

The April 17, 2007 regular meeting of the Town Board of the Town of Halfmoon was called to order by Supervisor Wormuth at 7:00 pm at the Towns Hall on Harris Road with the following members present:

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

Also present: Frank Tironi, Director of Water; John Pingelski, Highway Working Supervisor; Laurie Sullivan, Deputy Town Clerk; Rodney Smallwood, Highway; Nelson Ronsvalle, Grants; Paul Hotaling.

The Town Board Workshop was held in the Board Room at 6:15 pm; no action was taken. Supervisor Wormuth led the Pledge of Allegiance. Councilwoman Parker asked for a moment of silence for the tragedy at the Virginia Tech School.

The Supervisor opened the Public Hearing for the proposed Zoning Amendments at 7:02 pm. Councilman Polak stated before they open up to the engineers he would like to thank all the residents who have been involved all through the Master Plan and presenting their vision to the Town Board. He stated he also thanks our previous Supervisor, Ken DeCerce, the Town Council, Jim, Mindy and Regina for their support and for all the work by our Town attorneys, Bob Chauvin and Lyn Murphy and the Town planners especially Steve Watts and Jeff Williams. He stated he also thanks the committee members who worked on the committee to try to bring a resolution to the Board, Henrietta O'Grady, George Hansen, George Owed, Matt Shea and Spruce Krier and they put in countless hours and meetings and brought in information from other agencies. He stated on the engineering staff he thanks Mike Bianchino, Bob Lockwood and Jean Lowenstein. He stated tonight they will present the committee's ideas that they brought to the Board and the Board is bringing to the public for comments and introduced Mike Bianchino.

Mike Bianchino, engineer Clough Harbour and Associates stated he will present the zoning committees recommendations to the Town Board and will outline the specific areas and ideas, as follows:

The Town of Halfmoon is proposing a number of zoning changes to address recommendations outlined in the Town's Comprehensive Plan. The major changes are as follows:

Replace R-1 zoning with Medium and Low Density Conservation Residential Zoning in the southeast area of the Town.

The Conservation Residential Zoning Districts allow for the continued development of residential housing in a manner that preserves open space and important environmental features through sensitive design. Key components include:

- Medium Density CR: Maximum Density = 2 units/unconstrained acre and 20% contiguous quality open space.
- Low Density CR: Maximum Density = 1 unit/unconstrained acre and 50% contiguous quality open space.
- A conservation design layout will be required.

Adopt a Gateway Overlay District to address the special needs of the Route 9/Crescent Bridge area.

- Complements the Crescent-Church Hill Road Historic District. The Gateway will include the boat dock area on the northeast side of the Crescent Bridge and both sides of Route 9 north to its intersection with Stone Quarry Road.

Extend the Crescent-Church Hill Overlay District

- The boundary of the existing Crescent-Church Hill Road Overlay District is proposed to be extended to the west side of Route 9, west down Crescent Road and Canal Road to Whites Lane.

Crescent Road

- One residential property east of Mohawk Terrace is proposed to be rezoned to Professional Office Residential (POR). A number of existing properties on Crescent road are currently zoned POR.

Tabor Road/Ushers Road

- Rezone the Industrial zoned portions of Tabor Road/Ushers Road to Agricultural Residential in order to achieve more compatible land uses in this area and reflect the prevalence of sensitive environmental resources.

The zoning code has also been updated with a number of minor wording changes and new definitions.

The Supervisor opened the hearing to the public for their comments and asked that they come forward and that their name and address be provided.

Mike Stiles, Route 9 read his letter as follows:

Venu Reddy, stated he owns Deco Granites on Ushers Road, and one of the reasons he moved here was because of the zoning being light industrial which is what they required and did not want residential houses around the property complaining about noise, dust or lighting. He stated he would rather see the area developed into light industrial than see residential property come in and try to get rid of the businesses. He requested that it not be changed.

William Coreno, 95 Ushers Road, stated he owns 70 acres in the Ushers Road area and runs an excavation company and asked what will happen to that and if the road will be posted and people complain. He stated he applied for a variance on Ushers Road to build a new home and has no problem with the existing conditions and knows what he is getting in his surroundings and doesn't think it should change at all. He stated it is a nice little niche for the businesses in this area and is a beautiful little area and sees no reason for any change to it.

Stan Fronczak, Ushers Road purchased a home and farm there knowing full well it was commercial and residential and hoped it would stay that way; he has a landscaper renting a building from him with intention of someday buying it. He stated he doesn't mind the rail road track but it would be hard to sell and he doesn't want to see it change.

Joe Tedesco, 161 Ushers Road stated he lives and works there and is also representing Kinetic towing and would say the Town Board has always been supportive of his business and he appreciates that his concern is that ten years from now it will totally different people and ideas. He stated he feels a zoning change makes sense but it shouldn't be done at the expense of the people that bought property with the intent of using it as light industrial and have it taken away from them. He stated the idea of a hamlet sounds extremely complicated but is better than must changing it completely over but they should just leave everything alone.

Jeff Morrissey, Ushers Road said his property was light industrial when they bought it and bought it for that reason because he could expand and use it as such and doesn't see where residential lends itself to the area with the railroad tracks and wetlands and thinks it would be a mistake to mess with it and should be left light industrial.

Lawrence Hopeck, Ushers Road stated he questions the addition he considered doing to his property but now he is not sure if the zoning changes; he has no problem as it is so why not leave it that way.

Kathleen Soloski stated she has lived in this area all her life and she was not aware of the current zoning until the last 4 or 5 years. She stated there is development of some lovely homes and another development going up and these are new people coming into the area knowing full well this is partly commercial property. She stated she has no problem with things left exactly the way they are and feels if the zoning changes she will have problems and wants to leave things as they are.

Tim Sweeney, 99 Staniak Road stated he wants to leave the zoning the way it is right now so he can do something with his property later on. He stated he no longer does farming because they changed it to R-1 and told him no more farming in Halfmoon so he wants to leave it at R-1.

Ken Gregoire, 7 Tabor Road read his letter as follows:

John Crommie stated he is here at the request of Mike Stiles and he is an attorney in Ballston Spa and he was asked to look at this particular area from a legal point of view. He stated it is his understanding that the draft Comprehensive Plan was enacted by the Board and is still in effect. He stated it reads that the Route 9 corridor including Ushers Road has been identified for development of both mixed commercial and office uses and light industrial uses with the proximity of I-87. He stated the plan talks about supporting community minded business and unfortunately there are always risks associated with owning and operating a business, however

providing support strengthens the community and people are asking tonight for support of their businesses. He stated Ushers Road is a country road and he has an idea of hamlet zoning where mixed uses is allowed and a lot of people are saying they like it the way it is.

Spruce Krier, Tabor Road, stated there was a meeting several years ago about Tabor Road which is primarily residential with new developments. She stated there was a possibility of some commercial development happening on Tabor Road and it was learned that the zoning had been changed without residents being aware of it a few years back. She stated it is a lovely country road and there is a five mile walk around between Tabor, Ushers and Cary and there is a DEC State Forest park-like area that is being developed. She stated it is a lovely residential area and feels it would be inappropriate to have it changed and have any commercial development on Tabor Road and with the new houses going up on Ushers she would support the motion to make the area residential and hopes the people who live there, trying to make it a lovely neighborhood, will get some strong consideration.

Dick Krier, 89 Tabor Road, stated he thinks the study the committee did and the reasons they have given for making the change makes a lot of sense and he personally is in favor of the change. He stated hearing the existing business people he feels that what should be addressed is how the change would affect them but in terms of further new development of the open areas he would rather see it changed to residential with consideration to the business people who are already there.

Amanda Walsh, Pohl Drive, stated she was told they had a lot to gain where the new water was going because their property values would increase. She stated she is wondering now how their land value increase when they are now being told how they are going to work it, limited on the amount of acreage and, because they are in a conservation design area there is a four step process before they can come to the Planning Board. She asked each time they come to the Planning Board and the engineers are looking at things there are fees. She asked if her son wants to do something then are they going to pay exorbitant fees to the Town for the engineering process.

Mr. Bianchino stated in the actual ordinance there is a provision and minor subdivisions, up to four lots can be created without the need for complying with the conservation residential, therefore the answer is no. He stated the planning board handles all minor subdivision applications on their own.

Supervisor Wormuth stated it would be the fifth lot that would trigger a major subdivision and they are cumulative over time so potentially there could be some impact.

Attorney Murphy stated if you are just subdividing and is less than five then these are not applying.

Mrs. Walsh asked it reads that quality open space is a minimum of 25% unconstrained lands, minimum quality open space requirements are 20% of the total project site and 50% of the total project site but the rest of the land must remain permanently undeveloped, how will that affect their taxes and it should drop the value of their property. She stated if she can only put two houses on an acre then it would be worth as much as somebody who can put a lot more houses on that acre.

Attorney Murphy stated she believes the question to be if she was to subdivide with her son would and if they qualified for a major subdivision and, therefore be governed under the statute then her land would be taxed accordingly.

Mr. Bianchino stated the existing zoning only allows two lots per acre now so in the medium density on Upper Newtown Road as it is proposed right now there is no change in density other than the open space requirement. He stated this is the same type of requirement as the Northern Halfmoon GEIS area and would say that the property in that area has not lost any value but has increased in value.

He stated the conservation areas have several different things, ravines, stream corridors, steep slopes, wetland areas many of which are looked at as natural resources in that area including natural mineral resources and is not just stream corridors and might includes views and vistas and other types of environmental features that will try to protect.

Joanne Keene, Harris Road, stated she is concerned about the zoning if you own a large portion of land such as 250 acres and, if they are saying 125 can be developed she thinks they are taking away property values and, changing the value if you can put less housing on it. She stated she thinks they should leave it up to the individual property owners to leave it open and now they are making the decision for them. She stated it is very frustrating if there is land that has been in the family for over 75 years, worked it as a farm and build equity in the land. She asked why the Harris Road area was picked.

Mike Bianchino stated these are the recommendations from the Comprehensive Plan and the areas of zoning were included in the Route 146 corridor study area which is an overlay area the Town Board adopted in 2005. He stated the area was identified as part of the core area and is a different planning area and this area was cut out of the proposed residential zoning because it was part of the 146 overlay corridor and it was determined that the features were different than the Newtown area and had more environmental constraints.

James Floud, 14 Ushers Road, stated he wants to show his support for the businesses that are there now and a lot of people earn their living on some of the businesses and maybe there could be some variance in their favor.

Jeff Morrissey asked if the Zoning Board ever talks to any of the landowners about these changes and a lot of people don't realize why these changes are being made and they are still paying taxes on the land and don't have any input.

Supervisor Wormuth stated they do try to keep the process open and they announce when the meetings are scheduled and they are public meetings. She stated before the Board would enact any type of legislation they hold public forums like this so they can get feedback. She stated the Town sent out post cards on this meeting and several different avenues are used in order to advertise and make people aware.

Tom Murray, Harris Road asked about the Comprehensive Plan, he went to several of the meetings, and everything was covered and all of a sudden this new zoning thing came up and, he never realized they were going to change the zoning. He stated the market place has done a good job taking care of the land and they went over the different areas of selling the land. He stated the Town of Halfmoon does a good job in most of the committees and when he sat and listened to what is suggested he thinks it is doing a lot of harm to a lot of people. He stated Halfmoon was owned by all farmers and they didn't get raped like the other communities around us. He stated all these things work and asked why we are changing it for more control. He stated they should think more about the people and their rights.

William Perrino stated the Board has heard from every majority landowner in the Ushers Road area that would like to see no change to that area and if this goes through there is really something wrong with our Town.

Bill Suchocki, Harris Road, stated he doesn't like the idea that the north zone is a different zone than where he is and asked how come and asked why. He stated he has been in the Town 70 years and outsiders come in and change things around and owns quite a bit of ground

Councilman Polak stated it was a recommendation of the committee and they will be reviewing all the comments from tonight, review them and make a decision. He stated the committee wasn't outsiders and mostly people who have been here all their lives too.

Mr. Bianchino stated the area around the Upper Newtown Road area basically had fewer constraints, less environmental sensitive areas so the Comprehensive Plan identified the area for medium density. He stated the area in the south because of the active mines and some of the constraints the Comprehensive Plan recommended that area for lower density and that is the reason the two areas are different. He stated the Zoning Committee looked at that and felt that the recommendations were reasonable.

Kathy Suchocki stated she is an attorney and has lived on Harris Road in Halfmoon her entire life. She stated most of the discussion has been concerning the Ushers – Tabor Road property. She stated if you look at the lower zone most of the land is owned by her father and behind their farm open space loops around. She stated the farm has been in their family the entire life and they want to keep it agricultural and she remembers developers knocking on their door asking them to sell. She stated this new zoning is telling her parents that they should have sold long ago. She stated it is basically saying it is being taken by the government and they are very displeased that the Town Board may adopt the Zoning committees recommendations and, that 50% of their land is going to be taken and remain open space regardless. She stated it should be left up to the individual landowner, her parents who have owned the property since 1933. She stated landowners rights are being taken day by day and she hopes the Town Board takes these comments into consideration. She also stated that it was mentioned the single one time lot use exemption would have to stay within the family would be very restrictive. She asked if a family farm is concerted to a family trust or LLC what effect does that have.

Attorney Murphy stated they are having the public hearing so they can hear public comments so the Board can react to the comments; however, it is at the discretion of the Planning Board specifically to address the issues like the LLC. She stated the Planning Board can decide if they will allow the family to do this and not apply the recommendations. She stated at the time of the Comprehensive Plan there were public hearings and public input and there was a Town wide survey asking for information from the landowners and a series of public hearings before that was planned and public meetings before this was proposed and now they are having this public hearings. She stated this Board is in no way of the opinion that this is a done deal and is why they are having the hearing to hear from everyone and the reason they did the post cards to make sure everyone is aware.

Ms. Suchocki stated she would hate to see five people serve on this committee making determinations how the land will be put to use in this Town and hopes their comments are taken into consideration.

Glen LaBlanc, 73 Tabor Road, stated they have heard from businesses on Ushers Road but not Tabor Road and asked if they can grandfather in for the change for the existing businesses but if they left Tabor Road and a corridor that could get changed to the new agricultural/residential.

Pat Rushby, 47 Tabor Road, stated she is receptive to all the concerns she heard tonight from all the people who have businesses. She stated she moved to the area 31 years ago and she knew where she was moving and has no problem with that but she agrees it is important to be receptive to the people who live on Tabor Road. She stated there are traffic problems that need to be addressed.

Madeline Sicko, Garden Gate Florist, stated she lives in the new gateway to Halfmoon and wonders if the same restrictions with rezoning could also be changed to include them. She stated this will be the entrance to Halfmoon and wonders what the restrictions will be with their landscaping, signage, sidewalks and asked them to keep it rural.

Larry DeVoe, Plant Road, stated he read the changes but hasn't had time to digest all of it but his biggest concern is that there are far too many restrictions and far too much authority given to the Town and not the individual. He stated the Harris Road situation is not a good situation. He stated the clusters are your next slums and the single price value will be reduced accordingly and the property should be reduced from the assessment roll. He stated they shouldn't have to pay taxes on the land they can't do anything with. He stated real thought should be given to this and he doesn't envy them. He stated the Ushers Road comments are very appropriate. He stated it has gotten to a point where the individual isn't going to be able to function and will be too expensive to purchase the land and set aside acres for a conservation district.

Glen Swatling stated it is time for him to quit farming and he's selling his property.

Sherry Fitzgibbons, Middletown Road, asked for an explanation on the roundabout that was talked about on Route 9.

Mr. Bianchino stated it came up during discussion about the gateway as one way to set that area apart. He stated they talked to DOT and that road is a thoroughfare to bypass Northway traffic and it was raised due to the traffic volumes on Route 9 and trying to get people safety in and out of Stone Quarry Road and it was one suggestion brought up. He stated it isn't warranted at this time by DOT and a signal is not warranted at this time either.

Mr. DeVoe stated they are crazy things and who will straighten the road out when the time comes. He stated the trailer trucks have a very difficult time.

Mr. Reddy asked about the card that was sent and stated he never received one. Attorney Murphy stated she would check into this.

Kathy Solowski asked what the time frame is for a decision to be made.

The Supervisor stated there is not a legal requirement for when the Board would take action and, based on all the comments made tonight she feels it will take a little while to digest all of them and make some recommendations. She stated they usually would make changes in a draft form and send them back to the committee and is a process that will take some time. She stated if revisions are made they will bring them back to the public so they can be aware and have another opportunity to comment.

Chris Marchand, Devitt Road, stated it seems as though there is a strong contradiction between the goals of this zoning plan and the means and methods to be used to implement it. He stated the new zoning laws will conserve the open space land that is left in the southeastern corner of the Town but the steps to achieve that don't seem to mesh with all the units clustered close to the road and view-shed they want to protect will pretty much be sacrificed. He asked about restricted constrained lands and stated it is easy to define wetlands but to him what is more subjective is the view shed and vistas and who is going to define what is a valuable view or vista.

Mr. Bianchino stated the intent of the clustering is to allow utilizing with some fairly large houses and maintains some open space and provides that the units are not as visible other

than going up a main driveway. He stated the issue regarding the rear of the lots is something they take a hard look at but the objective of the clustering and open space has always been to try to maintain a large portion of the open space along the frontage. He stated the views you see remain the same as they do now and, is a process that requires the developer to look very closely at his property and do a development that takes all those things into account.

Mike Stiles thanked all the residents of Ushers and Tabor Roads for coming to the meeting.

Larry DeVoe asked about the Homeowners Association that should accompany these developments asking if the Town takes it over should anything happen.

Attorney Murphy stated there is a section that reads that any Homeowner Association, which is created but not required to be created, has to have in it legislation through the Department of State whereby if somebody fails to pay the association fees a tax levy could be garnished by the Homeowners Association to enforce the payment of the fees and, the Town would ensure that would happen so the Association would not fall into disrepair and we would have vacant open space and nobody to maintain it. She stated it does mention the Town because the Town mandates that the HOA has that language.

The Supervisor closed the public hearing at 8:50 pm.

Councilman Polak stated he wants to thank everyone who worked on the Master Plan, the Zoning Committees. He stated these are recommendations to the Board and part of the process is to have this public hearing and also thanks all the residents from all over the community, Ushers Road, Tabor Road, Harris Road and this Board will take all the comments, go back to the table and review them and, inform the residents where they will go from here.

Councilwoman Parker stated she appreciates everyone's interest in the community and there is no date set and they will take every thing into consideration and, will do things in the best interest of everyone.

Councilman Bold stated it was a great public hearing and is something he enjoys to sit and listen to so many different things and, it is our public process and is a great process. He stated he is sure Councilman Polak and the Zoning committee are going to take a long hard look at the proposals and, consider all the comments and present a revised report.

Supervisor Wormuth stated she thanks everyone for coming and reiterates what her colleagues have said and, this is part of the process and we definitely want to hear from the public and they will definitely take all of these comments into consideration before any action is taken.

The Supervisor stated there is an Open Space workshop meeting which is a public workshop next Thursday at 6:00 pm at the Senior Center. She stated it was posted on the website they had articles in the newspaper and they sent out postcards.

REPORTS OF BOARD MEMBERS AND TOWN ATTORNEY

Councilman Polak reported that Spring Clean up is now going on at the transfer station and will continue on Friday and Saturday this week and also next week. He stated a permit is necessary and is only for Town residents.

He stated he wants to thank all our fire departments in the Town for the numerous calls they responded to pump out resident's homes.

Councilwoman Parker stated she wants to thank the highway department for doing some emergency paving in front of the senior citizens on Plant Road and The Landings and several seniors almost had accidents.

She stated that May 1st is our afternoon meeting and the month is dedicated to our seniors and they will come to that meeting.

She stated the Navigator will be in the mail on Friday and they will be showcasing our Recreation program.

Councilman Bold stated he has a small change order for the Town Hall project and is a decrease in the amount of \$2,400 for Comalli Electric. He stated part of this is for moving the electric transformer and the other for modifications of connections to the fire alarm system. He stated the change order committee has approved this.

Councilman Bold asked the Director Water to provide a report on the status of the new water treatment plant project.

Frank Tironi stated they are probably 90% complete on the inside of the plant and outside work is also coming along. He stated they are debugging all the new equipment and they are getting ready to start tomorrow. He stated tomorrow DOH is coming in to look at construction and they will prepare for testing the system and by May they will be able to open up the Upper Newtown Road area. He stated there were a lot of change orders that came through but they are doing a lot of upgrades and improvements now while they can do it before they are in full production.

Councilman Bold reported on the vacancy seat on the Town Board and stated he is very pleased that some of the other members and the Supervisor asked him to be part of the committee that participated in the interview process. He stated the committee consisted of Mrs. Wormuth, Dick Lee and himself and they represented a good cross section of the generations. He stated he is going to make a recommendation to the Town Board and they contacted the other Board members who were not part of the process, consulted with them and, it is his understanding they concur. He stated they interviewed several people with a whole variety of talents, education and a variety of experience and several mentioned the value of the New Town Park. He stated they had to choose one of the applicants and their recommendation is to appoint Paul Hotaling to fill that vacancy for the remainder of this year.

He stated there is no one person who is perfect but there are a lot of good people. He stated Paul is a gentleman that is going to bring a lot of common sense with him which is a real attribute. He stated Paul can easily relate to our hard working citizens and there is a whole Town full of them. He stated during the interview Paul used the term Halfmoon is the place to be and, he and his wife are raising their young family and they expect to be lifelong residents here. He stated Paul also brought up about conflicts between people and, everyone knows those things happen and he talks about the need to sit down with people and talk to them. He stated in his letter to the Town Board he made reference to the need to keep a positive attitude and to bring fresh ideas and, they are very important features to consider. He stated he made a comment about development and he said in his letter development and growth should not be dictated by developers and big business.

Councilman Bold stated he would like to make a motion to appoint Paul Hotaling to the vacant position.

Supervisor Wormuth stated they enjoyed this process and, they made sure they opened it up and advertised the position and the amount of response they got for the well educated qualified people who come with many different disciplines and backgrounds, are Town residents who are willing to give of their time to make our town a better place was just amazing to her. She stated it was truly a very difficult decision to pick just one. She stated Paul's work ethic his commitment to having no Town tax and his whole attitude fits in very well with this Board and he will certainly be an asset to this Board.

Councilwoman Parker stated she is truly excited because of Paul and his personality, his youth and willingness to reason will add so much.

Councilman Polak stated Paul brings character to the table and he has known him and his family most of his life. He stated not that the Board all agrees on everything but one thing they do agree on is doing the right thing for the public. He stated it is up the new people to follow through with the ideas and this Board has always been fair to the public and always try to do the right thing. He stated he is sure with the character Paul has he is sure he will carry on what they are about and thanked him for being on Board.

Councilman Bold stated there were 11 people who applied for this position and 8 actually chose to be interviewed.

The Supervisor congratulated Paul and stated Judge Wormuth is present to swear him into office. She invited Paul and his family to come to the front of the room. Mr. Hotaling joined the Board at the podium at this time.

RESOLUTION NO. 101

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

WHEREAS, there is a vacancy on the Halfmoon Town Board effective March 1, 2007 upon the resignation of Melinda A. Wormuth as Councilwoman to become the Town Supervisor, it is therefore

RESOLVED, that the Town Board appoints Paul Hotaling as a member of the Town Board, to be paid prorated annual salary of \$10,144, effective immediately through December 31, 2007.

Supervisor Wormuth stated on Saturday, April 21 there will be the “Crescent Park Clean Sweep” which is in recognition of Earth Day and is sponsored by the Trails Advisory Committee as well as NYS Canal Corp. and they will be cleaning the trail area.

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

DEPARTMENT REPORTS – month of March

1. Town Clerk

Total fees remitted to the Supervisor - \$5,195.02

Filed.

CORRESPONDENCE

1. Received from Klamsteam Tavern and Marina, 32 Clamsteam Road, Halfmoon notification of intent to renew their liquor license.

2. Received Town of Halfmoon Annual Financial Report for fiscal year ending December 31, 2006

3. Received from Costanzo’s Riverside Restaurant, Inc., 405 Hudson River Road, Halfmoon notification of intent to renew their liquor license.

OLD BUSINESS

1. Inglewood Planned Development District, 27 Residential townhouse units, Cemetery Road – Public Hearing held March 6, 2007

The Supervisor stated the public hearing was held and some questions were asked by the Board and they asked the applicant to gather some more information.

Gavin Vuillaume, Environmental Design Partnership stated at the public hearing there were several items that were still somewhat unresolved and they did research on. He stated the public benefit for this project is an improvement they hope to make to the north side of Cemetery Road by adding a sidewalk. He stated they walked the corridor and it is challenging and the road has a lot of hilly terrain and the cemetery is very close to the road and presents a challenge but they do think it is doable and feel there is another room. He stated there may need to be a retaining wall and some special provisions that will need to be made at the business on the corner of Old Route 146. He stated they have met with them and will have further discussions with them because they have a porch that is very close to the road. He stated with the conditions that are there they do feel it is doable to have that sidewalk and one of the nice things that could be provided is a more definitive, improved intersection of Route 146 and Cemetery Road. He stated there has been some concern with accidents and they have had Creighton Manning look at it and it is his opinion the intersection just lacks identity and with some of the improvements they are talking about they feel it could be dressed up. He stated with the commercial development they could possibility have a small cross walk and feel it will be a tremendous benefit to them and also to the community. He stated the other concern the Board had was with site distance. He stated they are in agreement with Creighton Manning and, that the design they provided is the safest and meets the criteria but is less than optimal with the proximity of the barn and the hilly terrain and they would love to have a better intersection and have provided the best they can. He stated they pushed the road as far as they can away from the barn and with removal of vegetation and some other physical improvements they would like to make to the intersection they feel it will be a safe intersection. He indicated the road on the map and stated they are looking at raising the

grade in this area so any cars approaching the intersection from their project will be more highly visible and removing some vegetation will help. He stated people travel at more than the speed limit but people begin to slow down near the 146 end.

Councilwoman Parker stated she rode by the project area and if they can't get rid of that barn she is not sure how she can approve this project. She stated because there is no back exit she will worry about people coming out of that project and the barn has to go for this to be approved. She stated it is historical but there is no amount of money the safety for all people.

Mr. Vuillaume stated they approached the landowner again one more time. Ms Heather Har-Zvi stated she spoke to the owners recently and, it is a 100 year old historic barn and, they use it every single day and, is a very sturdy barn and there is no where else to put it on their property and is worth a lot of money to them. She stated she would love to see the site as safe as it possibly can and they could do some road grading as a public benefit.

Mr. Vuillaume stated they have an emergency access toward Lawrence Circle and they have spoken to the fire and safety people and that access in and out of Lawrence Circle is less than desirable and, would not be a valid option.

Councilman Bold stated they looked at three different features including Lawrence Circle, cutting down pine trees which is not a desirable thing to do but not the real issue. He stated they think the sidewalk is challenging and doable and is a nice issue to add to that road. He stated the intersection is certainly a concern and he feels cautious about it and he made the suggestion to him about considering raising the elevation of the entrance way but he didn't get encouragement for that. He stated the two humps in the road are serious detriments and those kinds of conditions are not what the Board is looking for when doing a zoning change.

Mr. Vuillaume stated they may be able to do something with one of the humps in front of the barn but that would be the only one with any benefit. He stated they would have to look at how much would have to be taken down to improve site distance and they wouldn't want to put a band-aid on it and only get a few inches and not a big benefit. He stated the biggest constraint is the barn and they are always going to have to deal with it whether they change the zone or not.

Councilman Bold stated he isn't sure he agrees with his comment, looking north, about that hump not being as much of a concern and doesn't share that opinion. He stated he is very cautious about bringing in a new entrance on that road.

Mr. Vuillaume stated when Creighton Manning did their report they noted the site distance being more inferior the other way.

Councilman Polak stated he went to the site and, regardless of the report, the two humps in the road are questionable and most people will travel faster than the limit and sees it as being a critical issue.

Supervisor Wormuth stated she was one of the liaisons to the Planning Board when this project was referred to the Planning Board and site distance was a concern from the beginning. She stated she appreciates his willingness to improve the site distance by looking at the actual grading on Cemetery Road and, at the very least, needs a long hard look because she is not comfortable doing a zone change that will put traffic out there without the optimal site distance. She stated she agrees with Mrs. Parker that the barn, at first glance, removing that would be the option and, certainly the Board has no desire to encourage the destruction of a historical property that the landowner wants to keep. She stated she agrees that we are looking at the site distance in both directions on Cemetery Road as an issue.

Mr. Vuillaume stated they could have Creighton Manning look at the two humps again and see what kind of benefit we would have by taking either one or both out of the road. He stated he would imagine it would be very cost prohibitive for them do both and if one would be more beneficial than the other and, they could report that to the Board so they could see the benefit and make the decision if it will be worth doing. He stated they would love to continue to do the sidewalk but, if they are talking about making changes to the road, cost wise he doesn't know if they can do both. He stated they could report to the Board the next information with some additional information.

Attorney Murphy stated, at her request, Mr. Hotaling is abstaining from Resolution numbers 1, 2, 3 and 11 as they pertain to matters that occurred prior to his appointment as a new member of this Board.

NEW BUSINESS

RESOLUTION NO. 102

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

RESOLVED, that the Town Board approves the Supervisor's Report for month of March 2007 as presented.

RESOLUTION NO. 103

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

RESOLVED, that the Town Board approves and orders paid all vouchers for all funds listed on Abstract dated April 17, 2007, totaling: \$958,559.40

RESOLUTION NO. 104

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

RESOLVED, that the Town Board approves minutes of Town Board meetings of February 6 and 22nd and March 6, 2007, as presented.

RESOLUTION NO. 105

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

RESOLVED, that the Town Board authorizes letting bids for Water Meters, American made Brass Fittings & Mueller Brass for the Water Department proposed bids to be opened May 1, 2007 at 2:00 pm

RESOLUTION NO. 106

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

RESOLVED, that the Town Board authorizes entering into lease agreement with Shenendehowa Central School District for use of busses for the Town six-week summer recreation program, per the review and approval of the Town Attorney and authorize the Supervisor to execute said agreement.

Attorney Murphy stated she requested and put forth the following Policy for Court Officers who provide security for the court when it is in session some are armed and the insurance provided have requested that there are specific parameters.

RESOLUTION NO. 107

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

RESOLVED, that the Town Board adopts the following Use of Force Policy for the Town Court Officer to be effective immediately.

USE OF FORCE POLICY FOR COURT OFFICERS

Section 1: Generally

The use of force is justified by Court officers if and only if:

- a. Such conduct is required or authorized by law or by a judicial decree, or is performed by a public servant in the reasonable exercise of his or her official powers, duties or functions; or
- b. Such conduct is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary

standards of intelligence and morality, the desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue. The necessity and justifiability of such conduct may not rest upon consideration pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder.

Section 2: Definitions

Deadly Physical Force: Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury

Physical Force: Force applied to the body; actual violent

Serious Physical Injury: Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ

Section 3: Use of Physical Force

- a. A Court Officer may use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person, unless:
 - i) The person's conduct was provoked by the Court Officer with intent to cause physical injury to another person; or
 - ii) The Court Officer was the initial aggressor; except that in such case the use of force is nevertheless justifiable if the actor has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened use of unlawful physical force; or
 - iii) The physical force involved is the product of combat by mutual agreement not specifically authorized by law.
- b. The Court Officer may not use deadly physical force upon another person under circumstances described in Section 3, subdivision (a), unless:
 - i) The Court Officer reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the Court Officer may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating; except that the Court Officer is under no duty to retreat if he or she is assisting a police officer or a peace officer at the latter's direction, acting in compliance with Section 6 detailed herein to assist in the making of an arrest or in preventing an escape; or
 - ii) The Court Officer reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible rape, forcible criminal sexual act or robbery; or
 - iii) The Court Officer reasonably believes that such person is committing or attempting to commit a burglary, and the circumstances are such that the use of deadly physical force is authorized in Section 4 as described below.

Section 4: Use of Physical Force in Defense of Premises and in Defense of a Person in the Course of a Burglary

- a. A Court Officer may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a crime involving damage to premises. The Court Officer may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force if the Court Officer reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of arson.
- b. A Court Officer may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what the Court Officer reasonably believes to be the commission or attempted commission by such other person if a criminal trespass upon Court premises. The Court Officer may use any degree of physical force, other than deadly physical force, which the Court Officer reasonably believes to be necessary for such purpose, and may use deadly physical force in order to prevent or terminate the commission or attempted commission of arson, or in the course of a burglary or attempted burglary as described in Section 4, subdivision c.
- c. A Court Officer present at the Court who reasonably believes that another person is committing or attempting to commit a burglary of the Court may use deadly physical force upon such other person when he or she reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of such burglary.

Section 5: Use of Physical Force to prevent or Terminate Larceny or Criminal Mischief

A Court Officer may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to prevent or terminate what the Court Officer reasonably believes to be the commission or attempted commission by such other person of larceny or of criminal mischief with respect to property other than premises.

Section 6: Use of Physical Force in Making an Arrest or in Preventing an Escape

- a. A Court Officer who has been directed by a police officer or a peace officer to assist such police officer or peace officer to effect an arrest or to prevent an escape from custody may use physical force, other than deadly physical force, when and to the extent that the Court Officer reasonably believes such to be necessary to carry out such police officer's or peace officer's direction, unless the Court Officer knows that the arrest or prospective arrest is not or was not authorized and may use deadly physical force under circumstances when:
 - i) The Court Officer reasonably believes such to be necessary for self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or
 - ii) The Court Officer is directed or authorized by such police officer or peace officer to use deadly physical force unless he or she knows that the police officer or peace officer is not authorized to use deadly physical force under the circumstances.
- c. A Court Officer acting on his or her own accord may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to effect an arrest or to prevent the escape from custody of a person whom he or she reasonably believes to have committed an offense and who in fact has committed such offense; and may use deadly physical force for such purpose when he or she reasonably believes such to be necessary to;
 - i) Defend himself, herself or a third person from what the Court Officer reasonably believes to be the use or imminent use of deadly physical force; or
 - ii) Effect the arrest of a person who has committed murder, manslaughter in the first degree, robbery, forcible rape or forcible criminal sexual act and who is in immediate flight therefrom.

Section 7: Training

A Court Officer shall complete a minimum of seven (7) hours of certified training for Court Officers through a program approved by the Division of Criminal Justice Services of New York State per year and shall provide the Town of Halfmoon proof of successful completion of the training. Any Court Officer who shall possess a firearm shall complete a minimum of forty (47) hours of certified training for armed Court Officers through a program approved by the Division of Criminal Justice Services of New York State specifically and shall complete a minimum of eight (8) hours per year thereafter to maintain certification to possess the firearm as a Court Officer. Proof of successful completion of the training shall be provided the Town of Halfmoon.

Councilman Bold stated, relative to the next item that it needs to come before Resolution No. 8 and will be for the same system that exists in this building, the water plant and the senior center and the purpose is to keep the software and access cards compatible

RESOLUTION NO. 108

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

RESOLVED, that the Town Board approves standardization of the door locking system to be utilized by the Town of Halfmoon to ensure compatibility.

Councilman Bold stated, relative to the next item that he has asked to have the bids opened the day before the next meeting due to the timing schedule we need to have the contractor on board. He stated unless there is some discrepancy they will recommend approval the next day by the Board.

RESOLUTION NO. 109

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

RESOLVED, that the Town Board authorizes letting bids for Door Security System for the New Town Hall proposed to be opened April 30, 2007 at 2:00 pm.

Councilwoman Parker stated, relative to the next item that Midge has worked for the Town before and is familiar with everyone and its good to have her back.

Supervisor Wormuth stated this is very exciting but will point out it is only on an as need basis and is not a part time employee with set hours

RESOLUTION NO. 110

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

RESOLVED, that the Town Board appoints Margarete Barile as part time Clerk to be paid \$11.50 per hour to work on as needed basis to fill temporary vacancy, effective immediately.

Councilman Bold, stated relative to the next item, that this is something that has been talked about previously and this public hearing is driven by the fact that the monies are coming from the Town's recreation fund which requires a public hearing subject to permissive referendum. He stated it was talked about at the last meeting that the sellers are Craig Hayner and his mother and father who are part of the family trust.

Attorney Murphy asked that the resolution also states that the Supervisor is authorized to execute the contract. She stated the reason is they have created a contract that builds in an accounting if, for some reason the Board decides not to purchase the property or a permissive referendum occurs and the citizens decide not to support the purchase the contract would be null and void. She stated if we don't sign the contract now our efforts to utilize Town funds would not have a basis and the Town will be protected with these contingencies built in.

RESOLUTION NO. 111

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

RESOLVED, that the Town Board authorizes setting a public hearing for May 1, 2007 at 2:05 pm for purchase by the Town of Halfmoon of ten acres of the property, tax map number 273-2-1.116, at 148 Route 236 in the amount of \$125,000.

RESOLUTION NO. 112

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

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

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.

Debit:	Estimated Revenues	25-510	\$10,482.00
	Subsidiary: 25-4-2189 Home & Community Services	\$10,482.00	

Credit:	Appropriations	25-960	\$10,482.00
	Subsidiary: 25-5-1440.40	Engineering	
		Contractors Inspections	\$10,482.00

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
Howland PDD	\$1539.50
Stone Crest Preserve	2315.00
Lussier's Autobody	141.50
Harvest Bend	3356.20
Soft-tex	267.50
Casale Rent All	385.30
Fortress Partners-10 Ent Ave	501.50
General Mechanical-addition	501.50
Guideboard Retail	126.00
Landmark Square	502.00
Princeton Heights	247.00
Spinuzza Subd	126.00
Windsor Woods	473.00
TOTAL	\$10482.00

RESOLUTION NO. 113

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

RESOLVED, that the Town Board authorizes the Town Recreation Maintenance Worker as an authorized Town employee cell phone user.

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

Jodie Aubin stated her father lives at 9 Vandenberg Lane and they obtained a variance to build a single family house on a lot he subdivided several years ago and in that lot is a 100 x 50 Town turn around. She stated she has done all the research and the Town owns the road but is not Town approved and her father takes care of the lot. She stated there have been issues with the neighbors regarding parking and putting up and taking down street signs.

The Supervisor stated they will research this matter and obtain information from the relative departments and see what they can come up with.

There being no further business to discuss or resolve the meeting was adjourned at 9:50 pm. She stated the next regular scheduled Town Board meeting is May 1st at 2:00 pm

Respectfully submitted,

Mary J. Pearson
Town Clerk

