

TOWN OF LLOYD TOWN BOARD

WORKSHOP MEETING

JUNE 6, 2012

Present: Supervisor Paul Hansut
Councilmember Herbert Litts, III
Councilmember Jeffrey Paladino
Councilmember Michael Guerriero

Also present: Sean Murphy, Attorney
Rosaria Peplow, Town Clerk
Kate Jonietz, Secretary

Absent: Councilmember Kevin Brennie*

3:25 PM – Supervisor opened the meeting and asked Sean Murphy to lead the Pledge of Allegiance.

1. REPORTS

A. Finance – Karen McPeck, Bookkeeper to Supervisor, reported that there are a few budget amendments on the agenda for the Regular meeting on June 13. The line for Legal Notices and Code updates in the 2012 Budget has already been spent. The 2011 budget was \$4,200, which is the same as 2012; however, the actual usage was over \$8,000 in 2011 and the year before the usage was \$13,000, so the budget line was underfunded this year. The funds will be taken from the Contingency fund each time it comes up and budget amendments will be made as needed. Money that came in by the Spring Fest donations to make up the prize money that was given out was added to the Celebrations line. The Highway Department has requested that a budget line be created called, ‘USDA River Road’, which is a grant that they will be getting from USDA. There is a budget amendment in the Water fund for the change order in the Pilot Testing costs.

Regarding the HRA status, the entire plan year from July 1, 2011 to June 30, 2012, if the premium has remained the same as the old MPO plan, the Town saved about \$153,000.

The downside of that is that she feels that was already accounted for in the 2012 budget.

The NYS Deferred Compensation Plan allows Town employees to make raw contributions; they need to fill out paperwork and sign off on it. A Town Board resolution is not needed. This is the employee’s money and there is no cost to the Town.

She put a copy of the proposed updated electronic banking policy in the mailboxes of the Board members which included a suggestion from the Comptroller’s Office that a signed transfer authorization is needed in order for a transfer to be made electronically.

She asked the Board to review it and ask her any questions they may have; the policy could be adopted at the next meeting.

She has closed some accounts at Citizen’s Bank as that bank is no longer giving interest to the Town.

Mark Reynolds, reporter, asked the status of the outstanding Rail Trail East money.

Supervisor said that everything has been signed by the Attorney General’s office and the Comptroller. He has been told that the check is in the mail in the amount of approximately \$440,000, which is the NYS reimbursement for the completed Rail Trail East project.

B. Assessor – Elaine Rivera

C. Building & Zoning Department – David Barton reported that it has been the best month financially in quite awhile and has been busy. The Mountainside Woods subdivision is before the Planning Board. June is the month that commercial signs attached to utility poles are pulled off the poles by his department; the phone numbers on the signs are called and the companies are told that they can come to the office to get them. His department is still trying to resolve the old Planning Board escrows; letters have been sent to the applicants and the letters have come back either Return to Sender or Unable to Forward. All of the escrow accounts have balanced and the money is in the account. He continues to have development meetings with Highland Square; the developers were given a six-month extension at the last Planning Board meeting which will take them to the end of this year. It was the applicant’s decision to extend for six months and not one year.

Supervisor asked about neglected properties and high grass.

Barton said that this is the result of sunshine, heat and rain. They have sent eight letters to property owners; four have been resolved. He is trying to avoid having the properties mowed as that is money out of the General Fund and it is then added to the property taxes; he prefers not to spend the money. He would like the Board to consider Town

employees mowing the properties instead of having a lawn care company mow; the \$250 could still be charged to the homeowner.

Supervisor asked if the status of Vineyard Commons would be discussed at this point in the meeting.

Sean Murphy, Town Attorney, would prefer to meet with the Board in executive session.

- D. Dog Control** – Andrew McKee reported that he received the chemical immobilization. He explained that this is a tranquilizer if a large animal threatens the community, the animal will be tranquilized and transported to a safe spot. He is hopeful that in September or October there will be a class in the area that he can attend. In the meantime, NYSDEC, New Paltz, has agreed to assist him if a problem arises.

Supervisor acknowledged that McKee has been very busy since he took over in January and noted that the Board made a \$2,500 budget amendment at the last meeting.

McKee said that he felt there were more dog complaint calls this year; a couple of dogs that were picked up needed medical treatment immediately and the expenses were high. There have been no expenses for kennel fees in the last six weeks and in one instance, money was recovered by the impound fees from the dog owner. He is hopeful that it will balance out; if someone calls or the Police call and they report a stray dog, he picks it up. There was one dangerous dog case where there was a dog bite injury on Upper North Road. There were two recent incidences of dog bites that were settled by a legal agreement between the Town of Lloyd and the owner of the dog. The agreement is to restrain the dog in the same manner that would have been ordered through a dangerous-dog proceeding. It was accomplished without going through the court.

Litts asked the status of the dog control budget and if further budget amendments might be needed.

McKee said that he went over his budget in the first three months. He impounded 17 dogs but in the last two months there were only three dogs and the expense that did occur was reimbursed by impoundment fees. He said future cost would depend on how many dogs he picks up and if amendments would be needed. He feels that with the warmer weather there will be more calls and anticipates that the impoundments will double by the end of the year.

Supervisor said that he received a letter from Theresa Paff: “Please accept this letter of commendation for Andrew McKee, Dog Control Officer for the Town of Lloyd”; he paraphrased and said that her dog was attacked while in the care of her dog walker, she alerted the Police and McKee contacted her; she said she was “grateful for McKee’s swift response to a very distressing matter. McKee displayed commitment, concern and followed through as she has never before seen. As citizens we hear about government not caring for us and I think it is important that we honor the officials who do their jobs each day with care and grace. I feel safe in knowing that Mr. McKee is doing his job. I thank you too for maintaining a staff that is diligent in keeping our town safe and secure.” The letter will be put into McKee’s employee file.

- E. Highway** – Richard Klotz reported that full pavement will begin the week of June 18 on Pine Terrace, Dogwood Knolls and Crest Lane. The department continues to hot patch, work on the catch basins and do basic maintenance.

Supervisor noted that Nick Coppola, Coppola’s La Fantasia Restaurant on Route 9W is at this meeting. Mr. Coppola is concerned about the situation at his restaurant where the parking lot is sliding down the embankment.

Klotz said that the main concern is access to make the repairs.

Litts asked if it was this was Rail Trail property.

Supervisor said that it was Town property that comes down to the culvert next to the Rail Trail and that Coppola has been asking for help for months. He encouraged anyone with suggestions or ideas to speak up; he is looking to Klotz for his expertise.

Litts said that he met at the site twice with Frank Lombardi, retired Highway Superintendent, and Bill Rohde, Town Engineer, and he gave them an idea of what could be done there.

Lombardi said that he and Rohde discussed this many times and they feel that big rip rap could be used and placed with a large machine but he would prefer a gabion wall and step it; he offered to discuss this with Klotz. The creek bed has to be cleaned out by a large machine and a machine with a thumb is needed place large rocks.

Litts felt this was like past discussions about snow plowing and maintenance, it should be a Rail Trail expense.

- F. Hudson Valley Trail** –

- G. Justice** – Terry Elia/Eugene Rizzo

- H. Police** – Chief David Ackert asked if there were any questions as he did not have anything new to report.

Supervisor asked if Andrew McKee, Dog Control Officer, could get a monthly report from the police blotter on the dog complaint calls.

Chief said if there is a specific name or address it can be obtained from the computer.

McKee said that he would drop by the Police Department occasionally to see if there was anything that needed to be addressed.

- I. Recreation/Buildings & Grounds** – Frank Alfonso reported that Berean Park opened for the Memorial Day weekend. This is the first time the park has opened before school is out and it will be open weekends until the end of school; opening daily for the season on June 16. He and Stephen Delmar have painted and made repairs to the concession stand area at Berean Park. They will be painting the bathrooms and the outside of the buildings at the Berean and Tony Williams Parks over the next month. The Water Department made some repairs at Berean Park and the Highway Department was able to address the guard rail issue on Reservoir Road. SummerFun and swimming lessons start on June 25. Swim lessons run for five weeks and SummerFun for six; staffing is set but there may be a couple of adjustments. Staff meeting will be on June 13. The harassment training will be on June 26 and he will address the lifeguards and counselors as to what he expects from them. The parking lot was restriped at Tony Williams Park. The school has finished using the facility. The busiest time at TW with people using the fields is May and June. The women's Softball league for the Town of Lloyd and a women's collegiate softball team will be using the facility for six dates. High school basketball will be using the courts at TW Park two nights a week. The Village Field will be used for a wiffle ball league on Sundays through the summer. He is still trying to confirm the dates for repairs to the tennis and basketball courts at TW Park and the pickleball court at Berean. He feels that this is preventative maintenance and will help to keep the courts in good condition.

Buildings and Grounds – He is putting together a list of properties that the Town is responsible for the maintenance. They have been doing daily maintenance at Town Hall. There was a meeting with Beautification and Buildings and Grounds, the Supervisor and the Rail Trail Association this week.

Supervisor said that the back door problem has been discussed and four people have looked at it for repairs. The original estimate was \$2200, the second was \$950 and that was take the door off, sand it, put a plate at the bottom, fix both sides of the frame and put the door back. He has not received an estimate from the other two people who looked at it. He feels that the Board may have to adopt a resolution to fix the door.

Barton suggested that an eave should be built over both the upstairs and downstairs entrances to protect the doors from the weather or the same thing will happen.

Supervisor said that he spoke with Klotz about that and he feels they have a solution.

RESOLUTION made by Paladino, seconded by Litts, to approve the repair of the rear entrance door by Lou Olsen at a cost of \$950.00.

Supervisor explained this is just for the door repair; repairs to the building for the water leaks will have to be at another time.

Roll call: Hansut, aye; Paladino, aye; Litts, aye; Brennie, aye.

Three ayes carried.

- J. Safety Committee** –

- K. Town Clerk** – Rosaria Peplow reported that regarding Tax Collection, a payment of \$157,576.03 was made to the Ulster County Commissioner of Finance. She will settle the tax warrant with the UC Commissioner of Finance on June 20. The Town Clerk's office has issued 588 annual Transfer Station permits to date. Peplow stated that GML Section 35 requires the Town Clerk to present the Town of Lloyd Report of Examination by NYS Comptroller to the Town Board at the first meeting after it is received. She sent the report electronically to all Board members and offered to make hard copies for any Board member that wanted one. She placed the legal notice in the *New Paltz Times*, May 24 edition, and posted the notice on the Town Clerk's signboard.

- L. Water & Sewer** – Adam Litman, Senior Operator Sewer Plant, primary and secondary digesters are a big part of the Sewer Plant upgrade, which are the large above ground tanks that are also combined with the buildings. The primary is now the new digester tank and building extension and the secondary tank is the old existing building and extension that goes with that. During the month of May the contractors on site were Ackerman

Plumbing, DJ Plumbing and Heating, Rondout Electric, Kingsley Arms, GTI and Earthcare. The electric upgrade is near 95% complete, masonry is complete; the primary and secondary digesters are 95% complete. He explained that 'GTI' are the contractors from Canada to do the methane system and covers on both of the digester tanks. They were on site on April 16, to start up the new methane unit for the primary digester; startup was complete on April 18. On April 17, the Sewer department transferred approximately 30,000 gallons of sludge from the secondary digester to the primary digester and put those systems in service. The secondary digester was taken out of service, the cover removed by Kingsley Arms and Earthcare was on site. On April 25 and 26, nearly 60,000 gallons of sludge, grease and grit were cleaned out so the upgrade can begin on that existing tank. GTI returned the second week of May to install the new cover on the secondary digester and installation of that was complete on May 18 and the secondary digester was put into service. Both of the systems are approximately 75% operational. GTI was back today and did a lot of rechecking and programming the computer systems for the covers. It is a very elaborate system. All of the primary and secondary tanks are complete and in service; installation of the UV system was completed and the startup was March 14 and it is working. Suppliers were back on the site May 21, 22, and 23 and made repairs and adjustments on the systems. They returned recently to again make repairs and adjustments to the systems. All the sets of samples that have come through the plant have been well within compliance. The system is 95% operational. This week they will spend time changing bulbs and making adjustments so that they can notify the companies and they can make their corrections. Final grades at the Plant are complete and the grass is growing. A near-completion meeting was held on May 24 at the Sewer Plant including Morris Associates and himself. The topics of concern were the self cleaning screen at the head works of the Plant which is still not acceptable. He expressed his concerns to Morris Associates and they have agreed that it will not be accepted. He also requested that they move forward with the replacement of that unit with the originally specified equipment and we all agree that would be the best. He does not feel that it is the fault of the contractor as they have tried very hard to make repairs and the changes to the equipment. He feels that the supplier has not held up his end of the bargain. Everything else has been satisfactory. Ray Jurkowski, Morris Associates, said that a letter is going out from his office to Kingsley Arms indicating that it is not acceptable.

Litman said that he requested that the 'Point', which is property between Maple Avenue and River Road that was destroyed during the flood, was considered storm damage and the rocks were removed, top soil applied and reseeded. He also requested use of the abandoned contact chamber which would be used as a last chance to catch floatables that come from the secondary tanks so that it can be properly cleaned and remove it and turn it back to the plant, versus having any outflow. Originally the tank was going to be abandoned and everything was going to come through the UV system itself and be sterilized but he requested to put the flow through the other abandoned tank first and then put it through the UV system which would help to have a final scrub and reduce what goes through the UV. Operations are continuing as normal and they are learning the new systems. He thanked the Board on behalf of the Sewer Department for their shed.

Litts asked if the contractor was to provide training.

Litman replied that the training usually is given by the supplier and the supplier wants to be there for the startup to insure that it was installed properly.

Jurkowski said that they are supposed to supply formal training and how much training needed would be based on the complexity of the system.

Litts suggested that there should be cross-training for other employees on the equipment.

Litman said that the employees have been there for putting the equipment online and all the trainings.

Jurkowski added that it has been a continuing process the training is taking place as each component comes online.

Litts said that they are supposed to supply procedural manuals.

Jurkowski said that they have been providing his office with the manuals. They have been compiling them so that at the end of the project, Adam Litman will have one binder that has all of the documentation regarding each component.

Litman said that it is nice being there to see how everything goes together and get the training; he feels it would be hard to be a new-hire and learn it all.

Supervisor asked if he was familiar with the power systems, generators for Mayer Drive and Chapel Hill Road.

Litman advised that he speaks with Dave Campala as those are pump stations and generators for the collection systems. He said that he presented the Board with warranty and service contract for the emergency generator that was put in place and asked their opinions. It is an extended service contract that can be for a year or five years; he feels that it would be good to have the company that installed the generator check on it for the first few years.

Supervisor asked him to send a copy to his office.

Rich Klotz, Highway Superintendent, offered that there is a contract for the generator at the Town Barn and he will give the information to Litman; if the generators are compatible, the Town could get a package deal on servicing all of them.

Andrew Paccione, Water Plant Operator, completed the water quality report for 2011 and Chris Sabatelli emailed it to Rosaria Peplow who emailed it to the newspaper for publication. The sludge processing unit and one of the pumps is down and needs to be repaired; the sludge is starting to back up.

Supervisor asked if it was budgeted and felt that it must be repaired.

Paccione said that it was not budgeted.

Paccione reported that they are on reservoir water now but due to the warm weather and the sun, they already had to apply algae control. The THM's and acid samples have been completed. They installed a new phone from Verizon for the alarm at the North Road pump station as the pump went down and they were notified by a water user. A new air release valve was installed in the River pump station discharge line. They took a water sample at Tony Williams Park before and after a new activated carbon filter was installed and the filter took the toluene level out which protected TW Park. He felt that Rich Klotz, Highway Superintendent, can decide if he wants a UV filter and activated carbon filter at the Town Garage.

Paladino asked when the salt level receded in the Hudson River.

Paccione answered that it receded about a month ago.

M. Supervisor -

2. OLD BUSINESS

A. Joan Kelley update regarding proposed changes to Zoning presented at the Tri-Board Meeting on May 24, 2012.

Kelley said that she appeared before the Town Board last month asking for their assistance in stopping a zoning violation in her neighborhood that began in 2007. The Code Enforcement people, the ZBA, the Town attorney, the Town court and police have all been involved on numerous occasions but the violation has continued. At the suggestion of Dave Barton's, Code Enforcement Officer, she proposed updates to the Zoning ordinance that would put the existing law in a format that would make it easier for the Code Enforcement people to explain in the courts. The Town Board referred her to the Tri-Board meeting where she presented her proposed update and the Tri-Board referred her back to the Town Board. She said that she is willing to work with any and all boards to improve the zoning ordinance but this is not stopping the zoning violation. She requested that the Town Board direct people they supervise to find her neighbor in violation and get him to cease.

Supervisor asked if this matter has gone through the Lloyd Justice Court.

Kelley answered that she has done that twice.

Sean Murphy explained that there was a notice to remedy issued and then an appearance ticket was issued; there was substantial documentation given by the alleged violator. The issue is that the alleged violator is renting the house out for short terms, sometimes weekends, two weeks to a month transient rentals in a residential zone. The neighbor came with documentation, some of which were verified not to be rentals as they were friends or acquaintances. There were some rentals prior to the notice to remedy that could be substantiated. Once the notice to remedy was issued, the documentation appeared to be in compliance with an opinion from the ZBA which interpreted 'transient use' as 60 days a few times a year, which would mean that two month rentals a few times a year are legal. He did not believe that the documentation that would be used for trial subsequent to the notice to remedy was sufficient to prove the case beyond a reasonable doubt before the judge. The case was withdrawn indicating that if they do get good documentation, a notice to remedy and an appearance ticket would be reissued. As Joan Kelley will tell you, there is substantial advertisement on his website for vacation rentals; however in the ones that Murphy has seen, he indicates long-term but there has been no documentation since the case was withdrawn. The issue is

documenting short-term transient uses in the house and it is a matter of proof. The neighbors will see people come and go proving that it is a transient use and if that is a rental or if they are friends visiting, it is a very difficult case to prove.

Paladino added that it is also difficult to enforce; at the Tri-Board meeting, Armen Fisher agreed to help Ms. Kelley.

Kelley said that she is working with Armen Fisher to try to figure out what can be done in the future; the fact is that nothing is stopping this neighbor now and it is ongoing. It turns out that everyone he rents to is his 'friend'. She added that the people that she has worked with in the Town said that clear direction from the Town Board is needed that they want this type of thing to stop. They could then proceed in a more aggressive manner.

Paladino said that after the Tri-Board meeting Armen Fisher expressed that he would be willing to help Kelley regarding the zoning law to define what a vacation rental is.

Kelley said that the advertising presents intent and as such advertising can be used as proof.

Paladino said that Kelley and Fisher were going to work on it on a voluntary basis and present suggestions to the Town; the law as written is almost impossible to enforce.

Kelley said that she is working with Armen Fisher but something has to be done to stop what is going on now.

Barton said that the burden of proof is on the Town.

Murphy elaborated that it is a definition of 'transient'; the ZBA did come up with an advisory definition and it is a rational opinion but there is very little case law. The Lloyd Court is not bound by the advisory opinion of the ZBA. Judge Rizzo made it very clear that he was not bound by that opinion.

Kelley understood that the interpretation of the ZBA has the effect of law.

Litts explained that an opinion is not binding but if there was a resolution that acted on a particular piece of property that becomes law.

Murphy said that the neighbor made an application for a bed and breakfast and was denied because it was 'transitory'.

Kelley said that the neighbor tried to get out of his violation and at the time there were two parties that would not attest to the fact that they were friends and relatives; the pump ran dry while they were there. He tried to get out of the violations by applying for a bed and breakfast; the bed and breakfast would be a special use permit and it was decided by the ZBA to turn down the bed and breakfast as it was not in keeping with the neighborhood. As part of that they issued a definition of what is transient because it was not defined in the ordinance. The fact that the ZBA issued the formal interpretation that has the effect of law.

Paladino clarified that the issue is proving it or enforcing it. The only remedy would be to investigate the zoning law to actual change the definition of 'vacation rentals'.

Murphy agreed that right now there is no definition of 'vacation rental'.

Kelley stressed that transient residents are not allowed in a residential zone.

Paladino noted that it has to be proved that the people are transient.

Kelley replied that she has statements from people who have stayed there and a review on the website said that person stayed there for a weekend. She asked the judge what he wanted for documentation and he told her exactly what she had already submitted. She is frustrated and does not know where to go with this now.

Murphy said all of the statements that he is aware of there have not been any since the notice to remedy and appearance ticket was issued.

Kelley said that the logs that he was given for the second court appearance were for 2011 and 2012; none of them were subpoenaed, you talked to them.

Matt Smith asked if they were having parties or something that is enforceable, i.e. the noise ordinance doing things that are wrong and more than just living there.

Guerriero agreed and said that the noise ordinance is for anything if there is a complaint of noise.

Kelley answered Supervisor's question as to calling the Police for noise ordinance and said they called the Police on her as she came home from church last Sunday, June 2, and there was a party for a West Point graduation in the pool; she took a photo and they called the Police to report that she was harassing them.

Supervisor admitted he did not know what the answer is. They tried the legal route through the Court and that did not work out; he is open to suggestions.

Litts said that he was a member of the ZBA at the time and was part of the interpretation of transient. It has to be proved that it is transient.

- Kelley said that now based on the interpretation of the zoning ordinance, renting it for less than 60 days is in violation.
- Barton clarified that renting it for a weekend is not in violation, renting more than two weekends in that period is a violation; it can be rented once in 60 days.
- Kelley recalled that he rented it to 28 different groups last year; all of which were his friends and relatives and he was not there once when they were there. She said that when she has friends and relatives visit her she is at her house.
- Guerrero feels that as evidenced by the advertising, he is running a business in a residential neighborhood.
- Paladino believes that changing the definition is a step in the right direction and suggests getting ideas from other towns.
- Kelley read that in the City of Chicago in a similar situation, that “the advertisement of it is equivalent to the use of it”. She feels that rewriting the code will take time. She would like to have him shut down and not come back with, ‘I am grandfathered because that was before the ordinance’. She would like a statement from the Town Board that it recognizes this is a problem.
- Litts cautioned that she must pay very close attention to how it is worded because if you have a home internet business you are allowed a home occupation.
- Paladino said that using the City of Chicago as an example may also be an issue as city ordinances are different than those that are suburban or rural.
- Kelley understands that this is not going to be resolved at this meeting but it would help to know that the Town Board is interested in getting this resolved.
- Supervisor said that they supported her but suggested that if she hears loud parties at night to call the local or state police and they can enforce the noise ordinances.
- Murphy commented that this was a West Point graduation party and the neighbor claims to have some relationship with West Point and lets them stay for free. If there was proof that he was renting to three groups in a month that would be proof of the zoning ordinance, which would clearly be transient. Getting the proof, knocking on the door and talking to them and then at some point, you are harassing them. Clearly he is advertising as vacation rental in a residential zone.
- Kelley added that the weekend before was the Vassar College graduation and there was a woman there from Monday night through Friday night with her dog. She has the license plate numbers. The rental revenue is \$8,500 per month.
- Supervisor asked if there was an address on the advertising and that the Board also has to be careful as he is a property owner and he does have rights to his property.
- Kelley said that the property is listed ‘off Bellevue Road’ and there is an 800-number, she does not feel that generally the address is not given out by people who rent their houses.
- Paladino confirmed that there was clearly a violation but the problem was how to enforce.
- Murphy the case was withdrawn March 5 and it was decided not to re-file because it was filed in the section of the old ordinance which in the new ordinance was ‘Adult use’ and he definitely is not running a porn shop and he told them to “behave because the interpretation is really the law” in his letter.
- Murphy said that he wrote that the Town would be withdrawing but would enforce the Town zoning ordinance in the future and use that as the interpretation. If we have proof we would issue an order to remedy and an appearance ticket.
- Supervisor asked if Judge Rizzo saw the information that Kelley has.
- Kelley said that Judge Rizzo looked at all of the information and agreed that this individual is obviously running a business.
- Murphy said that the Judge did not pre-judge the case but he would listen to the proof; he told the Judge that from the date of the order to remedy, there were two leases that were for two months each. In the month prior to the order to remedy for July 2011 there was a two-month lease but the people were only there for three or four weeks. Even if there is a different car there every week, that does not mean he is renting.
- Supervisor asked if there is a license plate number that is registered in Maine, how does one find out who it is; in fact, it could be a rental car. The problem is how do you prove and bring the evidence forward. That has been done; the Judge is either not accepting the evidence or there is not enough proof.
- Murphy said that they went through the case based on our analysis of the case moving forward. Judge Rizzo did not pre-judge the case, he basically said that this is what the proof shows, this is what I will probably find.
- Supervisor asked Murphy if there something that can be accomplished tonight.

Murphy said that he felt that Joan Kelley realizes that it would not be remedied tonight; what she is looking for is some kind of commitment and he offered that the Supervisor could direct him to meet with them. The mechanism for enforcement is going to be difficult; the zoning law could be changed; definitions could be added to the zoning law; try to put some kind of burden on the homeowner; try to restrict the advertising, which will be difficult.

Supervisor suggested waiting to see what Armen Fisher determines as he believes that there is no better man than Armen Fisher to figure it out.

Kelley said that Mr. Fisher is working on two things: if she has a case and trying to change the zoning law.

B. Discussion of alternatives for the intersection of Tillson Avenue and Vineyard Avenue.

Litts reiterated that Tom Baird of Barton & Loguidice was at the last Town Board meeting and he gave examples of several alternates:

- (a) the “no” alternate;
- (b) the four-way intersection moving Tillson Avenue to the south to align with Toc Drive with a two-way stop on the non-State highway (Tillson and Toc), as a sub-category to that option is a signal light intersection and as a sub-topic to both of those would be using a boulevard-type calming measure which would slow the approaching traffic on the State highway (which is where there are high speeds);
- (c) modified roundabout; sub-category of a boulevard-type calming measure on the portion of the State highway.

He believes that DOT is waiting for the Town’s preferred alternate. All alternates must appear in the design report because the Town has paid to have them studied and DOT to know whatever decision is made that there were several alternates being investigated. This is especially important in lieu of the beyond preservation requirements imposed by the federal government since May 9, 2012. He feels that it is incumbent upon the Board to think about the alternates that have been proposed and to offer our preferred alternate to the engineering firm that is doing the design work. They can then move on with the design report that is going to have a lengthy review by the NYSDOT. The alternates come with associated costs the highest is the modified round about. The four-way intersection is \$700,000 short on the intersection and he does not believe that option had the traffic calming boulevard effects. Money for alternate of the modified roundabout is \$1.3-million short. The Board will have to decide how to fund the project.

Paladino asked if the decision must be made next week.

Litts replied that the earlier the decision is made, the better as the next step in the process is to submit a design report, the design report is reviewed by the DOT as well as other agencies that have standing and the Town Board will receive their comments, the Town Board modifies the design report and eventually the design report is approved and then it goes to preliminary design. The project is well into the preliminary design costs already; he hopes that the Town does not exceed that budget.

Paladino feels that the Board should be prepared to make a decision at the meeting next week. He believes that the only real solution is the roundabout proposal and he would vote for the roundabout; the second would be the ‘no’ alternate and do nothing; the two-way stop and alignment of Tillson and Toc would not reduce the hazards of the intersection enough to warrant the expense. There may be funding in place to cover \$750,000 shortfall when the project is ready. He is guessing that the boulevard approach would cost nearly the \$1-million-plus. The Board has talked about this for three months and feels that the Board should act. It is not known what DOT will allow the Town to do.

Litts would like Barton & Loguidice to furnish the cost on the boulevard calming effects so that the Board can make an educated decision. The ‘beyond preservation’ paperwork needs to be filled out by Barton & Loguidice which is required for this project as it is on the list. The alternates are reviewed and it has to be proved for whatever alternate the Board is seeking is the minimum above preservation. He assumes the paperwork for ‘beyond preservation’ is submitted along with the design report.

Supervisor noted that Litts has been part of the project for a year or more and has engineering and DOT experience and asked what his recommendation is for the alternate.

Litts replied that not only he but some of his colleagues at the DOT do not think it is the right place for a roundabout; the grades from Tillson Avenue are above what is recommended for a roundabout. Based on the input from the public and our design

engineering firm, one of the biggest problems is the excessive speed in the roadway approaching vehicles that are turning. The speed is not prudent in that section of Route 44/55; he believes that the greatest benefit would be if the speed could be reduced coming into the intersection. There are many ways to do that; a boulevard approach would be helpful. That was done in Route 44/55 in Poughkeepsie and on Wilbur Avenue, Town of Poughkeepsie; when the speeds are reduced there is a reduction in accidents. The people who are coming into the intersection have ample time to make decisions when cars are slower on 44/55. If the four-way intersection combined with a two-way stop and traffic calming measures is constructed and a significant reduction of accidents is not realized, the Town could ask NYS DOT for a light under a different warrant and DOT will have to say yes. The intersection does not fulfill the warrants at this time.

Paladino felt that if a traffic light is installed in the future it would create a backup of vehicles on Toc Road and Tillson Avenue during rush hours. It may solve some accident problems but it creates others; the money for a four-way, add the money for boulevard and light in the future, will nearly cost the amount of the roundabout. If that is the case, the roundabout is proven to save 95% or 97% of accidents and fatalities. He would like to do it right the first time and asked what would be the negative side of a roundabout.

Litts replied that Barton & Loguidice has been asked for a table of costs for comparison of the alternates for the last two months; and they should be told that is what we want.

Paladino respectfully said that Tom Baird, B&L, has been here twice saying the same thing and the Board has not progressed in the last three months. A decision has to be made so the project can move forward; the Board may not be able to get a comparison of cost and may have to make an educated guess and move forward.

Matt Smith commented that deciding 'no' will still cost for the engineering; in addition, after the flooding it was realized that the culvert is too small; there is no grant for that and the guardrails will have to be replaced. He is concerned that more accidents will be created.

Litts felt that it may be smaller accidents with lesser injuries and not t-bone accidents. He replied that in order to get federal funding, the 'no' alternate has to be looked at and everything Smith just stated would go into the reasons why the 'no' alternate would not be chosen. It does not achieve the objectives of the project and it still costs the Town money are all the things that the engineering firm should have in their explanation in their design plan.

Smith said that none of that is grant funded at this point and if the Town does nothing, the Town will have to pay all of the costs of the improvements that must be made. He is concerned that a roundabout might have to be removed in the future. He was looking for information on a roundabout approached by a vehicle coming down a hill.

***4:45 PM** – Brennie arrived at the meeting

Paladino would like to pursue the full funding now and not guess what may happen in the future.

Litts felt that a decision hasn't been made because information that was requested has not been received and he likes to make educated decisions. The DOT is not going to give the Town \$3.9-million unless the Town can tell them that we are funding our small share the additional \$1.3-million. The Town will not be given the money unless the Town can fund the project and they are only funding a portion of the \$3.9-million.

Paladino pointed out that the Town would have to prove that if it was for \$750,000; it is just a different dollar figure.

Brennie would like to take a vote and pursue something as this has been delayed for months.

Supervisor feels that this has been difficult because the project was started to make the intersection safe, the two-way was the preferred way to go with a light and then the roundabout was suggested. Litts is concerned about the money that is slowly being spent. Every time that we ask Barton & Loguidice for something they are charging us and that money is disappearing. They gave us a list of what the cost was a month ago and now we are talking about boulevards.

Litts said that was discussed and it is not on the list.

Supervisor said that this is the first time he ever heard about boulevards was last month.

Litts said that two months ago Tom Baird came to the meeting and a man in the back of the room said that there are other measures that can be used for calming effects besides the roundabout and that is a boulevard-type landscaping.

Supervisor feels that the Board has the alternates and a decision has to be made. Barton & Loguidice will continue to give numbers and the money will be gone. He asked Litts to come up with a resolution for the Town Board reflecting how he feels the Board should proceed. He is the project manager with knowledge that the other Board members do not have. It will be voted on next week.

3. NEW BUSINESS

A. Presentation of NYS Comptroller's Report of Examination

Town Clerk presented it to the Board in her report.

B. Highland First United Methodist Church, Heaven Cent Thrift Shop request to limit/curtail all vehicle traffic through church leased property on 6/30, 7/28, 8/25, and 9/29 because of outdoor flea market.

Supervisor is waiting to hear from the Church representative if the Church would like the driveway completely closed or left partially open and the times for the market.

C. Proposed local law to amend the Code of the Town of Lloyd to provide for "best value" bidding on purchase contracts and public works contracts

Supervisor stated that the line item for legals and code updates in the 2012 budget is depleted. He feels that it would be good to enact this law but will delay it to next year when there are more funds put in the budget for that line item.

4. PRIVILEGE OF THE FLOOR

Matt Smith noted that there are two resolutions on this agenda. The design committee for the improvements to the Bob Shepard Highland Landing Park had broken the project into smaller pieces and has chosen a contractor and checked their references. The lowest bidder is Arold Construction who is working for the Town now on the I&I project. He recommends adopting the resolution to award the contract to Arold. There is a grant but it will take NYS months to send the money. They have talked to a number of people about how to pay for the work.

Sean Murphy said that borrowing through a bond will be authorized for one year and will be renewable for a maximum of five years.

Smith said that the bond will be for the total amount of the grant; he spoke to NYSDOS and was told that six months is the maximum wait for the refund and it will probably be three months. Murphy told him that the most transparent way to handle the finances is to borrow the money and pay the contractor when the bill is due; when NYS sends the money from the \$911,000 grant then the bond is paid off.

Murphy said that the bond resolution would not be adopted tonight as he needed more information on the SEQR which he has since received and Ray Jurkowski, Morris Associates, felt that the timing would be okay for the next meeting.

Brennie asked when they would break ground.

Smith said once the contract is signed, Jurkowski said that it will be July; there is a blackout date in the contract for July 3 and 4 so we can get ready for the July 4 event. He reiterated that Sean Murphy, attorney, and Ray Jurkowski, engineer, are donating their time; Murphy arranged that the bond counsel would do the work for \$1,200 and they usually charge \$3,000 or \$4,000.

Bob Hebel, Vineyard Commons' resident, asked if the Town Board is going to discuss Vineyard Commons at this meeting.

Supervisor expected to discuss the matter in executive session.

Murphy said that the intent was to discuss with the Board the status of the enforcement proceeding; there is a court date tomorrow and he would like to discuss what he anticipates occurring tomorrow.

Habel said that the residents do not trust the management of Vineyard Commons and their numbers; the management says there are eight people under the age of 55, the residents know that there are more than 20. He would like management to give the Town a certified list of all the people who are living in the complex. He understood that the management did not want to accept any responsibility for the people who are under 55 and are renting.

Murphy replied that there has not been a hearing on the matter but the management has made no admissions.

Supervisor said that the goal of the Town Board is to get them in compliance with the law.

Reynolds asked what the Town Board action would be now that HUD has taken over the mortgage as HUD has asked if the Town would like to purchase the note for the property. Murphy said that he assumed everyone has seen the letter from HUD. HUD took back the note, Vineyard Commons is in arrears on the note and HUD is the guarantor. It is standard operating procedure for HUD to inform the Town of the status and give the Town input as to what it feels would be appropriate action or if the Town would like to enter into negotiations to obtain the property. They did say 'if they were the highest bidder at a sale' so HUD does not own the property at this point but if HUD took back the property in a foreclosure, they would consider making a deal with the Town. He feels that under some circumstances for instance if Lloyd was a city with a housing authority, it may make sense. Reynolds said that it was his understanding that they are going to sell a note in July, they are not going into foreclosure yet; he spoke to the 'people in Washington'. Paladino asked if there was anything for the Town to do at this point. Supervisor asked if the value of the note was known and Reynolds said that he did not know but heard that the mortgage was for \$46-million. Brennie felt that this is not necessarily a negative as someone could come in with more capital. Murphy said that he intends to send a letter to HUD and give them a copy of the local law so that they would know that there are restrictions if anyone buys the note; if they buy the note they do not own the property, they would be a new creditor or bank. If it is in arrears and then default, they could foreclose on it.

5. MOTIONS AND RESOLUTIONS

A. **MOTION** made by Litts, seconded by Guerriero, to authorize Town of Lloyd Police Department to close the following streets on Thursday, June 21, 2011 from 5:00 PM to 6:30 PM for the St. Augustine Bazaar Parade; from St. Augustine's School: Eltings Place to Main Street to Vineyard Avenue to Commercial Avenue and back to St. Augustine's School.
Five ayes carried.

B. **MOTION** made by Paladino, seconded by Brennie, to appoint Charles Glasner to the Water/Sewer/ Drainage Committee.
Five ayes carried.

C. **RESOLUTION** made by Paladino, seconded by Litts, to authorize Central Hudson to install HPS 5800 on pole number 190585 on Haviland Road at the intersection with the driveway to the Rose Hill Manor Day School.
Roll call: Hansut, aye; Guerriero, aye; Litts, aye; Paladino, aye; Brennie, abstain.
Four ayes carried.

D. **RESOLUTION** made by Litts, seconded by Brennie, to accept the resignation of Police Chief David Ackert, due to retirement, effective July 30, 2012 and to extend the best wishes of the Town Board for his retirement.
Roll call: Hansut, aye; Guerriero, aye; Litts, aye; Paladino, aye; Brennie, aye.
Five ayes carried

E. **RESOLUTION** made by Brennie, seconded by Paladino, to accept the resignation of Faye Sisson, Research Assistant, due to retirement, effective June 30, 2012 and to extend the best wishes of the Town Board for her retirement.
Roll call: Hansut, aye; Guerriero, aye; Paladino, aye; Litts, aye; Brennie, aye.
Five ayes carried.

F. **RESOLUTION** made by Litts, seconded by Guerriero,
WHEREAS, the Town Board, received from Matthew Smith, the Project Manager, for the Bob Shepard Highland Landing Park and Highland Landing Park Association that the existing bulkhead along the Hudson River is in poor condition and warrants the installation of a new bulkhead to accommodate the master plan improvements at the park; and,
WHEREAS, the Town of Lloyd has previously received grant funding from the New York State Department of State, Environmental Protection Fund, Local Water Revitalization Program, in the amount of \$911,000.00 necessary to complete improvements at the park. Said grant represents a 100% match by the Town of Lloyd toward the cost of the project; and,

WHEREAS, The Highland Landing Park Association, has prepared certain maps, and provided a presentation to the Town of Lloyd Town Board for the proposed improvements associated with the new bulkhead, and has delineated the project identified as the Bob Shepard Highland Landing Bulkhead Construction.

WHEREAS, Morris Associates, Engineering Consultants PLLC, has prepared bid documents along with proposed request for bid documents and included certain drawings and specifications for the construction of a new steel Sheet Piling Seawall, and has delineated the project labeled as the Bob Shepard Park Seawall Construction, and

WHEREAS, the Town of Lloyd has publicly advertised and received formal bids on May 18, 2012 from contractors for the construction of the work as called for by the bid documents, and

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. The Town Board Awards the contract for general construction, for the project know as the Bob Shepard Park Seawall Construction, inclusive of all work as directed in the bid document for the base bid, add Alternate #1 and add Alternate #2 to Arold Construction, Inc. in the total amount of \$870,330.00, for the installation of the steel sheeting sea wall, rebuilding of the dock and dolphins at the Bob Shepard Park located in Lloyd New York;
2. The cost of this project shall be paid from grant monies by the New York State Department of State, and the Town of Lloyd matching share shall be through in kind services including but not limited to the purchase price of the land, donated consulting services, and donated construction services associated with the backfill of the bulkhead;
3. This project has been reviewed and permits have been granted by NYSDEC, as well as the Army Corps of Engineers, and during the permitting process, the permit from the NYSDOS Coastal Management, the NYSDEC listed the project as an unlisted action, and provided a negative declaration for the project, and no further environmental proceedings are necessary;
4. The Highland Landing Park Association be, and they hereby are, authorized to oversee, inspect the construction for compliance with the contract documents, and provide contract administration services for the project;

Roll call: Hansut, aye; Guerriero, aye; Litts, aye; Paladino, aye; Brennie, aye.

Five ayes carried.

G. Resolution for June 13, 2012 to make the following budget amendments:

GENERAL

Legal Notices/Code Update	00-01-1315-40	+\$1,310.00
Contingency	00-01-1990-40	-\$1,310.00

(This line will have to be updated as bills come in for the rest of the year)

Celebrations	00-06-7550-40	+\$250.00
Flea Markets	00-2560	- \$250.00

(Springfest donations for prizes for races)

HIGHWAY

USDA River Road	01-04-5112-42	+\$75,000.00
NRCS Grant	01-4089	-\$75,000.00

(Grant assistance to install emergency watershed protection measures within the South Branch of the Twaalfskill on River Rd to relieve hazards and damages caused by flooding in 2011 (Irene/Lee). Such measures include reforming and stabilization of a 120 feet long reach of stream bed and stream banks, install retaining rock wall to alleviate current drainage problems)

WATER

Administration Professional Service	20-07-8310-30	+\$4,500
Unexpended Balance	20-770	-\$4,500

(PILOT testing change in cost –request from Morris Associates letter 5/17/12)

Supervisor asked if anyone had further comments for the Town Board.

Richard Ziccardi, resident, asked if the Board already has funding for the roundabout that will have to be paid back if it does not go forward and if the funds were in escrow, reserve or the general fund.

06.06.2012

Litts answered that the funds were used to pay the consultants and if it needed to be paid back it will come out of Town funds.

Paladino said that is the agreement when you accept the grant.

Litts said that the Town will go ahead with a project the question is how much debt the Town wants to assume to build which alternate. He added that the last estimate for the roundabout was \$5.4-million and \$3.9-million has been committed by the federal government.

Brennie said that the engineer believes that they will be able to attract funds from other projects to pay the difference.

Litts said the \$3.9-million is already appropriated, or won; the first-come-first-serve would be on any additional funding that the Town tries to get. If we don't get any additional funding, the Town will have to pay it.

Brennie cautioned that the longer the project is put off the more it will cost; if the project was done five years ago it would have been half the cost.

Supervisor said a decision will be made next week.

James DiStasi submitted a petition signed by his neighbor to allow DiStasi to have chickens on his property.

Brennie posed that a variance should be issued with which Dave Barton agreed.

Litts said that if the Town Code were changed the number of chickens would be limited.

Barton said DiStasi would have to go through the variance procedure with the ZBA.

Litts asked what happened in the chicken situation on North Road.

Barton replied that nothing further happened and he does not feel that chickens are there.

Supervisor recommended that DiStasi proceed with the ZBA process for a variance; he offered to personally pay the \$150 as DiStasi is a senior citizen and has served his country.

MOTION made by Litts, seconded by Guerriero, go into executive session to discuss the Vineyard Commons pending case in court and attorney-client privilege meeting to discuss another matter at 5:15PM with Elaine Rivera and Sean Murphy.

Five ayes carried.

MOTION made by Brennie, seconded by Guerriero, to come out of executive session at 6:07PM.

Five ayes carried.

MOTION made by Litts, seconded by Paladino, to adjourn the meeting at 6:09 PM.

Five ayes carried.

Respectfully submitted

Rosaria Schiavone Peplow
Town Clerk