

The August 5, 2008 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 in the New Town Hall, 2 Halfmoon Town Plaza with the following members present:

Melinda A. Wormuth, Supervisor  
Walter F. Polak, Councilman  
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

The Town Board Workshop was held in the Board Room at 6:15 pm; no action was taken. The Supervisor led the Pledge of Allegiance. Councilwoman Parker asked for a moment of silence for Scott Cuomo, who was a Waterford Councilman and did a lot of wonderful things; and for Gary Manley from the Clifton Park-Halfmoon Fire District who was very instrumental for 46 years in that Department.

The Supervisor welcomed the Clowns present tonight and read the following resolution Proclaiming the first week in August National Clown Week.

#### RESOLUTION NO. 178

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

*Let it be known to all those present that the Electric City Clown Alley, Clowns of America International, and the Town of Halfmoon, New York shall take part in the celebration of International Clown Week*

*WHEREAS, the President of the United States did proclaim that the first week of August would be recognized as International Clown Week, and that all Governors and local officials shall encourage such recognition by their citizens, and*

*WHEREAS, Clowns are recognized the World over as messengers of good tidings, bringing happiness and joy to all those whose lives they touch, and*

*WHEREAS, it is universally known that laughter is the best medicine, and*

*WHEREAS, Clowns have helped us preserve our sense of humor and ability to laugh at ourselves, and*

*WHEREAS, Clowns encourage laughter in the young and old, and rich and poor, alike, now*

*THEREFORE, I, Mindy A. Wormuth, Supervisor of the Town of Halfmoon, proclaim that the week of August 1 through 7, 2008 shall be recognized as International Clown Week within the Town of Halfmoon, and, shall encourage all citizens to give fitting recognition to the Clowns of the World.*

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

Councilman Hotaling reported this is the last week of Summer Camp and 702 children attended this year and hats off to the whole department; he reported that tomorrow night Halfmoon Celebrations has Ron Cremisio at the gazebo at 6:30 pm.

Councilman Polak reported that the Town Park excavation work has started and they have the four ball fields graded to elevation and they are working on the setback for the rec building. He stated today they poured the footings for the Historical building and it will be delivered at the end of the month. He stated with the wet weather Kingsley Arms is working Saturday's and Sunday's trying to get work done and they are making progress.

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

## **DEPARTMENT REPORTS- month of July**

1. Town Justice Wormuth  
Total fees remitted to the Supervisor - \$32,225  
Filed.

## **CORRESPONDENCE**

1. Received from Town Senior Planner notification of Planning Board decision to pass a positive recommendation for the Brookfield Place Residential Planned Development District, Harris & Guideboard Road.

2. Received, July 14<sup>th</sup>, Project Narrative and Revised Layout for Fellows Road PDD Amendment to modify approved PDD to replace 8-3 unit buildings with 5-11 unit buildings on Sandy Pointe Road.

The Supervisor stated that Scott Lansing, Lansing Engineering, PC and the applicant Bruce Tanski are present and will provide a presentation. She stated this will have to be refereed to Planning for review and the Town Board will need to hold a public hearing after receiving a recommendation from the Planning Board prior to amending.

Mr. Lansing stated the existing Fellows Road PDD includes 176 apartments and 141 town homes locate don the western side of Fellows Road and, in addition here are 8 duplexes scattered in different locations on the location. He stated the applicant is proposing a modification to a portion of the PDD on Sandy Pointe Road and includes approximately 22 acres. He stated the proposed modification includes the transition of those lots from town homes to apartments. He stated currently what is approved is 8-3 unit town house buildings and they are proposing 5-11-unit apartment buildings that would be identical to the apartment buildings being built across Fellows Road. He stated each building would be 11 units and have a combination of interior garages and exterior parking spaces to meet the parking requirements.

He stated water; storm and sewer would remain unchanged. He stated there is an existing water line on Fellows Road to service the residential units. He stated currently they are proposing a low-pressure force main that goes to the gravity sewer, which eventually goes to the Town Park and down to Route 236. He stated there might be slight modifications to the storm water management area but would not be significant.

He stated the community benefits for the project would maintain the same benefits from the existing PDD, which includes 60 acres of land, located along Vosburgh Road on the corner of Vosburgh Road and Route 146 and Vosburgh Road. He stated the community benefits also include 6.71 acres of land to be dedicated to the Town of Halfmoon to annex on to the Town Park. He stated it includes the termination of the current western intersection of Fellows Road and Route 16 and the relocation of the intersection further west along Route 146. He stated it also includes the extension of sanitary sewer to service this project including additional areas beyond including the Town Park. He stated to the east there is a main and a pump station designed in size to handle the capacity of this project and projects to the west and will service the Town Park. He stated the public benefit also includes the contribution of \$400.00 per unit and, with this modification to the PDD the applicant will contribute \$400 per unit for the additional 31 units for a total of \$12,400 as a community benefit to the Town. He stated they are asking for the Town Board to refer to the Planning Board for their review and comment.

Supervisor Wormuth asked where they are at in the process of having the design review done for the realignment of Fellows Road.

Mr. Lansing stated they have completed the plans for the design realignment, grading, drainage and intersection improvements and they have been submitted to Clough Harbour & Associates and, they are in the process of reviewing those. Mr. Tanski stated that work would begin immediately once they receive approvals.

Councilman Polak asked if the units across the street are 11 unit buildings also

Mr. Lansing stated they are.

The Supervisor asked if the architecture and landscaping package would remain the same.

Mr. Lansing stated it would remain the same.



Account			
10-5-1990.40 Contingency	10-5-1230.40 Grants Coordinator Contractual	\$500	Transfer of appropriations needed to cover expenses thru year end

RESOLUTION NO. 182

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

RESOLVED, that the Town Board approves minutes of Town Board meetings of July 1, 15 and 28<sup>th</sup>, 2008 as presented by the Town Clerk.

RESOLUTION NO. 183

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

RESOLVED, that the Town Board authorizes renewal of the following Mobile Home Park Licenses for the 2008-2009 licensing year per inspection and approval of the Code Enforcement office: Halfmoon Mobile Home Community, Turf Mobile Home Park.

RESOLUTION NO. 184

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

RESOLVED, that the Town Board authorizes waiving all necessary Town permit fees for the new Town Family Park and the Town Historical Society building site improvements for the park project and Historical Society building project.

RESOLUTION NO. 185

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

RESOLVED, that the Town Board approves Clough Harbour & Associates proposal for design, bidding and construction phase services for the Colonial Green, Phase 2 through 4, Drainage Improvement Project, in the lump sum amount of \$150,000.

RESOLUTION NO. 186

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

RESOLVED, that the Town Board authorizes a request for a speed limit study to be performed for the Rivercrest subdivision and request a study for Route 146 (at New Country Pontiac, 202 Route 146 to the Town line in Mechanicville)

RESOLUTION NO. 187

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

RESOLVED, that the Town Board authorizes the purchase of Town Trails Committee Wrist Bands from Safeguard Business System for 150 wristbands in the approximate amount of \$250.00.

RESOLUTION NO. 188

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

RESOLVED, that the Town Board awards quote for moving to Town property at Lower Newtown Road the Town Historical Society Building to Combs Trucking Co. Inc., Queensbury, NY in the low quote amount of \$6,500.

RESOLUTION NO. 189

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

RESOLVED, that the Town Board approves proposal from Clough Harbour & Associates to perform the Water Treatment Plant Sludge Drying Beds-Wetland Mitigation, Task 1 and Task 2 in the not to exceed amount of \$66,300, per the review and approval of the Town Attorney.

RESOLUTION NO. 190

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

RESOLVED, that the Town Board authorizes letting bids for the Parks Department 2008 Trailer Mounted Hydroseeder to be opened August 19, 2008 at 7:05 pm.

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

Tom Koval, 97 Button Road, read his letter as follows:

Mr. Koval stated he is very sincere about this and DEC was there again last night and they are issuing tickets. He stated he knows Steve Watts has talked to DEC, Mark Kilgore and knows he has been told it is not part of his mining permit.

Attorney Murphy stated they are scheduling a meeting with DEC because the information they are giving him is absolutely contrary to what they are giving the Town.

Supervisor Wormuth stated they have had dealings with Stan Koenig who works under Mark and the Town is in receipt of a letter from when they originally applied DEC that states it was within the life of the mine and that DEC had jurisdiction over it.

Mr. Koval stated that Mark and Stan clearly said they had no jurisdiction over a building and they could never do that and they could never enforce that and the Town has jurisdiction and, he said it would cause more problems if they took over jurisdiction of the buildings because then these guys would put up whatever they wanted and the Town wouldn't have any say. He stated he understands that he has told the Town that and he knows for a fact that he was hanging up the phone from him and calling Steve Watts so if Steve hasn't relayed that its no surprise because Steve hasn't done much of anything.

Supervisor Wormuth stated she has spoken to Stan Koenig directly a week ago and Stan's information he relayed to her and said he discussed it with Mark was that they do have jurisdiction over it and they have jurisdiction over what happens in the reclamation process and that is the reason why they asked them to come in and set up a meeting with the Town so they can start creating a reviewable record because they are getting completely information out of the same unit. She stated she spoke to Stan directly having heard Mr. Koval's concerns about the filters the information was going through and asked him to deal with her directly. She stated he specifically told her he was going to speak to Mark and then he would get back to her, which he did.

Mr. Koval stated the same information also came from DEC out of Albany so she can call them if she is not getting the same information because that is who he called because he wasn't getting clear answers from Stan and they told him the same exact thing and told him to call Mark Koldore. He stated he did call him and he returned his call and that is when he told him it was absolutely the Towns jurisdiction. He stated Mark and Stan both told him that on Roddy's mining permit renewal application which he hasn't competed yet has expired and he has applied for that building to be removed from his life of mine boundaries, this was just last week.

Attorney Murphy asked if he has modified the application again.

Mr. Koval stated this was a couple of months ago and he informed them of this then, and somewhere along the line they are getting different stories.

Attorney Murphy stated they have seen the application he filed in February and it shows that in the life of mine and Stan says there has been no modification of it since then, as of Friday, July 25<sup>th</sup>.

Mr. Koval stated that is totally contradictory of what Stan just told him the other day. He stated he should have his FOIL application and a letter within the next few days. He stated he sent him an update and said they are definitely removing that from the life of mine boundaries, which takes it out of the reclamation process 100%. He stated he wouldn't write it in the letter and lie about it and somewhere they are getting stories from both sides and they are very different stories. He stated as soon as he has the official letters he would make sure he gets it to them and this was just last week.

Attorney Murphy asked Mr., Koval to please provide copies of any documents but can say they have been consistent with telling the Town (a) it is in the life of the mine and (b) that if it is a mining use it is regulated by them and (c) if it is a non mining use it is regulated by us. She stated they have advised Mr. Valente that if he continues to operate past the 19<sup>th</sup> they will start citing him if it is not a mining activity occurring on the site.

Mr. Koval asked why he was given such a length of time when he continues to break the law. He stated he has admitted he is doing non-mining operations there

Attorney Murphy stated he wasn't breaking the law and they are still trying to get clarification from DEC what they are going to permit and enforce. She stated they will go forward and will begin citing him and fining him and he has put in writing that he has removed all of that stuff and once that has been received by the Planning Board and she talked to his attorney again today then they will start citing him if the information he is providing the Town is inaccurate. She stated the Building department has been down there and is keeping logs of what he is doing and if there is something not accurate he will be cited and the Town will take action.

Supervisor Wormuth stated they have also asked DEC how long they are going to continue to allow him to renew his mine permit and operate and Stan Koenig said he allows them time to provide the information and he assured her they would not let it drag out over a 12 month period and he expects to have the issue resolved within the next couple of months. She stated they are pushing DEC because it is also frustrating for us and as of July 22 he stated that building is still in the life of mine and, at one point he talked about taking it out and the most current application is from February and shows it in there and they haven't received any information since then to remove it.

Mr. Koval stated it is literally and totally 180 degree different story then he is getting and maybe he just doesn't want him calling him.

Mrs. Wormuth stated he is pretty open with him when she talks to him that she and him have talked and that his interpretation was that he told him it was out of the life of mine. She stated he said it as at one point when they applied in December and since modified it and the most receive is February and it has it in the life of mine and she doesn't have anything here on file to consider taking it out of the life of mine

Mr. Koval asked if it would be fair to say that August 19<sup>th</sup> is RJ's deadline to say what his intentions are and, at that point is the Town going to hold him to the conditions of his building permit because he clearly is not going to meet the conditions of what that building permit was issued for.

Attorney Murphy stated if the issue becomes if it is regulated by DEC, which is why they are meeting with him, and, if all he is doing is mining activities through the building then it is not in our jurisdiction.

Mr. Koval stated the construction of the building is within the Towns Code enforcement.

Attorney Murphy stated DEC has jurisdiction over the mining and they take that out of the Towns control because no Town would say want mining in their Town. She stated they told him he needed to get a permit.

Mr. Koval stated he is talking about construction and meeting building codes and asked if that was under the Towns jurisdiction.

Attorney Murphy stated no it isn't and that is why they have to get the application through DEC.

Mr. Koval asked if we think RJ would have come and got the permit if he didn't need one.

Attorney Murphy stated they told him he needed to get one.

Supervisor Wormuth asked other than the use of the building is he saying that the building doesn't meet NYS Building Code.

Mr. Koval stated he was issued a permit for a three bay garage and he's got a four bay garage and he will do what he has to do to stop that building from being used the way it is being used and he will follow up on this. He stated every single morning at quarter after five he is woken up to the back up alarms and every single night at 7 pm the dump trucks are drawing and, all day long there are trucks with mud and gravel being tracked on the road and it is ridiculous that he has to put up with it. He stated there are laws in place that are suppose to control the hours of operation and you can't just keep warning him regardless of what his rights are and it has to be enforced. He stated issue him tickets, pull his permit, kick him out of here he is breaking the law, Town law and En Con.

Supervisor Wormuth stated the Town can issue tickets based on the hours of operation but they can't stop him from mining.

Attorney Murphy stated that is what they are telling him they are going to start doing.

Mr. Koval stated the only thing that is going to make him do anything is to make him uncomfortable and if everybody keep pampering and give him another two weeks or three weeks Rodney is not going to do anything, that's the way Rodney is.

Thomas Sarris, 10 Manchester Dr. stated he purchased a Town Zoning Book and submitted the following letter for the Town Board to look at this amendment to the Zoning ordinance.

On motion by Councilman Hotaling, seconded by Councilman Polak the meeting was adjourned at 7:45 pm.

Respectfully submitted,

Mary J. Pearson, Town Clerk

8/5/2008