

Minutes of a Regular Board Hearing held by the Town Board of the Town of Riverhead held in the Town Hall, Riverhead, New York on Tuesday, May 29, 1990 at 7:30 p.m.

Present: Joseph F. Janoski, Supervisor
John Lombardi, Councilman
Victor Prusinowski, Councilman
James Stark, Councilman

Also Present: Patricia Moore, Town Attorney
Irene J. Pendzick, Town Clerk

Absent: Denise Civiletti, Councilwoman

Supervisor Janoski called the meeting to order at 8:00 p.m. and the Pledge of Allegiance was recited.

Supervisor Janoski, "Let the record show that the hour of 8:05 has arrived. The Town Clerk will please read the Notice of Public Hearing."

PUBLIC HEARING - 8:00 p.m.

I have affidavits of publishing and posting for a public hearing to be heard at Riverhead Town Hall on Tuesday, May 29, 1990 at 8:00 p.m. to hear all interested persons who wish to be heard regarding: **Alternate sites for Catholic Charities to locate a community residence for retarded adults.**

Petition

37 Residents requesting that the 5th & 6th sites listed be removed as possible alternate sites due to the following reasons:

- 1). There is already a residence for mentally disabled located at 160 Middle Road.
- 2). There are no sidewalks and Middle Road has become a by-pass due to traffic congestion on Route 58.
- 3). Concentration of 2 or 3 residences for retarded adults eliminates concept of community living.

Supervisor Janoski, "Thank you. The purpose of the hearing as has been stated, is to illicit public comment on possible and that's the key word, possible alternate locations. This is a list of locations which the Town Board has compiled. Actually members of the staff have done that work. Residences that have been suggested to us as possible alternatives. The Town Board is not recommending these at this particular point in time. And

those who are interested as to the possibility of the town taking a position of recommending one of these locations as alternate choice. I will recognize anyone who wishes to be heard. Somebody has to go first. Richard, why don't you go first."

Richard Carey, Middle Road, "Before I start, I'd like to make a suggestion to you gentlemen. That by the fact that there is so much traffic on Middle Road, I would suggest that we get east from Roanoke east to the old Niestead Farm, we get some double lines put in there. Traffic lines in there. There are no traffic lines in there at all. I don't assume we're going to put more mecata on. I just assume it's a finished product now."

Supervisor Janoski, "I believe Charlie does have some work on Middle Road scheduled. Yes. And I know that Roanoke is also going to get a resurfacing also. At least a portion of it north of the Hospital. But we will mention that to him."

Richard Carey, "It's dangerous without the double lines along there because it's quite curved as you all know and something should be done about it. The petition that the Town Clerk read to you was part of my efforts. I would like to specifically note that the first two properties she mentioned are marked and identified as 168 Middle Road. That's a box number and 168A which is the property in the rear of that 168. I haven't much to add other than what is in the petition. I would say that it was rather interesting going around talking to my neighbors about it. They were aware of the Hilton Court location which was the Catholic Charity property that they are trying to put in down there. A lot of them couldn't understand why there was a need for these alternate sites simply by the fact that, we gather from the newspaper and other information that Catholic Charity made their mind up and that's where they're going to put their house and that's it. So that was a concern as to why we were listing these alternate sites. There's also natural concern as was mentioned in that petition about the concentration of homes for retarded adults and I think several of them made the simple remark that we folks up there in that area of Middle Road are doing our share now and we shouldn't be burdened with more with such the same facilities. I do believe that if there was more information to the community with regard to the screening program and the controls that exist in the operation of these retarded adult homes, it might be helpful to people. I imagine some of those people that do run those houses would be interested in either writing some material for the newspapers and or speaking to groups in the community so there would be more knowledge about it. I understand they go through quite a careful screening program before they admit these patients into these homes. I didn't make any mention of the real estate values and the possibility of them being depressed. I think that is a factor and I think that there would be some depression in real estate prices because of a concentration of these homes but it's rather difficult to make much comparison because there's rather few sales in real estate around these days. Practically none.

I'm sure the people in the community are all aware that these homes are a tax burden because most all of them are tax exempt. And as I gather, the only ones to my knowledge, there are only a very few that are rented. Practically all are owned by these organizations that are running them. So that is a burden to us. There is a list published by the County of Suffolk that lists all of these homes as well as other type of homes in the county. The list is a little difficult to read. And I took copies of what I thought were all the homes involved in Southold Town, Riverhead, Southampton and Easthampton and I'm not sure I am quite correct on all these figures because you do find some places listed in a group of Brookhaven homes or in with a group further west but I think I'm fairly accurate. I think we're kind of getting to be favored sons about this thing. I counted that Riverhead has ten to eleven of these homes for these retarded adults. And by ten to eleven I mean there's one on Northside Avenue in Wading River and I don't know if that's in the Town of Riverhead or not. Do you know Joe if it is?"

Supervisor Janoski, "Yes it is."

Richard Carey, "So there's eleven."

Supervisor Janoski, "I believe it's been closed down now."

Richard Carey, "It doesn't show here."

Supervisor Janoski, "Father Fagan or Msgr. Fagan had advised me that it was such a problem that they've gotten out of that business."

Richard Carey, "I could only find Easthampton has three. Southold I could find had seven. These are all homes with nine, ten or eleven people in them. They're not called Nursing Homes. These are all of these homes for retarded adults. Southampton had nine which two were in Flanders. So those two are obvious off the tax rolls for our school district which represents about 60% of our taxes anyway. Approximately."

Supervisor Janoski, "Thank you. I always like to have that point brought forward."

Richard Carey, "So if you compare the population and I'm not sure of my figures but it seems very obvious to me that Southampton Town has a much larger population than we do when you Westhampton, Hampton Bays and Southampton Village. It must be quite a bit larger."

Supervisor Janoski, "I believe the population of Southampton is double of ours. It's about 44 or 50 thousand people."

Richard Carey, "So that we shouldn't be getting an awful lot more in proportion to our total population than Southampton. Southold has less than we do I believe."

Supervisor Janoski, "Southold has about 20,000 in that area."

Richard Carey, "So it's a little bit below us. And I think Easthampton is somewhere in the same area."

Supervisor Janoski, "About 16 to 18 thousand."

Richard Carey, "Easthampton, I could only find three. I might be wrong on those figures. I'll admit that. But I certainly take the action that we request in our petition. Thank you very much."

Supervisor Janoski, "Dick, you're a long standing member of the community that gets involved in many issues. I'd like to ask you a question concerning the Padi-Van law in the position by the State of New York which overrides the determination of the people of any particular town as far as zoning. That whatever rules and regulations that we put into effect regarding the use of property that you and I must adhere to, that the State of New York in this instance, can override that completely. Have you any thoughts on that?"

Richard Carey, "No. I was aware of the fact that law was in effect and I'm aware that they can establish these residences even though we might have local laws not having group type staying in homes. But I know that law is in effect. No, I haven't got anything to say other than that it's very difficult to deal with it when they can walk right in and walk right over the top of us. But I do believe that, I talked to one of the people who are running some of these homes and I found that he seemed to be very responsive to the community's feelings about running these homes in this community and that he's very conscious of that and indicated to me that if he could be of any help. That was when I mentioned the fact that maybe the people would like to know more about the controls that are there. So I feel he's quite conscious of the community and the community attitude. But I still think something ought to be done out here whereby the other towns participate to a greater extent than ourselves in these homes because we seem to be getting far too many."

Supervisor Janoski, "And that list of course doesn't include facilities such as the Riverhead Resort Motel which is the housing situation."

Richard Carey, "No. They're on the list but I didn't count them."

Supervisor Janoski, "Are they. Well, those are also facilities which place an additional burden on the community. Madonna Heights, the Swiss Motel. I'm trying to think of the School on Main Street which has not been a particular problem but yet it's another facility for the use of people with disabilities. Mary Haven is on Main Street."

Richard Carey, "There's quite a few. The only ones I counted were those that were functioning under the licensing agency of the Office of Mental Health rather than the Social Services, Department of Health and the rest of them. I just picked up those that were in that mental health field."

Town Clerk Pendzick, "Dick, do you think I could have a copy of your list. I've been trying to get one for the file?"

Richard Carey, "Well, if you go in the Supervisor's Office, he's got the whole file in there. I only have part of it and I would suggest Joe, that you might have someone go through the entire file and see how many I might have missed that I didn't make copies of. It isn't going to take that long."

Supervisor Janoski, "No it isn't. It's so unlikely that you missed anything Dick. I've known you for many years."

Richard Carey, "Well, I might have missed some papers that were hidden. Thank you for the compliment. Thank you very much."

Supervisor Janoski, "Thank you Richard. Is there anyone else present who wishes to address the Board on the matter of these possible alternate locations? It would be a shame to throw this party and not have anybody come. Yes, Otto. It has to be a public record."

Otto Wittmeir, Aqueboque, "I guess I'm more interested to find out what happens after this meeting. Let's say there isn't much more discussion. What is the next step?"

Supervisor Janoski, "Well, the purpose of the hearing as you know, is to consider possible other alternative locations that we will indeed do that and see if there is any consensus of opinion as to an alternate that we might suggest. Recognizing that one we make that recommendation, that's it. There's no recourse. That's the end of the line. Also, we have this additional problem that Catholic Charities has indicated that they don't want to be involved in this process any longer. And of course the Town Board has determined that we will seek legal relief to this forty day period. That of course, is key to anything that we might do. But the Town Board will consider the locations. I think it would be a good idea if we started to think of one or two as possible alternatives that we actually go and visit the site and see what the surroundings are like. And I think we.... They fooled me once, shame on you. Fool me twice, shame on me. I think it becomes our business to actually knock on people's doors to make sure they are aware that this is an alternative that's being suggested. Because as I said, once we make that recommendation, that's the end of it. There's no further discussion."

Otto Wittmeir, "Didn't the lawyer for Catholic Charities the night we were in this room, at the end, kind of tell Pat Moore that this option was there for the town to make an alternate site selection?"

Supervisor Janoski, "That's why we are going through the process. However, recent correspondence has indicated from Catholic Charities that they have taken a much firmer position on the first location."

Otto Wittmeir, "So all the things that were brought up about the home possibly being too small for 13 adults, the streets being a little too unsafe for people to walk on, no street lighting and all that stuff, that doesn't really count in this discussion."

Supervisor Janoski, "I can't answer for Catholic Charities. All I can tell you is what you already know. I am disappointed by the position that they've taken. Especially since the Commissioner has taken the position that he would be happy to allow us to go through the process. If they were to asceed to it and to have them take the hard position of; now they don't want to, is a little bit disappointing which forces us to seek the legal remedy. But we will continue with the process and the consideration of these sites. I don't know. I have copies of the law as to whether if another suggested location might surface after tonight's hearing, if we can consider that. I'm not quite sure. I'm sure we can but I don't know what the process is on it. The Padi-Van Law is one that's put in place (How do I want to say this.) that really doesn't offer too much to the community but really is an overriding factor giving very little latitude to the community."

Otto Wittmeir, "Well, it's a little ambiguous. I mean that stuff they talk about saturation. How do you define saturation when there's a home half a mile away. And I don't want to be redundant of all these things we brought up but we feel this question should be considered. Why are they being so adamant? Does this mean that they're possibly afraid that if they do take an alternate site from the town that all future sites are going to be met with a lot more resistance?"

Supervisor Janoski, "Well, obviously from the front page story in Newsday last week....."

Otto Wittmeir, "Well, they've had quite a bit of coverage about homes."

Supervisor Janoski, "...that this seems to be an issue not only in Riverhead but across the broad spectrum of Long Island. And one thought occurs to me as I consider these problems, is I would love to take a survey of officials (let's just put it that way) to see how many of those officials who are involved in overriding local zoning have this kind of facility in their

neighborhood. It's a question that occurs to me that should be asked."

Otto Wittmeir, "Well, as residents, I guess we feel that we're residents in good standing. We've done everything we're supposed to do as far as the town is concerned and then we get this thing dropped in there without any say. I don't know what would have happened if we had our say and lost. At least we would have been satisfied to have our say. It's kind of an insult to be a taxpayer and have this happen. Thank you."

Supervisor Janoski, "Thank you Otto. Is there anyone else present wishing to address the Town Board on the matter of the suggested alternative locations? Yes ma'am."

Linda Barnett, Aquebogue, "One of the questions that I had tonight is that it seems that we're proceeding along and trying to come up with alternate sites. But does anyone here from the Town Board know what the eminent closing date is on this home that they are proceeding with? The closing might be tomorrow."

Supervisor Janoski, "It certainly could be and this could be an exercise in futility. But I think that we have to as part of a good faith effort, try to follow what the Padi-Van Law outlines as far as what we can do and I think that puts us in a better position with regard to the legal action that we're taking. That in good faith, we are acting. We are acting under the mandates of the provisions of the Padi-Van Law. Luckily, in my office with Catholic Charities there were other people who heard that interchange which will also become very important as we seek the legal remedy. That certain questions were asked and certain answers were given. But I think that we have to proceed which is the decision that the Town Board has made."

Linda Barnett, "I'd like to ask you a question Pat. In regard to this Padi-Van Law and the position that we're in right now and that that time period passed by and we didn't respond. In other words, the town is talking about taking legal action. Under what grounds would that be?"

Town Attorney Moore, "I am in the process of drafting some things right now. But primarily it's that the process was not, the spirit of the law was not followed. That the legislative intent is relatively clear on why the process, why the notice provision was put in there. The way this came to a head has not been in the spirit of the way the law was drafted. So that's one of the issues."

Supervisor Janoski, "That's probably the issue. Linda, could you just twist the microphone over so that we pick up what we're saying here. Actually the other one is probably the more important one. That's the one that records. Just turn it towards you. We have our own up here. You have, I'm sure, gone through the Padi-Van Law. I think all of us have become experts

in what it says and what the provisions are. And clearly was a certain belief that I had put as far as the questions that I asked and the answers that I got and what was going to take place subsequent to the meeting. And as it turned out, while the notification of the community did take place by Catholic Charities, it took place on the 39th day of the 40 day period which certainly is not the spirit of the law that Pat is referring to. As far as what I was referring to before as the questions that I asked and the responses that I got in my office. Luckily I had other people besides myself in there who heard questions being asked and heard the responses and the assurances that were given to me as far as what actions Catholic Charities would take in the neighborhood. And that I think is the crux of our position and what the spirit of the law is as far as notification. I mistakenly put some trust perhaps where I shouldn't have. It puts me in a very precarious position of maybe having made a decision, well I made a decision, that was not the right one. I should have reacted to them as I would have any business. You take everything they say with a grain of salt and make sure that you check on it. And unfortunately, I didn't do that."

Linda Barnett, "So in other words, the fact that on the 39th day is when the notification first happened, that exactly wasn't in the spirit. And the fact that the notification was only to possibly two neighbors in the entire town."

Supervisor Janoski, "That's my understanding. That there were only two neighbors."

Linda Barnett, "Is there any way that you can find out about how they're proceeding and the closing and what's going on?"

Town Attorney Moore, "I've contacted Bookmiller Real Estate but the holidays... I called Thursday and Friday and I wasn't able to get through."

Linda Barnett, "I see. And as far as these alternate sites that were given here as possible alternates, the Town Board hasn't reviewed any of them yet right? You haven't looked at any of them yet right?"

Supervisor Janoski, "Not really. We've seen photographs and we have a general knowledge of the areas that are there. We have not made, at least I haven't on site."

Linda Barnett, "Okay. Because I couldn't really respond on that basically because you can't make heads of tails of them when some of them go east and west, north and south. It just didn't make any sense."

Supervisor Janoski, "I understand there were some errors but that's the way they were given to us. Now, some of these locations I think many of us ride by them every day or at least a

few times a week so that we're really familiar with them. But I think we really have to, it becomes a possibility that we are going to agree on making a recommendation, I think we're going to have to do the actual on site."

Linda Barnett, "But what happened here as far as the public notice is wonderful. This is the kind of thing that would be nice to see all the time. In other words, it would have been nice to see that public notice about Hilton Court."

Supervisor Janoski, "Yes. Well, that is of course, what will happen in the future. As a matter of fact, I discussed today with somebody the idea that I have suggested as an amendment to the Padi-Van Law. That of posting a piece of property. But I asked the question today; can the Town of Riverhead put that requirement in? The answer that I was given was yet we can and perhaps we should consider doing that ourselves. If there is a proposal for a group home in the community, that there be a requirement as with a change of zone or special permit, variance or whatever, that the property be posted so that the neighbors are notified by that posting of what is being proposed. If someone in your neighborhood wants a variance to build a deck, they are required to put a notice on the property."

Linda Barnett, "And certainly doesn't have the kind of impact this does. So why didn't this have some type of a notice? I agree. Thank you."

Supervisor Janoski, "Thank you. Is there anyone else present wishing to address the Board?"

Richard Carey, "When you're all through, I'd like to come back again."

Supervisor Janoski, "Okay. You've got the floor."

Richard Carey, "The expert that I talked with indicated to me that it was the responsibility of you, the Town Board to notify the people and not Catholic Charities. Is that correct?"

Supervisor Janoski, "I'm not disputing that."

Richard Carey, "That's what he told me. I didn't know if he was correct or not. The thing that bothers me about the fact that you listed (I believe) eight locations, seven or eight. And in my mind, you're opening up Pandora's box. Because suddenly, maybe Catholic Charities is not interested in any of these sites, but suddenly the feeling is to prompt some of these other organizations to put a few more out here. And I can understand why they would. And by the fact that you listed them, it seems to me that you made some partial consent that why, unless this hearing said no to certain ones, that they're all available. I think you're kind of walking yourself down a pretty thin road here."

Supervisor Janoski, "I understand what you're saying Dick. But certainly the intent here is to try to identify possible locations that the Town Board might consider. This is part of that process of illiciting public comment on these possible locations."

Richard Carey, "Excuse me for interrupting you. The Town Board doesn't make the decisions. The people that want to operate these homes, they're making the decision. What can the Town Board do to stop them?"

Supervisor Janoski, "These locations were obviously suggested by people who are in the business of moving real estate."

Richard Carey, "Yes. I'm sure they'd be very happy to sell the home."

Supervisor Janoski, "But any organization who is in search of a location would visit those very same people any how."

Richard Carey, "You might be right but they wouldn't see it in print. It might be around in the street but we wouldn't see it in print. It bothers me that the fact...."

Councilman Prusinowski, "Dick, actually this all goes back to a very simple thing. State representatives passed this law. It was a very clever law to do the path of least resistance and they put the overwhelming burden on the Town Board. I read the Padi-Van Law and to defend Joe, I've got to say that all it says is that they will notify the Chief Executive Officer of the town. It does not say then the town shall blah, blah. They also "c.c." everybody else in the world. Okay. Mike Caracciolo, Alphonse D'Amato, blah blah. The point is... Let me tell you something. The fact is they come into the town. Thirty-nine days later they go up to the neighbors and say this is what we're going to do. When you want to put something in place and you don't want a lot of static about it, you do the path of least resistance. This law is a very cleverly written law so that this organization can go into communities. If you're reading in Newsday, they had the same thing in Dix Hills and Huntington and Nassau. And one of the State Senators in Nassau is trying to amend the law because he feels they're running short of beds in the actual state facility. So it's a very cleverly written law and again, the Town Boards have the overwhelming responsibility and it's easy to point fingers."

Supervisor Janoski, "Now that Vic has opened up that door, I might as well walk through it because if you follow it back far enough, you will find that the State of New York which ran facilities for disabled people and was financially responsible for the operation of those facilities discovered that they didn't have to expend so many funds if they went into this neighborhood housing idea, community relocation or mainstreaming or whatever

they want to call it. So that they would relieve themselves of a financial burden but thrust upon the local governments actually a law which we can't really react too strongly. We can work as far as suggesting an alternative which as you point out is very difficult. You can try to make a case that you're oversaturated. I'm not aware of any case which has been won on those grounds in court. So that we are really in a position of having no authority over the use of lands and the property. We take the heat on the local level and the state once again, washes its hands of responsibility."

Richard Carey, "The State of New York does that quite often in many other areas as well we know."

Supervisor Janoski, "They certainly do."

Richard Carey, "Thank you."

Supervisor Janoski, "Thank you Richard. Any further comment. Okay."

Michael Pressler, Hilton Court, "I live on Hilton Court adjacent to this property. It sounds like this is going to be a losing battle. What other alternatives do we have? Personally I'm speaking for myself. I'm not objecting to this idea. I'm objecting to the fact that we weren't notified and the number of people. If you put half that number of people in that house, I could live with that personally. And I'm speaking out of place. I'm speaking for myself. If that's a solution for them to reduce the number of people, then it's welcome by me. Because I don't see how we're going to be able to beat this rap. How can the town compensate the people in that immediate area? The roads, the sewers caving in. The utility is caving in in that area. The circle is too big to begin with, too small. How can the town help us out to compensate us for having to put up with this."

Supervisor Janoski, "Those problems which you list are problems we have become aware of as a result of this discussion and the town is holding a bond on the infrastructure of the roads and the underground utilities that you mention. We will follow that course of action with regard to the condition of the roads, etc. As far as compensation, there is no provision of anyway that we can reduce your taxes or offer any other course. Now, you have a recourse this June if this thing goes through to seek relief from the Board of Assessment Review in making the case that in fact what Richard has brought up as a subject that your private value because of the existence of this home in your neighborhood has been reduced and you should not be assessed. The Town Board can not make that determination. This is a separate Board that is kept clear of the Town Board. That's one possibility but we have no way of just doing that."

Michael Pressler, "The deeds in that community that were distributed through assigning the property and so forth call for

a two car garage. Do we have any legal recourse as to holding the developer from selling this house if they plan on turning this two car garage into a two bedroom. Right now I don't have a garage so I don't have much to say. If I can decrease eleven people down to five, I'll build a garage. I don't need it. I can't afford it."

Supervisor Janoski, "Any provisions of zoning and building to a certain extent...."

Michael Pressley, "I got a hold of my landlord, the property owner."

Supervisor Janoski, "Are you talking about Mr. Militello? Mr. Militello created some very interested covenants and restrictions which I believe are no longer enforced now that he is selling the last homes. Is that correct?"

Unidentified Woman, "Yes. They state that once the last home in that subdivision is sold is that the covenants and restrictions are null and void. And in addition, it's stated in the covenants and restrictions that at any time he may change them."

Supervisor Janoski, "So what he was doing by these covenants and restrictions was protecting his interest, his equity and of course the ability to sell the homes. But once those homes were sold, the provision is that they are no longer in effect. Interesting."

Michael Pressler, "He's a very smart man."

Supervisor Janoski, "Well, I guess that's why he's in Florida."

Michael Pressley, "That's right. Thank you."

Supervisor Janoski, "Thank you. Is there anyone else wishing to address the Town Board on this matter? That being the case and without objection. I declare this hearing to be closed. Thank you all very much for coming. We will proceed with this to the best of our ability."

There being no further business on motion or vote the meeting adjourned at 8:40 p.m.

IJP:nm ..



Irene J. Pendzick
Town Clerk