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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, May 5, 2009 at 2:00 p.m.

PRESENT:

Philip Cardinale,	Supervisor
John Dunleavy,	Councilman
Barbara Blass,	Councilwoman
James Wooten,	Councilman

ALSO PRESENT:

Diane M. Wilhelm,	Town Clerk
Dawn Thomas,	Town Attorney

Supervisor Cardinale: "Yes. We are all gathered today for the May 5th town board work session at 2:00 p.m. And the Cablevision tape has now begun. When did you begin? A little while ago? Would that- good, I hope you didn't get my comment about my awaiting the decision of the governor about this committee- that- so I don't want to repeat but I hope you didn't get it.

But I'm still awaiting from my press conference two weeks ago a response to my request for an inter-departmental governmental committee made up of the DEC and the Economic Development Branch of the State and a representative of the governor's office to give clear direction that that site is an economic development center for the State and will be developed soon to environmental laws. Still waiting, Mitch, on that request.

I understand it's being pursued by Bill Cunningham and others but I haven't received an answer from the governor's office, so if I do receive an answer, please break in at any time."

Councilwoman Blass: "By the way, Michael White from Long Island Regional Planning confirmed today- Jimmy and I were at a meeting where he said that he would ask as the facilitator at that meeting and mentioned there were people from the governor's office in attendance today and he said he stands ready to convene when everyone else is- "

Supervisor Cardinale: "I guess his title is- "

Councilwoman Blass: "He chairs the- "

Supervisor Cardinale: "-- Chairman- "

Councilwoman Blass: "Long Island Regional Planning Council."

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Supervisor Cardinale: "Long Island Regional Planning Council, Mike White, Executive Director of that is- has offered to chair that initial meeting which I hope will be the last-- take only one meeting so we can get a statement out of the governor. I appreciate that gesture. He made it when he was here two weeks ago and he repeated it today.

I'm going to get started with this meeting with the Pledge of Allegiance and, Mitch, would you lead us?"

(At this time, the Pledge of Allegiance was recited, led by Mitch Freedman)

Supervisor Cardinale: "I see that we have no particular people we're going to honor today but we honor all our employees of these kinds of days for their diligent effort and for their steadfast service to the town. But there are no particular quarterly or annual honors we're giving out so we can start with the approval of the minutes of the April 21st and April 24th- "

Councilman Dunleavy: "I move that the minutes of April 21st and the special board meeting of April 24th be moved."

Supervisor Cardinale: "Second, please."

Councilman Wooten: "I'll second."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. Resolution adopted-- excuse me, minutes approved."

Supervisor Cardinale: "Would you tell us about the Applications and town hall Reports and Correspondence, please?"

Diane Wilhelm: "Okay."

APPLICATIONS:

Special Events (Chapter 90)	Larry's Lighthouse Marina boat show, June 12-14; Aug. 14-16
Clubhouse of Suffolk, Inc.	Kayakathon - June 20
Peconic Bay Medical Center	Carnival and fireworks - July 2-5

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Church of the Harvest -

Community Day - July 25

Martha Clara Vineyard

tasting room overflow - July
20 through September 30

Riverhead Country Fair -

October 11

REPORTS:

Tax Receiver

Total tax collection dated
April 22, 2009 -
\$62,681,074.72

Total tax collection dated
April 29, 2009 -
\$62,892,862.04

Total utilities collection
report April, 2009 -
\$220,490.00

Sewer District

Discharge monitoring report
March, 2009

Town Clerk

Monthly report April, 2009 -
\$7,393.39

CORRESPONDENCE:

Gene McSherry

Letter regarding Calverton
property (EPCAL)

Mark Kozakiewicz

letter of resignation

Gregg Rechler, Managing

submission of certificate of
Member of REPCAL, LLC
managing member

Diane Wilhelm: "And I just would like to let everybody know
that the next meeting is May 19th at the Senior Center at 7:00. It
does say town hall but it is the Senior Center.

And I think that's it."

Supervisor Cardinale: "Thank you."

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Diane Wilhelm: "You're welcome."

Supervisor Cardinale: "We have a series of hearings beginning at 2:05 through 2:40. It is 2:13 so we can begin then."

Public hearing opened: 2:13 p.m.

Supervisor Cardinale: "The first public hearing is for consideration of a local law amending Chapter 108 entitled zoning Article XLV entitled Exterior Lighting, Section 108-251 placement and height of luminaries of the Riverhead town code."

And the section when it's changed would read as follows: luminaries exclusive of municipal street lighting and municipal recreational fields shall be mounted at a height of no higher than 16 feet from the level ground level, the lowest light emitting part of the fixture.

We're adding: where apartments over retail establishments are encouraged or where egress from the second story is required, the board vested with authority to review and approve has the discretion to relax the maximum mounting height for the proposed fixtures.

Okay. So read it as you will but they're talking about the fixtures and the maximum mounting height. And they would have discretion to re-do and improve.

Anybody care? Anybody want to make a comment? Another bit of legacy legislation here. Nobody has a comment. If you don't, going one, twice, three times, we're going to keep it open for written comment through Friday, a week, which is I guess the 13th— Friday, the 13th, how interesting. No, it isn't— yeah. No, it's not— sixth, seventh, eighth, it's Friday, the 15th, so it's not as interesting.

So Friday, the 15th, by 4:30 to the clerk if you want to make a written comment about the luminaries and their mounting height and we'll go to the next hearing."

Public hearing closed: 2:16 p.m.
Left open for 10 days for written
comment to Friday, May, 15, 2009
at 4:30 p.m.

Public hearing opened: 2:16 p.m.

Supervisor Cardinale: "Which is scheduled for 2:10, is the consideration of a local law amending Chapter 108 entitled zoning

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Article XIII entitled Supplementary Use Regulations, Section 108-56
- Signs of the Riverhead town code.

And this resolution crosses out some words and adds others which, you want to sum this up, this resolution?"

Dawn Thomas: "This modifies our sign ordinance to specify signs in the professional use district as only wall signs and free standing signs bearing the name and occupation of the resident and may not be internally illuminated (including neon)."

Supervisor Cardinale: "Okay. This specifies that in the professional business district, the following signs will be permitted: wall signs and free standing signs only and that these signs shall bear only the name and occupation of the resident and may not be internally illuminated, including neon."

Okay, so that's what- who did these? Is this the code revision? And I commend the code revision committee for- I think we're actually doing this already but now we're actually making it part of the law which is a nice gesture.

Anybody have a thought about that? If they do, I am pleased to take your public comment; if they do not, if no one does, I will again leave this open for written comment to the town clerk not later than Friday, the 15th at 4:30 p.m."

Public hearing closed: 2:17 p.m.
Left open for 10 days for written
comment to Friday, May 15, 2009 at
4:30 p.m.

Public hearing opened: 2:17 p.m.

Supervisor Cardinale: "And moving on to the third hearing which is scheduled to commence at 2:15, which is appropriate because it's 2:17, so you'll have to take three minutes on this one incidentally."

The public hearing that this- this public hearing is for consideration of a local law amending Chapter 108 entitled Zoning Article XXII entitled Business PB District, Section 108-114 Additional Requirements of the Riverhead town code.

Would you tell me about this one, please, Dawn?"

Dawn Thomas: "Yes. This one dovetails with the prior resolution relating to the Business PB district which it basically

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makes Section 108-114 consistent with the prior amendment and requires that basically the signage shall be provided in accordance with 108-56H(10) of the Riverhead sign ordinance which is the section that we just publicly heard in the last hearing. It's internal consistency."

Supervisor Cardinale: "Okay. So it's making it consistent, the two section, that we're addressing.

Would anyone like to comment upon that? Perhaps you could say why make these two consistent since the rest of the code is inconsistent? Anything?

We're working on it. I comment the code revision committee because I have to kill a few minutes. They have been working on code revision which is appropriate in view of the title of the committee and Barbara and John and who else is on that committee-- Karen Gluth (phonetic) the site planner; Rick Hanley, Planning Director; Leroy Barnes, Building Department Director; Ann Marie Prudenti, Deputy town attorney. So they're all working to try to clean up and make more user friendly the code."

Councilwoman Blass: "Which is actually-- we have a minute to kill. There is one public hearing that we are going to ask to be adjourned because there are some additional amendments that we need to make that has to do with the open space conservation district."

Supervisor Cardinale: "2:25. Okay. The 2:25 hearing-- "

Councilwoman Blass: "So that we can hear them all at the same time rather than fragmented, it will be easier to do that."

Supervisor Cardinale: "Okay. The 2:25 hearing is being rescheduled to hold together with other related changes which means that we will only have seven instead of eight hearings.

Okay. Does anyone want to say anything about this? If not, I'm going to-- this third hearing, I'm going to leave it open to-- for written comment not later than the 15th of May at 4:30 to the town clerk."

Public hearing closed: 2:20 p.m.
Left open for 10 days for written
comment until Friday, May 15, 2009
at 4:30 p.m.

Public hearing opened: 2:20 p.m.

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Supervisor Cardinale: "The next hearing is scheduled for 2:20, which it is, and calls for a consideration of a local law amending Chapter 108 entitled zoning, Article XXVIA entitled Special Permit, Section 108-133.3 Application for Special Permit Use of the Riverhead town code.

And it deletes the language any special permit granted unless performance of the terms and conditions thereof is bonded, shall be personal to the applicant and shall not be assignable or transferable without a resolution of approval by the town board.

Actually this is confirming what the law has always been that you get a special permit, it travels with the land, not with the person because then you could give it to the people you like and take it away from the people you didn't which although an interesting idea is apparently illegal.

So in any event does anybody want to comment on us confirming as part of our review of the code that special permits as all lawyers knew travel with the property not with the person. They continue once granted to a piece of property.

If you have a comment, come up; if you do not have a comment, I will allow written comment or invite written comment to the 15th at 4:30 to the town clerk, 15th of May."

Public hearing closed: 2:21 p.m.
Left open for 10 days for written
comment to Friday, May 15, 2009 at
4:30 p.m.

Supervisor Cardinale: "And now we have four minutes, so if anyone has- "

Councilman Dunleavy: "No, we have 10 minutes."

Supervisor Cardinale: "We have 10 minutes, thank you. We have 10 minutes, maybe we could take some comment on the resolutions before us. Sal, did you have any? Would you come on up, please? Sal is kind enough to come in early and he proofreads them for us and we've gotten lazy so there's usually some mistakes, so we appreciate your doing that."

Sal Mastropolo: "407."

Supervisor Cardinale: "Yes."

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Sal Mastropolo: "Just change the word will to with in the third line of the heading."

Supervisor Cardinale: "Okay. Okay, that's the will to with. Right? Okay, with, okay. Got it."

Sal Mastropolo: "416."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "You went out to bid on this and you only got one response. Why are you going to put it out to bid with the specific brand name of Spaulding? Why don't you drop the Spaulding and see if you get responses for 130 gallon crack sealer or equal?"

Councilman Dunleavy: "Usually we have it or equal."

Supervisor Cardinale: "Yeah. The or equal would permit us to do that but that's a very good point, yeah. Although that or equal means that they can-- and actually they can do that. Or equal means that they can come in without the Spaulding product but something of equal-- and, yeah, actually we do that, too, because-- "

Councilman Dunleavy: "It's on here."

Councilwoman Blass: "It's on there."

Councilman Dunleavy: "The or equal."

Sal Mastropolo: "I know, but just the fact that Spaulding is on there, the vendors may not realize that they can propose a different brand. It would just make it a lot simpler. You may get additional responses to the bid."

Councilwoman Blass: "It's even emphasized in the bidding."

Supervisor Cardinale: "I understand your point and I will look at it but I think it's taken care of in that-- what they do, because it's effective and efficient. They'll say we want lights of Bozo Developer, Inc. or equal and they actually do get bids that are less from the equals and I already asked the question are you sure they're really equal because they're cheaper and they say yes.

But I appreciate the point and we will look at that, make sure that it's very clear."

Sal Mastropolo: "417."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "Why does the town provide work clothes?"

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Councilman Dunleavy: "It's in the contract."

Supervisor Cardinale: "It's pursuant to the contract which one wonders why it ever got into the contract is the real question. Me, too."

Sal Mastropolo: "The next question is, if you're providing the work clothes and the employee owns the work clothes, does the value of the work clothes get included in their salaries and are they taxed on that?"

Supervisor Cardinale: "We'll get an answer here maybe. Yeah. Bill Rothaar would know because he does the W-2's. Who's here? Is Bill here? I'd like to know the answer to that question."

Hey, Vince, could you ask Bill to call-- Bill Rothaar, tell him if we pay for work clothes, give them to the person, if that part of their compensation for W-2 purposes? Yeah.

Oh, yeah, what else did you want us to amend, if anything, on that one?"

Sal Mastropolo: "421. Does the town own the Riverhead Country Day School?"

Supervisor Cardinale: "Yes."

Councilwoman Blass: "We own the property-- yeah, the-- we don't own the business."

Supervisor Cardinale: "We are the landlord of that-- "

Sal Mastropolo: "But you-- say that again."

Supervisor Cardinale: "We are the landlord of the school. In other words, we own the building and we lease it to the day care center."

Sal Mastropolo: "Who's responsible for the maintenance of it?"

Supervisor Cardinale: "That would be part of the lease."

Sal Mastropolo: "Is it a triple net lease?"

Supervisor Cardinale: "You know, I don't know because it was done a number of years ago. Do you know? That's a good question. Now I know what your question is on."

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Sal Mastropolo: "If it's a triple net lease, then they're responsible for the maintenance of the air-conditioning."

Supervisor Cardinale: "That's a good question and I would- I would like to know from the engineering office, Trina, would you find that out before we pass it? Do we- we have to provide security. Normally the tenant cares about the security. I don't- they're not going to mess my building up, they're going to (inaudible) out of the- . Okay. We'll check on that."

I'm not sure it didn't get just thrown in there with all our other buildings into unique situations."

Sal Mastropolo: "425."

Supervisor Cardinale: "Yes."

Sal Mastropolo: "Since Martha Clara is the applicant, I don't know that you can waive the fee."

Supervisor Cardinale: "Yeah, that's a good point. We've done this one before. Martha Clara submitted a short environmental form assessment. Martha Clara has requested a Chapter 90 application. Does it say we've waived it?"

Sal Mastropolo: "Yes, it does."

Supervisor Cardinale: "Yeah. We've had this one come up before. Diane, you take the Chapter 90 applications? All right, if the applicant- the applicant has to be the not for profit. So if Martha Clara is the applicant, I think traditionally we have been compelled to take some kind of- the \$200.00 fee. So would you check this and every other one and we'll make that amendment if it is- maybe if you could check that at some point?"

If it is Martha Clara, unless you know. If it is Martha Clara we have to take the fee so we should amend it. Okay?"

Sal Mastropolo: "428."

Supervisor Cardinale: "Yeah."

Sal Mastropolo: "It says that the event is to be held on property owned by Kenny Barra, East Wind Caterers, at 6164. Is it going to be held at East Wind or is it going to be held on property that he owns somewhere else? And if that's the case, then shouldn't the address of where the event is going to be held be in the resolution?"

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Supervisor Cardinale: "The- that's- I believe the event is to be held on property owned by Kenny Barra at 6164 Route 25A."

Sal Mastropolo: "Well, isn't that-- that's not East Wind, 6161?"

Councilman Wooten: "I don't believe it is. I think it's up next to CVS."

Supervisor Cardinale: "Okay. So that is the lot further down."

Sal Mastropolo:: "It's just not clear where it's going to be held."

Supervisor Cardinale: "It's clear where it's going to be held. It's not clear where 6164A is. So if somebody could tell me that, we could give you a firm answer. It's not at East Wind. It's down the street. We'll verify that through the clerk."

Sal Mastropolo: "And 450. I just want to go on record being against that resolution."

Supervisor Cardinale: "All right, thank you."

Sal Mastropolo: "I think that's a cop out of responsibility."

Supervisor Cardinale: "Oh, that was the referendum one. Thank you."

Sal Mastropolo: "The referendum."

Supervisor Cardinale: "Okay. Thanks. Anybody- now we have- anybody else want to make comment about the resolutions that we are about to consider? Okay, but we're not really going to consider them, so I'll give you another chance afterwards.

But we're going to go to the 2:30 hearing."

Public hearing opened: 2:30 p.m.

Supervisor Cardinale: "And the 2:30 hearing is for consideration- and it is 2:30 or will be by the time I stop talking and open the hearing, the consideration of a local law amending Chapter 108 entitled Zoning Article XXVI entitled Site Plan Review Section 108-133 Conditions for Approval of the Riverhead town code.

That is- no, that is not it. Site plan review. Here it is. Okay, this resolution simply indicates that a letter of credit or

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other equivalent security is necessary for— to— for site plan security as opposed to a performance bond.

And I think this makes it consistent, is that correct, with other sections of the code and we missed this one.

And to answer your earlier question, Sal, Bill Rothaar, our director of finance, indicates that clothing allowance is taxable and included in the W-2."

Sal Mastropolo: "Thank you."

Supervisor Cardinale: "Okay. So this one is simply a change from performance bond to letter of credit to make it consistent with the rest of our code.

You have a comment on that, please come up, Bob."

Robert Kozakiewicz: "I do. Mr. Supervisor, Town Board members, Robert Kozakiewicz, 431 Griffing Avenue, Riverhead.

I'm here on behalf of Raymond Castronovo, who has a site plan approval from this board for property at 12 McDermott Avenue in Riverhead. I came before you back in February, 2006 and asked at that time for your board to reconsider a Resolution and you did. And I'm hoping that you'll do the same again here tonight, or today, this afternoon.

I know that there's probably a good reason for the board to reach this point. I know that a letter of credit is a much simpler device to take than a bond. However, I submit that with respect to a site plan scenario, it maybe inappropriate and more importantly, may be a bigger hindrance than what you would like to see and will pose problems for the redevelopment of downtown.

Mr. Castronovo is a case that is shovel ready. He is about as shovel ready as he can be except for the question of whether he submits to this board a performance bond or whether he'll now be required to submit a letter of credit.

If you adopt this piece of legislation, you're going to take that shovel out of his hands for the time being and maybe forever.

Letter of credit as the Supervisor and I'm sure the rest of the board knows, requires that money be posted with the bank and therefore allows you the easy ability to go in there and take it if a developer defaults.

In this case, in Mr. Castronovo's case, it's going to take \$82,000 out of his pocket and \$82,000 that he can't use for his

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project. That's what the final bond performance security amount has been determined by your consulting engineer Mr. Gordiello (phonetic).

In the case of a subdivision, I can support the thinking because you have public improvements that are in the real sense public improvements. You have roads, you have curbs, you have street trees, you have street lights, you have drainage.

All these things are things the town has as the public trust of the public and need to take care of if the developer defaults. The same is not true in a site plan scenario.

And the problem that's been exacerbated with your site plan ordinance is that the word improvements has been glossed over to be somewhere between private and public. There is a portion of site plan improvements that are public certainly. When there's an apron being put into a roadway, when there's curbing that's being installed, and those items you do need to protect the public because they're public improvements.

But I dare say and I dare doubt that you'll ever go in and either exercise your rights under a performance bond or letter of credit to do things that are private in nature.

Saying that, I'm hoping that you'll reconsider this ordinance or reconsider the local law and look at what other municipalities have done. They've defined public improvements.

For example, in the case of Southold when they describe site plan improvements, they link it back to public improvements that are described elsewhere so you can have a better idea and better guidance for your professional, Mr. Gordiello, what he should bond for.

Mr. Supervisor, in the state of the town speech you indicated and I want to use your words, I don't want to mess them up, that the state of the town as best described is the search of opportunities in the midst of difficulties.

Then you compared the pessimist with the optimist. The pessimist sees difficulty in every opportunity; the optimist opportunity in every difficulty.

What I'm suggesting to you is that you should revisit this ordinance because if you pass it the way it is, you are taking away an opportunity for Mr. Castronovo to get this project underway. And I'm hoping that you won't do that."

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Supervisor Cardinale: "Okay. Let me- I'm interested in the issue you brought up but I want to- if I understand it correctly, it's an issue- "

Robert Kozakewicz: "It's a multiple- I think you have to revamp the whole ordinance."

Supervisor Cardinale: "Right. We would have to have another public hearing. This ordinance says that a letter of- instead of a performance bond, we will take a letter of credit or equivalent security upon approval of a final site plan and before issuance of a permit, the posting of a letter of credit in the form approved by the town board and adopted by resolution in an amount equal to 100% of the cost of construction of site improvements as estimated by the planning department.

At this moment, Mr. Castronovo would have to put a performance bond up for the 100% of the cost of the construction of site improvements necessary on the site plan."

Robert Kozakewicz: "Correct."

Supervisor Cardinale: "What are you suggesting that we amend it to precisely if we do a subsequent hearing on this section?"

Robert Kozakewicz: "I'm saying that you should take a look at some other municipalities, i.e., Southold which defines site improvements as public improvements so that you narrow down the items that you would address as a board if a developer defaults."

Supervisor Cardinale: "Can you give me an example, Bob, of- that's what I intended when I said site improvements. I remember we discussed this a few years ago."

Robert Kozakewicz: "But I think it goes beyond that currently. I think the way the bonding, for example, in Mr. Castronovo's case, his bond is originally it was \$100,000 was what he was told he needed to put up or letter of credit.

We had some discussions with Mr. Gordiello and it came down to 82. I compare that to Walgreen's where their letter of credit was somewhere around 75 or \$100,000. That was when you changed the code to require 100% of site plan improvements bonded as opposed to 5%.

It's not fair. What you're doing is actually chasing away developers. I had another client who had an approved site plan, he had one in this township and he had one in a western township. When I explained to him that he needed to post a couple hundred thousand dollars in a letter of credit or bond and he compared that to the other township where all he'd have to do is bond the public

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improvements, guess what he did? He went to the other town to do his project."

Supervisor Cardinale: "Okay. But I don't think you're saying- the cost of construction, 100% of the cost of construction should be a letter of credit secured or bonded. You're saying that the of site improvements, the term site improvements is too broadly interpreted- "

Robert Kozakiewicz: "I believe it has been."

Supervisor Cardinale: "Can you give me an example of just- if you can't, I'll (inaudible)."

Robert Kozakiewicz: "Mr. Castronovo, he's being asked to bond his clearing, grubbing, landscaping."

Supervisor Cardinale: "Okay, got it."

Robert Kozakiewicz: "And items that I think go way beyond what are public."

Supervisor Cardinale: "Okay. And I agree with you. I just didn't know that was being done. I'll take a look at, we'll get another hearing on to change it.

The idea should be as you know, as you said on subdivisions those public improvements that will inure to the benefit of the public- "

Robert Kozakiewicz: "If a road not's done- "

Supervisor Cardinale: "Yeah, I don't care (inaudible)."

Robert Kozakiewicz: "If it's not done in a subdivision, I think you want to be able to get it done. There's no question. But I don't think the same applies in the site plan scenario."

Superviaor Cardinale: "We'll take a look at definition of site improvements then and make it clear that we don't need a lot of that stuff bonded."

Robert Kozakiewicz: "Thank you."

Supervisor Cardinale: "Yes."

Martin Sendlewski: "Good afternoon. My name is Martin Sendlewski, I'm here on behalf of Riverhead Business Alliance with regard to this same issue.

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I just would, you know, not to repeat what Bob said but that's completely accurate. It should only be restricted to public improvements. And just to give you an idea as an architect's point of view what that typically entails is simply whatever is outside the property line which would generally include the sidewalks, curbing, patching the road and any drainage that puts on the roadway would typically be covered by that.

That would limit the costs considerable. For example, in Mr. Castronovo's case which happens to be one of my projects, it would limit those costs.

And also the Business Alliance on behalf of its members really would prefer that you stay with bonding. The bonding is much less of an impact for a developer. Even, you know, when you have a lot of off site improvements which there are in some cases with various projects, whether it's you know some projects may be pos dec'd and may require improvements to an intersection or whatever, some of those costs can be pretty substantial and if it's a letter of credit, it does tie up a lot of funds whereas the generally two, two and a half percent that a bond will cost the developer would be much more advantageous to a developer or a private property owner.

I think some of the projects that you're going to find that it's going to hurt or actually some of the bigger projects because many of the smaller jobs, the bond is so minimal you know for the sidewalk and the curb that a lot of times the owner will just do the letter of credit anyway."

Supervisor Cardinale: "The letter of credit, how does that work? What does a typical bank letter of credit run?"

Martin Sendlewski: "Well, you have to have in an encumbered account the amount- "

Supervisor Cardinale: "And a performance bond is two, two and a half percent?"

Martin Sendlewski: "It generally costs about two, two and a half percent."

Supervisor Cardinale: "So if you don't have- you're telling me that a bank won't issue a letter of credit unless you have an identified isolated account. So that really is a big burden."

Martin Sendlewski: "Yes."

Supervisor Cardinale: "And the further burden is- I remember when we did the change and nobody made it as clear as you have today to me, there was a complaint that we were changing it from five percent of the site improvements to 100% which is made logic, you're

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supposed to secure 100%. The problem is that site improvements is too broadly stated. It should include just those improvements you're suggesting that are outside the site."

Martin Sendlewski: "Right. It would be a public improvement. The same way that the town in a public improvement on a project that you bond, you are required by law to require a bond over I believe \$50,000 if I'm not mistaken is the threshold."

Supervisor Cardinale: "So you would have us not- you would have us revamp this to read performance bond or letter of credit and determine clearly that site improvements are defined as public improvements outside of the public property."

Martin Sendlewski: "Correct."

Supervisor Cardinale: "Okay."

Martin Sendlewski: "Thank you."

Councilwoman Blass: "Mr. Supervisor, may I make a suggestion? Thank you."

This one didn't come through code revision but now- if you read what's currently in the code- "

Supervisor Cardinale: "In the code, yeah."

Councilwoman Blass: "-- it goes back and forth, they almost are used interchangeably. I think the whole paragraph- I understand the comment that you're making about which ones should be subject to bond and I- "

Robert Kozakiewicz: "Well, state town law allows for all of them. So I mean that in the absence of specific regulation limiting the state law which I think is 274A, says it can be a performance bond, it can be a letter of credit or equivalent."

Councilwoman Blass: "And I would defer to you on knowing the law because I don't know that state law. I'm saying what is contained currently in this paragraph before this particular change, you'll see that it will talk about performance bonds being waived if it's at the discretion of the board and then it says but no C of O shall be issued until all of the improvements and the said letter of credit. It goes back and forth."

Robert Kozakiewicz: "It's contradictory."

Councilwoman Blass: "It is. So this doesn't even fix it."

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Robert Kozakiewicz: "I think the hope is here we can redress it and get it in the right format and that's why we're here."

Councilwoman Blass: "Right. And I would think it goes beyond this change here and I would ask that maybe the code revision committee take a look at it with (inaudible)."

Supervisor Cardinale: "This did not come through code revision but I'd like to move this along pretty quickly. I remember there was a debate about this when we went to 100% but it wasn't made as clear to me then as it was now that it's not the 100% that bothers people, it's two things.

One, that the site improvements have to be defined much more narrowly; and, two, if you're trying to get— why do we necessarily want to take away the option of performance bond or letter of credit if both are available in other jurisdictions.

And I can see a lot of situations where you may not be able to post an isolated account with the money in it but you would be able to pay two and a half percent. Okay.

Any other comment? If there is no other comment, I'm going to leave it open for written comment to the 15th at 4:30. Did you want to say something? Okay. Good."

Public hearing closed: 2:43 p.m.
Left open for 10 days for written
comment to Friday, May 15, 2009
at 4:30 p.m.

Public hearings opened: 2:43 p.m.

Supervisor Cardinale: "The next two public hearings are scheduled for 2:35 and 2:40. It being 2:43, we can open and we should open I'm told by the town attorney together.

The first considers a local law amending Chapter 108 entitled Zoning Article XXXV entitled Pine Barrens Overlay District Section 108-175 Findings Legislative Intent and Purpose of the Riverhead town code.

And the second scheduled for 2:40 is for consideration of a local law to consider the adoption of a map designation clearing limits pursuant to the pine barrens overlay district, Article XXXV, for the former Naval Weapons Industrial Reserve Plan (NWIRP) (EPCAL) of the Riverhead town code.

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This is about the third or fourth time we've heard this. The map is going to be shown, is that right? That's why you've been sitting here so quietly all the time. Another audio visual experience awaits you.

Would you put the map up? This is not a major change or anything but it is not exactly like the last map so we figured we'd err on the side of caution by simply having another hearing.

And fortunately for us Dick Amper isn't here so we'll be about a 40 minute shorter hearing than the last one."

Dawn Thomas: "I have (inaudible) prepared comments if you- "

Supervisor Cardinale: "Okay, and you have a comment. So we have a comment and we're going to put up the map, we're going to let you look at it, and we'll invite comment and we're going to read in a prepared comment that- who's this from? This is from the town attorney's office."

Dawn Thomas: "Again, this is the second or third attempt to publicly hear a non-clearing map for our pine barrens overlay district relating specifically to EPCAL.

The proposed amendments in the local law is intended to clarify the application of the current town pine barren overlay district clearing standards of parcels located within the compatible growth area of the pine barrens which I think you have a map of.

Currently the town's pine barrens overlay district requires that 35% of all parcels within the compatible growth area remain in their natural state. The basis for the clearing limit set forth repeatedly in the pine barrens act, the pine barrens comprehensive plan and the town's overlay district legislation, these goals are as follows:

To discourage piecemeal and scattered development in the compatible growth area of the pine barrens and that's Environmental Conservation Law 57-0121; encourage the creation of corridors between existing publicly owned parcels, that's Section 2.4 of the comprehensive land use plan for the pine barrens; to maintain contiguous blocks of pine barrens vegetation, that's Section 7.6 of the pine barrens plan; limit the amount of new clearing and that is repeated in Sections 5.3.3, 6.1 and 7.6.1.2 of the comprehensive land use plan; and to encourage preservation in areas that are contiguous to other open spaces.

These goals along with other preservation measures have created tremendous expanses of open space parkland and preserved parkland within the town.

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We have a map showing those areas of open spaces all in green surrounding the EPCAL parcel.

Since the EPCAL parcel is the most still- for the most part, still a large, single parcel of approximately 2,000 acres undeveloped and the balance being developed, it was decided it would be more effective to establish a non-clearing map for the overall parcel rather than waiting for development to occur which could result in possible piecemeal areas of preservation.

In implementing the rules on a parcel basis, particularly at EPCAL, the town has encountered an unintended result which can be shown on the Burman subdivision map. In the center area, we have piecemeal parcels in that subdivision and the preservation of the 35% non-cleared area has been scattered rather than contiguous as required by the plan.

Rather to continue the application of clearing standards as had been previously done, the town is proposing the adoption of a clarification to the town's existing overlay statute together with the creation of a non-clearing map.

The map would identify the areas that would remain uncleared prior to a subdivision being implemented and result in the protection of 35% of contiguous non-cleared area on the overall parcel. And Rob, oh, you have the black and white map, good.

This proposal would create a preservation result that is more consistent with the goals and objectives of the pine barrens act, the pine barrens comprehensive land use plan, and the town's pine barrens overlay district.

The non-clearing map establishes a 35% non-disturbance area but there are other areas that would be required to remain undisturbed, vegetated or open due to the application of town zoning development standards, i.e, setbacks or open space requirements.

Clarification of the overlay district zoning as proposed with the development standards set forth in the PIP district and the PRP district will result in the creation of non-clearing areas which is more in conformity with all of the various pine barrens legislation.

The town previously held a public hearing on the non-clearing map on two occasions. Based upon the comments received at those hearings, some changes were made. The difference between the map publicly heard prior and the present map are:

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We have corrected the title to indicate a non-clearing rather than non-disturbance since clearing is the objective or prevention of over-clearing is the objective of the pine barrens act.

We've modified the map to designate a non-clearing area within the Burman subdivision generally rather than specifically since the comprehensive development plan provided-- approved in 2005 for the Burman subdivision requires a non-cleared area of 35.5% of the 500 acres total.

The general designation is consistent with the overlay implementation which is currently underway within that subdivision and we didn't want to disrupt the ongoing process there.

We opened up the area to accommodate a drop zone for skydivers maintained by Skydive Long Island and which is part of their runway use agreement.

The Island Water Park project which had previously shown a non-clearing area was modified to remove that because that application is currently in the process-- the applicant is currently in the process of amending their site plan and clearing will be imposed pursuant to that, or clearing limits will be imposed.

We've removed the 50 foot buffer surrounding the rail spur which is to be rehabilitated pursuant to a grant recently received. And we modified the wild scenic recreational rivers line to reflect-- to correctly reflect the DEC commissioner's 1990 map line.

And, lastly, we modified the area around the town park to eliminate a buffer we had shown since based upon our calculations of clearing limits, that would not be required.

That is all."

Supervisor Cardinale: "Thank you. You make it all come clear to me."

Dawn Thomas: "I hope so."

Supervisor Cardinale: "And if there is-- I think the only part I'd like to reemphasize is that this is a-- as indicated, a non-clearing-- a non-clearance or a clearance-- non-clearance map, clearing limits map more precisely, and nothing more.

It does not address a lot of other concerns that will be addressed in the SEQRA process concerning the property that is at the site.

Although it does, in fact, make certain that at least 1,000 acres or so will be preserved and unbuilt upon, that's-- the real

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point of the map is to avoid clearance in that area not to preserve the land. That will be a good secondary product.

But in the remaining 2,000 or so acres, there will be additional land to protect the critters, to protect its species, to address all sorts of environmental concerns. So don't confuse what we're trying to do here with what the SEQRA process which has not yet begun will do for those projects to come forth or are pending.

Okay. Anybody want to make a comment? Yes, please come up."

Ray Maynard: "Good afternoon, Mr. Supervisor and town board members. Ray Maynard, Skydive Long Island.

My comments are probably moot because you've changed the terminology from when I was first informed that was going on and I was going to ask if I didn't move to the north or the south of where we are currently located, if that area would be moved also but if it's just a concern of not clearing, we're not going to clear anything. All we are going to do is cut the grass to protect ourselves from the ticks and the chiggers."

Supervisor Cardinale: "Yeah. Is that accurate? Yes, in your particular use, it doesn't seem relevant because you're not building anything anyway."

Ray Maynard: "No."

Supervisor Cardinale: "Okay."

Ray Maynard: "We just cut the grass."

Supervisor Cardinale: "Right. Only cut the grass, huh. Would that we would continue to do so."

Ray Maynard: "Excuse me."

Supervisor Cardinale: "I said would that we would continue to do so.

Part of the problem is that grassland becomes grassland because you don't cut the grass but the good news is it disappears into woodland if you don't cut it long enough. So we're going for the long haul now. Go ahead."

Ray Maynard: "Thank you very much. Happy Cinco de May."

Supervisor Cardinale: "Thank you. Right. You, too. Yes."

Jodi Giglio: "Good afternoon. How are you today?"

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Supervisor Cardinale: "Good."

Jodi Giglio: "Jodi Giglio. I just have a concern about the preservation of the land around the runway. As you said, grassland that is not mowed eventually turns into woodland, and if that runway should ever need to be reactivated for industrial development or economic development, if that was depicted as a natural and undisturbed area, it could never be used for as such."

And if- we have several projects on the table. I know that International Exterior Fabricators has the runway indicated on all of their business cards and they have approximately 650 employees. I don't know how often they use the runway but I know that they do have international flights and that they have used the runway in the past and- "

Supervisor Cardinale: "What's the name of that?"

Jodi Giglio: "International Exterior Fabricators."

Supervisor Cardinale: "Somebody- who's here? They don't have a runway use agreement so if they're using it, I'd like to get my runway use agreement and get some money from them."

Jodi Giglio: "Well, they've owned the property for about 10 years."

Supervisor Cardinale: "Yeah, I know, but they have to have a runway use agreement. But, go ahead, I'm sorry."

Jodi Giglio: "So, anyway, for economic development and for the marketability of these projects- of the properties out at EPCAL, I know that you're in the process of trying to revitalize the railroad spur, correct?"

Supervisor Cardinale: "Correct."

Jodi Giglio: "Okay. So wouldn't it make sense if we could not label that as natural and undisturbed just in case that railroad spur ever could be tied into the runway for economic development?"

Supervisor Cardinale: "Okay. You're misreading the map. The area- oh, you're talking about the two-thirds of the runway there?"

Jodi Giglio: "Yes."

Supervisor Cardinale: "Okay. The one-third in white is not listed as (inaudible). So here's the question. We're listing a portion of the runway, Dawn, as what did you call it?"

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Councilwoman Blass: "Non-cleared which is different from non-disturbed actually."

Supervisor Cardinale: "So since it's asphalt, it's like a free non-cleared. We're certainly not going to clear the asphalt. That portion that is checkered, Jodi, is the limit of clearance area. In other words, we're committing we're not going to clear that area-- "

Dawn Thomas: "Of natural vegetation."

Supervisor Cardinale: "-- of natural vegetation so that means if there is any, we're not going to clear it and since most of it is concrete, that's great."

Councilman Dunleavy: "It can be mowed though. So for airplanes landing there, it can be mowed."

Supervisor Cardinale: "I guess that's the answer you're looking for."

Jodi Giglio: "Yes, it is. Thank you."

Supervisor Cardinale: "Yes, Marty."

Martin Sendlewski: "Just going back to the area around the runway. In the future let's say the industrial park, a lot of areas around the country are incorporating what they call arrow industrial parks, if in the future down the road, you need additional taxiways, roadways to tie the runway into the area to the east or even, you know, some of the development that's even going on in the core, that's going to limit you from any additional taxiways or runways or-- they're not runways but taxiways in the areas for aircraft to travel around."

Supervisor Cardinale: "You're right. And that's why we left certain open space-- white space there in order to make those connections. And in the Reckler subdivision if you look at the proposed subdivision map they have connection to the runway for that purpose. Is that the right answer?"

Dawn Thomas: "Yeah, that is the right answer but in addition the board has allowed themselves in the future to vary the map provided that it maintains 35%-- the 35/65 balance. So if what you're suggesting would come to pass which-- and it's a great question, were to happen, the board can adjust that map to accommodate that development provided they were to balance it with the non-clearing area elsewhere on the site."

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Martin Sendlewski: "Maybe it might be helpful then if on this map some areas are like totally off limits because they're in the wild scenic rivers and whatnot. Maybe what you could do is designate an area that's designated now but subject of future action.

Some areas you're never going to change."

Supervisor Cardinale: "Well, you never know, Marty. For example, the wild and scenic river act if we were all rational people, would be at Grumman Blvd. I mean 10 years ago the commissioner of the DEC would have agreed with me. So that may go down at Grumman Blvd. making all that property available in which case if there's- I know there's several hundred acres on say the Riverhead Resorts side, we would switch.

But the point is that we can reserve under this the right to amend and therefore we would address the concern you're indicating and if you look at the white on the runway, I guess that's a connection into Burman and on the Reckler subdivision there's a connection now. But if those connections prove misplaced, we can move."

Martin Sendlewski: "There should be then I imagine on this map, I imagine there's a verbiage or footnote on the map that says that?"

Dawn Thomas: "In the text that goes with the map, it says that clearly."

Councilman Dunleavy: "It says that."

Martin Sendlewski: "Thank you."

Councilman Dunleavy: "It can be changed from time to time."

Supervisor Cardinale: "Any other comments on these two, 2:35 and 2:40 hearings? I'm going to leave this open as well until the 15th at 4:30 p.m. for any written comment to the clerk is received, we direct it there, if you wish to make it. We're going to close this hearing now at 3:00."

Public hearings closed: 2:58 p.m.
Left open for 10 days for written
comment to Friday, May 15, 2009
at 4:30 p.m.

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Supervisor Cardinale: "And I'm going to ask if anyone has any further comment on the resolutions. If you do, please make it. If you don't, we'll consider the resolutions and then take general comment. And the town clerk is getting ready to call Resolution #396 and then we're going from 396 I guess to 450.

And thank you, Rob, for that audio visual presentation. It was the highlight of my day.

And now we're getting the town clerk back who's going to commence the call and I noticed finally, Barbara, we have addressed the concern that you mentioned for about the 40th time last week, the town clerk's office is responsible for assigning the councilpersons names to each resolution without any particular preference to content. So that they do it in order so do not assume if somebody introduces a resolution, it's their resolution. It's simply in sequence assigned to the four council members.

Okay, go ahead."

Resolution #396

Councilwoman Blass: "This is a budget adjustment in connection with the Calverton Sewer District. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #397

Councilman Dunleavy: "Calverton Park CDA fund budget adjustment. So moved."

Councilman Wooten: "Seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #398

Councilman Wooten: "General fund budget adjustment. So moved."

Councilwoman Blass: "And seconded."

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Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #399

Councilwoman Blass: "Budget adjustment in the Riverhead sewer district. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten."

Councilman Wooten: "I don't know why Barbara moves all the sewer stuff."

Councilwoman Blass: "I know. It's random."

Councilman Wooten: "Yes."

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

Councilman Dunleavy: "Riverhead Sewer District reserve account budget adjustment. So moved."

Councilwoman Blass: "We need to vote on this one."

Councilman Dunleavy: "Yes."

The Vote (Cont'd.): "Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #400

Councilman Dunleavy: "Riverhead Sewer District reserve account budget adjustment. So moved."

Councilman Wooten: "Seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #401

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Councilman Wooten: "East Creek dock improvements capital project budget adjustment. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale."

Supervisor Cardinale: "Yes. And I want to comment that we were all of us at the opening two weeks ago and I want to commend Barbara for her efforts because that really did come out very, very well. And you can be proud of that docking facility. Not a marina because we don't do repairs, hauling or winter storage. But it is a great docking facility. Good job and I vote yes."

Councilwoman Blass: "And I forward that comment to the engineering department because they really oversaw that project. Yes, thank you."

Supervisor Cardinale: "Chris Fenton, I guess, did a great job."

Councilwoman Blass: "Thank you."

Diane Wilhelm: "The resolution is adopted."

Resolution #402

Councilwoman Blass: "This is a bond resolution, subject to permissive referendum, authorizing the construction of sale barns in and for the town of Riverhead, Suffolk County, New York, at a maximum estimated cost of \$600,000 and authorizing the issuance of \$600,000 bonds of said town to pay the cost thereof. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #403

Councilman Dunleavy: "Accepts resignation of a highway employee. So moved."

Councilman Wooten: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

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The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #404

Councilman Wooten: "Appoints a temporary secretary to the board of assessment review. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #405

Councilwoman Blass: "Ratifies the authorization for purchasing agent to attend conference. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #406

Councilman Wooten: "406 appoints a member to the town of Riverhead Industrial Development Agency.

I'd like to make a correction though. The name— the actual name is Elias S. Kalogeras. It's not Louis. Lou is his nickname."

Diane Wilhelm: "What is it?"

Councilman Wooten: "Elias. E-L-I-A-S. There's a resume attached to the resolution. I move that appointment for the IDA."

Councilman Dunleavy: "And I second it."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes, as amended; Blass, yes; Cardinale."

Supervisor Cardinale: "Yes. I'm glad to see we're making a decision. I note for the record I recommended someone else but I

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know this individual to be highly qualified and I can vote yes on this.

I also want to point out for the board that we're going to have to do it again so I re-recommend that individual because we've got another I am told Bill, is this accurate? That another resignation from Lori Taggart (phonetic) last night. So keep your thinking caps on for anyone— another applicant for the IDA.

And I vote yes for this particular applicant."

Diane Wilhelm: "And the resolution is adopted."

Resolution #407

Councilwoman Blass: "Amends Resolution #352 adopted on April 9, 2009 to reflect the town board of the town of Riverhead consent to substitute YMCA as development partner with county with all such rights to own, lease or improve property described as SCTM #0600-125-1-5.2 purchased by the county of Suffolk with Greenways Funding. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #408

Councilman Dunleavy: "Approves an extension and a reduction of security posted by Wading River Woods LLC in connection with the condominium project entitled Wading River Woods a/k/a Hounds Gate, road and drainage improvement. So moved."

Councilman Wooten: "I'll second."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #409

Councilman Wooten: "It approves extension of security posted by CTR Development LLC in connection with the subdivision entitled Demchuk Estates, road and drainage improvements. So moved."

Councilwoman Blass: "And seconded with a question."

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Supervisor Cardinale: "Yes?"

Councilwoman Blass: "If you look in the third Whereas, the planning board recommends a two year extension for a period to end January 4 of 2011 but we resolve that we're asking- or we resolve to have the subdivision completed to November 2, 2011. That's a big difference."

Supervisor Cardinale: "Yes. The- is the planning- Bill, could you ask- let's put it aside for a minute. Could you ask Rick to come in because that's- we would want to do what they recommend I would think, because they are handling this matter."

Okay, so let's put it aside and come back."

Diane Wilhelm: "So we'll continue?"

Supervisor Cardinale: "Yes."

Resolution #410

Councilwoman Blass: "Approves the extension of security posted by Whitford Development Inc. in connection with the subdivision entitled Fedun Estates, road and drainage improvements. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

Councilwoman Blass: "Oh, I bet you that's where they got November 2nd from. Right?"

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #411

Councilman Dunleavy: "Authorizes legal action against the owners, tenants, occupants and mortgagee of the property located at 37 Doris Avenue, Riverhead, New York. So moved."

Councilman Wooten: "Seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

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Resolution #412

Councilman Wooten: "Authorizes legal action against the owners, tenants, occupants and mortgagee of the property located at 70 Main Road, Aquebogue, New York. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale."

Supervisor Cardinale: "Abstain. I had a discussion with legal. I was not here for the discussion earlier this week and I'm not clear on this matter. I know it's been pending a long time, so I'm going to abstain. I've asked them to look at the whole file before they commence an action."

Diane Wilhelm: "Okay, the resolution is adopted."

Resolution #413

Councilwoman Blass: "Authorizes legal action against the owners, tenants, occupants and mortgagee of the property located at 1350 Main Road, Jamesport, New York. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinal."

Supervisor Cardinale: "Same abstention, same comment. Those two matters I asked them to look at. One is the-- incidentally is the Royal Fence which has been pending since 2002, and the other one is the Gabrielson thing in Jamesport.

And I want them to look at the whole file because there have been a number of back and forth contentions here and I want to make sure we're right before we commence. I haven't had the opportunity so I'm going to abstain."

Diane Wilhelm: "The resolution is adopted."

Supervisor Cardinale: "Rick, you want to come up on 409, let's call that back. There may be a typo here. Barbara, would you explain that, please?"

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Councilwoman Blass: "Rick, maybe you just want to check the planning board's resolution. This has to do with Demchuk Estates, the extension.

The planning board according to this calls for an extension to January 4, 2011 but we're resolving that it go to November 2, of 2011. One of those dates if probably not accurate. So, you want to take a look at it?"

Rick Hanley: "Okay."

Councilwoman Blass: "Thank you."

Supervisor Cardinale: "Come back in and we'll make the right day, whatever it is.

All right, we'll go to 414."

Resolution #414

Councilman Dunleavy: "Authorizes legal action against the owners, tenants, occupants and mortgagee of the property located on the south side of Route 25, Calverton, New York, SCTM #0600-116-1-7.2. So moved."

Councilman Wooten: "Seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #415

Councilman Wooten: "Boy, you guys are going to work, aren't you?"

Authorizes legal action against the owners, tenants, occupants and mortgagee of the property located on the south side of Route 25, Calverton, New York SCTM #0600-116-1-7.4. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

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Resolution #416

Councilwoman Blass: "Rejects bid and authorizes town clerk to republish and repost notice to bidders for Spaulding 130 gallon crack sealer or equal. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #417

Councilman Dunleavy: "Awards bid for work clothes. So moved."

Councilman Wooten: "Seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #418

Councilman Wooten: "Awards bid for well and pump testing, evaluation, reporting and information management for the Riverhead Water District. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #419

Councilwoman Blass: "Authorizes the supervisor to execute an agreement with New York Water/Wastewater Agency response network. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

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Resolution #420

Councilman Dunleavy: "Authorizes the supervisor to execute an agreement authorizing the town to accept funds from Suffolk County Office of the Aging to supplement the town's residential repair program for the elderly. So moved."

Councilman Wooten: "I'll second it."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #421

Councilman Wooten: "Authorizes the supervisor to execute an agreement with Sav Mor Mechanical Services Inc. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy."

Councilman Dunleavy: "I'm going to vote yes but I want the supervisor to look into the agreement, the lease agreement. If we have to do it or the leasee has to do it."

The Vote (Cont'd.): "Blass, yes; Cardinale."

Supervisor Cardinale: "Yes. And I'll do what John has indicated. I'll check with legal before I sign it to make sure that it's not the tenant's responsibility."

Diane Wilhelm: "The resolution is adopted."

Resolution #422

Councilwoman Blass: "Authorizes the supervisor to execute an agreement to receive funds from Suffolk County for increased enforcement of New York State Vehicle and Traffic Laws relating to drinking and driving. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

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The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #423

Councilman Dunleavy: "Authorizes the supervisor to execute an musical works license agreement with SESAC, Inc. So moved."

Councilman Wooten: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #424

Councilman Wooten: "Authorizes the supervisor to execute an agreement with ABL Computing, Inc. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #425

Diane Wilhelm: "Resolution 425 and I just wanted to ask, are we going to look into this before adopting or are we going (inaudible). Just proceed?"

Supervisor Cardinale: "Just let me know if you would- oh, yeah, fee to be waived. Yeah, we need to know that."

Diane Wilhelm: "Do you want me to check- do you want me to call and check and- "

Supervisor Cardinale: "Yeah, I did."

(Some inaudible discussion)

Supervisor Cardinale: "All right, let's put it over until Thursday, that will give you the opportunity to check it."

(Some inaudible discussion)

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Supervisor Cardinale: "All right, we're going to table this. Because the point is that they may re-cast the applicant in order to save the \$200.00 if they can. But if they're going to make the application, we wouldn't have the authority to waive the fee."

Councilwoman Blass: "Motion to table Resolution #425."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is tabled."

Resolution #426

Councilman Dunleavy: "Approves Chapter 90 application of Vail Leavitt Council for the 11th annual Blues Musical Festival. So moved."

Councilman Wooten: "Seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #427

Councilman Wooten: "Approves Chapter 90 application of Martha Clara Vineyards LLC. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. I note that this indicates that a Chapter 90 application has been paid so there's an inconsistency which is another reason we want to put the other one aside. So let's call this one and vote it."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #428

Diane Wilhelm: "Now we did have a question on that one with the whereabouts, what property, is that a problem?"

Councilman Wooten: "It's the same place it was last year."

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Supervisor Cardinale: "We just want to get a chance that it's not at the site. It doesn't make any difference (inaudible)."

Councilwoman Blass: "So they're making the application (inaudible)."

Supervisor Cardinale: "Yeah. Because they pay, over here it says whereas."

(Some inaudible discussion)

Supervisor Cardinale: "I guess the question on the one we put aside Barbara is pointing out is that they do indicate that Peconic Bay Medical has requested that it be waived but under our code Peconic Bay Medical must make the application. Correct?."

Councilman Wooten: "Didn't they make this one?"

Supervisor Cardinale: "No, it— this one, they've asked that it be waived and we can waive it. Yes."

Councilman Dunleavy: "They're the applicant."

Supervisor Cardinale: "That's the non for profit thing that we've been going round and round and we still can until we amend the code and we haven't amended the code if I recall correctly because although we think, our attorneys have told us that you should not give waivers, the county gives waivers and they're having this continuing back and forth so we haven't done anything yet."

Resolution #428

Councilwoman Blass: "Approves Chapter 90 application of Peconic Bay Medical Center. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #429

Councilman Dunleavy: "Adopts a local law amending Chapter 46A entitled Architectural Review of the Riverhead town code."

There's just one thing I want to check. We are not removing the stipend, correct?"

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Councilwoman Blass: "This is the first resolution. This didn't address that at all."

Supervisor Cardinale: "This I think everybody agrees with. The other ones are more controversial."

Councilman Dunleavy: "Right. Okay."

Councilwoman Blass: "This is to make them advisory- make it clear that they are advisory."

Councilman Dunleavy: "So moved."

Councilman Wooten: "Seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #430

Councilman Wooten: "Adopts a local law amending Chapter 108 entitled Zoning of the Riverhead town code, Article LIV - Village Center (VC) zoning use district. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

(Some inaudible discussion)

Supervisor Cardinale: "Okay. So let's call 431 and then we're going to call 432 through 447 and the town attorney will indicate that they're all a consistent change. She'll call it to the various zoning districts. Go ahead."

Resolution #431

Councilwoman Blass: "Adopts a local law amending Chapter 108 entitled Zoning, Section 108-56.1 entitled Sign Permits of the Riverhead town code. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

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The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes, Cardinale, yes. The resolution is adopted."

Resolution #432 through 447

Councilman Dunleavy: "I move Resolutions 432 through 447, adopts local law amending Chapter 108 of zoning. So moved."

Councilman Wooten: "And seconded."

Supervisor Cardinale: "All right. And Dawn you want to indicate the change in the districts."

Dawn Thomas: "The change as we discussed at the public hearing was to modify the word or actually amend each of the sections, and I'll name them one by one: industrial A, industrial C, RLC, hamlet center, business CR, rural neighborhood business, downtown center 1, downtown center 2, downtown center 3, downtown center 4, downtown center 5, tourism resort campus, business center and commercial residential campus."

And the amendment would be to correct the design standards for parking and to be intended to be a measure— a guide or a measure for improvement and the word shall recited in the provisions in each of those zoning use districts is intended to obtain compliance to the extent practical.

So that provision would give the approving board some flexibility in adjusting design and parking standards dependent upon the site."

Supervisor Cardinale: "Thank you. Would you call those then for a vote?"

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolutions are adopted."

Resolution #448

Councilman Wooten: "Authorizes to publish advertisement for snack vendor services for the Town of Riverhead. So moved."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

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Resolution #449

Councilwoman Blass: "Offers support to New York State Legislature to amend the town law in relation to requiring that any local law or amendment to a local law relating to Peconic Bay Community Preservation Funds shall be subject to a mandatory referendum. So moved."

Councilman Dunleavy: "And seconded."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #450

Councilman Dunleavy: "Resolution to rescind Resolution #1036 and refer the transfer of public safety dispatch function to the voters by public referendum. So moved."

Councilman Wooten: "I'll second."

Supervisor Cardinale: "Moved and seconded. Vote please."

The Vote: "Wooten."

Councilman Wooten: "There's no-- there will be no stretch of the imagination where I stand on this issue. Yes."

The Vote (Cont'd.): "Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Resolution #451

Councilman Wooten: "451 is a motion to pay bills."

Councilwoman Blass: "And seconded."

Supervisor Cardinale: "Moved and seconded to pay bills. Vote please."

The Vote: "Wooten, yes; Dunleavy, yes; Blass, yes; Cardinale, yes. The resolution is adopted."

Supervisor Cardinale: "What have you got?"

Rick Hanley: "The two dates that are not correct, January 4, 2010 and 11 it shows?"

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Supervisor Cardinale: "One shows November 2, 2011 and one shows January 4."

Rick Hanley: "January 4, 2011."

Councilwoman Blass: "Is the correct date?"

Rick Hanley: "Yes."

Councilwoman Blass: "Thank you."

Supervisor Cardinale: "Okay, so we're going to change on the resolve clause November 2, 2011 to January 4, 2011. With that amendment, would somebody offer 409?"

Councilman Wooten: "Further offered-- further moved and seconded."

Supervisor Cardinale: "Moved and seconded. May we have a vote with that amendment?"

The Vote: "Wooten, yes, as amended; Dunleavy, yes, as amended; Blass, yes; Cardinale, yes. The resolution is adopted."

Supervisor Cardinale: "All right, does that conclude the resolutions before us?"

Diane Wilhelm: "That is it."

Supervisor Cardinale: "Okay. So with that, I'd like to take comment from anyone who wishes to make comment on anything within our purview. Yes."

Jodi Giglio: "Mr. Supervisor and Members of the Board. I would like to inform you that I have been nominated to run as a candidate for the town board and with that, I have submitted my resignation to the Riverhead Business Alliance dated April 30th and I'm stepping down as the president of the Riverhead Business Alliance.

I would like to thank you all for your cooperation over the past year. It's been a pleasure working with all of you as the president of the Riverhead Business Alliance and I hope that the acting president will maintain as wonderful a relationship with you as I have."

Supervisor Cardinale: "Thank you. Who is the acting president?"

Jodi Giglio: "Marty Sendlewski will be the acting president."

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Supervisor Cardinale: "Thank you."

Councilman Dunleavy: "Thank you, Jodi."

Councilman Wooten: "Wait until you're on this side, Jodi."

Supervisor Cardinale: "Marty, you have a comment?"

Martin Sendlewski: "Good afternoon, Martin Sendlewski. I'm actually here as a Calverton resident, nothing more."

Supervisor Cardinale: "Okay."

Martin Sendlewski: "I'd like to preface by reading something very brief. I'm sure you're all familiar with it."

It says in adopting SEQRA it was the legislature's intent that all agencies conduct their affairs with an awareness that they are the stewards of the air, water, land and living resources and that they have an obligation to protect the environment for the use and enjoyment of all future generations.

A very nice statement. That's from SEQRA."

Supervisor Cardinale: "Right."

Martin Sendlewski: "With that, I just want to step back and I want to touch base— I have the minutes of a couple meetings that pertain to a project that's proposed for Calverton where I live."

It has to do with the Hampton Jitney. At the meeting of the 3rd, March 3rd, the attorney for the applicant noted and these are quotes directly from the approved minutes of the meeting. It's going to be 60,000 square feet, parking for up to 70 coaches, buses. Employ 100 people initially, parking for patrons, over 200. It's going to be emphasis added, a major event. It will move, again emphasis added, a lot of traffic and a lot of congestion from other parts of Long Island there.

So it's going to bring traffic from other parts of Long Island and congestion, they're going to drive here to get on a bus to go to various locations.

I happen to support the project but I'm here for another reason. Going on further, the owner got up and commented that, you know, the location is well suited and noted that Riverhead and our passengers in the town of Riverhead as well as the entire east end, can more utilize— conveniently utilize mass transit. Okay? It's referred to as mass transit.

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Later on in that same meeting, I had gotten up and I had indicated that traffic was an issue. I got up as a resident of Calverton at the time. I also happened to note that I'm a representative of another project in the same location, F-1, and traffic was noted as one of the concerns that had to be addressed in an environmental impact study and it was pos dec'd.

And what I had hoped was that I said that I didn't see how you could adopt this- neg dec on this project, that realistically with the precedent set with F-1, it really should have been pos dec'd for traffic reasons.

Subsequent to that, I submitted a written correspondence to the board that was made part of the record in the minutes of the hearing of March 17th. That letter had data attached to it indicating the decibel levels of buses and indicated, you know, what that sound level was so in addition to the traffic concerns that I had as a resident, there were also sound issues and another reason that I felt that it should have been pos dec'd.

After that, during that meeting, I had gotten up and I had requested that the board justify the neg dec because the resolution was set for that meeting, that was March 17th. And how do you justify a neg dec when it has the same factors that apply to another project in the same area, how that was justified.

One of the clarifications that was given by the director of planning, Mr. Hanley, was that the noise and this is a quote from the minutes. The noise associated with a bus is off site as opposed to on site with F-1.

Now, if there are 70 buses on site for mass transit taking people to other locations, it takes a lot more horsepower and a lot more noise to start a 30,000 pound bus from a standing position to a moving position to get out onto the roadway.

The horsepower is higher, the noise is higher. When it gets on the expressway, quite frankly, it's a lot quieter because it's in an upward gear just cruising along.

So that statement I don't think is accurate at all.

Then we went on to say after that, that Mr. Hanley stated, and I'll quote the minutes. So that was the reason why we decided this was an unlisted action and we decided to go- neg dec the action. The reason that they neg dec'd this action was because the buses are on the expressway, not on the site picking up passengers.

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Later on after a couple of discussions back and forth, that was again reiterated. Just to reiterate one has on site noise meaning F-1; the other is off site noise on the Long Island Expressway. That's the minutes of the meeting of the hearing.

And then going further one, a discussion came in about Mr. Hall who did the environmental review and it was stated by the town board, specifically by the Supervisor, yeah, I assume that he determines, meaning Mr. Hall, this to be an unlisted as opposed to Type I which is a major determination.

So not only is the noise not being addressed, not only is the traffic not being addressed, but the lead agency isn't even addressing it because according to the lead agency, a person in the planning department is making the determination whether it's a pos dec or neg dec, not the lead agency which is totally not in keeping with the intent of SEQRA.

Later on it was confirmed that there were 70 buses on site and it was stated that the board wanted to make sure that everything was very clear and reviewed very clearly which it should do to make sure that one applicant wasn't treated differently than the other.

And I think the pos dec on one project with these factors getting neg dec'd, actually proves the opposite. They were not treated equally.

Then going on from that, I got this from the minutes of the last meeting which were just adopted tonight so they're not on line yet so I had to just copy them from the office.

It said, this is now part of the official record because you adopted it, and this was a statement about the determination. It says the board followed the recommendation of the planner, Mr. Hall, who is trained in SEQRA matters and it's not important what I think. It's important what he thinks because he's the guy who knows what he is talking about.

He's not the lead agent. He's not the one charged to be the steward of the environment and the steward of all of these things. It's the town board who relies on their criteria to then take a hard look and make a determination.

With that, I'd just like to touch base with a couple of items, they're highlighted, very short. Part 617-6 of SEQRA initial review of actions and establishing lead agency which in this case is the town board. Under subsection A, initial review of actions, the agency must do the following. The agency, that's the town board, not the planning department, not Mr. Hall, the town board must do the following.

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Determine whether the action is subject to SEQRA. If action is a Type II, the agency has no further responsibility. I'll go to 617-5 which describes Type II actions and it has a list of things that are not Type II- that are Type II that aren't subject to SEQRA. They list 37 items, none of which I really think applies to this project.

It also states that you must make a preliminary classification of an action as Type I or unlisted using information available and comparing it with the threshold set forth in 617-4 of this part. Such preliminary classification will assist in determining whether a full EAF and coordinated review is necessary.

So if you go to part 617-4 it lists criteria for a Type I action. Subsection B item 6I happens to refer to a project that exceeds 10 acres. I believe this project is on 13 acres which I thought would have automatically jumped it into this area.

But needless to say, if you then go back and you look at the type of actions, going back to type of actions under 617.5 subsection B, item- let me see which item I'm going to here- item 1, it says in no case if it's a neg dec, in no case have a significant adverse impact on the environment based on the criteria contained in subdivision 617-7C of this part.

So if you go to 617.7 is the determination of significance. Now the determination of significance is being- has to be done by the lead agency, that's the four people seated at the dais. You are the lead agents. Okay?

Criteria under subsection C for significance. One of the things that they talk to is a substantial change in existing air quality, ground to surface water quality, the quality or quantity, traffic or noise levels, a substantial increase in solid waste production, etc. etc, etc.

So under this item, it talks about an increase- a substantial increase in traffic or noise. Now, during the review process, I provided the lead agency, the town board, with criteria showing the decibel levels of buses. One, and there's going to be 70 of them.

Also when it comes to traffic, the applicant stated that it was going to be, you know, mass transit, it's going to bring a lot of people from all over the east end of Long Island here to get on buses and to travel, which it will.

I'm in favor of the project. I'm not against the project. I favor the project but it's the process I'm concerned with because I have a project right down the road from this that was pos dec'd.

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If you consider traffic— I'm going to speak strictly as a Calverton resident. My family drives to the expressway every day. My son goes to school and he drives to the expressway and he comes back on exit 71. You get to the end of that ramp and you've got to make a left turn on Edwards Avenue, first of all there's no shoulder on the eastbound traffic lanes. You pull right up to the lane of traffic. You then have to cross two lanes of traffic with two lanes of traffic coming in the other direction to make a left turn.

The median between the westbound traffic and the eastbound traffic. I went there yesterday. I took out a tape measure. Curb to curb is 25 feet. A bus is about 40 feet. So if a bus starts pulling out, sees a car coming quicker than it thought from the east, has to stop, it's going to block the eastbound traffic coming west. Somebody coming under the overpass, you could have somebody hitting a bus, whatever.

I know that that's a bad intersection because it's one of the few intersections that I'm very particular about telling my family members to be very safe when you're making that left turn because it's a hard turn to negotiate.

I would have thought that if this was pos dec'd which it should have been, one of the requirements would have been to do a needs analysis for that intersection for a traffic light, which I think it desperately needs without the bus terminal. Okay?

The other item under 617.7 which is Roman numeral IX, refers to actions that include encouraging or attracting a large number of people to a place or places for more than a few days compared to the number of people who would come to such place absent the action. So absent the bus situation, you're not going to have as many people coming to this location as you would when a bus terminal is there.

So you're obviously encouraging more people to come to this location by taking this action as lead agents.

So therefore based on the criteria that was provided to you as lead agents when you reviewed this, I think that it was missed here. This certainly should have been a pos dec. But you know what? The fact of the matter is if this were challenged, the courts— the courts are not going to overturn your action based on the fact that you don't agree that there's going to be more noise. Or you don't agree that there's going to be more traffic.

If you say, you know what? We're the town, we're the lead agency, we feel that there's going to be more sound and more traffic. It's going to outweigh the— the advantages are going to outweigh the negatives. We're the lead agency. We say it's not an impact, the courts will agree with you. Okay?

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But what the courts won't agree with is the process because where the courts are very, very particular in SEQRA actions has not so much to do with the substance in an Article 78 and they are with the procedure.

Now under 617.12 subsection 8 preparation of documents, a negative declaration- I'll just paraphrase it, must state- your findings must state that it's been prepared in accordance with Article 8. So you have to say yeah, we followed the requirements. We followed the requirements, we did the right job. You may not- I may not agree with your answer but you followed the guidelines. Your answer, whether it's right or wrong, is neither here nor there.

I think in this case it is important because of safety concerns. And that the negative declaration must meet the requirements of 671.7. Again, that was the part that talked about the increase in noise, the increase in traffic.

And the findings must also contain the information required by subdivision 711-D and if you go to 711-D, this is your findings, this is what you must do, the four lead agents which is the town board.

You must consider the relevant environmental impacts, facts and conclusions disclosed in the final EIS. You must weigh and balance relevant environmental impacts with social, economic and other considerations; provide a rationale for your decision. You must provide a written rationale for making your decision when you neg dec a project. And certify that the requirements of this part have been met.

Now, the findings statement which is essentially your negative declaration, the findings statement is actually the most important part of this whole process. When you go through everything and you decide what you are going to do, you document it and you put it on paper, it has to stand up to what is referred to as the Holmes (phonetic) test.

The Holmes test is named after a decision of Holmes versus New York State Urban Development Corporation case law, is the principal way that the courts determine that agencies have followed SEQRA and have not acted arbitrarily and capriciously in their decision making.

The test involves three questions. Did the lead agency identify the relevant areas of environmental concern? I don't think you have because if the lead agency says well, we identified noise on the Long Island Expressway, I don't think you've met that standard.

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The second concern is did the lead agency take a hard look at those areas? The hard look, that's the lynchpin of SEQRA surviving an Article 78. That's the lynchpin, the hard look. Now in here you talk about Joe Hall making the determination, you talk about-- actually it was one statement in the minutes that says Joe Hall is talked to maybe twice a year. But he's the expert and he writes something down and that's good enough for the board.

The courts are not going to tell you that that's a hard look. It's not because if you did take a hard look and you said, gee, what is the intersection by the expressway like when we're going to have 70 buses making a left turn at Exit 71 with all of this traffic coming east and west, with the courts getting out at 5:00, it's a terrible road as it is. I think if you took a hard look, you might have had some dialogue to that effect.

And then third, did the agency make a reasoned elaboration on the basis of its determination? So the reasoned elaboration leads me to Resolution 246 which is your resolution-- "

Councilwoman Blass: "On the special permit?"

Marty Sendlewski: "Yep. Approves the special permit. And it lists your findings and the findings-- "

Supervisor Cardinale: "You're about to conclude, I hope."

Marty Sendlewski: "Yeah, I'm getting close. The findings-- "

Supervisor Cardinale: "We're waiving the five minute rule but we don't want to kill it entirely."

Marty Sendlewski: "The findings, if you read-- I mean you can read the findings yourself. The findings don't talk about-- they're silent on noise issues. This says nothing about noise. It says nothing about traffic impacts off site. It says nothing about traffic impacts coming off the Long Island Expressway with 70 buses, and all of these other issues.

So with that, and I will state this just for the record. In a way I have a suspicion that ironically-- Barbara is an expert at SEQRA and ironically she abstained on this. So my guess would be she didn't want to have her name associated with this type of a SEQRA finding. But only she would know that.

Therefore, under 617.7F, I would request that the town exercise a rescission of the negative declaration and convert this into a positive declaration because it does meet the criteria for a positive declaration.

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If you did that, then you would have an opportunity to then tie this in with other projects in the area such as F-1 that does have traffic concerns. They're going to have people with go carts and trailers coming off the same exit and it could have all been tied in together.

So I think if you look at it that way you may want to consider a positive declaration."

Supervisor Cardinale: "Thank you, Marty. Listen we appreciate what you said. I have asked them to look carefully at that file and they have.

There's a couple of things, however, that-- first of all, I'm intrigued by the fact that you of all people are suggesting we pos dec something because most of the time you're up there with the lawyers asking us to neg dec.

But as you know it's a discretionary matter and discretionary and you rely when exercising your discretion on your attorneys and your SEQRA experts of 30 years. He's been in this business for a long time and he has reviewed it and you did not mention his memo nor the fact-- this was a supplemental, wasn't it? A supplemental long form.

But what you also expanded-- a long form application which required and requested certain information. The other thing that you don't-- that you seem to either deliberately confuse or not understand is that this was a special permit whereas the F-1 was a site plan application.

And the planning board is the agent for site plan and they have the F-1-- they have the Hampton Jitney application and they have to take a SEQRA look at that from the standpoint of site plan as well. And they may very well agree with you.

And it may be that-- most of your arguments are site plan issues, not special permit issues. So I think that ultimately no one wants to do anything but a full and complete review.

We'll look at the file pursuant to your request. We have already done that. We point out that the Hall memo specifically recommended a negative dec. We point out that there was an expanded long form. We point out that there was-- that we need to follow as a board the recommendations of our experts.

And that site plan considerations can still be pos dec'd as I understand it and may well be just as F-1 was by the site plan board which is not us. It is the planning board.

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And I further stated and I might as well state it again, if I were on the planning board I would have made a different decision on F-1, but I'm not. So here I am on the town board and I think we did the right thing as a town board and incidentally Barbara did not abstain on that basis."

Marty Sendlewski: "I wouldn't have blamed her if she did by the way. But I still think, Phil, I still think you're wrong on one thing when you say it is you. You are the lead agency. The four of you are the lead agency. It's your decision."

Supervisor Cardinale: "It's our resolution."

Marty Sendlewski: "And you do not have to take-- you have to take into account but you have to give a hard look and weigh what Joe Hall and other people say."

Supervisor Cardinale: "Yes. But you also have to take your experts advice seriously."

Marty Sendlewski: "You do. But are you telling me that you don't think that 70 buses at exit 71 making a left turn is going--"

Councilman Wooten: "You're drawing an assumption that 70 buses are coming off exit 71."

Supervisor Cardinale: "I believe that's a site plan consideration."

Councilman Wooten: "That's an assumption you make."

Supervisor Cardinale: "I believe that's a site plan consideration more than it is a special permit."

Marty Sendlewski: "(inaudible) with half coming from Southampton--"

Councilman Wooten: "They use the south route and they come back-- most of them come up 24 actually, not off exit 71."

Supervisor Cardinale: "Special-- you know, Barbara is pointing out something that I should have said. The special permit is a zoning issue. The question is--"

Marty Sendlewski: "For the use."

Supervisor Cardinale: "-- a specially permitted use and we said yes. And that is not a positive dec question. The positive dec question may be the site plan issues."

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Marty Sendlewski: "Okay. So now is- will the planning board- are you now done being lead agents? The planning board will now be lead agency, is that correct?"

Supervisor Cardinale: "That is my understanding."

Marty Sendlewski: "So are they going to be doing a declaration of lead agency- not the planning board, but I'm assuming they would be required to do a declaration of lead agency and they would have to go through a finding with regard to impact."

Supervisor Cardinale: "That's correct. So, therefore, so it won't be a complete waste because he was up here, your client, F-1 last- two weeks ago giving us a long spiel and I said to him I would have done a different thing than the planning board than they did on that application of F-1."

On this one, can we get- we're going to get this in transcript form, right, Diane? Could you get this over to Dick O'Dea because he needs to hear what you said which was thoughtful and well stated."

Marty Sendlewski: "Yeah, we plan to get it to them also but I really think the town board should have pos dec'd it."

Supervisor Cardinale: "On the special permit. And I understand- I respect your opinion but I don't necessarily agree with it."

Councilman Wooten: "Well, I'm not an architect but I certainly would listen to you if I asked you an architectural question."

Supervisor Cardinale: "But not necessarily a legal question."

Councilman Wooten: "Maybe I'd have to check with somebody else and it might be prudent to do that but I mean if I hired you to do something architecturally, I would assume that you knew what you were talking about. So if Joe Hall looked at something and he concluded that it was neg dec, I'd have to assume that he knows what he's talking about."

Marty Sendlewski: "Right. I've also been dealing with SEQRA since the day it was invented as an architect and I've gone to- as a matter of fact, I- all of these copies are from a SEQRA seminar that I was at about two weeks ago and there were other townships represented there and I find it a very interesting subject and I'm in favor of the project but I think you've got to look at the process."

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Councilman Wooten: "Joe is probably (inaudible)."

Marty Sendlewski: "I hope that the planning board looks at this and F-1 together so we can finally get rid of this logjam that we have."

Supervisor Cardinale: "I think that they will do that and I would not find it unreasonable if they agreed with you with regard to the site plan application."

Marty Sendlewski: "Okay, thank you."

Supervisor Cardinale: "Thank you. Would you come on up? How are you?"

Ed Purcell: "Just fine and dandy. Ed Purcell, East Main Street. I don't know if I should say I'm sorry for your leaving or it's going to be happy that you're leaving in your case the town board. Yes, you, Barbara."

I'm sorry that you're leaving because at least we know what you feel and how you are going to act. Somebody in the future may be a very big unknown quantity and may not be as knowledgeable as you are.

Lowe's, what's the status of the possibility of a Lowe's going up in the Suffolk Life building?"

Supervisor Cardinale: "As I understand it, that is continuing, that application. We have a- did we- we heard the hearing on the Lowe's and we- did we consider that zone- yes."

There was a minor- "

Ed Purcell: "I know. You had a change of zone."

Supervisor Cardinale: "I believe there is support for that on this board and I believe that that application will proceed."

Ed Purcell: "Right. The other thing, put my glasses on because I'm old as the hills. Is there a computer program in your system where either one of the public or maybe only the board members can know where each project is in the- whether it's in the planning, whether it's in waiting for information from you or waiting for information from the person that proposed the project?"

Supervisor Cardinale: "There is- that's been suggested by Barbara and others and supported but there's not computerization yet in various ways that we would like to be computerized."

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You could always— you can get the status but you can't get it on the computer."

Ed Purcell: "Yeah. Because it would be much easier to keep track of things of where things are— "

Supervisor Cardinale: "If we used the computer, yes."

Ed Purcell: "Yeah, it really would. Then I could just call maybe a town board member and say what's the status of this and especially when I may not be able to come to a town board meeting."

Supervisor Cardinale: "Yes. GIS is getting— the fellow that was here earlier, Rob Hubbs (phonetic) is running our GIS system. That's his major responsibility. And we anticipate that we will be getting to that capacity within the reasonably foreseeable future.

We just came off of National Geomatica (phonetic), Nat GEO which was a less complete system and Rob Hubbs is trying to get us there but we're not there yet."

Ed Purcell: "Any money from the— coming into the town for any new projects, wish projects?"

Supervisor Cardinale: "We are awaiting a determination on a number of, you know, the stimulus fund monies projects— "

Ed Purcell: "Yes, that's exactly what I was talking about."

Supervisor Cardinale: "And one of the ones that we're particularly awaiting for and I think there's going to be a special on Thursday at 4:00 p.m. which one of the resolutions will be saying that if we got it, we'd match it somehow by 20%, a four or five million dollar project for the extension of rail into the EPCAL site. That looks good, that application, I'm told that we may well get that funding.

And there's several others that Chris Kempner is hopeful of. If you really want to get a status, just ask her. She's right on top of it."

Ed Purcell: "Okay. And any progression on repairing the sidewalks?"

Supervisor Cardinale: "Yes. Yeah. The— Geo has indicated that he is repairing not replacing but repairing the various sections of sidewalk. He has a plan, he's commenced it. It's going to cost us at least a few hundred thousand dollars which we've committed and I've asked him to hurry up and don't delay starting to remove sections that are difficult."

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Councilman Dunleavy: "He already started it but he has a grinder."

Ed Purcell: "I understand what he's done with the grinder."

Councilman Dunleavy: "Okay. So he started doing it."

Ed Purcell: "Yeah, some of the grinding, he should do a little more."

Supervisor Cardinale: "A little more grinding."

Ed Purcell: "Yeah. Also, is there a program because he brought up when I was talking with him the other day on taking in road that are not paved, that are either semi-private, semi-town, dependent upon where they are? Is there a program?"

Supervisor Cardinale: "Yes. There- yeah, he- we had an issue on Kimball Lane. We- many of the road that are not fully paved or not broad enough, he's reviewed and has indicated as long as they've been used for many years and maintained, he'll take them over but they have to reach a certain standard. Because we don't want to take these roads that we have to pay a fortune to improve."

Ed Purcell: "I suggested to him that if the road has been in public use for more than say 30 or 40 years, at that point in time, that would be appropriate but if it's not 30 or 40 years, then it's well, that's another story. That's since zoning since zoning is- "

Supervisor Cardinale: "Right. They have to certify that it's been at least 10 years but then the burden of proof is on the private road owner to prove that. So we don't have to take it in. They have to prove that it's been in. But once it's been 30 years, we would relax that condition."

Ed Purcell: "Yeah, well I know of a few down in Wading River and especially one near me that creates the problem with sand flowing from it into- as a matter of fact, the state just put in a dry sump in front of my mother's and it's now filled with sand. It filled right up. The whole drain filled and it came from the road over there, Tyte Drive, Harrison Avenue whatever it's called."

Supervisor Cardinale: "There's a lot of them there in Wading River and the west and east ends of our town particularly."

Ed Purcell: "Yeah. Well, the sand came right down and it's now filled it up so that it's going to cost either the state or the town money to clean it out on a regular basis and maybe it would be

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cost effective to do something to stabilize the sand on that road so it wouldn't flow out of it and end up filling up- "

Supervisor Cardinale: "Is it flowing from a private road onto a public road?"

Ed Purcell: "Yes, it is. It has been for 40 years."

Supervisor Cardinale: "Tyte Drive is the private?"

Ed Purcell: "Yes."

Councilman Dunleavy: "Hubbard Avenue to- "

Ed Purcell: "Yup."

Supervisor Cardinale: "Okay, we'll take- "

Ed Purcell: "It's been flowing forever and it also had created a problem that I brought up many years ago about filling in Millbrook Stream because the sand- what happens is the sand would flow down the street and fill in the stream that raised the stream bed level so that everything else backs up. As a matter of fact, it backs up all the way over to here because of that sand that just kind of flows out of that private dirt road."

Supervisor Cardinale: "If you speak with Trina, I'll get Geo to sit down with you on that particular road."

Ed Purcell: "Yeah, I spoke with him, but I mean I know he only has just so much money in his budget to do these things and that's why I mentioned to him it should be prioritized- "

Councilman Wooten: "Well, even some stone blend or something like that."

Ed Purcell: "Yeah. Something so it would, you know, cut back on the sand flowing out of the road."

Councilman Dunleavy: "They are private roads? Who owns those roads, do you know?"

Ed Purcell: "Actually, no one. It was deeded to the town back in the '50's but the town didn't accept it. So I don't know if anyone is paying taxes on the road. You know, it's one of those grey areas."

(Inaudible comment)

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Bob Kozakiewicz: "Bob Kozakiewicz, 431 Griffing Avenue. On Tyte Drive, incidentally in 2004 there was a resolution by this board accepting a number of roadways- "

Councilman Wooten: "Not this board."

Bob Kozakiewicz: "Well, by the town board accepting a number of roadways as public roads and Tyte Drive was one of the enumerated roads."

Councilman Dunleavy: "That we accepted."

Councilwoman Blass: "That we accepted it."

Bob Kozakiewicz: "Technically it is a public road at this point in time. And the resolution was provided to me from Sue Beale (phonetic) over at the highway department. So she's conversant with it and so just to aid in the discussion with the highway superintendent."

Councilman Dunleavy: "Okay, thank you."

Councilwoman Blass: "That does make a difference, the pattern."

Ed Purcell: "I didn't know that (inaudible). Thank you."

Councilwoman Blass: "Thank you. Anything else? No. Anybody else have a comment? Okay. The meeting is adjourned."

Councilman Wooten: "Cinco de Mayo."

Meeting adjourned: 3:38 p.m.