NO LONGER WISH TO RECEIVE THIS DIRECTORY, PLEASE
CALL THE FOLLOWING NUMBER OR CONTACT THE COMPANY
AT THE FOLLOWING ADDRESS: “

along with the toll free number and mailing address or electronic mailing address for the business that residents may use to provide verbal or written notice to the business that the resident no longer wishes to receive the directory. Local telephone directories shall not be distributed to the resident at that address for a period of five years.

Section 126-4

A. A violation of this section is hereby declared to be an offense, punishable by a fine not exceeding one hundred dollars (\$100.00) for conviction of the first offense; for conviction of the second offense, both of which were committed within a period of five years, a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed fifteen days (15) days, or both; and upon conviction for a third or subsequent offense, all of which committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350.00) not more than seven hundred dollars (\$700.00) or imprisonment not to exceed six months, or both.

B. Each separate phonebook placed in violation of this local law shall constitute a separate offense.

C. All other provisions as set forth in section 165-76 of this Code shall apply unless otherwise stated herein.

Section 126-5. When effective.

This Chapter shall take effect immediately upon its passage and publication according to law.

REPORTS OF BOARD MEMBERS AND TOWN ATTORNEY

Councilman Hotaling reported that on Sunday was the 40th Anniversary of the Clifton Park Halfmoon Public Library and thanks everyone who volunteers and puts in hard work; he stated this coming Saturday at Cheryl’s Lodge in Turf Park Dr. Robinson will be the guest speaker,

CAPTAIN is going to have an event with the Youth Bicycle program; he requested a resolution making May Senior Month.

RESOLUTION NO. 97

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

RESOLVED, that the Town Board declares the month of May as “Senior Citizen Month” in the Town of Halfmoon.

The Supervisor stated the first meeting in May is at 2:00 pm and all the members from our senior center come over and join us and everyone is welcome. She stated they enjoy the opportunity to come over to join in at the meeting and they provide refreshments.

Councilman Hayner reported that this past Saturday, April 18th from 10 to 11:30 am down by the Crescent Bridge along the Crescent trail several volunteers came out including Cub Scout Pack 45 and cleaned up along the riverfront and this was the 3rd Annual event and every year it gets nicer and nicer and is a nice highlight with the new trail; he stated the next Trails meeting will be on May 18th; the next Open Space meeting will be on Thursday May 7 and is open to the public; he reported that the Recreation department Summer Recreation program is taking registrations on May 9th, 16th and 30th from 9 to noon and also on Wednesday’s, May 13th, 20th and 27th from 6 to 8 pm at town hall. He stated the recreation department also asked him to announce they are still taking donations for scholarships if anyone wishes to donate money for those who may not be able to afford to go to the camp.

Councilman Hayner announced that May 7th is the National Day of Prayer and is the 58th anniversary of that.

Councilwoman Parker reported that she continues to thank the highway crew and everyone who worked to get us through the ice storm and clean up has been working well and knows the staff is pretty tired; the Recycling & Transfer station will continue to have the Spring Cleanup on Friday 12 to 5 and Saturday 9 to 3pm; Sunday, April 26th is the Crime Victims candlelight vigil at 2 pm at the Presbyterian New England Congressional Church at 24 Circular Street in Saratoga Springs

She stated the New Town Park grass is growing, the buildings are almost complete, we are still on target and most important we are still under budget.

Supervisor Wormuth stated we are looking at major structure completion in the Park for mid-July, early August, which will be ahead of schedule. She stated the ball fields that were sodded in the Springtime will not be ready for play because the park won’t be open this Spring but certainly looking forward to Fall Ball. She stated fairly soon our Parks department will take over the care of those fields from the contractor and nurture them through the summer months.

The Supervisor opened public privilege for discussion of agenda topics.

Linda Stancliff with Erdman Anthony and Associates in Brunswick, New York and is here to thank the Board for the opportunity to serve the Town under Item #4 the resolution authorizing the Supervisor to negotiate their contract for the Crescent Trail extension feasibility study and they look forward to the project.

The Supervisor stated this is based on a grant the Town received and there was a committee set up that included people from the Town and outside the Town that put out proposals and requested information and Erdman Anthony is the company recommended to do this study.

DEPARTMENT REPORTS – month of March

1. Town Clerk

Total fees remitted to the Supervisor - \$9,433.20

CORRESPONDENCE

1. Received from Tailgaters Sports Tavern, 1683 Route 9, Halfmoon, notification of intent to renew their liquor license.

2. Received from Sushi Na-ra, 1683 Route 9, Halfmoon, notification of alteration of the premises to increase seating capacity.
3. Received from Matt's Cape House, 1663 Route 9, Halfmoon, notification of intent to apply for a wine and beer license
- 4 Received letter from EPA in response to Towns letter of March 6, 2009 regarding Hudson River dredging

Supervisor Wormuth stated this was added to the agenda in response to the letter from the Town requesting they respond to our request to provide water full-time during the dredging process and once again we are very disappointed with EPA's response to that in that they have a Federal Drinking Water standard that they feel is a safe level. She stated they have had many discussions with them and many experts come in and speak about our concerns and done everything we can do and at this point we have not been successful but continue our efforts.

NEW BUSINESS

RESOLUTION NO. 98

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

RESOLVED, that the Town Board approves and orders paid all vouchers for all funds listed on Abstract dated April 21, 2009, totaling: \$431,223.92.

RESOLUTION NO. 99

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

RESOLVED, that the Town Board approves the Supervisor's report for month of March 2009 as presented.

RESOLUTION NO. 100

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

RESOLVED, that the Town Board authorizes letting bids for Water Meters, American Made Brass Fittings & Mueller Brass for the Water department to be opened May 5th at 2:00 pm.

RESOLUTION NO. 101

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

WHEREAS, the New York State Department of State (DOS) has awarded a grant to the Town of Halfmoon for the Crescent Trail Extension Feasibility Study project, and

WHEREAS, a public process for Request of Expressions of Interest (REI) was conducted to solicit qualified professional planning, design, and engineering firms, and

WHEREAS, the Selection Committee for the REI process rated Erdman Anthony as the most qualified firm to meet the project needs based on their qualifications submitted for review and consideration,

NOW, THEREFORE BE IT RESOLVED that the Town Board authorizes the Town Supervisor, with review and approval from the Town Attorney and DOS, to negotiate and execute the contract with the first choice firm of Erdman Anthony as the planning, design and engineering consultant.

RESOLUTION NO. 102

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

WHEREAS, the New York State Department of State (DOS) has awarded a grant to the Town of Halfmoon for the Hudson River Waterfront Park project, and

WHEREAS, a public process for Request for Expressions of Interest (REI) was conducted to solicit qualified professional planning, design, and engineering firms, and

WHEREAS, the Selection Committee for the REI process rated Elan Planning and Design, Inc. and its sub-consultants as the most qualified group to meet the project needs based on their qualifications submitted for review and consideration,

NOW, THEREFORE BE IT RESOLVED that the Town Board authorizes the Town Supervisor, with review and approval from the Town Attorney and DOS, to negotiate and execute the contract with the first choice firm of Elan Planning and Design, Inc. as the lead consultant for planning, design and engineering services.

RESOLUTION NO. 103

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

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

WHEREAS, a public process for Request For Qualifications (RFQ) was conducted to solicit qualified professional engineering design firms, and

WHEREAS, the Selection Committee for the RFQ process rated Clough Harbour & Associates as the most qualified firm to meet the project needs based on their qualifications submitted for review and consideration,

NOW, THEREFORE BE IT RESOLVED that the Town Board authorizes the Town Supervisor, with review and approval from the Town Attorney and EPA, to negotiate the final scope and contract amount with the most qualified firm of Clough Harbour & Associates, as the prime engineering consultant.

RESOLUTION NO. 104

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

RESOLVED, that the Town Board authorizes the Superintendent of Highways to submit the following items to Auctions International, e-mail auction site: 1) Used Dodge Pick Up box, 2) Mettler Toledo Truck Scale.

Councilwoman Parker stated, relative to the next item, that she publicly thanks the Supervisor for putting the people in this Town first, for caring about your community and fighting EPA.

Councilman Hayner stated, he also thanks the Supervisor and our Attorneys for all the work they have been doing and thank you for fighting the good fight.

Councilman Hotaling stated he would also like to thank Frank Tironi along with the Attorneys and Supervisor for fighting, it's been a long road but things are starting to look positive.

The Supervisor stated she is very happy they were able to secure through all of this is the opportunity to purchase, at an additional cost to us, clean drinking water from Troy. She stated their source is the Thomohanek reservoir and they have been very willing to negotiate with us

RESOLUTION NO. 105

RESOLVED, Resolution to authorize the Town Supervisor to execute a Water Agreement between the City of Troy and the Town of Halfmoon to obtain an alternative water source to utilize during the dredging of the Hudson River, per approval of the Town Attorney.

RESOLVED, that the Town Board authorizes the Supervisor to execute extra work authorization for Clough Harbour & Associates to provide construction phase services for the Colonial Green Drainage Improvement project per approval of the Town Attorney. per current contact

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

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

NAME	AMOUNT
Brookfield Place	\$4,163.50
Norfolk Southern Railroad	2,036.96
TOTAL	\$6,200.46

From Account	To Account	Amount	Reason
20-5-9060.80 Employee Benefits Medical	20-5-9050.80 Employee Benefits Unemployment	\$300	Transfer of appropriations is needed to cover unemployment insurance for 2009
30-5-9060.80 Employee Benefits Medical	30-5-9050.80 Employee Benefits Unemployment	\$300	Transfer of appropriations is needed to cover unemployment insurance for 2009
10-5-1990.40 Contingency	10-5-6772.20 Programs for the Aging Equipment	\$10,200	Appropriations needed to cover purchase of chairs at the Senior Center with County Grant Funds

Brendan Lyons, Vosburgh Road, stated he continues to research the concerns he has and several other residents from Summit Hills, Halve Maen and Vosburgh Road. He stated he wants to bring

the Board up to date on the files they reviewed that had to do with the Towns investigation last year. He stated they understood that when Mr. Lucarelli addressed the issue of the parcel that was the former Mills land that he purchased last year. He stated in the document he provided to the Town that he didn't provide any proof of pre-existing non-conforming use on that site. He stated he asked a brief question by the Planning department that they need to know the status of the Mills property and his response was that the Mills property is in the process of being filed with the county within the next two days, Mr. Chauvin is our attorney who is handling the transaction and describes his business in place now on the 9 acre parcel. He stated they felt that there is no proof in the record of this and has photos from the Planning department but there is nothing on the record that supports it is a pre-existing use. He showed a photo from 1995 and you can see very little disturbance to the land and no trucks, backhoes or activity. He stated when you look at a photo that appears to be from early 2007 you can see the business that goes on there.

He stated they recently talked to some residents of Summit Hills who indicated they complained to Belmonte because he developed their neighborhood and a person came to the Town Planning office last year to complain about the noise and dust and witnessed a giant mulching machine where they were grinding stumps producing mulch. He stated he thinks what is happening is an evolving use of this land. He stated it may help the Town's position to create the base line and, the ZBA application four years ago where he submitted a site plan map and in that he delineates his 9 acre parcel and makes no mention of the land behind or being part of his operation or anything in use. He stated when he purchased the land last year on the real property transfer report, which is a sworn document and must contain true information and is signed by he and his attorney, it says check the box that most accurately describes the use of the property at the time of the sale and they checked residential vacant land. He stated it is a sworn statement and it is a situation where a landowner is saying that for tax purposes I want this declared residential vacant land but for zoning purposes I want this declared as a pre-existing non-conforming use on a parcel that has changed hands three times in the last ten years. He stated he thinks that Mr. Mills had indicated he was aware of Mr. Lucarelli use of his land for commercial purposes. He stated in 2007 Mr. Mills had challenged his assessment on that parcel and, at that time, he also states that the property is not incoming producing commercial or industrial property and he describes it as a landlocked parcel with substantial wetland. He stated he states that the property should be classified as wasteland as other properties with substantial wetlands are classified that way. He stated just his assertion that there are wetlands back there and earth is being moved should set off some alarms for the Town about what is going on.

He stated it wasn't reflected in the Planning department's investigative file but one of the issues they wanted them to examine was incorporation of new businesses at the site. He stated in 2000 it incorporated sand and gravel company titled Lucarelli Sand and Gravel Inc. and was in the Department of State and the Town should have a hand in it. Also incorporated was a masonry company in 2003 at the same site. He stated they combed the neighborhood pretty hard the last two weeks and talked to long time residents and he reiterates they are not challenging Mr. Lucarelli's right to operate a business as a pre-existing non conforming use but they are questioning his use of this land behind him and kind of a varying argument of what the property is used for, how it should be taxed, how it should be zoned and the Town documents give what they need to move forward. He stated they also hope Mrs. Murphy can update them as they have been doing research and work in the last two weeks.

Attorney Murphy stated when the newer concerns and the photographs were brought to their attention code enforcement has recommenced their investigation because it sounds like things have up ticked even from when he last provided information to the Town. She stated code enforcement has contacted the landowner they intend on doing a site visit and investigating exactly what he is talking about so they are doing everything they can do. She stated she has contacted the members of the ZBA who did a site visit back when the application was made. She stated in the minutes for the ZBA they ask him when he is acquiring the adjoining property because when they were there he was already on the adjoining property so she is asking them to go and see if that has expanded more than what they saw when they were there. She stated the planning board even though they haven't determined yet if they had done a site visit at the time there was a proposal to put up a building as an expansion on the preexisting non-conforming. She stated that building was not constructed and when those issues come before the Planning Board they do a site visit and they are researching their records to try to determine. She stated their records is usually their memories to see if one of them did do a site visit which is an informal proceeding to see what they recall. She stated all of that means that if residents are willing to sear out affidavits that say on this date there has been an increase then complaints can

be filed based on that. She stated hopefully within the next week they will be looking to see what is going on at the site.

Mr. Lyons stated that is on the issue of scope which is a measurable thing that they can prove an increase in scope of the operation but there is also the other issue of his use of that property at all whether or not he is grandfathered in given the transfer of the land away from him and then back to him.

Attorney Murphy stated who owns the land does not matter it is what is being done on the land that matters for instance there was a concern that there was a nursery operating and code enforcement went there determined it was and immediately issues a cease and desist and it ceased occurring – the boat storage is not there because that was not something that the Lucarelli business is and is her understanding it is a sand and gravel business. She stated names don't affect that but what does affect that is if they are increasing their footprint and having a dramatic affect on property itself and that is what they are going out there to check.

Mr. Lyons stated as he understands he is not preexisting as anything other than an excavation truck depot where you bring trucks, you park them you perform maintenance on them they leave and they go to work at other sites.

Attorney Murphy stated that is not her understanding at all but she is having code enforcement look at all those issues and they are the people who have the specialties in determining what constitutes what. She stated there is a memo from last year in the code enforcement file from Greg Stevens that he has not seen that there has been an increase and he drives by on a regular basis and the Town is doing everything he is asked and appreciates him ringing it all to their attention. She stated she would be more than happy to sit down with him and if he wants to hire an attorney they could discuss it.

Supervisor Wormuth stated she will ask the attorney to render a legal opinion on whether those documents filed in the assessor's office constitute a use or a constraint on how the land is used.

Mr. Lyons stated he wonders if the document are binding now and the burden of proof will be on him.

Attorney Murphy stated she will absolutely look into this at the Boards request.

The Supervisor stated she has requested that she do this. She stated she would like per to look at precedent and have some time to look at the law to go back and determine and accurate answers.

On motion by Councilwoman Parker, seconded by Councilman Hotaling the meeting was adjourned at 8:02 pm.

Respectfully submitted,

Mary J. Pearson
Town Clerk

4/21/2009

