

Minutes of a Regular Board Meeting held by the Town Board of the Town of Riverhead held in the Town Hall, Riverhead, New York on Tuesday, August 1, 1989 at 7:30 p.m.

Present: Joseph F. Janoski, Supervisor
John Lombardi, Councilman
Louis Boschetti, Councilman
Robert Pike, Councilman
Denise Civiletti, Councilwoman

Also Present: Patricia Moore, Town Attorney
Nadia Moore, Deputy Town Clerk

Supervisor Janoski called the meeting to order at 7:30 p.m. and the Pledge of Allegiance was recited .

Councilman Pike offered the following resolution which was seconded by Councilman Boschetti.

RESOLVED, that the Minutes of Regular Board Meeting held on July 5, 1989 are hereby dispensed and approved without objection.

The vote, Boschetti, yes, Pike, yes, Civiletti, yes, Lombardi, yes, Janoski, yes.

The resolution was thereupon duly declared adopted.

Councilman Pike offered the following resolution which was seconded by Councilman Boschetti.

RESOLVED, that the Minutes of Regular Board Meeting held on July 18, 1989 are hereby dispensed and approved without objection.

The vote, Boschetti, yes, Pike, yes, Civiletti, abstain, Lombardi, yes, Janoski, yes.

The resolution was thereupon duly declared adopted.

Supervisor Janoski, "Reports please."

REPORTS

Draft Environmental Impact Statement-Village Square. Filed

Sewer District-Discharge Monitoring Report for 6/89. Filed

Building Department-Month of July, 1989. Filed

Planning Board-Determines that minor subdivision of Edith Halvorsen is an unlisted action; Approves preliminary plat of Thistle Downs, final plat of Crystal Pine Estates; Approves unmerger of Mary Lichas; and approves sketch for A. Aliperti. Filed

Supervisor Janoski, "Thank you. Applications."

Petition-33 Residents of Parkview Mobile Home Park to continue Riverhead Fire Department for fire protection. Filed

Site Plan-Blackman Riverhead Corp. (resubmission) Filed

Supervisor Janoski, "Thank you. Correspondence."

CORRESPONDENCE

Suffolk County Dept. of Planning, 7/24/89-Advising if no objections re: Southold Local Law #13-1989 received by 8/2/89 it will be assumed there are none. Filed

Donald Denis, 7/21/89-Letter to Garrett Construction re: lack of performance at Stotsky Park. Filed

Dorothy Meehan, 7/20/89-Complimenting Water District Crew and Superintendent for solution to problem. Filed

H2M, 7/18/89-Advising that Grimes Contracting is entitled to payment for work completed at Mesta Vista job. Filed

Malcolm Pirnie, 7/14/89-Submitting scope of work and cost for sewer connection at Cross River development. Filed

Sharon Berzella, 7/18/89-Requesting water extension be made to Josephine Drive. Filed

E.B.C. Co. 7/18/89-Advising project at Stotsky Park has not progressed due to non-performance of prime contractor. Filed

Blackman-Riverhead Corp., 7/18/89-Advising of proliferation of litter generated by deli on West Main Street and asking that situation be rectified. Filed

Southold Town, 7/21/89-Notice of public hearing re: Local Law re: zoning. Filed

Southampton Town, 7/13/89-Notice of Public Hearings of Local Law on zoning and Chapter 69, Sec. 69-15. Filed

Herman & Helen Traystman, 7/22/89-Protesting Board decision re: removal of Harold Smith and replacement of East End Arts Council. Filed

John Martin, 7/26/89-Advising he finds Special Study Report "Wastewater Treatment Improvement Program" satisfactory and that improvements in performance are consistent with his expectations. Filed

Barbara Schriever, Edward Olvera, Frank Strolisky-Submitting letter expressing opinion that Vail-Leavitt Corp. should retain deed and management and be designated lead agency. Filed

Stephen Punda, Jr., 7/28/89-Submitting resignation from Highway Department. Filed

William Roberts, 7/28/89-Letter of confirmation of agreement reached at 7/27/89 work session re: public hearing banning vehicles on beaches. Filed

William Roberts, 8/1/89-Letter urging the Town Board to vote "yes" on resolution #565 to hold a public hearing regarding the amendment to the Town Code pertaining to vehicles on the beach. Filed

Supervisor Janoski, "Thank you. The time for the first scheduled public hearing has not yet arrived. The Unfinished Business before the Town Board is listed on the agenda and its status in the process and where it is is adequately explained. I would open the meeting to comment on any subject at all. Yes. Florence."

Florence Sykora, Riverhead, "Let's see if I can get this to work."

(PLAYS A TAPE RECORDING OF THE CAR RACES BEING HELD AT THE RIVERHEAD RACEWAY).

Florence Sykora, "That's from our backyard, our picnic table. Now, we have another year that's here and I said a couple of months ago that I would say what happened in the next few months. Well, it hasn't changed. It's still the same. There are times, maybe yes, it might be a little quiet but no. Not like this past Saturday and a couple of Saturdays in a row. It's been terrible. And I can't understand, there were people in the park that took readings and never heard anything about it. There is a \$12,000 sound meter that was bought. Has it been used? You were supposed to have a consultant come down to help you with this. Has there been anything done about it? Now, we're asking for this to be lowered, the sound to be lowered. Is that so much to ask for? In the last three years we've been doing that and we just can't seem to be getting together on that situation. You call up the Police Department and at the Town Board meeting last month or this last meeting we had here at the Town Board; the lawyer did say that Local Law #4 was enforceable. Well, at the Police Department they don't know anything about it. They don't know that they're supposed to enforce this law. They don't even know what the law means. So who has the knowledge of telling the Police Department that they can enforce this law? Mr. Janoski aren't you the head of the town? Aren't you the head of the Police Department? Aren't you to inform them that there is such a law that can be enforced when somebody calls up on the telephone? There was nobody monitoring the raceway to see how much the noise was. And the man that maybe knows how to use it, this meter, was coming on at 12 o'clock at night. The races are over then. So what good is it?"

Patricia Moore, Town Attorney, "Mrs. Sykora, for your information, we are, this Saturday, going to be on the racetrack

because the raceway ordinance allows us to monitor the cars for the muffler noise. However, we have to on to private property to measure those mufflers. With that in mind, we have to get the consent of the property owner. We have gotten that consent and this Saturday we will be on the racetrack and we will be measuring the cars for the muffler noise to make sure that the mufflers meet the standards forth in the Vehicle & Traffic Law and our own code."

Florence Sykora, "Does it state in the law that you have to go on their property?"

Patricia Moore, "It's the only common way of doing it. How do you measure a car....?"

Florence Sykora, "But does it state in the law, Local Law #4? Does it state that you have to go on their property?"

Supervisor Janoski, "The law that is used Mrs. Sykora, is a very simple one and it's the motor vehicle law concerning mufflers. One car at a distance of 50 feet."

Florence Sykora, "You can take that from a fence at 50 feet."

Supervisor Janoski, "One car?"

Florence Sykora, "Yes you can get that."

Patricia Moore, "Mrs. Sykora, we have to make sure that whatever we take as far as a reading can be sustained in court. Quite honestly, I don't think that our trying to measure one car across the fence with other cars in the background would suffice. So what we are trying to do is enforce the code as best we can and we getting the cooperation of the owner."

Florence Sykora, "You may be getting the cooperation of the owner but that's not saying that he knows this is going to happen and he's going to have a muffler on that car. So you're not going to hear the sound. So then where does that get you. And then the following week the races go on and it still makes this noise. Then what do you do about it?"

Supervisor Janoski, "Well, as you earlier in your presentation you mentioned the consultant. And his charge was to develop an ordinance which would deal with decibel levels at the property line. The total amount of noise coming across the property line of the raceway. That is something that we can deal with more easily and which his direction is to write something that will withstand the court test. So that's what is being developed. But we are making this attempt to deal with the law the way it's written now which is very difficult to enforce because it is Motor Vehicle & Traffic Law. It is meant for passenger every day road vehicles and it really deals with a

single vehicle and the muffler system on that vehicle at a distance of 50 feet which is what I have tried to explain to you over the months that it is practical and not really intended for the control of a raceway. It's really meant to enforce...."

Florence Sykora, "But your.... Sorry Mr. Janoski. But your rules and regulations are controlling the raceway. So then why can not this be controlled? The noise can be controlled. Why can't we reach a mediation? We tried that. Let's forget it. You'll never get it to be consented to. But you still, and I think the whole problem is, we need a noise ordinance in this town. We needed it for an awful long time."

Supervisor Janoski, "That in effect, is what is being worked on with specifics to the raceway."

Florence Sykora, "That could have been done a long time ago Mr. Janoski. That could have been done a long time ago. It didn't have the raceway to do it. You could have had a noise ordinance in the town and not even having the raceway there."

Supervisor Janoski, "Well Florence, I guess you weren't here the first two times that a noise ordinance was proposed in this town."

Florence Sykora, "Yes we were. There was nothing done about it. There was nothing done about it and I think it's a shame. It is a shame that we people that come here, I know there is other problems and they're bigger than what this problem is but to us it is big in the area where we are. When a child can't get to sleep and starts crying around 10 or 11 o'clock at night because they can't go to sleep, then I think something should be done about it. If you call your Police Department up and say; look, I'm trying to get this child to go to sleep and I can't get because there's so much noise and you can't do anything about it. I think it's a little bit unfair."

Supervisor Janoski, "I think every member of the Board understands your position Florence. And what else can I say is that the Town Board hired a consultant. They were out to do field work as far as the law."

Florence Sykora, "I still say, Mr. Janoski, with the sound meter you have now, you don't have to do individually individually. You can do it from the fence line."

Supervisor Janoski, "I'm glad that that's your opinion Florence because the law is perfectly clear. A vehicle at a distance of 50 feet. It is Motor Vehicle & Traffic Law dealing with exhaust systems on passenger vehicles."

Florence Sykora, "Like I said, they could have mufflers on the cars while you're testing it and that's not going to do any good. It's not going to do any good. The surprise is not there."

I'm sorry. And that's what is going to have these people on their guard and they're going to put a muffler on the car. But the following week or the week after or whenever, they're going to go back again to make the noise. I wish, Mr. Janoski, that you would really come to our backyard some Saturday night. I really do. And sit on our porch. I think you'd learn something. You'd learn something from that and maybe you'd learn something from the people in that area."

Supervisor Janoski, "Florence, I hear the raceway from Polish Town. I hear it from Main Street and I know what you're talking about. Now, I'm going to say this one more time. We have hired a consultant to develop for us a law dealing with the raceway and noise based on their expertise to set a decibel level that can be applied to the property line at which we can use our equipment operated by trained police officers which will stand the test of a court case."

Florence Sykora, "Well then I will say this. If you have that local law there and it's supposed to be enforced and you call up the Police Department and they tell you it can not be enforced, then what good is the law? What good is that law?"

Supervisor Janoski, "Florence, that's what I'm saying to you. It is impractical to enforce."

Florence Sykora, "It says it. Your lawyer told you at the meeting that that law can be enforced."

Patricia Moore, "I wish to be corrected. You or your husband asked whether our machinery, if testing a car...."

Florence Sykora, "No, no. You better get your minutes out."

Supervisor Janoski, "Basically Florence, we're going to say the same thing over and over again. The Board understands that you want a law. We are working on the development of a law."

Florence Sykora, "Is it going to take you another ten years? It better now. This is getting ridiculous now. This has gone from 1976."

Supervisor Janoski, "Franny. Fran, did you wish to be recognized. Ok. Who is that Bernie back there?"

Fran Davis, Middle Road, "Not so far away from the race-track myself. I don't mind it. Everybody should have a little something they enjoy. But when people come into the Town of Riverhead which it's getting terrible, take this away, that away. Did Mr. Stark tell you that the racetrack was there when you bought? You have no complaint."

Supervisor Janoski, "Fran, talk to us. Don't talk to the audience."

Fran Davis, "Then this party has no complaint. Why do they keep coming in? Day after day they want to take everything away from everybody. Thank you."

Supervisor Janoski, "George, I'm going to save you. Alice."

Alice Graff, Riverhead, "Apparently the biggest problem is with the Glenwood people. I would suggest that Mr. Stark build a wall to help these people. I think he is the one that should do that."

Joseph Sykora, Riverhead, "Back in 1985 we came up with a petition with 650 names on it and it wasn't just Glenwood Village. It was Millbrook Park, Foxwood, Rolling Park, Pulaski, around Pulaski Street, Polish Town. So it is not just the people from Glenwood Park. And there was a noise ordinance. I handed this town from every town, we went around and picked up noise ordinances. I gave all this information to the Town Clerk. Nobody ever went down to the Town Clerk and took these noise ordinances out of the office to see them. Nobody went down to see the impact statement from New York State. I handed all this material to Ms. Civiletti to write out a noise ordinance. I haven't heard anything about it. You made up a noise ordinance which was put into the Planning Department. Nobody knew it was in the Planning Department until I pressed the issue. Then we found out it was hidden in the Planning Department. Then the Planning Department turns around and says we don't have nothing to do with a noise ordinance. Now this has been going on since 1985."

Supervisor Janoski, "Joe, before that."

Joseph Sykora, "Well I'm saying when we handed in the petition."

Supervisor Janoski, "Joe, you're telling the story as a very interesting one and I appreciate it. I saw copies of those laws from the various towns. So obviously I got my hands on them. The Planning Department has everything to do with the enactment of a noise ordinance as that we don't hide things there. We refer things there because they must review it and make their recommendation to the Town Board. So you're coloring it a little different than it actually was."

Joseph Sykora, "I don't think I am."

Supervisor Janoski, "Well, we're entitled to this difference of observation I'm sure."

Joseph Sykora, "And the Planning Board said they shouldn't have anything to do with the noise ordinance when we were at that meeting."

Supervisor Janoski, "I find that hard to believe in that they know that it is the Planning Board's responsibility to review changes in the code and make recommendations."

Joseph Sykora, "Well, when we were at that work session here that's what they said. And I would like to know the reading that consultant and Sergeant Grossman got when they were in our park that night."

Supervisor Janoski, "I'm sure that could be made available to you."

Joseph Sykora, "Because I know that I got a reading that night of 92."

Supervisor Janoski, "His was lower than that. I know that. George."

George Schmelzer, Calverton, "Noise ordinance. I won't suggest what we need a noise ordinance for but you have an idea. This racetrack started in 1950 and nobody was around there. I helped Johnnie Rambo and Johnnie Evans with the bulldozer. And now these people move in from all parts of the country and the city or whatever and want to tell us what to do. That thing has been there first. Why don't you let them buy the d--- racetrack. That's the American way. Don't come in and try to run everybody else out. And I passed the last time when the race was running. It was like a purr. They must have cut that noise out quite a bit because there was no more roaring. I went by there and it was just a purr. So something must be going all right. And it's only about 24 nights a year. What the h--- are they complaining about? God d---. They're like a bunch of old fogies."

Supervisor Janoski, "George, please try to talk about the issue."

George Schmelzer, "I wonder where they get these little kids from. They scream. I guess they don't know their biology. Maybe they should study biology a little more. You ought to live in West Calverton by Grumman and hear yourself talk. If they could hear themselves talk it would be better."

Supervisor Janoski, "George, try not to be personal and address the issue."

George Schmelzer, "I didn't mention anyone's name."

Supervisor Janoski, "Make your statement George."

George Schmelzer, "We don't need more ordinance. We need less. If you spend your time getting rid of some ordinances, I think people would be happier here in the town. Because when one ordinance piles on another, life becomes unbearable. That's probably why they moved from where they came from. What would Grumman do with a noise ordinance? They'd probably leave this place and go down to Georgia or Texas. Maybe that's why they're thinking about it? So that's the way it is. I think you should forget about these people. They moved in, they knew it was there and they're just kicking about it. Just as the same for people who moved next to an airport. Maybe they bought it a little cheaper and then say you got to close the airport or cut the plane noise down even though they have danger of crashing. They don't care as long as they get lower noise. That's about it."

Supervisor Janoski, "Thank you George. Well, let's just say that the record should show that it is, and I will open this up to public comment later, 7:57 p.m. and the Deputy Town Clerk will please read the notice of public hearing."

PUBLIC HEARING - 7:45 p.m.

I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall on Tuesday, August 1, 1989 at 7:45 p.m. to hear all interested persons who wish to be heard regarding: **Appeal of Recommendation of the C.A.C. to deny a building permit and subsequent c.o. to Joseph Ballin for a deck located at 614 Founders Path, Baiting Hollow.**

Patricia Moore, "Just for the record a brief history of what has occurred. In June of 1988, the Building Department issued a notice of violation for the construction of this deck without a permit. In addition, Mr. Ballin did not have C.A.C. approval. He then went to the C.A.C. and made an application for a permit. The C.A.C. made an inspection and recommended that the deck be removed and relocated away from the bluff. Mr. Ballin is before this Board to appeal the C.A.C. recommendation. Mr. Ballin is here with his representative, Mr. Schell."

Supervisor Janoski, "George do you have anything to add from the C.A.C."

George Bartunek, C.A.C., "Would he like to speak first?"

Supervisor Janoski, (addressing Mr. Ballin) "Do you want to speak first. Always better to go last but be my guest."

George Bartunek, "I'm the Chairman of the Conservation Advisory Council. As the Town Attorney has stated, the deck in question was constructed without application to the Building Department for a building permit. And subsequently the C.A.C. inspected the property and found that it went into the bluff area, the crest of the bluff as I will explain a little bit

later. What I would like to show for the record is that Mr. Ballin should have realized that he should have applied to the C.A.C. for recommendation to be submitted to the Building Department. Another thing that I would like to point out to the Town Board and what should be considered here is not what is existing there. But since this does not have a building permit, since we did not issue a building permit, what we should be considering here is would the Town Board approve this deck if it was just start out from scratch. If nothing was there and if somebody came in, applied for a permit for a deck in this location, would the Town Board approve such a structure. If you take a look at the little booklet that I put together for you, the first thing I would like to do is have you locate the site of the property. I don't know if any of the Town Board members have been up to the site or not. If you haven't, I have some pictures that were taken (I believe) last summer. Mr. Ballin owns the property on Founder's Path which is on the first page of the little set of papers that I handed to you. On lot #14 which is on the eastern end of Founder's Path on soundfront property. The second map that I handed out to you is a survey that was done I believe by Young & Young for Mr. Ballin which indicates the approximate location of his house, a swimming pool located to the east of his house and the location of the hot tub which is immediately northwest of the existing house. The third map that I handed to you is a copy from the proposed coastal management maps which shows the location the best I could estimate of the deck. You can see that the deck is indicated in the upper right hand corner of the map. I would like to point out that the deck is not located in the erosion hazard area. If anything is located anywhere near the erosion hazard area, it would be the upper right hand corner of the deck which would be the northern most corner of the deck located near the erosion hazard area. What I would like to point out is that all of the property owners on Founder's Path, every-one of the residences have applied to the C.A.C. for one reason or another. I went back into the files and Mr. Striano who owns a house on building lot 7, Mr. Creter on building lot 9, Mr. Dixon on building lot 11, Mr. Carey who lives to the west of Mr. Ballin on lot #13. Every one of them have applied to the C.A.C. in order to get their building permit and have complied with the recommendations of the C.A.C. to maintain some type of a buffer from the crest of the bluff. I have on file here, all the applications, copies of the applications that were made in the past. And from the records here from 1983 on is when the C.A.C. began adopting the 100 foot setback from the bluff. Before that there was some applications by Mr. Creter for example; in 1981 where he built his house, a pool, inground swimming pool and cabana. His was the first house, I believe, on Founder's Path and we were not strict with the 100 foot setback and not as specific as we are being now. If you take a look at the rest of the file that I have for Mr. Ballin, in 1986 when Mr. Ballin built his house, as it turned out, he did not C.A.C. approval for the construction of his foundation. I don't know what the history was of the discovery of the foundation being put in without C.A.C. approval or C.A.C. recommendation but that was the case at that time also.

And a letter was written to that fact on January 23, 1986 addressed to Mr. Ballin. The recommendations which unfortunately did not get into the letter of approval from one of the members of the C.A.C. and the date is February 23rd, 1986. And I read from the inspector's recommendation, the name was Mr. Kemnitzer and he stated; on the inspection date, February 23, 1986, the foundation was already poured which appears to be a violation on the part of the owner or an oversight in the building permit approval process. Please ascertain appropriate reason and advise the C.A.C. The location of the house is acceptable. The land to the north of the rear setback line on the plot plan should remain undisturbed. This will allow for a buffer zone of approximately 60 between the bluff and any grading, clearing, backfilling or other land alteration. What I'm trying to show you is that at that time, we were already concerned about the potential for damage to the crest of the bluff. Mr. Kemnitzer addressed that in his inspection report. Subsequently, March 6th, the Chairman at that time, Mr. Baier wrote his letter of approval to Mr. Richard Smith granting approval from the C.A.C. the construction of the house. Subsequently, on September 24th or prior to September 24th of the 1987, Mr. Ballin applied for a permit to build a swimming pool to the east of his house. At that time, the C.A.C. inspected the site and made specific recommendations about the erection of the swimming pool. And one of the conditions that was written into the letter that there will be no additional clearing done north of the existing lawn area or the cliff area. This, unfortunately, was not a very well worded letter that I wrote on September 24, 1987 but it does imply that there should be some portion of any construction or clearing or pruning of vegetation on the crest of the bluff north of the existing lawn area of Mr. Ballin's property. Subsequently, the rest of it is history that the deck was discovered constructed by somebody in the Building Department. And the C.A.C. has to this point, recommended that the deck be removed to another location on the property. If you would take a look at the photos that I provided for you, the four photographs, I'll explain what they are. If you have any questions of what you're looking at. The first photograph that you have is looking towards the northwest from Mr. Ballin's, I think it was the deck of his house showing the lawn area and the deck in question with a hot tub. Photograph #2 is looking north from the lawn area. And what you'll notice is not only is there a question of the propriety of the deck here. But also there seems to be a satellite antenna to the north of the deck also and you can see that in that particular photo also. Please notice the pruned vegetation in that photograph. Photograph #3 is looking toward the northwest. And what you can see in this photograph is that in comparison of the pruned vegetation on Mr. Ballin's property compared to the adjacent property which is to the west which is Mr. Carey's property. Photograph #4 is on the other side of Mr. Ballin's property looking toward the northeast and you have again the comparison of the vegetation which has been pruned on Mr. Ballin's property and vegetation to the east of his property. What we are recommending; in my opinion there are three possible ways that we can go with this. The

C.A.C. has historically been very conciliatory. We have made 85 applications that come before the C.A.C. annually, maybe more than that. And out of all the applications that the C.A.C. have handled over the years, there have only been three times when I have had to make or the previous chairman has had to make a presentation before the Town Board. This makes the fourth appeal to the Town Board of C.A.C. recommendations. In my opinion, what the Town Board might want to do is overturn the C.A.C. recommendation. That certainly one possibility. If that action is taken, the Town Board does feel that it is proper to overturn the C.A.C. recommendations, that we're being too stringent, we're not being unreasonable, I think that possibility would make a mockery of what other property owners have had to do adjacent to Mr. Ballin on Founder's Path. I think it also, unfortunately, would make a mockery of what the nine people, the nine citizens do on the C.A.C. The other possibility the Town Board could follow is they could insist that Mr. Ballin remove the deck further back on his property as was the original C.A.C. recommendation. There is a third possibility which is maybe an option that Mr. Ballin may agree to and possibly the C.A.C. members might agree to. I would like to discuss it with them because I only came up with this idea just yesterday as a matter of fact. I have had not time to discuss this with the C.A.C. membership. They might be a little distressed that I do bring this and present this to the Town Board but I think it's an appropriate possibility. Because this is a very minor structure, I mean it is not a structure which takes up or occupies the entire crest of the bluff area. It measures something like 17 feet by 17 feet. It's a very small structure. If Mr. Ballin were willing to agree to allow the vegetation which is what our primary concern was here, which is the pruning of the vegetation. If you prune the vegetation, some of those plants, trees are going to die. You're going to kill the roots and they're not going to stabilize the crest of the bluff as much as if you had a mature type of vegetation at the top of the crest of the bluff. If Mr. Ballin were to agree to allow the vegetation to reinstate itself, to grow to its mature stage again, and by the way, there was some question as to when that was pruned. We haven't been able to decide when the vegetation was cut at all. It seems to be a mystery. We would like to see the antenna removed. The antenna, we believe, is in the erosion hazard area. So I think the antenna should be removed from the area, put on another piece of Mr. Ballin's property which I don't think would be too much of a problem and allow the vegetation to restore itself. And if Mr. Ballin were to agree that if stairs, if he or subsequent property owners were ever to consider putting stairs or access down to the beach area, that that deck would serve as the structure would come off of. In other words, you wouldn't have another structure being built else where on the property which would be another point of access onto the beach. This is something else that we should consider. But before the Town Board takes any action unless they want to overturn the C.A.C. recommendations, that's okay. If they want to approve the C.A.C. recommendations that the structure be totally removed. With the third option I would have to go back to the

membership of the C.A.C. to see what they had to say on the third option. Thank you very much. Do you have any questions before I..."

Councilman Lombardi, "George, are you saying that everybody should use that one set of stairs? Is that what you're saying?"

George Bartunek, "No. I'm just saying that if Mr. Ballin or a property owner that might buy the house from Mr. Ballin some time in the future would like to build stairs down onto the beach area, that that is a possibility. That we could use that as the beginning point for the construction of stairs down on the beach."

Councilman Lombardi, "Okay. I misunderstood you."

Councilman Pike, "George, I had a couple of questions. You weren't sure of the date earlier. This on the back says 9/21/88. Would that be the time the photos were taken?"

George Bartunek, "Yes, that's right."

Councilman Pike, "Secondly, what's the nature of the face of the bluff? Do we have an open escarpment here or is it vegetated?"

George Bartunek, "I believe that this is not very well stabilized. And Mr. Ballin, you could ask that question of Mr. Ballin. I don't remember. I don't remember it being that well stable."

Councilman Pike, "Thirdly, we routinely approve deck stairs going over the face of the bluff?"

George Bartunek, "Well, we can't deny... Nobody is going to deny a person access on to their beach property. That's written into the proposed coastal management code."

Councilman Pike, "The real question is what sort of accessory uses like elevating systems and in this case, a hot tub in a series of decks of something like that."

George Bartunek, "Well that could be incorporated. If stairs were to go down to the beach eventually, that that would be used as the deck of the stairs leading to the beach."

Councilman Pike, "Thanks George."

Councilman Boschetti, "George, on the inspection report of February 23rd, do you know if the applicant received a copy of this?"

George Bartunek, "No. Unfortunately that wasn't written into the letter of approval."

Councilman Boschetti, "Okay. The letter of approval regarding the pool; it's addressed to Joter Industries. Do you know what that connection is?"

George Bartunek, "That's Mr. Ballin's company. I don't know exactly what the connection is between Mr. Ballin and Joter industries but I believe that's his company."

Councilman Boschetti, "And that would have been the applicant for the pool?"

George Bartunek, "For that particular project it was."

Councilman Boschetti, "Thank you."

Supervisor Janoski, "Alice just wait a minute. Now the applicant gets his turn but we'll get you."

Joseph Ballin, Founder's Path, "Good evening gentlemen, ladies. Having not heard George's proposal to me, I would respectfully like to hold my presentation at this time. So I'll have some time to speak to George and find out what he really has in mind."

Supervisor Janoski, "Well, that's fine Mr. Ballin but this is the public hearing at which you make your case concerning your appeal. If I were you, I would make your case. And if it can be negotiated...."

Joseph Ballin, "I was trying to save everybody some time and maybe we could negotiate."

Supervisor Janoski, "If you wanted to take a moment and go out to the hall, I'll recognize Alice, and you can negotiate away an agreement, God Bless you. Okay. Alice."

Alice Graff, Riverhead, "If find Mr. Ballin in blatant disregard for town regulations. Why should I decide to go to the Building Department and build a deck or house in any area let alone in a sensitive area. And why should any person bother with town regulations. The fact that it is already built, appears that permission should be given automatically. If this is the policy of things and I've heard a few of these little things. Well, they already have it built so we should let them do it. After all it would cost extra money. I think it's not fair to the people who do follow the rules and regulations. Thank you."

Supervisor Janoski, "Thank you. Is there anyone else present wishing to address the Board on the matter of this appeal? Well, I think what we'll do is recess this public hearing and move on to the next one and then we can go back and reopen this a little later. Let the record show that the hour of 8:18 has arrived and the Deputy Town Clerk will please read the notice of public hearing."

7:45 PUBLIC HEARING RECESSED AT 8:18

PUBLIC HEARING - 7:55 p.m.

I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall on Tuesday, August 1, 1989 at 7:55 p.m. to hear all interested persons wishing to be heard regarding: **Amendment to Section 48-2 of the Town Code/Vehicles on the Beach.**

Patricia Moore, Town Attorney, "The reason we are proposing this change to the beach ordinance is that.... Well, first of all, the change is that motor vehicles will not be permitted on the beaches during the hours or before the hours of 6 p.m. and 9 a.m. The reason for this is that the way the ordinance was written, it did not allow cars to be operated on the beaches which meant that before 9 a.m. a car would go on to the beach, park on the beach and leave it parked until after 6 p.m. when the car could be operated again. That was never the intent of the ordinance. And what we are trying to do now is eliminate the word operated. In the motor vehicle law, operating a motor vehicle has a specific definition and a parked motor vehicle is not operated. For that reason we are suggesting the change and we hope that from now on or once the Board approves this, that cars will not go on to the beach, park on the beach and again drive off when the hour arrives that they can once again operate their car on the beaches. Does that make sense?"

Supervisor Janoski, "It made sense to me."

Patricia Moore, "But it didn't make sense to anyone else. All right. Let's try this again. The ordinance now reads that no motor vehicles may be operated on the beaches between May 15th and September 15th both inclusive in each year except between the hours of 6 p.m. and 9 a.m. So if a car goes on the beach after 6 p.m. and gets off the beach before 9 a.m. when the beach opens up, then the car is permitted. What has been happening is some people have interpreted this ordinance or there is a loophole in this ordinance that the operation of a motor vehicle does not include a car that is parked on the beach. The police were having trouble enforcing the ordinance as it was written because a car that is parked on the beach can be driving, for operating a motor vehicle on the beaches. We're trying to correct that. We are not going to allow any cars driven on the beach period. You're not going to be allowed to park on the beach. No, no, no. You didn't let me finish."

(AUDIENCE DISRUPTS SPEAKER)

Patricia Moore, "You didn't let finish. Please do not interrupt me. Cars will not be permitted to operate on the beach, to park on the beach except after 6 p.m. and before 9 a.m. That's the same thing that was in effect presently."

Supervisor Janoski, "Can I try now. Now, obviously the intent of the ordinance was to prohibit four wheel drive vehicles

from being on the beach between the hours of after 9 p.m. to 6 a.m. Do I have that right? No. Reverse it. What we have found is that the law says operate on the beach. And if you park a vehicle on the beach, it is not being operated. So the law as presently written can not be enforced because a parked vehicle is not being operated. So the intent here is to correct that technicality. It is not intended to prohibit four wheel drive vehicles from the beach. Now I looked at the notice of public hearing and I read it and I could see where you could get the idea that what we're doing here tonight is prohibiting four wheel drive vehicles from the beach. That's not the intent. Yes. If we're ready to make comments on what is being proposed."

Eileen Ruskovitch, Fanning Boulevard, "If I understand it correctly, as I understand the way the law reads right now is that we are allowed to go down to the beach prior to 9 a.m. in the morning so long as we stayed parked on the beach and not move up and down the beach and come off the access roads at 6 p.m. at night. That was my understanding."

Patricia Moore, "That was not the intent of the law. However, that is the way it could be interpreted."

Eileen Ruskovitch, "I'm not questioning the intent of the law. I'm saying that as people who go to the beach regularly, it does not matter to us that whether on Sunday we pack our things at 8:30 and go down there before 9 and come back after 6. Or whether we go down at 11 and come back after 7. We're perfectly happy with that. But now we feel that everything is being taken away from us. That we are not going to be allowed to go down there. And my question to you is what is the objection to having parked vehicles on the beach? We're not driving up and down. We're not interfering with people bathing. We're two miles down the road. Who is objecting and what is the objection?"

Supervisor Janoski, "That's why we're having the public hearing."

Eileen Ruskovitch, "I'm sorry you wrote your law wrong and it came out wrong. But we're willing to accept the way it is and we felt that it was kind of cutting back on our vehicles going to the beach."

Patricia Moore, "There have been complaints of the upper land property owners that the cars, and I've been to the beach when this has occurred, are parked above the high water mark just so the car is left out of the way. But in fact it's parked on what has been traditionally private property."

Eileen Ruskovitch, "So is there a designation as to where the high water mark is? The way I understand it and I have been on the water all my life, I own property. I mean the high water mark was right up to our fence. And as far as I know, the Sound comes up that high. Now, if someone would like to designate to

us the mean high water mark, we'd certainly be more than willing to stay below the mean high water mark."

Councilwoman Civiletti, "May I ask a question ma'am? Just to clarify what you're saying for the record. You are opposed to any regulation that would take your right to have your vehicle parked on the beach between 9 a.m. and 6 p.m.? I want to clarify that."

Eileen Ruskovitch, "No I'm not. I'm perfectly happy with going down there prior to 9 a.m., not moving my vehicle until 6 p.m. at night."

Councilwoman Civiletti, "That's what I'm asking you and I want that to be clear for the record. You would like to be able to continue bring your vehicle there before 9 a.m., park it on the beach, leave it parked there and leave after 6 when the regulation is lifted? So you're opposed to this change?"

Eileen Ruskovitch, "Yes I am. And I feel that anything less is depriving us of rights that we have as people who work five days a week, six days a week in Riverhead who make this town run and come Sunday, we'd like something to do."

Supervisor Janoski, "Larry."

Larry Taylor, Calverton, "I'd like to ask you one question on this ordinance law. You're talking about an ordinance law of a beach. Are we talking about the town beach, what the town owns? Or are we talking about the beach continuously all the way down the Sound?"

Supervisor Janoski, "The continuous beach. That which is public."

Larry Taylor, "Who has the jurisdiction of that beach?"

Supervisor Janoski, "The State of New York."

Larry Taylor, "How does the town get the jurisdiction over it?"

Supervisor Janoski, "We have the ability to do that."

Larry Taylor, "How do you get the ability to run below the high tide mark? Below the high tide mark?"

Supervisor Janoski, "Yes. We don't have any ability above the high tide mark."

Larry Taylor, "Then let me ask you a question. If you have the ability to run this, if a police officer comes down there on

patrol, would he have the authority to issue a ticket on that beach?"

Supervisor Janoski, "Yes."

Larry Taylor, "Then my suggestion would be; why can't we open up the beaches to traffic where it's not bothering anybody and put a police patrol on it. And if they're doing something wrong, let's issue a ticket. Why are you going to deprive everybody in the Town of Riverhead of 3, 4, 5, 6 miles of beach that is not going to be used?"

Supervisor Janoski, "Larry, the purpose of this hearing is to find out what the people think about the proposal. And no member of the Board that I'm aware of, has taken a position in favor or opposition to this. This is your opportunity to make your argument to convince us that the proposal is not a good one and that's what you're doing."

Larry Taylor, "That's right. I can't see letting all the beach go to waste. I mean it's there where we pay taxes. People pay taxes. Why can't we use it? Why deny it to the people? In the summer time is really the only time you can go swimming when it's warm. In the winter time you can't go swimming. It's froze. So I don't see why we can't open it up. I don't understand what the problem is."

Supervisor Janoski, "As you recognize, Larry, the town government responds to people who come forward with various ideas. I think this originated in the fact that vehicles were really being parking on somebody's property overnight. That was the origin of the problem. Ladies and gentlemen, some of you, this is your first time at a Town Board meeting. This is a public hearing. If you want to be recognized, you raise your hand and you'll come up where Larry is. Please don't shout out. And as far as the violations, we can find out where the complaints were. I'm just trying to explain to you where this came from, how we got here so that you understand. This is an opportunity for you to tell us how you feel about it. And the Town Board will make a judgment based on the testimony and other information that we have. Larry."

Larry Taylor, "Well, my two opinions; I think we should open the beaches and use them. Not let them go to waste. That's what we pay taxes for. Thank you."

Supervisor Janoski, "Thank you Larry. Did you want to be recognized? Yes sir."

Paul Smith, Sound Avenue, "I oppose your jurisdiction against the beach."

Supervisor Janoski, "Thank you Paul. Chief, Councilwoman Civiletti has a question that she would like to pose to you."

Councilwoman Civiletti, "I would like to know whether your officers have had any problems enforcing the ordinance that prohibits operation on the beach between 9 a.m. and 6 p.m. because of this (as Pat described it) loophole? Being that if the car is shut off and they stay still, they're not operating."

Chief Grattan, "My only problem has been that there is confusion in the law. Some officers were telling people they could not go on the beach. Some officers were interpreting it to mean that they could go on the beach as long as the vehicle is parked. Obviously we can't have the law enforced both ways. One officer saying it's all right and the next officer ticketing them which is one of the reasons we need the clarification on which way the town wants the law enforced. Does it want it enforced for operation or does it want it enforced prohibiting the vehicle from being on the beach. I have also voiced my concerns that if the vehicle is parked on private property, I don't know if we can enforce the law as proposed because we would have no jurisdiction if the vehicle is parked on private property unless the property owner makes a complaint of trespassing."

Councilwoman Civiletti, "Well, that's the case also though if it's being operated on private property."

Chief Grattan, "That's true. But if we go down the beach and even if they're not allowed to be there, if the vehicle is on private property, we have a problem. We also have a problem with people who own property on the beach and have their own vehicles on the beach which gives us problems distinguishing a vehicle that's a visitor from a vehicle that's a property owner."

Councilwoman Civiletti, "Well, those things might be problems but they're not really germane to this hearing."

Chief Grattan, "The problem is on this particular instance, I think one problem grows out of the other. The original problem is an interpretation for the Police Department to enforce it uniformly."

Councilwoman Civiletti, "Okay. But not a question of not being able to enforce the prohibition between those hours because some of this technical loophole."

Chief Grattan, "Some officers were not enforcing it because and some were and that's causing a problem."

Councilwoman Civiletti, "Thanks."

Supervisor Janoski, "Alice."

Alice Graff, Riverhead, "I still maintain that if New York State were to put the high water mark, that would be a very difficult situation to prove and whether the property owner that is above the bluff could prove that he owns where that is. I think that would be a very difficult thing to do."

Supervisor Janoski, "And Alice, are you in favor or opposed?"

Alice Graff, "I'm in favor of leaving it as is."

Supervisor Janoski, "Franny, did you already speak during this public hearing? No."

Fran Davis, Calverton, "Usually I don't gripe. Here we go again. Taking something away Joe."

Supervisor Janoski, "That's what it was; on the raceway."

Fran Davis, "Same thing again. I don't see why you can't go on the beach and park there and I'm in favor of leaving it that way. Thank you."

Supervisor Janoski, "George."

George Schmelzer, Calverton, "I was just wondering if the D.E.C. called the Sound beach wetlands?"

Supervisor Janoski, "That's an inside joke George."

George Schmelzer, "If you park along the Peconic River, they say you might be killing some mosquito lobby or something. But the next thing you'll find out is that they're calling the Sound scenic, recreational of Long Island Sound. Then nobody will go on the beach. Leave people alone. Let people stake out their high water mark far enough down. So I suggest also, don't restrict people from putting houses next to the bluff. Tell them to put a screw jack under the house as the horizontal one. So that as the bluff wears down, they can screw the house back farther as the bank wears away. I saw a house one time that was starting to tip over. If they had that screw jack there they could jack it back as they needed."

Supervisor Janoski, "Thank you George. George's comments are always worth listening to. Is there anyone else wishing to address the Town Board on the matter of this proposal for an amendment to Chapter 48-2? Henry."

Henry Pfeiffer, Wading River, "I listen to these people speak and what they want is access to the beach apparently for the purpose that the beach is there for; swimming, fishing, basking in the sun and the other thing. The concern was whether or not number one, imposing themselves upon private property. That which is above the mean high water mark. And if they park below that, aren't they obstructing the access to other people who wish to go by there? I have been down to Daytona Beach and a few other beaches in Florida where the permission to drive and park vehicles is permitted and I see that it is an intrusion upon those people who wish to use the beaches for the purpose that the beaches are there for; swimming, fishing, basking in the sun,

etc. And it seems to me that the area that we're speaking of should be approachable by vehicles on the common roads to a point where it is walkable to the areas of the beach. Consequently, if they're able to utilize the beaches, have access to the beach without bringing the vehicles down there, perhaps this is what should be permitted."

Supervisor Janoski, "Thank you Henry. Tell me something. The V.F.W. must be empty. Even Judge Manning is here tonight. Is there anyone else wishing to address the Town Board on this proposed amendment? Judge."

Judge Manning, "I was just going to be very content to sit here tonight, support my friends that enjoy using the beaches as I do. I wasn't going to say a word. You introduced the fact that the V.F.W. is empty and Judge Manning is here. Of course I enjoy the V.F.W. It's a great place to be."

Supervisor Janoski, "It sure is."

Judge Manning, "I enjoy our beaches probably as much as I enjoy the V.F.W. and I wish that you could not only... Let me rephrase that. I oppose the fact that you have the restriction limiting from 9 a.m. to 6 p.m. period. That I also oppose. As a citizen and taxpayer, I wish we could all use the Peconic beaches, the town beaches as it was intended by the good Lord. Thank you."

Supervisor Janoski, "Anybody else? Way in the back. Mr. Conklin."

Bill Conklin, Daly Drive, "We're carrying the load. It's too bad that we can't enjoy our environment. It's a lot of bologna. I don't know what else to tell you."

Supervisor Janoski, "You're opposed to it."

Bill Conklin, "You're d--- right I'm opposed to it."

Supervisor Janoski, "Okay. That's what I want to get on the record."

David Zabrowski, "I'm opposed to the change. I've been with many of these people here. I've been down to the beach and cleaning the beach up. And people that own the beach or say they own the beach, don't do nothing until there's like a storm or something and all of a sudden they want the town to clean it up. Meanwhile, we clean it up. So I'm opposed against it."

Supervisor Janoski, "Let me just say that some people are intimidated by the microphone. Basically what the purpose of this hearing is to find out whether you're in favor or opposed to it and perhaps a reason why. It doesn't have to be eloquent but I have to find out for the record whether you're for or against

it. Is there any other comment? I see a hand. That's not permitted."

Kevin Schaefer, Riverhead, "I believe the beaches should be left alone and left open to the public as they were intended by the Lord. Let them drive on them as long as they're not invading the public and the people on the beaches rights and disturbing the people on the beach that are bathing and stuff. Let them drive where they want."

Supervisor Janoski, "You're opposed to it. Commander, don't you want to put anything on the record?"

Bill Fink, Calverton, "I'm opposed to the operation. I think the beaches should be opened for the convenience. We do have children. I have children myself. The only way you can teach them, you can't sit a fishing pole out in front of people that are swimming and cast a rod. Where do you go from there. I'm also opposed about the other thing about the racetrack."

Supervisor Janoski, "Try to limit it to the beaches."

Bill Fink, "I do think the beaches should be open definitely. Thank you."

Supervisor Janoski, "Is there anyone else present wishing to address the Town Board on this matter? You want to."

Joseph Ballin, Calverton, "I'm a beach owner. I think I'm a beach owner. I have a piece of property on the beach and I'm in favor of opening the property to everyone."

Supervisor Janoski, "That was a good move. Is there anyone else wishing to address the Town Board on this proposed change? That being the question and without objection, I declare the hearing to be closed."

7:55 PUBLIC HEARING CLOSED AT 8:45

Councilman Pike, "If you thought that one was interesting, you ought to be here on September 5th. We're going to get to the resolutions later. There will apparently be a hearing if it's passed tonight, on the subject of restrictions of motor vehicle operations on the beaches. This is being done, as best I understand the logic, an accommodation to some people who weren't available in the winter. So we're going to have it in the summer for some of the summer residents who have a different thought and they would have an opportunity to be heard. But basically it says and I want you to be aware of this that we're going to have a hearing on the proposition that quote, no motor vehicle shall be operated on the Sound beach at any time. The reason I mentioned it is because there are going to be a lot of people who asked for that particular hearing. And if you're opposed to that proposition, you ought to be there. And that's why I mentioned it."

Supervisor Janoski, "August 15th. The decision to call the public hearing will be voted on. Yes. August 15th. It is the next Town Board meeting two weeks from this evening. Why don't we go into the increase and improvement to the Riverhead Water District and we'll come back to the recessed meeting. Let the record show that the hour of 8:46 p.m. has arrived. The Deputy Town Clerk will please read the notice of public hearing."

PUBLIC HEARING - 8:05 p.m.

I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall on Tuesday, August 1, 1989 at 8:05 p.m. to hear all interested persons who wish to be heard regarding: Increase and Improvement to the Riverhead Water District Facilities.

(See Water District Minutes)

8:05 PUBLIC HEARING CLOSED AT 8:49

Supervisor Janoski, "Let us go back to the appeal of Mr. John Ballin regarding the Conversation Advisory Council denial. That hearing was recessed and it is now open."

7:45 PUBLIC HEARING REOPENED

Joseph Ballin, "Mr. Supervisor, members of the Town Board. First of all, my name is Joe Ballin for the record. I'd like to inform you that the compromise that George presented to us was acceptable except that George could not make the commitment tonight. He wants two weeks. Therefore, I would like to go through my opposing points and indulge your time. At the outset, this deck was built with the assumption that the setback was correct. It was built by Middle Road Plantations of Riverhead, Charlie McKay. It was based on two concrete monuments, one on each side of the property which McKay assumed was the setback line. There was no indigenous growth removed from this deck site. There was no environmental damage done whatsoever by the deck. In fact, extensive plantings, landscaping improvements have been planted as well as stabilizing the total area. Indigenous growth has flourished on the north side of the backyard. It has not been pruned since construction of that house. And we believe that the pruning was done by the builders we hired who filed for these permits. It is thick and it is healthy today and I welcome anyone to come and inspect what has been planted there. The bluff area immediate to this property has been voluntarily planted this last Spring by us with over 800 white pine seedlings and we plan to establish every year, from the forestry, this procedure of planting seedlings along the face of the bluff. In fact, we more than anyone else, more than George, more than the C.A.A. have more to lose if there is an erosion problem. We in

fact, put up our money. We built a home. We plan on living there. No way are we looking to hurt or erode the area. When we built the house, we applied for all the proper permits. When we built the pool, we applied for the permits, hired local contractors to do the work. People with waterfront properties such as myself, buy these (obviously) for location and view. We pay more taxes. It is for that reason that we feel that we should be able to enjoy these views. As long as we do not break any of the rules or disturb any of the environmental factors. In this case, the placement of the deck does afford a magnificent panoramic view of the Sound and of Connecticut which we feel, since we pay the increase in taxes, should be entitled to as taxpayers. We have not done any damage. The C.A.C. is being over zealous in their insistence this deck should not be granted a permit. And I believe tonight George indicated, by offering us the compromise, he feels that it is not in the hazard zone which he made mention of. It's not in the erosion hazard zone. That it's a minor construction. And hopefully his people will go along with him and we'll be able to reach this on a reasonable compromise. Further more, George's C.A.C. was created to be an advisory committee. We admit that technically, there was a mistake made by McKay by not filing for a permit and I had a problem coming out with a permit. But any case, the structure which is erected minuscule as compared to elaborate systems of decks and staircases that cover the bluffs at the condo project of Fox Hill. Where was George when this structure was being erected. No one complained or even heard from him then."

Supervisor Janoski, "Mr. Ballin, I would advise you to make your case without zings."

Joseph Ballin, "All right. Let me just close up here. The removal and replacement of the deck at this time would cause some damage to the area around the location. The north point of the platform is still 70 feet set back from the bluffs. A much greater distance than any similar structure that has been built in the area along the Sound. This Board is asked to consider the minor nature of this request. Moving the deck would cause a large expense to us without any difference to the environmental concerns. We acted in good faith and conformed to all codes and ordinances with the building of our home except for the inadvertent mistake concerning the deck. We respectfully ask the Board to allow us to keep it at its present location and to over turn the recommendations of the C.A.C."

Patricia Moore, "Mr. Ballin, I have a question. You mentioned that the deck is located 70 feet from the bluff. Do you have anything? I was there and I don't quite measure that. So do you have anything you could show me?"

Joseph Ballin, "We have the architect's drawing. This is the 100 foot setback and the deck is 30. Do you have this drawing. I think we supplied one to George. If this is the 100 foot setback and the deck is 30 feet, you take 30 from 100...."

Patricia Moore, "You're talking from the bottom of the bluff or the top of the bluff?"

Joseph Ballin, "The bluff, the bluff line. The setback is 100 feet. The deck is approximately 27 feet. So if you take 30 feet from 100, it leaves 70 from the tip of the bluff to the bluff. It's a subtraction."

Patricia Moore, "You're saying to the bottom of the bluff which is the toe of the bluff."

Joseph Ballin, "Here's what I'm saying. I'm saying that they have a setback of 100 feet from the bluff, the edge of the bluff. Where ever they measure. They drew a line and said 70 feet. They say it's 70 feet back. We missed by about 20 some odd feet and the deck is 27 feet. It has to be 70 feet still from the cliff. Thirty from 100 is seventy. This is the 100 foot setback. The deck is 30 feet. That leaves 70 feet to the bluff. This is the 100 foot setback."

Patricia Moore, "I think there's just a clarification as far as what I remember seeing there. You must be talking about from the toe of the slope. Because where the deck is, is the very tip of where the bluff is. The property then slopes down. You're at the very beginning of where that slope begins."

Joseph Ballin, "The 30 degree slope maybe where it starts to slope. It goes like this."

Supervisor Janoski, "Mr. Ballin, will you please stop talking while you're not near the microphone. Did you want to repeat what you just said?"

Joseph Ballin, "I maintain that the deck is sitting back 70 feet from the cliff. Where the slope starts, there's a 30 degree drop and then it goes out and drops and goes and drops and then you have the big drop. Are you with me?"

Supervisor Janoski, "I'm with you but you keep moving away. Let me just explain to you that what you're saying is being recorded by that machine. Later on, some poor girl, it use to be this poor girl, tries to transcribe it."

Joseph Ballin, "We are 27 feet from the 100 foot setback line. Therefore, we are approximately 70 feet setback from the bluff. Does that answer it?"

Councilwoman Civiletti, "For clarification in this record. The diagram to which you're referring is a survey?"

Joseph Ballin, "A certified survey by Hawkins, Webb, Yeager Associates. This is dated 8/29/88."

Councilwoman Civiletti, "And that has been filed with the Conservation Advisory Council?"

Joseph Ballin, "This was filed with the building permit which was denied."

Councilwoman Civiletti, "Okay. So it's part of the record."

Joseph Ballin, "And the C.A.C."

Councilwoman Civiletti, "Just so because the microphone doesn't know what you're pointing to. So that if we want to, we can look back in the record. I have another question if I might. And that is; are you saying that you were unaware that no permit application had been filed by Middle Road Plantations?"

Joseph Ballin, "Here's what...."

Councilwoman Civiletti, "When the deck was being built, you believed it was being built under the benefit of a permit?"

Joseph Ballin, "Correct. Here's what happened. McKay did the whole landscaping job when the house was built. He had the whole job from top to bottom. Subsequently I found out that when he went for or applied for his permit for the hot tub and the pool, he had a problem. There was something happening. They weren't issuing permits or something. This he tells me after the fact. They were not issuing the permit. But he made it quite clear to me that he was building it within code just like he did the rest of the house and he showed me on the drawing that the blocks, and I'm pointing to this drawing now, that the blocks were there. They drew a line and the hot tub was behind the blocks. I saw it. I'm a novice. I said fine. Build it to the code. I don't want any problems. He did that. He made an error. This is not, these two blocks do not indicate the setback. They are some kind of surveyor blocks."

Councilwoman Civiletti, "So you knew that you didn't have a permit but you thought it was being...?"

Joseph Ballin, "No, no, no. I thought he had applied for a permit. He told me that there had been times where you build, permits are being held up. We missed one summer. He said let me build. I've done it before. There was something going on in the town."

Councilwoman Civiletti, "But he told you this after the fact, after he found out he didn't have it."

Joseph Ballin, "After the fact I didn't have it. When I asked him for the c.o. After he had his money, I asked him for the c.o. and he said we have a problem and that's when this all started. When they came to inspect the pool for the c.o., that's when this came about."

Councilwoman Civiletti, "Do you live here in the house?"

Joseph Ballin, "Yes."

Councilman Boschetti, "Mr. Chairman, I have some questions. Did you have to clear any vegetation at all or did McKay have to clear any vegetation at all to install the deck?"

Joseph Ballin, "No. Nothing was taken when they put this deck in. The deck is sitting on top of the land. It is sitting on top of the land. We put in 800 trees this Spring. We put in tons of plantings after the deck was put in around the house. We replaced many more. I mean many many more plants than we even took down when they built the house for the foundation."

Councilman Boschetti, "From the pictures that you submitted which are numbered 1 through 4, there appears to be vegetation on either side of the deck."

Joseph Ballin, "That was done by the original, we assume, we don't know, builder of that house."

Councilman Boschetti, "Okay. And also you made mention in your presentation that pruning had been done by someone other than yourself."

Joseph Ballin, "We assume that was the original builder. And I think George mentioned that he didn't know who did it."

Councilman Boschetti, "So if I raise the question, was vegetation removed for the installation of the deck because it appears from what we've heard thus far, that there should have been some sort of vegetation where the deck presently stands."

Joseph Ballin, "The vegetation that is there is still growing under that deck. The deck is spaced. I mean the slots in the deck, the vegetation is still growing. The deck seems like it's immersed in vegetation now. The deck looks like it's sitting in a forest right now."

Councilman Boschetti, "Yes it does."

Joseph Ballin, "The vegetation hasn't been moved. We planted more vegetation. There was never any vegetation. It isn't that they excavated to put this deck in. They more or less laid this deck on top of.... It wasn't all vegetation. You have to look at that slope if you have pictures there."

Councilman Boschetti, "I intend to visit this site since you made the invitation."

Joseph Ballin, "Okay, good. I would like you to please."

Councilman Boschetti, "But I do raise that question about the vegetation. Obviously, it either had to be pruned down or removed to get the deck in there."

Joseph Ballin, "I don't believe anything was removed."

Councilman Boschetti, "So it was cut down."

Joseph Ballin, "I will accept that."

Councilman Boschetti, "The letter that was addressed to Joter Industries, is that your company?"

Joseph Ballin, "Okay. That's who bought the house. I originally built the house and we sold it to that company which my children own. I have nothing to do with that."

Councilwoman Civiletti, "So you did build the house."

Joseph Ballin, "I built the house originally."

Councilwoman Civiletti, "Because you were saying the original builder of the house which was you."

Joseph Ballin, "Yes. I built the house. I hired a builder to build the house. Subsequently, we turned the house over to the children."

Councilman Boschetti, "So a letter addressed to Joter Industries would have been a letter you had read?"

Joseph Ballin, "What's the date of that letter?"

Councilman Boschetti, "September 24, 1987."

Joseph Ballin, "Yes."

Councilman Boschetti, "Okay. And it indicates that there shall be no additional clearing done north of the existing lawn towards the cliff area."

Joseph Ballin, "That deck, the deck in question was in already. They're talking about the pool aren't they in that letter?"

Councilman Boschetti, "Yes they are."

Joseph Ballin, "This deck was in a year before that pool."

Councilman Boschetti, "They didn't know that."

Joseph Ballin, "They had to know it. They saw it there when they came to inspect the pool."

Councilman Boschetti, "We're talking about the pool. Is the deck north of the pool?"

Joseph Ballin, "The deck was in before the pool was put in."

Councilman Boschetti, "I'm not asking that. Is the deck north of the pool?"

Joseph Ballin, "The deck is north of the pool, in prior to the pool. A year before. That's when he said that letter is confusing."

Councilman Boschetti, "Well, now I'm confused. I thought you said that the pool, the hot tub were put in together and that was the...."

Joseph Ballin, "I said that they applied for a permit for a pool and the hot tub. McKay indicated to me that he applied for a permit for the pool and the hot tub. He subsequently, obviously didn't get the permit he told me. He put in the hot tub. The following year he put in the pool. Then they came to the inspection the pool. They saw the hot tub. They went back to check to see if there was a permit for the hot tub. They found there was no permit for the hot tub."

Councilman Boschetti, "So the deck and the hot tub were put in at the same time."

Joseph Ballin, "The hot tub and the deck, exactly the same time. The pool a year later."

Patricia Moore, "The hot tub is in the deck."

Councilman Boschetti, "So why wasn't the deck part of the hot tub application?"

Joseph Ballin, "That's the way it was supposed to happen. That's the way it was supposed to happen."

Councilman Boschetti, "Why isn't Mr. McKay here?"

Joseph Ballin, "Well, I have a letter from McKay. All I have from McKay is a letter. He's out of town unfortunately. But he would be willing to come and testify. He gave me a letter which I can read to you. He told me back then after this happened, they were having trouble. There was something going on in the Building Department. They're having trouble bringing out permits. After this happened, this is what he told me."

Councilman Boschetti, "Obviously they're having trouble if he never made the application."

Joseph Ballin, "Well, that's not what he said to me."

Councilman Boschetti, "Okay. Could you please read the letter into the record?"

Joseph Ballin, "Charlie McKay gave me a letter. He said with respect to the deck and spa located on the bluff at Founder's Path, 614, Baiting Hollow; it is my professional opinion that the removal or relocation of said deck would create a greater erosion problem to the existing bluff. In addition, there has been installed approximately 800 various shore plantings on the bluffs. Therefore, I feel that the bluff's condition is in far better shape now than prior to the deck's installation. And we plan on continuing planting."

Councilwoman Civiletti, "You just said something that really intrigues me and I'm sorry but I have to ask you this. You just said that this hot tub and deck were constructed prior to the installation of the pool. So that when the C.A.C. received the application for the proposed inground pool which had not yet been built and they went down to the site and inspected the site with regard to the pool, according to this letter that they did, that this deck was already there."

Joseph Ballin, "Yes. When this deck and hot tub which is the same piece, became a problem was when they came to inspect the pool."

Councilwoman Civiletti, "After it was already built. The Building Department, not the C.A.C."

Joseph Ballin, "Correct. That's when I called up Charlie."

Councilwoman Civiletti, "Charlie McKay, Middle Road Plantations...."

Joseph Ballin, "Middle Road Plantations, he was the original guy from the inception of the landscaping, right from the raw land. He had the whole job."

Councilwoman Civiletti, "He was overseeing both the construction of the deck/hot tub and the inground pool?"

Joseph Ballin, "And all the...."

Councilwoman Civiletti, "He applied for a permit for the inground pool but not for the deck?"

Joesph Ballin, "No. He says he applied for a permit for both."

Councilwoman Civiletti, "When? When did he first apply for a permit for this deck?"

Joseph Ballin, "Back in that period."

Councilwoman Civiletti, "The Building Department, at that time, wasn't issuing permits for decks but they were doing them for pools?"

Joseph Ballin, "No. That was a year later. A year later. Your dates are confused."

Councilwoman Civiletti, "This is costing the taxpayers a lot of money. I've heard enough. I don't know about anybody else."

Supervisor Janoski, "Okay. Mr. Ballin, thank you very much. Is there anyone else present who wishes to address the Board? Charlie."

Charlie Schell, Baiting Hollow, "Good evening Mr. Supervisor and members of the Town Board. Talking about being ready to jump out of my seat and help Mr. Ballin out. I live diagonally across the street from Mr. Ballin. Mr. Ballin and I, since he's moved into the neighborhood, have become close friends and I'm here tonight on his behalf but I have to wear three hats. My first hat is that of a neighbor and someone who is concerned with his problem. My second hat is that of a builder who is familiar with the technical problems that he is having and I might be able to straighten out some of the questions that he was not able to articulate quite properly because he doesn't quite have the command of the builder's vocabulary. Number three, I also have a degree of the State University of New York in Biology. I am quite familiar with environmental issues and environmental concerns. It was my field of expertise when I was at the University and subsequently as a teacher before I became a builder. First as a neighbor and a friend. I've been at Mr. Ballin's residence many times. That deck and hot tub, it's a combination deck and hot tub. The hot tub is set in the center of the deck. As Mr. Bartunek testified, it is not a very large structure, just large enough to hold the tub and a little walk area around it. It is not, in any way, offensive, in my opinion, to the site itself or to (in fact) the neighboring properties, the adjacent properties. Or for that matter, mine across the street. The deck was built, Mr. Boschetti, with 4 by 4 posts which are easily sunk into the ground with a post hole digger and then deck girders are attached to the 4 by 4 posts, deck joists are put on top and then the decking. So vegetation does not have to be disturbed to any great extent in order to build that type of deck. And the pictures will verify the fact that the deck is set high above the actual earth, the land and that vegetation is underneath the deck. And the indigenous vegetation, primarily the types of bluff vegetation that exists all around. Poison ivy which is a form of ivy, other types of ivy, what we generally term as weeds, that's the type of stuff that grows wild. I was also the second resident in that community after Mr. Creter. And the Creter family and my family lived there long before anybody constructed any residences there for a number years, almost two years. I had occasion to look at every piece of property there in great de-

tail. People use to knock on my door and ask me to show them certain parcels of property because they couldn't find a builder. Was I familiar with this, that and other parcels. And the builder, Mr. McNulty at the time, had given me a map and said look; will you help me out. If someone wants a piece of property, send them my way. If they can't wait, do me a favor. Follow the map and show them the land. The piece of property that Mr. Ballin built on was previously owned by two teachers in Wading River who had planned to build their own home. And in the process of this planning, they had visited that property many times and started pruning and clearing an area where they thought they would eventually build. That particular pruned area is the area where Ballin now has that deck and hot tub. And that is evident in aerial photographs taken prior to Mr. Ballin's construction. Mr. Bartunek showed us those aerial photos the night we had a working session meeting with the Town Board and he acknowledged that yes indeed, there was a clearing there that was pruned long before any construction took place. I have witnessed that myself because that's the area I use to stand with people who were interested in buying land there to afford that beautiful view that he was talking about. So, in my recollection, that particular area was not pruned by Mr. Ballin or cleared by Mr. Ballin. That was done by the owners previous to Mr. Ballin. You had another question in reference to the deck. One was how that was built and one was in reference to permits. You know, this issue has come up before. I had nothing to do with Mr. Ballin house or building a deck or house or any other structure. We're just friends. I don't like to make it a habit building for people who live across the street from me. They won't leave you alone. In fact he asked me to build his house a long time ago. He said, you're going to be my neighbor and I said yes. Then I'll be your neighbor and friend but I'm not going to be your builder. It is not without precedent that a structure in anticipation of a permit and then the application is made and the subsequent inspections are made and everything is okay. In this particular case, I can make the assumption that Mr. McKay assumed that those two monuments, the line between those two monuments was the setback line. And in his estimation, constructed the deck properly and then would later on or during construction or sometime at a point, satisfy his promise to Mr. Ballin that he would obtain a building permit and subsequently a c.o. for the deck. Well, he found out that inadvertently, that guess was wrong and that's why we're here tonight because of that inadvertent mistake right from the beginning. Now, even though the deck is small, a lot of effort went into building it, especially running the plumbing and everything else for that hot tub. As a biologist, putting my hat on; whether the deck is there or whether it's moved back 8 or 10 feet from where it is, makes absolutely no difference to the environment whatsoever. The plants will know, the birds and the bees won't know. And most likely, anyone adjacent to him or anyone who visits the site, wouldn't know after the fact. It is really a minor issue. If Mr. Ballin had done this purposely only to afford a view and chose to ignore the rules and regulations and ordinances of the Town of Riverhead,

that would be a different issue. But I am in full sympathy with the situation and I'm in agreement with him to fight or to ask the Town Board to either over turn the C.A.C. recommendation. Or in this late development, to consider a compromise between the C.A.C. and Mr. Ballin's situation. Thank you."

Supervisor Janoski, "Thank you Charlie. Is there anyone else wishing to address the Town Board on the matter of this appeal? Steve."

Steve Haizlip, Calverton, "Mr. Bartunek brought up about a satellite sitting there. Well, I don't want this thing to go by without us trying to resolve the satellite issue. Now, he said the satellite was sitting in the eroded area. Now, I think when these satellites are put up, that's for television reception. Am I right? Okay. When these things are put up, I think they're put up by a company that has to use what they call, asmith and a zenith line. And that is to pick up the best reception and that's where they locate it. But now, if it's sitting on the edge or where it's sitting, how is it going to contribute to erosion? I don't think it's going to contribute to any erosion. And if there had been no erosion by now with all this rain that we've had this Spring and none occurred. I don't believe there's any going to occur. By the satellite being set there by these professional people that have to strike these lines, that have to set it up, you don't take a satellite and set it up over here or there. It has to be professional set. It should be there. I would like to highlight just briefly on what Mr. Heller ran into in Westhampton. You know what it is Joe but I still want to put it on the record. Mr. Heller applied to the town for a permit. Well, in this case here, they looked for the builder to get the permit. Well, in good faith they thought he was doing his job. But anyway, after Mr. Heller got his permit from Westhampton and put his pool in, now here comes along the D.E.C. and the C.A.C. and all these different agencies with abbreviations saying; oh my gosh. You're in wetlands and you're in bushes. You're here in this kind of bush and all kinds of fines and everything is starting to be imposed and everybody is getting up in the air. Just like the deal with the foundation. He said his foundation was poured improper. When these specifications are put in to the Town Hall here, it says what mix and what lumber they're going to use and so forth and so on. Why do people come in later to this thing and have so many agencies come down on you. Why can't you go to one agency and put a building permit in and everything is clear and these people can work without having these birds fly in later and then peck at you."

Supervisor Janoski, "Thank you Steve. Is there anyone else present wishing to address the Town Board on this appeal? That being the case and without objection, I declare the hearing closed which will become mute if there is an agreement and a favorable recommendation."

7:45 PUBLIC HEARING CLOSED AT 9:20

Supervisor Janoski, "Now, before we go to the resolutions and let me please say this very clearly and plainly, is there anyone wishing to address the Town Board on any subject? Yes sir. Not you George. We're going to save you again."

Frank Polachek, Waterview Terrace, "I would first of all, like to compliment the Riverhead Water Authority on the quality of water that's coming out of the pipes that's been installed. It's as good as New York any day. The second thing, earlier this Spring, Gary Pendzick suggested that we take a look around and see if there was any erosion or any problems with the fill and restoration done by Grimes Contracting last year when they did the digging. So we looked and we found some problems. So we wrote a letter to the Grimes organization and we have received no response in any way. So later on we wrote a second letter and still no response. So we decided maybe we should come before the Town Board and ask the Town Board to exercise their prerogative over the performance bond and maybe we'll get some action. Meanwhile we put our case in the form of a letter and I'd like to read it to you. Honorable Town Board of the Town of Riverhead, the Waterview Terrace Civic Association has contacted the Grimes Contracting Company, the contractor who laid the water pipes under the road owned by the Association during the summer of 1988. And we contacted them to request the final repairs to the surface of the roads where the original work was done. The letter was written on May 8th and forwarded through Mr. Pendzick's office to Holzmacher, McLendon and Murrell who wrote to the Grimes Contracting Company requesting they fulfill their obligation according to the terms of their contract. Our letter had a list of defective road locations included so that identification of specific problems and restoration to the roads original condition could be accomplished with a minimum time and effort on the part of the contractor. There was no response from the Grimes organization. So a second letter was sent to Mr. Pendzick on June 21st. There has been no response from Grimes Contracting up to the date of this letter. The residents of Waterview Terrace pay for all paving and maintenance on the five roads within the Terrace. When the extension of the Water District was originally proposed, the Association was assured that the roads would be restored to the same condition as before the work had started. If this is not done, the burden must be borne by the residents. Therefore, the Waterview Terrace Civic Association respectfully requests that the Riverhead Town Board does not release the bond of the Grimes Contracting Company until notified that the restoral of the roads is in the Terrace is satisfactorily completed. It is also requested that this letter be entered into the minutes of this meeting. Respectfully submitted, Frank Polachek."

Councilman Lombardi, "Gary, is Sam still here?"

Gary Pendzick, "No."

Councilman Lombardi, "Have you spoken to him? Because I happen to agree with Mr. Polachek that there has been problems up there and Gary, myself and Joe Gowell have gone up there and got a lot of this stuff straightened out. But there is a lot of minor things that have not been done and I can't understand why they can not repair these little problems. They keep dragging it on and keep dragging it on. Some places have little holes, they could patch them up and fix them up. And Gary has been doing a good job. I have to give him credit. He's been after these people. I can't understand why Grimes is not pushed or held back. I understand that he's got his money. Is that correct Gary?"

Gary Pendzick, Water Supt., "He's got his final payment."

Councilman Lombardi, "He's got his final payment. The only thing we have now on him is 12 months to repair the problems. How much longer do we have on that."

Supervisor Janoski, "Wait a minute. We're confusing things again. Gary, do you want to be recognized to speak? Would you please identify yourself."

Gary Pendzick, "This contractor has had his final payment concerning this extension which is known as 32J part A. He received a final payment, I believe, around October of last year which means that the 12 month maintenance bond began at that time and will end in October of this year. So he has several months left in it and we expect him to come back and take care of these problems. Or it's not just a question of releasing the bond. We will be able to use the money from that bond to make the repairs necessary to bring that neighborhood back up to par. There are no serious conditions but there are some asphalt problems and landscaping problems that must taken care of. We have been talking with the neighbors and the Association and with all the residents in the area. We've got a list. It's gotten a little bit bigger. There were some smaller problems that we were even unaware of pertaining to the Association itself but we will attend to them as well. Some of the work that was done was done by my crews in the process of hooking up the houses via the service installation, hooking up each house individually. Although I believe we've been keeping up with that as far as the Association is concerned. The landscaping, the grass seed and the asphalt. But we're going to stay on this until it is taken care of. Certainly before their bond is out. Thank you. I can get the name of the bonding company."

Patricia Moore, "If you would contact the bonding company and make the complaints to them."

Gary Pendzick, "I believe Sam from H2M, mentioned he was going to do that. This particular contractor has won some other

bids from us since that time and is working in the area. And that's one of the reasons why we expect them, at this point, quickly get back in. And I hadn't expected it to get this far really and I hoped that it would have been taken care of by this time but it hasn't. We're just going to have to push a little harder."

Councilwoman Civiletti, "Could you clarify something for me? We have until October to tap into that bond. After October that one year bond is gone?"

Gary Pendzick, "No. I think, I'm not clear on this with respect to whether or not we can use the monies from those bonds before that maintenance period is up. If we feel he has not maintained the agreement with respect to his maintenance bond at any time, I would ask the Town Attorney to maybe check me out on this, withdraw funds from that in order to get something done if we feel he has not done it properly. If it gets too much more lengthy in time to repair, certainly we can be justified in that."

Supervisor Janoski, "Certainly there's one thing that's clear is that the contractor does not want us to call down his bond."

Gary Pendzick, "No contractor does. Not any that wants to stay in business."

Supervisor Janoski, "So he should be made aware and he has been that there is work to be completed. And he clearly knows that the town will call down the bond if he fails to do that."

Gary Pendzick, "Thank you."

Supervisor Janoski, "Yes sir. Steve."

Steve Haizlip, "Joe, I've commented a few other times about having your Town Hall open to any citizen that wants to speak on any branch of government of this state. I'm going to commend Mr. Robert Abrams very high. He was an elected official. And whenever I write him about any problems about the laws or whatever they are, presently I'm engaged with the Selatine case and that gentleman answers me. And if he can't handle it, he will forward it to someone that does handle it and he will send me a letter that he does as such. I can't say that for the Governor's Office. I think Mr. Frye is taking all the letters and putting them in a garbage can and thinks he'll be bothering with it. So I can't say the same for him. Now, my last closing. You know, this song of Hank Williams, I love it very much. Your cheating heart will tell on you and then they will cry and cry. So let me bring to light. Mr. Russo and Mr. Romaine in the latest housing 8 section. Now, Mr. Russo, he took us for a good bundle as it was but it was on the legislature and never showed. I brought that out to Mr. LoGrande. Now I think he wants Mr. LoGrande to

try to put up a good letter and front for him to come back. If I have anything to say, that guy flew the coop a long time ago and he tore up the nest."

Supervisor Janoski, "George."

George Schmelzer, "I heard rumors that they're going to put a water main in Calverton on River Road sometime not too distance in the future. Is there any truth to that?"

Supervisor Janoski, "I'm not aware of any proposal for River Road."

George Schmelzer, "Being that you're talking about a new well. Christ that well cost.... If the farmer's irrigation wells cost half that much, we wouldn't had any farmers for the last fifty years. I don't know."

Supervisor Janoski, "I have a feeling that we go down a little deeper than a farmer does. I think this well is proposed at...."

George Schmelzer, "The guy said it's going to be shallower than they thought."

Supervisor Janoski, "What he said was that it was proposed at 500 feet but it is being considered at perhaps a little shallower depth. And there are some other appurtenances that have to be put in as far as a well that draws down the amount of gallonage that are projected here."

George Schmelzer, "Do you think they'll have any problem with the blacktopping after the hole is dug, you should have been around when they built the sewer in 1936. That was some mess. And I notice any time land is dug up and blacktopped over, you're going to have a few spots that are not compacted and it's going to cave in. The town should always have a bond out for maybe more than a year because that happens in the parking lots whether they are owned by the town or developer. In many towns it always happens. I guess you know that already. Even a new development road if you accept the road and the following year the road starts caving in because of the spots that weren't compacted. It happens every time. I heard you're going to hire a law firm to work on the D.E.C. case on the river."

Supervisor Janoski, "That's true."

George Schmelzer, "I suggest you hire the same law firm that Groucho Marx did. That was Flywheel, Schister and Flywheel. Maybe they would do better. By the way, which ones are you hiring?"

Supervisor Janoski, "Flywheel, Schister and Flywheel sounds good."

George Schmelzer, "That's good. You laugh. At least we'll have a real schister around. Thank you."

Supervisor Janoski, "Thank you George. Is there anyone else present who wishes to address the Board on any subject before we take up the resolutions? Let us take up the resolutions."

Resolutions #541-#574 found on pages 889A-934A of the 1989 Resolution Book.

#564 AUTHORIZES ATTENDANCE OF BUILDING INSPECTORS TO ATTEND CONFERENCES.

Supervisor Janoski, "Point of order, question. I just now realized that we have Bob Seng not working for us anymore and these two gentlemen leaving the department at the same time which means that nobody will be there in that capacity of reviewing. I just point that out. Whether we can appoint somebody, I just make you aware of that."

Councilman Lombardi moves to TABLE resolution #564 which is seconded by Councilwoman Civiletti.

The vote, Boschetti, yes, Pike, yes, Civiletti, yes, Lombardi, yes, Janoski, yes.

The resolution was thereupon duly declared adopted.

#565 AUTHORIZES TOWN CLERK TO PUBLISH AND POST NOTICE TO CONSIDER CERTAIN AMENDMENTS TO CHAPTER 48 OF THE RIVERHEAD TOWN CODE.

Councilman Boschetti, "I think because there's so much interest in this, purpose of clarification for the record; this is a public hearing notice. Not a vote on the question."

Councilman Pike, "I'm going to vote no because of the merits of the question."

Supervisor Janoski, "This particular proposal has occupied my consideration since it was made this past Thursday at Work Session. I absolutely made it clear that I don't support what is being proposed here. It puts an individual on this Town Board in a position of either voting for a proposal which you will not support or voting against the public hearing which is the American way or is so to speak, the American way. While I agree with Mr. Pike's vote and had considered joining him in the no vote, it is obviously going to take place; this hearing. So that let's give those owners of property the opportunity to make their case and it will take a major miracle to convince that banning the four wheel vehicles from the beach entirely is warranted. I will vote yes to have the hearing."

#567 AUTHORIZES SUPERVISOR TO SIGN CONTRACT AGREEMENT FOR THE WATERFRONT REVITALIZATION PROGRAM.

Councilwoman Civiletti, "Discussion. Before I vote on tabling this, this was presented this afternoon and we looked at it and we didn't understand where it came from. Do you care to explain it?"

Supervisor Janoski, "Well, I kind of thought it was explanatory. But the Town Board entered into an agreement, it says it all here, with the State of New York, Department of State for a local waterfront revitalization program. The original contract provided for a reimbursement of certain costs associated with such planning at a rate of 50% not to exceed a total cost of \$14,000 and to be completed by September 30, 1989. It is confirmed that the printing of the draft plan will not be completed prior to September 30, 1989. The Department of State has provided the town an amendatory agreement which identifies certain changes to the original contract involving a reduction in scope and total cost. And this authorizes me to sign that agreement which has been amended. The existing agreement be and hereby is amended by deleting task 10 of exhibit A or program. The Federal State share of the total project cost shall be reduced to \$5,696 and a total project cost reduced to \$11,391. And that all other terms and conditions of the existing agreement shall remain unchanged and continue in full force and effect except as hereby modified and amended."

Councilwoman Civiletti, "Now that you read it. Thank you. I had some questions about the underlying agreement. When was it entered into. It just doesn't ring a bell with me."

Supervisor Janoski, "I don't believe you were on the Board when it was entered into."

Councilwoman Civiletti, "Is it imperative that we adopt this or act on this tonight? Do we have any time constraints as far as the Department of State is concerned?"

Supervisor Janoski, "I quite honestly don't know the answer to that question. I'm sure this came from the Planning Department. And if there is a need to absolutely act upon this, I can call a special meeting of the Board."

Councilwoman Civiletti, "Then I vote yes on the motion to table."

Supervisor Janoski, "Yes George."

George Schmelzer, "I forgot something before. The river; I'm concerned with Forge Pond. That's all I'm familiar with. And I don't know who controls the level of the dam. The level

was set by a concrete block in 1932 and nobody messed with until recently. I hear rumors that the D.E.C. puts in a plank or gives permission to do it or what. What is the true story? I think the Town Board should tell the D.E.C. to keep their d--- nose out of it and leave the river level alone. Nature takes care of it."

Supervisor Janoski, "That's interesting because I sometimes think I have a different point of view George. Where does the Town of Riverhead get the responsibility of controlling the level of the river? The D.E.C. wants to control the river, the river-banks but the certainly don't want to accept any responsibility of maintaining the dams regulating the height of the water. Where does the responsibility of the Town of Riverhead come from? I really don't understand that. The river is joined by three towns; Southampton, Riverhead and Brookhaven."

George Schmelzer, "Well, the Forge Dam; Southampton has nothing to do with it. And as I say, it was established in 1932. Leave it alone."

Supervisor Janoski, "Who built it?"

George Schmelzer, "The Town of Riverhead and Brookhaven paid for it I understand. Reeves Contractors, I think live in Mattituck, they did it. I think it cost them \$10,000. So the wooden dam at that time, you had to jump over it and crashed in. It looked bad. So that's the story. I wish the town would do what they can to leave that level as it was. I mean that concrete block without monkeying with it. Nature takes care of it. Otherwise if you raise it a foot, the river is going to encroach on people's property. Then the state comes along and says it's wetlands. Like last week here about sumps, they're making sumps wetlands now. So I asked them what do you do when the sump is dry. They just said that whether or not there is water around doesn't make it a wetland. Sounds a little goofy doesn't it. So what it means, is if you have a cattail planted in your front or back yard, they come and see that cattail and call it wetlands just because of the plant being there. So what's the town pleasure on the dam, several dams."

Supervisor Janoski, "Is that a question George? What is the town's what?"

George Schmelzer, "The pleasure on these water level controls?"

Supervisor Janoski, "Well, I told you what my pleasure is. I don't see where the Town of Riverhead gets that responsibility alone. Whenever there's a problem, we get a call from the D.E.C. that we should do something about the dams."

George Schmelzer, "What type of call have you got? Raise the water or lower it?"

Supervisor Janoski, "Whatever the situation happens to be, repair or whatever. I would like to see the D.E.C. put their money where their mouth is."

George Schmelzer, "I know but they won't. So we have to stop being a yo yo. What's going to be the town policy on the level?"

Supervisor Janoski, "Well, town policy is established by the Town Board and we really haven't discussed it. So I would think that we couldn't tell you what it is right now."

George Schmelzer, "Okay. If you don't have any problems with leaving certain level and let nature take care of it, it's going to cussed as well as discussed."

Supervisor Janoski, "We can't do that either."

Councilman Boschetti, "For the purpose of the record George. The D.E.C. sets the level of the river and the lake and they set it according to sea level. So many feet above sea level. That's the way they describe the levels of the various sections of the river and the lake. We don't set that. So as far as the Town Board policy is concerned, it really is immaterial because the D.E.C. has set it. What Joe is saying is that after they set it, they expect the town to enforce it. They give us no money. They give us no resources but they just expect us to enforce something we had absolutely no say about."

George Schmelzer, "You should charge the rent when they use the place."

Councilman Boschetti, "I just wanted to put that on the record so it's clear."

George Schmelzer, "Well, I think they get their level from the geological survey map. That's where they get them and that's about all they know. That map shows what it happens to be over a period of time. Unless you give me permission to go down there and cut or saw that board out."

Supervisor Janoski, "No George, you should not leave that podium thinking that you have permission to do anything at all like that."

George Schmelzer, "That river is invading my land."

Councilman Boschetti, "George, I have reported it to the Town Attorney who has reported it to the Bay Constable. It will be removed if it shouldn't be there."

George Schmelzer, "It shouldn't be there really. You know that."

Councilman Boschetti, "I happen to agree with you."

George Schmelzer, "It disturbs a lot of people. It takes their land away and makes a big mess. It makes more mosquitoes for the environmentalists. I hope they get bitten by these mosquitoes. Maybe some of these mosquitoes will have aids and all of sudden you'll fill in all the swamps. Thank you."

Supervisor Janoski, "Thank you George. Without objection, this meeting is adjourned."

There being no further business on motion or vote, the meeting adjourned at 9:58 p.m.

IJP:nm



Irene J. Pendzick
Town Clerk