

Minutes of a Town of Riverhead board meeting held by the town board of the Town of Riverhead at Town Hall, Howell Avenue, Riverhead, New York on Tuesday, August 2, 2011 at 2:00 p.m.

PRESENT:

John Dunleavy	Councilman
James Wooten,	Councilman
George Gabrielsen,	Councilman
Jodi Giglio,	Councilwoman

ALSO PRESENT:

Diane M. Wilhelm,	Town Clerk
Robert Kozakiewicz,	Town Attorney

ABSENT:

Sean Walter,	Supervisor
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Councilman Dunleavy: "August 2, 2011. I want to apologize. Our Supervisor, Walter, has a family emergency and he couldn't attend today's meeting. So, I just want to wish him all the luck with him and his family.

What we're going to do is we're going to have an invocation by Rabbi Siemers. So could you come up here, Rabbi? And can you use the microphone?

Oh, Rabbi, we're going to do the Pledge of Allegiance first, okay?"

(At this time, the Pledge of Allegiance was recited)

Councilman Dunleavy: "Do you want us to stand or sit?"

Rabbi Siemers: "Please be seated. Good afternoon. In the Jewish calendar we're at a special time of year. It's the period called the Three Weeks. Two weeks ago was the fast of the 17th of

(inaudible). A week from today is the fast of the (inaudible). This is a time of tremendous introspection, of prayer and reflection in which we reflected over the course of our long history that success in all of our endeavors is not a guarantee but it only comes from the hard work of citizens and government alike.

Our traditions call us to bear with humility, our responsibilities of family, of faith, citizenship and governance. May God watch over us as we struggle to fulfill our missions. May God bless this nation in his world.

May God strengthen those of us in our midst who have stepped forward to bear the burdens of leadership and may our faithfulness guide all of us to be effective stewards of community and let us say amen."

Councilman Dunleavy: "Thank you, Rabbi. And now what we're going to do is the second- the first Tuesday in August is always National Night Out. And we have a person here who supports this every year, Robert Dunigan. So I'm going to call on Councilman Wooten because he's liaison to the police department to get up and give him a proclamation."

Councilman Wooten: "Tonight is National Night Out. It's the first Tuesday of August. This is Riverhead's 28th year, right, observing National Night Out and what it is, is community awareness where neighbors come together out front, put the light on, come to know each other as neighbors, help to watch one another's property, all the things that go along with just making the community a safer place, to report suspicious activity.

And also I think part of the- today you'll see some posters out front. Lt. Boden will go into that. We have a poster contest that the children take on during the summer programs and we have awards for that that Mr. Dunigan provides.

But my purpose here- Bob, Mr. Dunigan from Schwinn Electric has been with us for as long as I can remember. How many years- "

Robert Dunigan: "Twenty-one years- this is our twenty-first one doing it."

Councilman Wooten: "Twenty-first year assisting Riverhead police department with their National Night Out program and he

accompanies the teams that go out tonight between 6:00 and 8:00 to go out to I think there's eight scheduled parties tonight, block parties, where the police come along with Schwinn Electric and they give out lots of awards to people and then prizes and whatnot and those— my six year old is going to love this thing until I snap it in half.

But all these nice little prizes they give out for people who participate. So we encourage all of that. And free light bulbs which is really the big thing, because, you know, National Night Out, you've got to leave the light on, you need a light bulb.

So on behalf of the town, I have a proclamation. I'm not going to read it because you're such a part of our community and you do this year after year after year, and I don't want to repeat what we already know.

We appreciate what you do for us. This is a recognition from the town for your services to our town, to our community, to our police department and (inaudible) National Night Out.

So we thank you, Bob."

Robert Dunigan: "Thank you very much."

Councilman Dunleavy: "Do you want the microphone?"

Lt. Boden: "I don't think I need it. Okay. I'd just like to thank the town board for their support for this every year. We've been doing this as he said, I don't want to bore you.

Councilman Wooten was actually a member of our crime prevention unit so he's very familiar with it. It's a great program. The police department is there to assist you with trying to organize your neighborhood a little bit if you wish to do that. To make the whole town and all our neighborhoods a little bit safer place than they are, and they're safe already.

But it's a great night to get out. If you don't participate, just take a walk outside, turn your light on, maybe it will attract some neighbors. You might actually have a conversation with somebody you don't know. That's the whole purpose of it, to get to know your neighbors and stuff like that a little bit better.

We've been doing it a long time. We believe in it. And the support of the town board, the chief of police, it's been a great program. And Bob Dunigan has been our biggest supporter.

We also have— I don't want to dismiss Target, has been on board with this also and they're going out with us tonight. We have all kinds of giveaways to give away. But this is the traditional kick off for it.

We do that with the poster contest. We have a poster contest with the summer camps that the town of Riverhead runs every year and it's always a tough decision to pick the winners and I think Officer (inaudible) who has been a member of our crime prevention unit now for three or four years had a lot to do with picking the winners so I'm not going to take any blame for who won or didn't win.

All I know is it's always the theme of crime prevention and it's a great group of kids, you know, what their imaginations are. You get a lot of dogs and, you know, and things like that. We actually get some with lights. I haven't really look too closely but I'm sure they're good this year.

But you know what, it's a community thing and it's a great kick off that Bob Dunigan and Schwinn, they support this also by giving out great prizes. That's why the kids are here.

So without any further adieu, we're going to give the prizes. I'm going to call the winners up. Can you come up and stay up here for a second and we'll get a photo thing with you and I guess that will be it. Okay.

We had two groups of winners. The first was the six to eight year old group and we'll go from third to first. The third place winner, I hope is here, is Jacob Schiavoni, if I said it right. Jacob is not here? All right, we'll hold his prize. I know the second place winner is here because I saw him and I saw his parents, Chase Wattick."

Bob Dunigan: "Chase, for getting second place, you get (inaudible) miniature golf out at the East End Outdoor Family Fun Center and you get to pick something that will really annoy your parents.

Every year we try to come up with a different— 21 years we've

never duplicated the toy."

Lt. Boden: "And the first place winner is Devon Green. Devon, come on up."

Bob Dunigan: "And for first place, you get four tickets to Splish Splash."

Lt. Boden: "And now we have the 9 to 12 group. And third place for that is Marina Sidesco (phonetic). Is Marina here? No. That's okay.

Second place is Carla Krump. Congratulations."

Bob Dunigan: "Again you get (inaudible) for miniature golf."

Lt. Boden: "First place is Keeley McMullan Smith."

Bob Dunigan: "Congratulations, very good. Four tickets to Splish Splash.

And, just, I'd like to mention, third place was some ice cream at both Snowflake and (inaudible). They're multiple businesses that we're trying to support, so that's the third place prize."

Lt. Boden: "I'd like to thank the parents for coming out and seeing your children win prizes. And for the rest of the (inaudible), it's a great show of support for what we do and for what they did. So thank you again. Thanks, again, to the town board."

Councilman Wooten: "If anybody out there wants to form a neighborhood watch, they could contact you, right?"

Lt. Boden: "Yes. We're more than glad to come out and show you how to do it. It's not very hard, and get you going."

Councilman Wooten: "We want everybody to have a neighborhood watch in their community. All right."

Bob Dunigan: "Congratulations."

Councilman Dunleavy: "We'll just wait a few minutes until all the children leave.

APPLICATIONS:

Special Event P.C. Richard & Son - Old Country Road, Riverhead - summer tent sale - August 4 - 16

REPORTS:

Tax Receiver utility collection report June, 2011 - \$254,785.71
total tax collection year 2010 - 2011 - \$126,563,469.57

Town clerk monthly report, July, 2011 - \$8,118.99

Sewer district discharge monitoring report - June, 2011

CORRESPONDENCE:

8 e-mails and 125 postcards requesting adoption of a short term moratorium for the Wading River corridor

Riverhead Neighborhood Preservation Coalition (RNPC) letter urging town board to cease review of the Knightland project proposed for Wading River

Laurence Oxman letter regarding FOIL #810-2011

Diane Wilhelm: "And that's it."

Councilman Dunleavy: "Thank you. Can I have a motion for the minutes of last month's meeting?"

Councilman Wooten: "I make a motion that we approve the minutes of the town board meeting dated July 19, 2011. So moved."

Councilwoman Giglio: "And seconded."

Councilman Dunleavy: "All in favor?"

Collective response: "Aye."

Councilman Dunleavy: "So moved. That's it. Okay."

Now we have two public hearings. And seeing the time is 2:15, we have a public hearing at 2:05."

Public hearing opened: 2:15 p.m.

Councilman Dunleavy: "The consideration of a proposed local law to amend Chapter 108 of the Riverhead town code entitled Zoning. Do you want to talk about this?"

Robert Kozakiewicz: "Yeah. Or do you want to?"

Councilwoman Giglio: "Actually, yes. I- when I first took office, I took a look at downtown and had been taking a look at downtown for several years and coming up with solutions on what I think could potentially create foot traffic to visit the businesses that we have downtown, and also to encourage more businesses to come."

So I had proposed to the board to allow for professional offices on the first floor of the houses in downtown that are zoned in the DC5 zoning district, to allow for professional offices without being owner/occupied.

So we are- we have had several discussions on this. I believe we have discussed at work session a couple of times. We've refined it down and are having a public hearing today.

So if anybody has any comments."

Councilman Dunleavy: "Anybody with any comments? Yes."

Dominique Mendez: "Something quick. Dominique Mendez, Riverhead Neighborhood Preservation Coalition."

One of the issues I guess of concern would be that if it's a single lot, that's one thing. But and we've recently found out sometimes you might not foresee that lots could be combined and then all of a sudden there could possibly be an office that was much larger and kind of was a problem within the community. So that maybe it be only limited to one lot or that lots of a certain size,

or that lots can't be combined."

Councilwoman Giglio: "We're actually encouraging the lots to be merged together to provide for additional parking if needed for the businesses downtown.

This was permitted at one time to have professional offices in the older houses and a lot of the older houses and historic houses that we have downtown are falling apart and they're not being maintained. So I saw this as an opportunity to get people to buy up those houses and fix those houses up to keep the historical integrity of downtown while generating much needed foot traffic in order to preserve our downtown and to promote the businesses that we have downtown.

So now that the courts are in full operation and we have lawyers that are visiting us from up west or from out east, I also saw it as an employment opportunity for local residents to take up employment in those houses and be running back and forth to the courts rather than the wear and tear on our roadways in establishments and lawyers and title companies coming from up west or out east to Riverhead, that we could handle it within Riverhead and it would allow for the opportunity for these houses to be fixed up."

Dominique Mendez: "Yeah. The issue I would raise is that since it has been a strictly residential area, that maybe larger—you might want to consider that maybe some of those, if they were combined and it were larger facilities, that that might not really be appropriate with neighbors right next door. That's all I'm saying."

Councilman Dunleavy: "Dominique, more than half the houses there are less than .17% of an acre. They are .05, so to accommodate them, if they wanted to have an office building, they would have to combine two or three lots just to get to the acreage needed.

So it's not to expand the ones that are over this, it's to try to get the ones that are under it to expand and to build—we're trying to revitalize the DC5 area and this is one way we can do it by thinning out the residential property there and making offices and residential."

Councilwoman Giglio: "Right. The residential component would still exist and the existing houses would exist and they would be— consider commercial applications which would be coming before the architectural review board.

And the aesthetics of the residential community would remain intact but you have to have at least .17 of an acre in order to have a business on that property, otherwise you have to compile lots in order to provide for parking and accessory uses."

Dominique Mendez: "Right, .17 is an extreme but if all of a sudden so many were combined that it became a large facility, I think that might be an issue with the residences around, that's all I'm saying. If you had an acre and then all of a sudden you had lights and it became a lot of traffic, because of the residences."

Councilwoman Giglio: "But we do have the dark skies ordinance which says that they have to point the lights downward, so I don't see that as being an issue because we have other protections and safeguards within the code that would keep the integrity of the residential aesthetic nature of downtown."

Councilman Wooten: "I really think that the motivation for this was to also— I agree with you, to fix up some of the houses down there that are of historic value, but to allow somewhat of accessory apartments or livable space (inaudible), for people that don't necessarily own the building. So it's certainly for expansion of business as much as it is probably (inaudible) housing as well and not restrict it to just owner/occupant."

Councilman Dunleavy: "But speaking to what you said— "

Councilwoman Giglio: "It's really to not restrict it from being owner/occupied, because right now the code says you can have a business on the first floor, but you have to live on the second floor. And that doesn't work for a lot of people that don't necessarily want to live in downtown Riverhead but they may want to have a business in downtown Riverhead and a smaller space."

Councilman Dunleavy: "But, speaking to what you said. If you take a look at the attorney's office on 2nd Street and Griffing Avenue, that was three building lots they put together and built that— I think it's a really gorgeous building they have there. It looks like it's a residence but it's an office building, and they

joined three lots together and built that.

So it's picking up that area and it's making- beautification is what we're trying to get in this area."

Dominique Mendez: "Right."

Councilwoman Giglio: "And the parking would be required on site as to where right now it's not."

Dominique Mendez: "Right. That makes sense. I'm just considering maybe safeguards to think- imagine how it could be if it went a little too far and just put some maximum limits or safeguards just so that it doesn't end up being something you didn't want to be, not what you do want do want it to be."

Councilwoman Giglio: "Right. Well, our- like I said, it would be a commercial application that would go before the Architectural Review Board and that the Architectural Review Board takes into consideration the aesthetics of the surrounding community and makes sure that what is being proposed fits in with the nature and character of the surrounding community."

Dominique Mendez: "Yes."

Councilman Dunleavy: "Thank you, Dominique."

Dominique Mendez: "Thank you."

Councilman Dunleavy: "Anybody else who would like to speak on this? Yes, Larry."

Larry Oxman: "Good afternoon. Larry Oxman. I would encourage the board to consider this legislation, an amendment to the zoning change.

I think it's very positive. Riverhead is very fortunate that it has the court system here and I think that that historically has been a saving grace for the downtown. While downtown languished on a retail capacity many years ago, the courts- the attorneys did not. The attorneys took housing stock that was run down and just kept it in very nice shape. It's a pleasure to look at.

Second Street, you use the example of Twomey, Latham, Shea and

Kelly and the combination, I think that's a great example. This is a small geographical area of the town and I think that this is well warranted.

Thank you."

Councilwoman Giglio: "Thank you."

Councilman Dunleavy: "Thank you. Good afternoon."

Angela DeVito: "Good afternoon. Good to see you, Councilman Dunleavy. Angela DeVito, South Jamesport.

I just have a question. In this area of the DC5 zoning downtown, how many such properties that fall between .05 and don't quite reach the .17 acreage exist?"

Councilman Dunleavy: "I'll get Rick. Rick, I know we counted that."

Councilwoman Giglio: "Rick did a study on it."

Councilman Wooten: "I know we have it."

Councilman Dunleavy: "We have it."

Rick Hanley: "We did an analysis, a frequency analysis."

Councilman Dunleavy: "Could you use the microphone, please?"

Rick Hanley: "We did a frequency analysis of all the parcels in the district. I want to say there were probably close to 60 or 70 parcels, I would say that the median size was .2 acre, something like that. I have the data on my desk if you want it, but there are a significant number of parcels that meet that and there's also the potential for assembling the smaller parcels."

Angela DeVito: "I guess my question is because Councilwoman Giglio has pointed out that it's for the smaller properties, not the ones that are at the .2 because they already meet the threshold to be able to do what you are suggesting be done, so it's a question of how many of those properties exist, how many of them are contiguous with each other or are they just spotted out like this, which would make putting together parcels a harder objective in terms of

encouraging people to come and utilize this.

And the other thing is, of these properties which of them fall within the downtown historic district? And would also have to come before the LPC as they're considering putting together and doing things as well as the Architectural Review Board for those recommendations for aesthetics and fitting in with the general environment.

And I'm sure you're aware that the state of New York is now looking at not single buildings in the historic district but saying the entire— every building that's within the district must now be considered as part of the historic district and be treated as such."

Councilwoman Giglio: "Well, I don't understand that to be true."

Angela DeVito: "Yeah, actually the LPC has been told that."

Councilwoman Giglio: "But, because I sit on the LPC and I sit in on all the meetings with the LPC and I know that (inaudible) is coming out on Thursday, August 10th and will be doing a walk around through downtown and through the downtown areas.

I know that any project that is applying for grant funding through the historic district and any of the surrounding parcels if development is to occur that those applications must be sent to the state for consideration."

Angela DeVito: "Correct. You're correct there. You're right.

And the last consideration I have, is has the town received inquiries from potential individuals who wish to have this type of arrangement? For example, you suggested that law firms, professional firms from up island, in order to reduce their— very much like the (inaudible) concept, to reduce their travel time as well as that, would be willing here.

Has there been inquiries here in the town for that sort of thing which sort of acts for the stimulus for perhaps changing the zoning for the DC5?"

Councilwoman Giglio: "I have not had any applications thus

far with- pertaining to this legislation, but I can say that one of the recommendations that I had asked the board to consider when I took office was to allow for manufacturing in industrial C, and since that time when we had adopted that legislation, we have several applications that have come forward for manufacturing in industrial C, such as the bakery, the bakery which is going to be coming and then we also have the- the Long Island Brewery- "

Angeal DeVito: "On Pulaski, yes."

Councilwoman Giglio: "Right. And the hotel uses. So, if we create the legislation and we allow it for these types of uses, I believe they will come.

So as of yet- "

Angela DeVito: "But there hasn't been a synergy between the potential for anything else."

Councilman Gabrielsen: "Yes, right. It's the board being pro-active, creating the environment and then they will come. And it's all part of revitalization of that area."

Angela DeVito: "Like building a field of dreams. Okay."

Councilman Wooten: "(inaudible) basically for parking. Anything smaller than 1.7- .17 "

Angela DeVito: "I understand the size restrictions and such but it's just considering, you know, again how many there are there. If you only had a few, if there were only two or three of them, is it really worth changing the zoning for that and that sort of thing.

But, you know, as Rick has said, the majority of them meet the .2 or above when he did this particular inventory of them, so it just seems that, you know, if you're going to do legislation, it should be driven in part by the density of what you're trying to achieve and what is there already."

Councilwoman Giglio: "Yes. Absolutely."

Angela DeVito: "Thank you."

Councilman Dunleavy: "Thank you. Do we have anybody else who

would like to speak on- at this public hearing? If not, I'll close this portion and we'll keep it open until August 12. Okay, we'll keep it open for written comment until August 12.

Thank you."

Public hearing closed: 2:28 p.m.

Left open for written comment for
10 days to August 12, 2011

Councilman Dunleavy: "Now, seeing the time is 2:29, we have a 2:10 public hearing."

Public hearing opened: 2:29 p.m.

Councilman Dunleavy: "The consideration of a proposed special use permit petition of R&K Precision Autoworks Inc. to allow for the reconstruction and expansion of auto repair facility.

Do we have anybody that would like to speak on this subject? Have Jim speak first because he's the architect involved in this. Your name, please."

James DeLuca: "James Vincent DeLuca, I'm the architect of the job. I reside at 12 Linda Lane East in Riverhead."

Councilman Dunleavy: "You have to be sworn in."

Robert Kozakiewicz: "Jim, if you raise your right hand. Do you swear that the testimony that you are about to give in connection with the hearing before us, the special permit petition of R&K Precision Autoworks will be the truth, the whole truth and nothing but the truth, so help you God?"

James DeLuca: "Yes, I do."

Robert Kozakiewicz: "Thank you."

James DeLuca: "First I'm going to start off with a little bit of history of R&K and- "

Councilman Dunleavy: "Could you raise the microphone up, please?"

James DeLuca: "I'm going to start off a little bit with the history of R&K and then I'm going to go into the variances that we sought and obtained.

R&K was established in- not R&K itself, but the building was established in 1954 prior to the existence of both the building and zoning code. And as you know the building code and zoning code respectively was 1959 and 1965.

At that time in 1954 when the building was constructed, it was used as a potato grading and fueling for the farmers. In 1961, it was converted over strictly to auto repair and the sales of gasoline.

In April of 1986, the present owners, R&K Precision, bought the business and it's been in continuous use since then.

A couple of facts, in 1990, the sale of gasoline was discontinued. In 1993, the mini-mart that they had in the establishment was also discontinued.

Presently, R&K has outgrown their existing facilities.

Now in front of you, I've given you a site plan that was approved by the zoning board of appeals with all required variances, also with the determination from the zoning board of appeals on all required variances. So at present, everything that's shown on those maps that you have has been approved by the zoning board of appeals.

Today we're here to ask the board to grant a special permit for a pre-existing non-conforming use. And as I stated before, the buildings, the auto repair and- has been in continuous use since 1954.

All the people that work at R&K and the owner are Riverhead residents and Richard has been serving the community around him since as I said 1986 and his business has grown because he actually does extremely good work. I can testify to that personally. He does extremely good work. And he's also into old car restoration and I have a little story for you after I finish this presentation about that.

But now he wants to expand his business. And basically by the expansion, what we want to do is the front footage of the existing building is not going to change. Basically what's going to change is the profile of one part of it.

The lower section which consists of 1,274 square feet is going to be demolished. And a new building in its place is going to be put in that same area, same width, and we're going to add an addition onto that, a continuing addition as you can see on the site plan of 3,000 square feet.

And there's also a small outbuilding that's connected. It's a little machine shop of 302 square feet which is also under the expansion.

In front of you, you have a front elevation of what the building is going to look like. As you look at it, to the left is the new addition and it's a 25 foot plate height, the same plate height as the addition. And what I mean by a plate height is that's where the roof rafters rest on to accommodate the lifts that are going into that building.

I have a small colored rendering here that- "

Councilman Dunleavy: "Can you turn that around and let the- "

James DeLuca: "I can turn it around and sort of- I guess put it over here. I don't know where you can see it."

(Some inaudible discussion)

James DeLuca: "As you can see to the right, that's the existing building and to the left is going to be the addition. We're well under the height limitations and as I said before, we've obtained all of the variances that are required.

Now, I said to you before I was going to tell you a little story. This happened on Friday. Rich has now become a celebrity. He had a- I don't know if anyone is familiar with the show Porn Stars.

Well, basically, the same producers of that show, pawn brokers, this is not hard core porn- so they came there Friday, they heard of

Richard and they came there Friday and they produced a show for him because he is getting famous in his restoration of cars."

Councilman Wooten: "Is this the porn start from Vegas?"

James DeLuca: "Yes. And I can testify to the fact that he does an extremely good job on restorations of cars because he did one of mine, actually two of mine- no, three of mine. Three cars.

And we're looking forward to expanding the facilities and this will ease the parking that he has to keep cars outside and he has a lift outside that's going to be removed.

Along with this, a planting buffer is going to be installed between himself and the adjoining properties which is not there now. And we also are going to basically improve the look of the building."

Councilman Dunleavy: "I just have two questions."

James DeLuca: "Sure."

Councilman Dunleavy: "Okay. The building itself right now does not look like this."

James DeLuca: "No."

Councilman Dunleavy: "Okay. And the addition you're taking down and you are going to rebuild it to look like this picture that you're showing."

James DeLuca: "Like that. Correct."

Councilman Dunleavy: "Okay. So this is actually-- what you're trying to tell us this is going to improve that area-- "

James DeLuca: "Absolutely."

Councilman Dunleavy: "-- as far as aesthetics is concerned."

James DeLuca: "Absolutely."

Councilman Dunleavy: "Okay."

James DeLuca: "And if you can tell by the design, I've tried to incorporate the modern technology of the building with materials that are conducive to residential materials. We're using the cultured stone, we're using lapboard siding, (inaudible) trim. We're putting a shingle roof rather than a metal roof on it although a standing metal seam roof is also a nice looking roof. But we're trying to keep the aesthetics of the building with the aesthetics of Sound Avenue and people that live on Sound Avenue would like to see.

The only thing I can say is that we've had good feedback from the neighborhood and I haven't had any negative feedback from any of the associations around that area. I can't speak for Wading River, I can't speak for Jamesport. I only can speak for Riverhead."

Councilman Wooten: "Most of the bays are entering- the bays are all on the south side?"

James DeLuca: "The bays will be all coming from the west, in the back on the west side. The bays are going to be relocated.

As a matter of fact, recently I was in discussions with Richard and his wife. We're probably going to take the front overhead door off and have only the entrances from the rear and we're probably going to expand the waiting room into that area and then put just windows in that one area.

So realistically there won't be any overhead door from the front at all. They will all be from the west side of the existing building and the west side, rear west side of the proposed addition."

Councilman Dunleavy: "So from the front of the building, it will not look like an auto repair shop?"

James DeLuca: "No. (Inaudible) are going to improve the building dramatically I think."

Councilwoman Giglio: "I have a question because there is a right of way and Zdunko Lane accesses a few houses that are back there and then you have the Lobster Roll which is further to the west.

So I'm just curious on this right of way, you have the dumpster enclosure over on the right of way, and where is the dumpster

enclosure now?"

James DeLuca: "I believe it's- there's no dumpster enclosure there. I think the dumpster is just there if I'm not mistaken. It's in the back."

Councilwoman Giglio: "So I don't know- the residents you say are in support of this. I guess they must have been notified of the zoning board meeting, were they present at the zoning board meeting?"

James DeLuca: "There was several civic associations members I believe and also I received calls personally from the people around, several phone calls, and they basically said to me if they needed my support for me to call them. But none of them had any objections."

But when we move the- we take the door out of the front, you'll gain one or two parking stalls so we can possibly shift that dumpster around to the backyard which won't be a problem. That's you know a site plan issue that I can deal with, with no problem."

Councilwoman Giglio: "Okay, good."

James DeLuca: "That's not really going to be an issue. What I tried to do was maximize the parking for what I was working with at the time but since we've gone through the design phase of this, we've talked about rearranging the interior to move the- to actually expand the waiting area into that bay that you see in the front door so when we close that overhead door up, we gain two parking stalls so we can eliminate a parking stall in the back and put the dumpster in the back. So it's an evolving process but that is not an issue that's is an impossibility or beyond that we can do. We can do."

Councilwoman Giglio: "I just worry about the carting truck, that people are trying to access that right of way. And also the- any other things that come along with dumpsters."

James DeLuca: "Well, there's a fence between the right of way and his property. The- any of the carting companies can't go on that private road. I mean they can, but they can't go there to pick up the refuse from the auto repair."

Councilwoman Giglio: "So who crosses over this right of way? Who is it shared with?"

James DeLuca: "The right of way is not for this station, it's for the people in the back."

Councilman Dunleavy: "There's about (inaudible) homes back there."

James DeLuca: "There's a house directly in the back and that's what uses the right of way. As a matter of fact, if I'm not mistaken, the history is they split off that, the gas station from it, and that right of way was part of it so that goes to the one house in the back."

Zdunko Lane goes to the other houses to the right. So that right of way I believe is only for one structure."

Councilman Dunleavy: "It's only for one house. Okay."

Councilman Gabrielsen: "So your entry on those garages will be from that same right of way, the west side into the garage is going to be--"

James DeLuca: "No."

Councilman Gabrielsen: "Is that right of way going to be improved?"

James DeLuca: "It's not ours. It belongs to the people in the back. We don't use the right of way. When I say we, I mean-- no, it's not part of the station. We don't use it. It's not used at all."

Robert Kozakiewicz: "So just to clarify, it's not part of the R&K service station parcel. It's part of the fee title to the adjoining parcel which is the residence to the south."

James DeLuca: "Right. It's like a flag lot in the back."

Councilwoman Giglio: "Okay. So what currently exists along this right of way?"

James DeLuca: "Nothing. A driveway."

Councilwoman Giglio: "Okay. So there's no fence. There's no trees."

James DeLuca: "There's a fence between-- a small fence between the service station property and the right of way. That's it. There's nothing there."

Councilwoman Giglio: "Okay."

Councilman Dunleavy: "Thank you. Any other questions?"

Councilman Wooten: "I have a lot of questions about the Porn Star but I'll-- later."

James DeLuca: "Well, as to finish that story. They did-- he's going to be a star on TV, I guess. I don't know when, six months or so. And but it's a good thing for Riverhead because you actually promote this kind of industry at the dock, at the waterfront, and he's becoming well known in this and I think it's a good thing for Riverhead and he employs people from Riverhead. He's been here-- he's a Riverhead resident so I don't see-- I see everything on the plus and nothing on the downside.

And I don't live far from it, so I'm not someone that's 20 miles away saying that it's a good thing for you but not for me."

Councilwoman Giglio: "And I like how the parking is in the back and it will, you know, show off the front of the building so I think it will be an improvement. So."

Councilman Dunleavy: "Thank you, Jim."

James De Luca: "Thank you so much."

Councilman Dunleavy: "Do we have anybody else who would like to speak on this subject? Yes."

Mike Foley: "Good afternoon. Councilman Dunleavy, welcome back, it's good to see you back there and I'll make a prediction of many salads and veggies in your not too distant future."

Diane Wilhelm: "Would you state your name for the record?"

Mike Foley: "My name is Mike Foley and I'm an owner and summer resident in Reeves Park."

Robert Kozakiewicz: "Mike, I'm going to ask you to raise your

right hand if you would.

Mr. Foley, do you swear that the testimony that you are about to give in connection with the special permit application of R&K Service will be the truth, the whole truth and nothing but the truth so help you God?"

Mike Foley: "I do."

Robert Kozakiewicz: "Thank you."

Mike Foley: "I'm not here as an agent or a paid agent of Richard R&K although you might-- it might seem that way to you by the time I leave.

But I am here as a founding member of Sound Park Heights which is the civic association for Reeves Park. I am a member of the RNPC and I am here today to support the proposed special use permit of R&K Precision Autoworks and to ask the board to allow for the reconstruction and expansion of the auto repair facility.

I know Rich since 1986. I'm not a friend of his but I know of him. I have had maybe a half a dozen occasions in the last 25 years when my car has broken down. Each time I've gone to R&K and each time I have gotten an honest and fair price and excellent work.

So I'm really not here so much to endorse what he does because everybody in the park will tell you he's always there for the community. He always gives the community a fair shake.

I'd also like to talk to you about Rich's ability to clean up after every day's work in compliance with the codes that we have on businesses fronting Sound Avenue. And his consistency in doing that for the 25 years he's been in business.

When you pass his business, from the time it starts to the time it stops, there isn't one parking space available in front of R&K. They're double and triple parked. So it seems like he's always got an employee maneuvering cars around. And within a half an hour of him closing those doors at great time and effort and expense on R&K's part, all of those cars are gone. They are either moved behind his building or those people are gone.

So I really appreciate that because we have a stark contrast

just west of him, about a hundred yards west of him. And if I could approach, I just have three photos that I'd like to show you. Thank you very much."

Councilman Dunleavy: "Give them to Diane, please."

Mike Foley: "Please keep them in order because I have a copy here to refer to. Oddly enough on Sunday afternoon when we went by to take the pictures of the R&K garage which is always in compliance and Prime Movers which has not been in compliance of the codes for years and is now getting worse.

Oddly enough the first thing that we wanted to do was to hit Prime, just to show you. It's not just the trailers anymore. They have these stupid cows that are now seem to- they are reproducing faster than the bison are on Roanoke Avenue. Always asking for a 1-800 number to rent me.

Now my question to you- "

Councilman Dunleavy: "They just put those there, correct?"

Mike Foley: "John, they've been there for two months or so now."

Councilman Dunleavy: "Two months now?"

Mike Foley: "About two months and it seems like there are more of them. So they honest to God seem like they are multiplying. Of course, those obnoxious moving containers have been there, visible, unmoved for years now. So I guess my question is.

When we take a look at a property, and by the way the wacky thing was when we passed R&K there were no cars in front of his property which is always maintained, cleaned and empty when it's supposed to be.

Apparently somebody had to park their car to get into the Lobster Roll and we actually waited about a half an hour. I guess the guy stopped for a beer, not just to pick up one of the kids that was working there.

But R&K's frontage is empty of traffic when he's not in business and if we had businesses that were this compliant, we

wouldn't need code enforcement anymore, but the fact that we have an offender of the massive proportion directly west-northwest of him in the form of Prime, I just have to ask you, who do we need to call as a community in code enforcement to get them to do their job? Because I have to tell you, it's getting worse, not better and in this day and age where the Senate just approved- they just increased the debt ceiling, we know it's coming down the pike.

You guys are fighting the budget every day trying to cut stuff. Well, if code compliance can write the tickets that are commensurate with this kind of violation on a daily basis, it's a win-win. You get a little bit of revenue and we eliminate an eyesore like this."

Councilman Dunleavy: "If you leave your phone number with Diane, I will have Kevin Macabee (phonetic) who is in charge of code enforcement give you a call tomorrow. Write down the times that, you know, that you're available, approximately, and he will call you."

Mike Foley: "Councilman Dunleavy, I'll take you up on that right now. I thank you very much for that. I'd just like to close in saying this.

Rich is a good guy. He's been here for 25 years. He takes advantage of nobody. This is a man that we should absolutely do everything we can to support what he does because he's always been in compliance and in my opinion, he always will be.

Thank you very much."

Councilman Dunleavy: "Thank you very much."

Councilwoman Giglio: "And if anybody has any code violations that they see, our e-mail address is and phone numbers are all on line. I get e-mails all the time, I forward them to the town attorney who forwards them to the investigator who investigates and then code enforcement does go out and writes tickets.

So you know, you are our eyes and ears and we welcome-- "

Dorothy O'Hare: "Dorothy O'Hare, Reeves Park."

Robert Kozakiewicz: "Mr. O'Hare- Mrs. O'Hare, do you solemnly swear this testimony you are about to give in connection with the

special permit application of R&K Precision Autoworks will be the truth, the whole truth, and nothing but the truth, so help you God?"

Dorothy O'Hare: "I do."

Robert Kozakiewicz: "Thank you."

Dorothy O'Hare: "First of all, I want to reaffirm every word that Mike has said. We have been trying to clean up that place, that moving place, for years, years. Bernadette Vorhass was the one who used to come, meeting after meeting about that.

But I'm here about R&K and if ever there was a site plan that should be approved, it's this one. Not only because his place is always kept beautifully, but because of the type of individual he is.

And I just want to tell you a story. I'll try to make it as fast as I can. I came from New Jersey to come to Reeves Park and I filled up my car at the gas station. I got on the road, I'm looking and I said, oh, my God, the gas gauge didn't move, something's got to be the matter. But I'll be all right; I'm fine; I know I just filled up the gas tank.

So I came all the way out on the expressway, everything else, I'm watching the needle and it's going down and down and down and down. I got to Route 58 and it started to ding. So I said to my daughter, let's just take it to Richie's because I'm scared, something's got to be wrong.

The end of the story is, I was robbed. He didn't give me any gas. But I got to Richie's. He checked it, put it up on the hoist, checked it again, put some kind of a gadget on it and he said there is no gas in your tank. I said, okay, fine. I said give me a bill. Do you know what he said to me? Happy mother's day.

So, please, give him what he wants, he deserves it."

Councilman Dunleavy: "Thank you."

Councilman Wooten: "And make sure you go there on mother's day, guys. Everybody is going to show up on mother's day."

Councilman Dunleavy: "How are you, George?"

George Bartunek: "I'm pretty good, John. How are you feeling?"

Councilman Dunleavy: "Very good."

George Bartunek: "I- George Bartunek."

Robert Kozakiewicz: "George, do you swear that the testimony that you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?"

George Bartunek: "I do."

Robert Kozakiewicz: "Thank you."

George Bartunek: "Thank you. I wish that Sean was here today. I have a confession. We went shopping yesterday, King Kullen in Wading River, and we forgot the reusable bags and I had to use four plastic bags and I was going to bring them in today, give them to Sean, so that he could line his garbage can- so pass it onto John- to Sean when you see him.

Well, my name is George Bartunek. I'm the vice president of the North Fork Environmental Council and I'm here to make a statement on behalf of the North Fork Environmental Council Board of Directors.

The NFEC, North Fork Environmental Council, strongly believes in being good neighbors between both residences and businesses. And we strongly believe that conforming businesses play a key role in the fabric of the north fork and the way- in its way of life over the years.

This business has served the interest of the neighborhood as attested by the two previous speakers while it has enjoyed non-conforming use status on its parcel. But the intent of such status is that over time the non-conforming use should lapse and the property should conform with the current code. This is not the case here.

And the appeal comes at a time when the public opinion is clear, the rural and scenic nature of Sound Avenue is a public resource that is endangered and needs to be protected.

If the town board would grant this expansion, it would go against both the letter and the spirit of the code and it would serve as an unwanted, unwise precedent other current and proposed businesses along Sound Avenue could point to in order to expand their operations in ways that are contrary to the very code residents rely on to protect the rural corridor.

The NFEC supports local businesses but given the circumstances, we ask the town board to deny this appeal as approved— as approval would, number one, condone expansion of a non-conforming use, pushing the property further away from any hope of evolving into a conforming use as is the goal of the code.

Number two, it would grant further exception to the code where no overwhelming public benefit is at stake. And number three, further encroach on a neighboring residential unit. And number four, degrade the rural character of the Sound Avenue corridor.

The NFEC believes that it would be a mistake to not enforce the code and approve this appeal as for the main reasons stated above among others. Such action would not only reward this business for not bringing this property into conforming use over time, but would also give developers additional exceptions to the letter and spirit of the code and provide additional loopholes that they could turn to in their fight to build along Sound Avenue.

It has been made clear that preserving the rural character of Sound Avenue is an important public goal for and both by residents and businesses. And in keeping with those goals and missions of the NFEC maintaining the north fork's way of life is equally important.

Therefore, the NFEC board asks the town board to deny this application for a special use permit.

With that said, I certainly agree with the testimony that was given previously that R&K does excellent work. There's no argument about that. As a matter of fact, a neighbor of mine had a restoration of I guess a 1951 Jeep that is just incredible.

Regardless, there were three town board members who actually attended the NFEC gathering that we had at Martha Clara I guess a couple of months ago right now. And I think that the town board should realize that a 100% expansion of a non-conforming use especially in this particular area of Sound Avenue, would create a

terrible precedent.

I don't know what kind of a compromise could be possibly considered since this application has progressed to this stage. But it would seem to me at the very least that what you could do is you could have— keep the same footprint, knock down the eastern extension of the building, and build that but the proposed expansion of 100% of the use of this creates a terrible precedent.

I'm not aware personally, maybe you can edify me, has there ever been any expansion to your knowledge in the last six or eight years of any non-conforming business in Riverhead? I'm not aware of it. Is anybody aware?"

Councilwoman Giglio: "No. But an interesting point that I would like to bring out is that when the master plan was adopted, R&K Collision was successful in beating the town in a lawsuit that allowed them to continue the use on the property.

I don't— I see on this plan 1274 square feet of existing building to be removed and replaced with 1274 square feet one story addition. So it appears as though the footprint is remaining the same from the site plan from what I can see."

George Bartunek: "No, not at all."

Councilwoman Giglio: "No?"

George Bartunek: "No. If you look to the south of that, there's a whole new construction in the southern part of the building. Of the part of the building that's going to be knocked down, the 1700 square foot building, that's going to be rebuilt and then behind that is going to be a 100% expansion of the building."

Councilwoman Giglio: "Okay. Now let me approach this idea to you in that the property is zoned business CR. Do you think that this property would be more suitable for all retail uses? Because they're not exceeding their impervious surface. They're showing the amount of parking and business CR retail is a permitted use as long as it's serving the surrounding communities.

Do you think that this property would be better suited as the uses that are permitted in a business CR zoning rather than allowing him to— if you had to weigh the two, what would you say?"

George Bartunek: "The fact of the matter is right now this is a non-conforming use. If you want to go back and you want to change the town code to allow this kind of business on Sound Avenue, so be it. There are other car repair shops along Sound Avenue. That's not the only one.

So I mean if that's the way to deal with it, then that would be the proper way to proceed with this. But to allow an expansion of this magnitude on Sound Avenue, especially in that location when there had been so many people from Reeves Park that have come out and they fought the expansion or the type of development that's being proposed by Ken Barra there, this is kind of ironic.

That there's kind of a disconnect here between what they're saying on one side and what is being said now in support of the expansion of this special permit.

So, but the fact of the matter is, I mean you've- given this location and the importance of Sound Avenue as attested by the people on this town board that actually attended the event that we had, George and Jodi and Sean at Martha Clara-

Councilman Dunleavy: "It was a very nice event."

George Bartunek: "John, were you there also?"

Councilman Dunleavy: "Yes."

George Bartunek: "It seems to be- it contradicts the intent of the code and what is in place there.

Thank you very much."

Councilman Dunleavy: "But- George, the expansion is going to be in the rear of the building. It won't be seen from Sound Avenue. That's the only thing. It's not going to deter with the architecture of the building from Sound Avenue when you're driving past."

George Bartunek: "I agree with that 100%, John. It's just following the code. It's just following the intent of the code and the intent of declaring something, recognizing something as a non-conforming use. I have never been an advocate- John, when I was on the town board, of suggesting that business should go out of

business in order for it to conform to the zoning. I was never part of that. I never supported that.

But this type of expansion in that particular area, just is not acceptable to the North Fork Environmental Council. That's the position we have to take."

Councilman Dunleavy: "Thank you, George."

George Bartunek: "And something else you have to consider is that when they expand this by 100%, there is going to be a lot more business there and how they are going to accommodate all the parking. I've gone past there.

Now I have no personal grudge against R&K, I mean like I say, the neighbors all say he does good work. My neighbor tells me the great restoration that he did on his truck, so that's not the issue. And that shouldn't be taken into account.

But the fact of the matter is there have been cars, and I might be wrong about this and you can clarify this, but I have seen cars parked to the right, to the east of R&K Precision and that maybe cars that were being repaired, maybe those are cars from some other location, maybe some neighbors are parking cars there. I don't know. But it seems to me that if you do increase the business, there is going to be a problem with parking the cars there until they're able to be serviced.

Thank you very much."

Councilman Dunleavy: "Thank you, George. Yes, Dominique. You have to be sworn in, Dominique."

Robert Kozakiewicz: "Dominique, do you swear that the testimony that you are about to give in connection with this special permit hearing will be the truth, the whole truth and nothing but the truth, so help you God?"

Dominique Mendez: "Yes, I do."

Robert Kozakiewicz: "Thank you."

Dominique Mendez: "So actually first I want to get something—well, yes, I might as well mention. It has nothing to do—well, it

has something to do with this.

I noticed that you had the site plan or you had this rendition and I wanted to suggest what you did- what we are going to try to do for planning which is to have site plans and renditions here like ideally when you're having a public hearing, that really would be better to be on an easel and maybe the site plan next to it so the public can see it since this is a public hearing on that. So maybe you can think about that in the future."

Councilman Dunleavy: "I think we have a resolution today that all site plans are going to have public hearings on them."

Dominique Mendez: "Yeah. But that's through planning and this is a special permit application so since you're having- I mean it was great that he put that up but it should have kind of been part of the process, that that would have been here on an easel and the site plan would have been here so that during a public hearing we can all see it."

Councilman Dunleavy: "I think it was advertised- the ZBA advertises- the zoning board of appeals advertises when they're going to have the meeting on this project."

Dominique Mendez: "They do. But you can't see it, so- "

Councilwoman Giglio: "We can probably hang it up on the wall (phonetic)."

Dominique Mendez: "Exactly. Yeah, easels or something."

Robert Kozakiewicz: "I think what we can do is what the planning board does and what the zoning board does when they have hearings being scheduled. Put it outside, have it available for inspection beforehand so people can see it. That's one thing we can do because there is the cork board outside and, you know, do what our other boards do so that people have a chance to see it ahead of time. So that's not a bad idea."

Dominique Mendez: "Right, yeah. Always ideally, I think, in the room is better when people are talking about it so they can see what you're talking about so I think that's better than outside, but outside is better than not at all."

Robert Kozakiewicz: "I'm suggesting that beforehand, that it be up there."

Dominique Mendez: "Okay. Thank you. So I digress a little bit.

So we've heard a little bit about obviously what a good, you know, what good work is done at R&K and I haven't gone there. I have heard good things but George is right, that's really not what it's about in our opinion, even though I mean as you can tell, one of our members who was speaking on his own behalf not on behalf of the RNPC, he was very supportive of that business. But that's not quite— the RNPC has a different position.

We do acknowledge that this might result in pretty significant improvement in the face of the building. I don't know that the parking situation would necessarily that much better because when he increases his business, he's still likely I think to have overflow parking, but— and cars in front. Since his business will be increasing, that's the whole purpose of this.

So what all this— the fact that he does good work and restoration and he may be, you know, an extremely nice man. I don't know. He probably is.

But it doesn't change the fact that what R&K is asking for would represent 100% expansion of a non-conforming use on Sound Avenue. And I was going to mention too, obviously, you know, when we saw most of you guys there, I don't remember, John, seeing you there. You were at that Save Sound Avenue? I cannot remember. Yeah. I think— I don't know, but three of the board members were there, at least.

And I guess we took that as being supportive of this cause and it's hard to say— hard to protect Sound Avenue against over-commercialization if you approve 100% expansion.

If we were talking about a 15 or 20% expansion, you know, we'd probably feel quite differently given that there are some benefits to this expansion. This isn't just a matter of moving the bays to the back of the building so they're not visible. It seems that 100% is just way too large for you guys to consider.

The majority— oh, wait. If you considered a significantly

smaller percentage expansion, if that were to be what you were talking about and were to be approved, then I'd like to suggest two things.

That the rationale be spelled out in the permit as to why this particular business was allowed, an expansion-- that the granting of this 100% expansion of this permit. That should be spelled out so that other businesses wouldn't be able to necessarily use that to expand their non-conforming uses on Sound Avenue. Why is this one different? Again, 100%, I would hope that you would think would be out of the question but some smaller expansion.

And, two, if you did grant an expansion, a special permit first, some smaller expansion, then I would suggest that it include a clause that precludes the property owner from seeking additional expansions so that would be it. It wouldn't be 20% now, 20% later, and then you know, we're basically up to where we are right now.

I'd just like you to consider how extreme an expansion this would be, how the growth in this business and the additional traffic could affect the historic rural corridor of Sound Avenue and the dangerous precedent it sets.

It's not a matter of the work and how nice a person is and if he's a TV star. Those are all great things. But that's-- this is about a special permit for an expansion of a non-conforming use and I hope we'd focus on that.

And that's it. Do you have any questions?"

Councilman Wooten: "We're here to listen."

Dominique Mendez: "Thank you."

Councilman Dunleavy: "Thank you. Go ahead."

Mike Foley: "If I could just have a few minutes to rebut. Mike Foley, again, for Reeves Park.

It's not often that I disagree with Dominique and George. We have stood shoulder to shoulder on the Barra property, the Broidy property, with Sound Park Heights and my-- and Dominique is right. I'm not speaking for the RNPC nor am I speaking for Sound Park Heights.

I'm a resident and owner of Reeves Park. I know my neighbors well. This is my second generation there and they are unanimous in their support of R&K's expansion and Rich.

Just a few things that George mentioned. The first thing was the parking to the east of R&K. I happen to know for a fact that the cars that are parked there are mostly employees of the Lobster Roll because the owners there say they cannot take any of the limited spots in that little enclave that just to remind people popped up in the dead of night.

Those are the kind of expansions. Unlike the Lobster Roll, it never should have been built. It was something that was approved with nobody knowing about it and we'll have that bone of contention with Mr. Hanley same as we did with the EMB Enterprises, the Mr. Barra property that all of a sudden went from residential to commercial.

There is a difference between a garage that has been there for over 50 years that because they do great work, are expanding within their own footprint, and has shown for the 25 years that Rich has run that place, they're 100% in compliance with the code. So I have every confidence as do my neighbors and friends in Reeves Park, that no matter how big this expansion is, Rich and R&K will continue to be in compliance. It's that simple.

But I think one of the problems, when you have environmental groups that are not willing to look at the spirit of the law, that are not looking to look at exceptions for people that are doing the right thing versus getting you back up against people that have shown that they don't do the right thing. That we will lose credibility as groups, that I think when you pick and choose your battles, you apply a little bit of commonsense, you listen to the people in the surrounding areas and you say, you know something, this is what a special permit is about.

These are the things that we're supposed to consider, that the town board is supposed to consider when looking at an application of a man and a business like this, and at the same time, hopefully, can get your backs up so that when we start calling you on compliance issues like that guy across the street, when we continue to talk about Mr. Barra's property who I'm sure everybody here is aware.

They have a very nice offer from the county that is mainly

because of a 3,000 signature petition. The overwhelming support against that development, and us continuing to request the board to listen to the voters and all of you have, and we thank you for that as far as EMB is concerned.

But these are the differences in my opinion that will make us more effective as groups when we pick and choose our battles. When we look at somebody like this and we say this guy is doing the right thing. He's done it for 25 years. The community likes him and this is a guy that should be allowed to grow his business, not looking at a specific code that is supposed to be not just the law, but the spirit of the law.

And just two other things and then I'll walk away.

Two of the things that George mentioned was the detriment to the community. Where is the detriment? I haven't heard one person north or south of this property that has spoken up against this man as a neighbor. So in my opinion the word does not fit exactly what's happening there.

And the second thing there, the rural character. As far as the spirit of the law is concerned for the rural character, I'll get asked. Take a look at this man's property, this man's frontage after hours and on weekends. It is pristine.

So I'll just once again ask you to not paint as a brother in the community, as a brother in the organization, I'll ask you to consider not painting every business enterprise with the same brush, because it will hurt us when we go after the people that in my opinion really deserve to be gone after.

Thank you very much."

Councilman Dunleavy: "Thank you."

Dorothy O'Hare: "Dorothy O'Hare and I also want a second bite of the apple."

Councilman Dunleavy: "You're already sworn in, so go ahead."

Dorothy O'Hare: "Yes. I didn't find out about this hearing until almost lunchtime, so I have had no preparation at all to come here except goodwill. All right."

Nobody has worked harder than I have to preserve Sound Avenue. I led the fight; I did the homework; I got the master plan and I worked on it all summer long. I read the whole 12 chapters, I could recite that better than I could a lot of other things.

But the thing is, this makes it look more residential than it did before. What Barra wanted to do on the other side was a monstrosity. I was the one that did the homework and found out what 29 cesspools on that piece of property would do to a critical zone. Nobody knew anything about that. No, no, no. The critical zone is on the other side of Sound Avenue. As if pollution knows that it can't cross the road? No.

As I said, nobody worked harder than I did and it's not a case of oh, well, you know, we like him and we don't like him. It's not that at all. That looks more residential than it does now. And to me, that's the bottom line."

Councilman Dunleavy: "Thank you. How are you?"

Eric Biegler: "Eric Biegler, Sound Park Heights, Riverhead, New York."

Robert Kozakiewicz: "Eric Biegler, do you swear the testimony you are about to give in this proceeding to be the truth, the whole truth and nothing but the truth, so help you God?"

Eric Biegler: "I do."

Robert Kozakiewicz: "Thank you."

Eric Biegler: "First of all, I was at the zoning board review of this site plan. I gave my support to it as a representative of Sound Park Heights. We continue to support his site plan and his improvement of the property. I don't need to reiterate what a good neighbor Richie has been.

The establishment has been there since 1961, probably longer than most of you people sitting in this room have been in the town of Riverhead. And they have always been good neighbors, maybe not always under Richie's control but going back and going back.

I have a question. A real simple question. And I hear making variations, making concessions to the gentleman's site plan, trying

to do different things with him. What was done at the planning board hearing? Was anybody at the planning board sitting there saying, hey, this is too much zoning, this is too much depth, this is too much coverage, this is too much expansion? Isn't that what they're supposed to be doing? Isn't the zoning board of appeals supposed to be also looking at this and saying well, maybe the setbacks are too big before it gets to you people?

I mean you people shouldn't have to be making concessions. This should have been gone over, over and over and over again through those other two departments, the process that it was supposed to serve and then when it gets to you, there should have been a whole bunch of consensuses, a little give and take here and there between Richie, between the town, between the communities, and not sitting here now debating whether we should go back and negotiate Richie the size of his expansion.

I'm sorry, that's not your job. Right? I mean don't you guys have a lot of other things to do?"

Councilman Dunleavy: "It was testified here that the zoning board of appeals approved this."

Councilwoman Giglio: "They approved the setback. The area variances. We have to decide whether or not and with all due respect to the applicant and with all due respect to the residents of Reeves Park, I mean this establishment has existed as an auto repair facility or that type of nature of business for 50 years.

He's been there for 25 years. We don't know how much longer he's going to be there and we don't know what the guy's going to do that comes in after him.

So with all due respect to everybody's testimony about what a nice guy he is, I'm sure he is, but we do have to look at land use. We do have to look at pre-existing, non-conforming. We do have to look at the master plan. Some things make sense and some things don't."

Eric Biegler: "But is that your responsibility? I mean ultimately it's your responsibility. Yes. I'm sorry, the buck stops in a certain spot, it does. But shouldn't this all have been discussed at a planning board hearing? Shouldn't it have been discussed at zoning board? And shouldn't (inaudible) the same

thing?"

Councilwoman Giglio: "Actually we- and you know what, I have to agree with you to a certain extent because it's my opinion, that if you are seeking expansion of a pre-existing, non-conforming use, which comes first?"

Do we say go to the zoning board to see if you can get area variances for the setbacks because if they deny it, then it's a moot point to come to us and ask us to expand the pre-existing, non-conforming use.

After it goes to the zoning board and they approve the setbacks, then they come here and say, okay, now can we expand the pre-existing, non-conforming use? Then it goes to the planning board because that is the-

Eric Biegler: "So the planning board hasn't seen this yet?"

Councilwoman Giglio: "The planning board has not approved it yet with conditions. I hope they haven't. Because they have to know that the variances have been obtained and that the expansion of the pre-existing, non-conforming use is acceptable to the board before the planning board can consider the layout and what should go in between the open spaces or separating the property or the dumpster location, things of that nature.

My question about the dumpster location was just- is that where it is now. You know, the planning board will say that it's our job to determine whether or not a 100% expansion of an auto repair facility is acceptable and will it be precedent setting to where other people that have pre-existing, non-conforming uses will come in and say I want to expand 100% of my business because, you know, I get along with my neighbors or I don't get along with my neighbors.

I mean we have to weigh all of that when we decide whether or not an expansion of a pre-existing, non-conforming use should occur."

Eric Biegler: "So now this process is going to move to the planning board after you-- let's just say you approve it. It goes on, it goes to the planning board. The planning board is going to look at it and say what? They don't like the density coverage or the density coverage doesn't comply to-

Councilwoman Giglio: "No, they will not."

Eric Bielger: "It's your decision to make it whether the density is too much."

Councilwoman Giglio: "No. It's our decision to determine whether or not the density-- or the expansion of the pre-existing, non-conforming use. If it was 10% or less expansion of a pre-existing, non-conforming use, he wouldn't even be here. He would be able to do that as of right."

So we're saying the code says it has to be business CR which allows for this, this, this, this. You don't fall under any of those categories that's permitted in the business CR. So are we going to say that you have a pre-existing, non-conforming use that we're going to let you expand to 100%. And is that precedent setting where other businesses that are situated in a non-conforming use?

I mean we have other automotive repair places throughout the town that exist that are pre-existing, non-conforming. Now, do we let them perfect that? There's one on Middle Road; there's one on 25; there's I mean there are several pre-existing, non-conforming uses and we have to be careful in land use that we're not precedent setting.

If there's a unique aspect to this application that can be applied, that's what we need to hear and that's what we need to weigh in on."

Eric Biegler: "That's good. Answers my question. Thank you, appreciate it."

Councilman Dunleavy: "Thank you."

Robert Kozakiewicz: "Just to clarify. When we have a special permit, it's got to be referred to the zoning board if there's any variances that are necessary in order for it to be adjudicated there before this hearing to take place."

And as you probably know, the zoning board-- they're limited to the five prong test that's an area variance test, and that's what the testimony is limited to at the zoning board of appeals. This is a little different. We're dealing with the question of a special

permit."

Councilwoman Giglio: "Now, had they gone for a use variance where they said the business CR was not— this is not a suitable location for business CR and had gotten a use variance for the automotive repair, they wouldn't be here before us."

Councilman Dunleavy: "Okay, Jim."

James DeLuca: "Basically I just want to answer a couple of issues that were brought up.

When you say precedent setting, no zoning board of appeals decision as you know is precedent setting."

Councilwoman Giglio: "No. But this decision could be."

James DeLuca: "But it's generated basically from— this application was generated basically from the zoning board of appeals is the first stop.

As you remember, I don't know if you were at that meeting, I approached the town board initially with this application to get feedback from the board. I don't think you were present at that meeting. And the feedback was positive. We proceeded to go to the zoning board of appeals so their decision that they made on the setbacks, and I must vehemently disagree with George, it is not precedent setting.

In other words, they do not have to grant someone else the same relief, the setbacks and different things that he asked for.

And as far as some of the other objections that he had about what it's going to do to Sound Avenue and so forth and so on. I only have to agree with some of the other speakers. This business was here well before most of the people in this room were sitting here.

And one thing I noticed many, many times when I go to these meetings and I listen to these groups, the people that they're trying to either chastise or limit their growth, were doing business well before they even came here. And if, in fact, the people thought as they think, they wouldn't even be here.

So if the farmers thought years ago that we shouldn't have subdivisions and we shouldn't have this and we shouldn't have that, they wouldn't even be here. So when the laws are put in the books, they're put there and there are relief valves that are put in there just for those cases and this is one of those cases.

None of those zoning laws as you know is absolute. And that's why we're here today, because it's not absolute. If it was absolute, we wouldn't be here. So as far as Richie being a good guy, again, that has nothing to do with it. It has to do with his business and everyone is assuming his business is going to grow. His business is already growing. This addition and these improvements are to accommodate his business. So the assumption that these groups make is just what it says, assumptions, and they're bogus. Plain and simple."

Councilwoman Giglio: "And that is a unique aspect in that the business is already exists and the amount of cars that he services are actually in the front of the building and, you know, on the property because he's allowed to do that under his pre-existing, non-conforming use and this is actually improving a situation that exists from that aspect.

And, you know, it's interesting that you say with the Sound Avenue being the farmers and the farmer saying, you know, well you shouldn't be here, and you know what? I did attend the Save our Sound Avenue and I kind of heard that a little bit in that it used to be the thoroughfare from the city out to the east end and the houses didn't exist so that was Sunrise Highway back in the day and look at what it's become and a lot of it is residences and things of that nature where if the farmers had it their way, we all wouldn't be here. So- "

James DeLuca: "Exactly. Richie is going to invest a lot of money into this property. It creates jobs; he creates jobs for the people that work in Riverhead, that live in Riverhead. He's going to create tax money. These are all- and he's going to take care of his customers and put up an attractive building.

I mean it's all positive. I don't see any negatives in it. Again, we could sit back and throw stones at anything but I find it very disheartening when I see groups trying to dictate how people are supposed to run-- and make a living and run their business.

It's very easy for other people to do that.

And as far as automobile repair shops. It's very difficult to find a good automobile repair shop today. It's a dying breed of places. And I might add, I think some of the boards have been replaced in this town for one reason, they weren't friendly to business and I think this board has been put in place for one reason. They are friendly to business and to accommodate businesses to make this town something that people are proud to come to.

So when I hear about past boards, I think the ideal word is past, not present.

Thank you."

Robert Kozakiewicz: "One procedural thing, Mr. DeLuca. I don't know if it was mentioned, maybe I was dozing at that point in time.

I just want to note that you did serve up affidavits of publishing and posting."

James DeLuca: "Yes, I did."

Robert Kozakiewicz: "Reflecting that on the 20th of July you sent certified mailing and that you posted the property. So I just wanted to make sure those are incorporated and made part of the record."

James DeLuca: "Yes, I did. I handed them."

Robert Kozakiewicz: "Thank you. I don't know if it was mentioned publicly."

Councilman Dunleavy: "Jim, Jim. We can be friendly to business but we also have to look at the surrounding community and see if that business fits in that community."

James DeLuca: "Absolutely, absolutely."

Councilman Dunleavy: "I take and I've criticized the associations to always be a negative and this is the first time an association was positive towards a business that wants to move into their community and their neighbors are positive. And I listen to

the voters in this town on what they want for their community because they're living there. And I think that's the loudest that anybody should listen to is the community itself."

James DeLuca: "And the community in the area I think has spoken, people that live around that area have spoken. And I think it's loud and clear."

Councilman Gabrielsen: "I also would like to point out, I know it was mentioned, that there's no public benefits there. And you had brought up a couple examples. Of course, increased taxes for the town, there's jobs for the town, and I think the project is going to make it look a lot better, cleaning up that, you know- "

James DeLuca: "I mean he's going to invest a tremendous amount of money in this and provide jobs."

Councilman Wooten "Free service on mother's day, too."

Councilman Gabrielsen: "Yeah, I heard about that, too."

James DeLuca: "Pardon me."

Councilman Wooten: "About free services on mother's day or something I heard."

James DeLuca: "Thank you."

Councilman Dunleavy: "Thank you, Jim. Angela."

Angela DeVito: "Angela DeVito, South Jamesport. You swore me in the last time."

Robert Kozakiewicz: "Do you solemnly swear the testimony you are about to give in connection- oh, I'm sorry."

Angela DeVito: "A long afternoon. As this is a public hearing on an application for a special use permit, I'm sure that the board is aware that there are some 18 considerations or tests- "

Robert Kozakiewicz: "Actually I was right because the testimony was in the prior hearing, not in this one."

Angela DeVito: "The prior hearing."

Robert Kozakiewicz: "So I was right in the first instance.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth so help you God in connection with this hearing?"

Angela DeVito: "Yes, I do."

Robert Kozakiewicz: "Thank you. I was right."

Councilman Dunleavy: "I stand corrected."

Angela DeVito: "In that there's been a question as to what is the jurisdiction of the town board with regard to a special permit use application, and my question would be that there are some— last time I counted I think there was 18 considerations that must be met for a special permit use that are in our code already.

And I was wondering if those have been approached with this application and reviewed and either discarded as not applicable, no, yes, whatever needs to be done on that. Because then that is the due diligence of the board with regard to a special permit use application.

And just a comment on some of the comments that have been made about members of this community. We are a single community, we are the town of Riverhead and it doesn't matter if your relatives came over on the Mayflower or the second boat, whatever it was.

As a resident here in the town, we all enjoy the same rights and privileges and you should not and I would hope that as a board, I just say hope, I'm not accusing you of anything, that when you deliberate on the public comments for this as well as the information that has been shared with you from departments as well as other hearings, that you are not driven by the fact that the individual applicant has been here longer than me.

I would hate to think that the town of Riverhead considers applications and makes actions based on whether or not you can come in with your family heritage and build your ancestry line back several generations, three generations, whatever.

We are all citizens in this town."

Councilman Wooten: "I can't imagine anybody thinking that way."

Angela DeVito: "Well, that's actually what's proposed. I'm just saying I just hope that you don't, Jim. That's all I'm saying."

Councilman Dunleavy: "When I said I listen to the community, I don't care if you lived there one day or two days, you are part of that community (inaudible)."

Angela DeVito: "But there's been a lot that's been proposed today that you have to consider that says that people with longevity perhaps get a bit more, they're weighted a bit more."

Councilman Gabrielsen: "I think they were trying to establish a track record that this man's run a successful, clean, good operation in the community for many years. (Inaudible)."

Angela DeVito: "That is something that is commendable, it has much merit, Mr. Gabrielsen, but it's not a consideration for your permit, special permit use application.

Thank you."

Councilman Dunleavy: "Yes, thank you. Anybody else would like to speak on this? If not, I'm going to close the public portion of this and leave it open until August 12 for written comment. Thank you."

Public hearing closed: 3:33 p.m.

Left open for written comment for
10 days to August 12, 2011

Councilman Dunleavy: "We have no more public hearings so we'll- anybody would like to speak on resolutions? Yes, Sal."

Sal Mastropaolo: "Sal Mastropaolo, Calverton. Resolution 589. I just have a question.

Are the funds coming out of the Riverhead ambulance budget or

out of the general fund?"

Councilman Dunleavy: "Yeah. They're coming out of the ambulance budget. Okay?"

Sal Mastropaolo: "Thank you. Resolution 600. The first Resolve, do you really want it in the News Review rather than the Traveler Watchman?"

Councilman Dunleavy: "Right. I'm glad we have you here, Sal."

Sal Mastropaolo: "Same resolution. The notice of adoption. I take issue with the fact that the amended fee shall apply to all subdivisions which receive final plat approval after March 15, 2011. I think it should be after the date of this adoption, okay. Because that's an arbitrary date."

Councilwoman Giglio: "No. That's the date that it was originally adopted. We're just amending it."

Sal Mastropaolo: "What was originally adopted?"

Robert Kozakiewicz: "For the major subdivision reduction. That was the day it was done. There was some question as to when it should be effective, so- "

Sal Mastropaolo: "Yeah. But if you read this, okay, did the \$3,000 figure change now or change back in March?"

Robert Kozakiewicz: "The- for the major subdivision, the \$3,000 was adopted on March 15th. There was a prior public hearing held and it was adopted by the board on March 15, 2011 under 108-97.

Some questions arose as to whether or how that should be applied for subdivisions that were receiving final approval and this was one thought of a way to just, you know, demarcating the date to indicate when a subdivision applicant would be entitled to the reduction in the fee as opposed to something that was adopted or approved by the planning board prior to that date."

Sal Mastropaolo: "I was under the impression that this one only has to do with the minor subdivision."

Robert Kozakiewicz: "This one had- well, no, with respect to site plan review, major subdivisions as well as minor subdivisions."

Sal Mastropaolo: "Okay. All right."

Robert Kozakiewicz: "And that was the way it went out to public hearing. So if we were to change it, I would think we'd have to table it and do it over."

Sal Mastropaolo: "Resolution 610. Go to the notice of public hearing and about seven, eight lines down it says the county will acquire a 95% and then open paren it says 90% undivided interest and the town will acquire a 5% open paren 10% undivided interest."

If you're going to public hearing, it should at least be correct. Change what's in the brackets if that's what's incorrect."

Councilman Wooten: "Well, it's 90/10 on the 2.6 acre and it's 95/5 on the remainder."

Sal Mastropaolo: "Yes. But the percentages in brackets show 90/10. In other words, it's a clarification. You will acquire a 5% open paren should be 5%, not 10."

Councilman Wooten: "I see what you're saying. That's okay. All right."

Sal Mastropaolo: "Okay?"

Councilman Wooten: "Yup."

Sal Mastropaolo: "You want to fix that before it goes in the paper."

Councilman Wooten: "The written should match the numerical."

(Some inaudible discussion)

Councilwoman Giglio: "We're going to have a public hearing so we can hopefully get all of our questions answered before the public hearing and- this is, right now this parcel is preserved, the North Fork Preserve, Inc. and the- "

Councilman Dunleavy: "What we're doing is we're just doubling

the area we're preserving."

Councilwoman Giglio: "Right, we are. But 30,000 is coming off the tax rolls."

Councilman Wooten: "That's correct. Okay."

Councilman Dunleavy: "Well, we have to remember. Every parcel we preserve, it comes off the tax rolls and the rest of the town of Riverhead taxpayers have to pick that up in their tax bills, what we lose, and that's the consideration that we have to look at, too."

Councilman Wooten: "Well, we'll send it to public hearing and see what (inaudible)."

Councilman Dunleavy: "That's it. Go ahead, Angela."

Angela De Vito: "On resolutions #603 and 604 where you are going to execute professional services agreement for audit services, is that for external, internal warrant audits or a forensic audit? What type of audit services are you contracting for in each of those instances."

Councilman Dunleavy: "Bill, these audits, are they internal or external?"

Bill Rothaar: "The independent audit, there's one for the CPF fund and one for the justice court."

Angela DeVito: "When I say internal or external, there's different tests that auditors use. External, internal doesn't mean you have someone from the outside and someone from the inside doing it. It means that they're doing different tests on auditing there. So I'm just asking the nature of it. Is it a comprehensive one then, it does both?"

Bill Rothaar: "They're independent, meaning they're not somebody- "

Angela DeVito: "Correct, I understand that."

Bill Rothaar: "And so they-- in that case, external audit with an opinion (inaudible)."

Angela DeVito: "I understand that. Yes, I do."

Bill Rothaar: (Inaudible)

Angela DeVito: "So, you're having an audit of your audits."

Councilman Dunleavy: "That's just for our use, correct?"

Angela DeVito: "Is that it? You're having an audit of your audits?"

Councilman Dunleavy: "Bill, step over. Bill, that's just for our use? They're not going out to the state or anybody else?"

Bill Rothaar: "There's two audits there. So which one are you talking about?"

Councilman Wooten: "I believe she's talking about both."

Councilman Dunleavy: "She's talking about both of them."

Angela DeVito: "Actually I'm talking about the nature of the audit that was— so now what you're doing, is you're hiring on both resolutions other— outside auditing firms to conduct audits of audits that have already been completed. Is that correct? No?"

Bill Rothaar: "No, that's not correct. There's two specialized areas. So we'll take one at a time. The first one is— we'll go with A to Z. That is the justice court audit. So that's a separate audit in addition to our general purpose financial statement.

The second one is CPF audit which is required by the state and that has to be— now it's going to get confusing, independent of our independent auditor, (inaudible) basic financial statement."

Angela DeVito: "Correct, I understand that now."

Bill Rothaar: "So they're going deeper into the CPF audit as based on state requirements."

Angela DeVito: "Okay. So I guess my question is that and it comes from doing school audits, okay. When we talk about external, there's different tests or risks for your processes that they do

versus an internal audit establishes other risks that they test."

Bill Rothaar: "These are external audits."

Angela DeVito: "These are external. Okay, that answers it. Thank you."

Councilman Dunleavy: "Thank you, Angela. Anybody else who wants to speak on the resolutions? If not, we'll go through the resolutions. Diane, you want to call the resolutions?"

Resolution #585

Councilman Dunleavy: "Calverton recreational park project budget adjustment. So moved."

Councilman Wooten: "I'll second."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #586

Councilman Wooten: "Budget adjustment for the water department. So moved."

Councilman Gabrielsen: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #587

Councilman Gabrielsen: "Authorize the supervisor to sign annual agreement for clean vessel assistance program operation and maintenance funding with New York State Environmental Facilities Corporation (EFC). So moved."

Councilwoman Giglio: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #588

Councilwoman Giglio: "Calverton Park community development budget adjustment. So moved."

Councilman Dunleavy: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #589

Councilman Dunleavy: "Awards bid for installation of air conditioning in Riverhead ambulance bay area. So moved."

Councilman Wooten: "I'll second."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy."

Councilman Dunleavy: "I've been speaking to people, paramedics around the county and they say this is the wrong thing to do for public safety, that the ambulances should contain their own lockers that are of constant temperature in the ambulance and not the ambulance barn itself.

I think that we're going- we're trying to go for the cheapest way possible and I think it's not good for our taxpayers who want to receive a good medical treatment.

So I vote no."

Diane Wilhelm: "The resolution is adopted."

Resolution #590

Councilman Wooten: "It awards the bid for Meetinghouse Creek bulkhead renovation project. So moved."

Councilman Gabrielsen: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #591

Councilman Gabrielsen: "Appoints a summer recreation aide to the youth bureau/recreation department. So moved."

Councilwoman Giglio: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #592

Councilwoman Giglio: "Awards bid for sporting goods. So moved."

Councilman Dunleavy: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #593

Councilman Dunleavy: "Authorization to publish bid for recreation sports items 2011. So moved."

Councilman Wooten: "I'll second."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes;

Dunleavy, yes. The resolution is adopted."

Resolution #594, #595, #596, #597, #598

Councilman Wooten: "I'd like to move 594 through 598, they'll all seasonal appointments to the recreation department. I move them all together as one (inaudible), 594, 595, 596, 597 and 598.

Appoints seasonal recreation aide to the recreation department. So moved."

Councilman Gabrielsen: "And seconded."

Councilman Dunleavy: "Moved and seconded on 594, 595, 596, 597, and 598. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolutions 594 through 598 are adopted."

Resolution #599

Councilman Gabrielsen: "Authorize the town clerk to publish and post a notice of public hearing to consider a proposed local law for an amendment of Chapter 101 entitled Vehicles and Traffic of the Riverhead town code, Section 101-10, parking prohibited. So moved."

Councilwoman Giglio: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #600

Councilwoman Giglio: "I make a motion that we table Resolution #600. So moved."

Councilman Dunleavy: "And seconded."

Councilman Dunleavy: "Moved and seconded to table Resolution 600."

The Vote: "Giglio, yes; Gabrielsen, yes, to table; Wooten,

yes; Dunleavy, yes. Resolution 600 is tabled."

Resolution #601

Councilman Dunleavy: "Amends Resolution #486 of 2011. So moved."

Councilman Wooten: "Second."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #602

Councilman Wooten: "Authorizes the execution of an agreement with Amy S. Greene Environmental Consultants, Inc. So moved."

Councilman Gabrielsen: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy."

Councilman Dunleavy: "Yes. This is pay for work that's already been done and so we don't have to pay twice for it, we're going to pay for the first time.

I vote yes."

Diane Wilhelm: "The resolution is adopted."

Resolution #603

Councilman Gabrielsen: "Authorize the supervisor to execute a professional services agreement with Albrecht, Viggiano, Zureck & Company, P.C. (AVZ) for audit services for the town of Riverhead justice court. So moved."

Councilwoman Giglio: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #604

Councilwoman Giglio: "Authorizes the supervisor to execute a professional services agreement with George R. Rehn, CPA for audit services for town of Riverhead Peconic Bay Community Preservation Fund. So moved."

Councilman Dunleavy: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #605

Councilman Dunleavy: "Authorizes the supervisor to execute an agreement with John H. Hall for services for care of Wells Family Cemetery. So moved."

Councilman Wooten: "I'll second."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #606

Councilman Wooten: "This awards bid for the building department reconstruction. So moved."

Councilman Gabrielsen: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #607

Councilman Gabrielsen: "Approves the chapter 90 application of Riverhead Elks Lodge #2044 lawn mower event and children's bicycle races, September 18, 2011. So moved."

Councilwoman Giglio: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #608

Councilwoman Giglio: "Approves the chapter 90 application of Riverhead Elks Lodge #2044 law mower event and children's bicycle races, October 30, 2011. So moved."

Councilman Dunleavy: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #609

Councilman Dunleavy: "Authorizes the supervisor to execute an addendum to an agreement with Merchant Services Inc. doing business as EVO Merchant Services, Inc. So moved."

Councilman Wooten: "Second."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #610

Councilman Wooten: "Okay, 601 authorizes the town clerk to publish and post public notice to amend Resolution #938 adopted on December 21, 2010 and approve the purchase of parcels located in the town of Riverhead known as the North Fork Preserve for active recreation use. So moved. And I'll move it as corrected."

Councilman Gabrielsen: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio."

Councilwoman Giglio: "Yes, for a public hearing."

The Vote (Cont'd.): "Gabrielsen, yes; Wooten."

Councilman Wooten: "Yes, for everything."

The Vote (Cont'd.) "Dunleavy."

Councilman Dunleavy: "Yes, as amended."

Diane Wilhelm: "The resolution is adopted."

Resolution #611

Councilman Gabrielsen: "Authorize the supervisor to execute professional services agreement with Milliman, Inc. for actuary services for the town of Riverhead. So moved."

Councilwoman Giglio: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #612

Councilwoman Giglio: "Resolution and consent approving the dedication of highway known as Joshua Court, Wading River Woods LLC. So moved."

Councilman Dunleavy: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #613

Councilman Dunleavy: "Extends bid contract for calcium hypochlorite tablets. So moved."

Councilman Wooten: "Second."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #614

Councilman Wooten: "Authorization to publish advertisement for water meters and accessory equipment for the town of Riverhead. So moved."

Councilman Gabrielsen: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #615

Councilman Gabrielsen: "Extends bid contract with Wedel Sign Co., Inc. So moved."

Councilwoman Giglio: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #616

Councilwoman Giglio: "Authorization to publish advertisement for signage services. So moved."

Councilman Dunleavy: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

(Some inaudible discussion)

Resolution #617

Councilman Dunleavy: "617 appoints a hearing officer. So moved."

Councilman Wooten: "Second."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, no; Gabrielsen, yes; Wooten, yes; Dunleavy."

Councilman Dunleavy: "I had quite a time with this. I would love this to be broken into two resolutions but it can't be so I'm going to vote yes to this resolution with reservation.

I vote yes."

Diane Wilhelm: "The resolution is adopted."

Resolution #618

Councilman Wooten: "I like that, I vote yes with reservation. I vote yes but I have reservations.

Okay, 618-- "

Councilwoman Giglio: "I agree with John. I vote yes for half of it and no for the other half. And I asked that it be put into two resolutions, they said that it could be and it wasn't done that way. So I vote no for the whole thing."

Councilman Wooten: "I vote no maybe; yes, maybe no.

618 temporarily appoints part time kennel attendant. So moved."

Councilman Gabrielsen: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Resolution #619

Councilman Gabrielsen: "Pays the bills. So moved."

Councilwoman Giglio: "And seconded."

Councilman Dunleavy: "Moved and seconded. Please vote."

The Vote: "Giglio, yes; Gabrielsen, yes; Wooten, yes; Dunleavy, yes. The resolution is adopted."

Councilman Dunleavy: "And now the resolutions are finished. If anybody would like to speak on anything other- that's good for the town of Riverhead. Larry."

Larry Oxman: "Larry Oxman. I guess the clerk mentioned that I had a letter I guess read into the record regarding my FOIL application, 8-10, which was the same FOIL application, I think 435 which was given to the town in April."

Councilman Dunleavy: "Your wife wrote that letter on."

Larry Oxman: "I'm sorry."

Councilman Dunleavy: "The same one your wife wrote the letter on?"

Larry Oxman: "No."

Councilman Dunleavy: "Is that your wife?"

Larry Oxman: "No."

Councilman Dunleavy: "No? Okay. Sorry."

Larry Oxman: "That's all right. So I had made a FOIL request in April trying to get an accounting of all of the legal fees that

the town has expended with the litigation against Lawrence Oxman and Riverhead Park Corp.

The town basically denied my FOIL request by not responding even though I was promised I was going to get it.

I submitted a new FOIL request at the end of the last town board meeting in July and that was also unanswered. I've now made a request finding out why the denial is. I don't understand- "

Robert Kozakiewicz: "My understanding, excuse me. It's my understanding that a written reply was sent out. It may have been sent out a day or so after the five day period of time. But it's my understanding from speaking with deputy town attorney Bill Duffy that a written reply was sent out.

Given the period of time that's involved here, 2004 through 2011, there will be a need to compile records and I believe that's what the written reply is going to say, that we're going to need some time in order to put all of those records together in order to satisfy your request for the information, the public records from this agency.

So it's my understanding a written reply was sent, you should be receiving it and that's what's been represented to me by the deputy town attorney."

Larry Oxman: "I have received nothing in the mail, so I was also told that I was going to get a response from April, so- "

Robert Kozakiewicz: "Again, I am told that it went out. So I will, you know, again, that's what I'm told. And I'm told that there's, you know, of course, a six year history, almost seven year history of records that are going to have to be assembled."

Councilwoman Giglio: "Bill, do you have a copy of that notification that was sent out to Mr. Oxman?"

Bill Duffy: "I don't have it with me but it's in my office. (Inaudible)."

Councilwoman Giglio: "If you would. That would be (inaudible)."

Councilman Wooten: "Actually the last time we kept you away for two weeks."

Bill Duffy: "Good afternoon, Board. Just so the board is aware, I did have a meeting a couple of months ago with Mr. Oxman and I told him verbally that what we were doing is compiling a spreadsheet of all the outside counsel fees which is what he requested, and it was going to take some time and I told him if he ever had any questions he could contact me directly. He has chosen not to do so.

He did file another request and when that request came in, I was away and that's why we missed the five day period by like a day or two. I personally put his response in the mailbox. It's on there.

What we did is we provided what we had so far in the town attorney's office and we're going— we're working with the accounting department to collect the rest of the invoices. Like Mr. Kozakiewicz said, it's a period of about seven years. It's a lot of data to go through and we're working on it and he should have a response within 20 days of everything he's requested."

Robert Kozakiewicz: "Thank you, Bill."

Councilman Dunleavy: "Bill, so if Mr. Oxman gets together with you, you'll work out with him."

Bill Duffy: "Any time he wants to come down, my door is always open."

Councilman Dunleavy: "Larry, okay. Get together with him and you'll work everything out."

Larry Oxman: "I appreciate what you're saying, John, and I'm just sorry that it has to come to this. Basically putting in writing because I was told one thing. I did meet with Bill. He said it was coming. Sean promised it to me on several occasions. The town attorney said it was forthcoming and it hasn't been.

So I appreciate the town's effort and I do understand that it's a lengthy record to look at."

Robert Kozakiewicz: "Just to be clear, I said I would speak

with the deputy town attorney and ask him to forward it. I don't think I said it was forthcoming. So I just wanted to make sure we're not parsing words and being exact.

I did indicate to you I think at that second time that you stood at the podium that I would speak with the deputy town attorney, ask him to put together a reply, which I understand has now been done, and in fact if you wish to stick around, we can provide you with a copy of the letter that went out."

Larry Oxman: "I would appreciate getting a copy of the letter. Thank you."

Robert Kozakiewicz: "Thank you."

Councilman Wooten: "And never apologize putting things in writing. It's always good to put things in writing."

Larry Oxman: "Thank you."

Councilman Dunleavy: "Angela."

Angela DeVito: "Angela DeVito, South Jamesport. I just have several questions. The status of the town's court case based on who owns Center Street south of Front Street, whether it belongs to Donald Schultz, and I guess Mr. Barra at this point versus the town. Where are we with that in that appeal on the, I guess it was, is it the Supreme Court decision- "

Robert Kozakiewicz: "It was- there was a settlement reached with the parties. There was a- there's a payment that's part of that settlement. I can provide you with a copy of the written stipulation of settlement that was entered into between the parties.

Essentially there was a deed of easement provided to the town to establish our rights to that stretch of laid out street if you will from- leading up to the bay front and there was a portion that was conveyed back to Mr. Schultz if my memory serves me correctly in order to allow him to have a continuation of his use.

I think there was a part of his house that encroached- "

Angela DeVito: "Actually, no. It was he had built steps off of his deck and put Bilco doors into a public road."

Robert Kozakiewicz: "-- but I know there was a settlement reached between the parties."

Angela DeVito: "That will be something-- "

Robert Kozakiewicz: "And that's been filed with the court. There was a stipulation of settlement. I don't recalled if it was So Ordered or not but it was made part-- "

Angela DeVito: "Will that be available through your office? Is that a freedom on information request?"

Robert Kozakiewicz: "Yes."

Angela DeVito: "Okay. The second thing I have is that there's been some chatter going on about having-- as far as site plans with the planning department are submitted that there be public hearings on them and that whole thing there.

Where are we with that? I actually thought-- I cam today, I took off half a day at work because I thought that was going to be part of today's public hearings and discussions.

Well, it was printed in the news, Jim, I mean that it was going to be on your schedule today so I came."

Councilman Wooten: (Inaudible)

Angela DeVito: "What are the plans to bring that forward? Do you know?"

Robert Kozakiewicz: "My understanding is, hopefully, it will be part of the next town board meeting which will be the 16th of August. I-- it's been distributed and, hopefully, it will be on this Thursday's work session. Will it be on work session Thursday? Next Thursday, okay."

Angela DeVito: "And the last thing is that we've had public hearings, God, since forever and one of the things that's never been very clear to me is that, for example, individuals, you swear us all in and we're not asked to provide any written comment. I know this gets recorded. But there is no-- at least from the public perspective, perhaps internally there is.

There is no sense of what gets done with the testimony that is presented and how you as a Board weight that in your final decision. If it is used to change what you've decided, was the course you were taking, whether you decide you're going to stay the course you're on.

And I would just ask that in terms of when we conduct public hearings, we have this little bit more process and structure to it.

Also the questions that you would like when you pose a public hearing, the public to answer. I mean process with the state and the federal government for their hearings that they hold on codes, rules, laws, they stipulate the questions that they would like the public to address. Those sorts of things.

So just to consider perhaps giving a bit more structure to public hearings. And also so that we know how you've used what everyone has brought forth. Every party here today had some tremendous things to contribute to local town government.

The question is, how does it get used? I don't know that. Maybe everyone here does but I don't know that and it's never been evident for me. So I would like to amongst the many other things you have to perhaps consider how you can address this."

Councilman Wooten: "Well, we do. We get a printed copy of the minutes and we read the transcripts of the public hearing and we weigh what the people have to say as far as what you weigh in and what we believe, what we hear from legal, what we hear from planning. We try and weigh a lot of- "

Angela DeVito: "It gets- it's a little bit more structured than other government- "

Councilman Dunleavy: "Angela, things have been changed after a public hearing, when we hear what people have to say things have been changed- "

Councilman Gabrielsen: "Right. I think the Board is very open minded to- "

Angela DeVito: "I'm not at all connoting that that does not happen. Okay. I'm just saying that from the public perspective we do not know.

For example, if I go to a federal hearing, they publish summaries of the comments and they also publish how they use them and how— what they are changing with what they intended to do is affected by those comments. I'm not asking you to get into publishing this stuff.

But it's just that when you take your final action, perhaps to give us a summary of the fact that the public hearing we had, we had a preponderance of evidence given to us that showed that this course of action was appropriate so we amended our action or we stayed with our action."

Councilman Wooten: "Oh, we do. When we vote on special permits, most of us make— "

Angela DeVito: "On special permits, but on all— I'm talking about all public hearings. That's all."

Councilman Dunleavy: "I think it's good corrective criticism and I think that we should talk about it and maybe we should do something like that."

Angela DeVito: "Well, that's all I'm asking, is that— "

Councilwoman Giglio: "Well, we do findings. When we adopt a special permit or when we have a— when we deny a special permit, there are findings that come into play and it's spelled out from A to Z as to why we decided, what we decided, and it's prepared by the town attorney's office and it's adopted with that action or that decision. So— "

Angela DeVito: "It's adopted as you publish it for an action there but it's not something that as a Board you come back to the public and say as when you get to that resolution, that this is the findings there.

It's whether or not you can secure that— I'm just suggesting that there be a bit more coming back. I mean I know that you don't sit there, hold public meetings and just say, okay, we held our public hearings like we're supposed to, this topic required it, and now we're going to sit back and go and do what we want to do. I don't believe that happens at all."

Councilman Wooten: "I'd rather hear what you have to say. I

don't think you want to hear what I have to say."

Angela DeVito: "Well, actually, no. As a public official, after we give you what we want to say, you're supposed to put it together in a form that comes back to us. That's what I'm talking about."

Councilman Wooten: "Right. Exactly, which is why at public hearings you find me not talking a lot back and forth at the public hearings. I do more listening than writing."

Councilwoman Giglio: "I mean when we publish and post for a public hearing, I know what the laws are, I know what I base my decisions on. I listen to the public. I see if I can incorporate anything that they're saying into my decision making and I base my decision on that. And my yes or no decision is a compilation of those facts in that I'm taking everything that's said into consideration and the law and my yes or no vote- "

Angela DeVito: "But the thing is in terms of giving a summary back so that the public understands when you vote. Someone let's say who is adamantly against the original proposal or who is adamantly against in the public hearings and that, and then as a Board you arrive at a positive action on it.

For them to understand that what went into it. That's all. Not what you do during executive session or even work session because all of us do not participate in work sessions.

I'm just, you know, and don't go overboard. I'm not suggesting you become, you know, like what EPA hearings are and stuff like this. But that you do something that's in between that's a little bit more informative. Consider how it can be done. That's all I'm asking."

Councilman Dunleavy: "You just want a summary."

Angela DeVito: "That's it. It would be nice to see what happens to that."

Councilman Dunleavy: "That's it. Of what- how a decision was made."

Angela DeVito: "Bob, I asked you when you were in office, my

very first public hearing, when I submitted testimony."

Councilman Dunleavy: "I may make a decision but it may stay in my mind and I make a decision—"

Robert Kozakiewicz: "I did what the school district does."

Councilman Dunleavy: "But nobody knows."

Angela DeVito: "I answered questions and got in trouble. The last and final thing, the last thing I would like to ask is I guess it's the code committee. There was a special advisory group on looking at the specific code adjustments for assisted living and I was wondering where that is."

I have been in— I did correspond with Miss Prudenti on that and she said there was something floating around. And my understanding was that that ad hoc committee group was going to be called back in to talk about stuff."

Councilman Dunleavy: "It's being re-written as we speak. And once it's re-written, it will be passed out."

Angela DeVito: "Okay."

Councilman Dunleavy: "Is that right?"

Robert Kozakiewicz: "Right. It's still being drafted with the comments from the public hearing as well as, you know, also looking at the state legislation because I know there were some comments about the state legislation and our proposal being inconsistent and confusing. So those comments were heard loud and clear and we're trying to incorporate them as best we can."

Angela DeVito: "I was sort of wondered when we were coming back in. Thank you."

Councilman Dunleavy: "Nothing is speedy in government, you should know that, right. But it should be done shortly."

Angela DeVito: "Every once in a while you can hope, John. Come on."

Councilman Dunleavy: "Do we have any other comments?"

Councilman Wooten: "Mardi Gras Saturday night, river front."

Councilman Dunleavy: "There's a parade at 12:00 on Main Street."

Motion to adjourn."

Councilwoman Giglio: "Yes. Riverhead Energy Awareness Day is also coming together with that. The stage will be lit up by solar."

Meeting adjourned: 4:10 p.m.

Deane M. Skelton
Town Clerk