

# TOWN OF LLOYD TOWN BOARD

## REGULAR MEETING

AUGUST 10, 2011

**Present:** Supervisor Raymond Costantino  
Councilmember Kevin Brennie  
Councilmember Herbert Litts, III  
Councilmember Jeffrey Paladino

**Also present:** Sean Murphy, Attorney  
Rosaria Peplow, Town Clerk

**Absent:** Councilmember Nancy Hammond

**7:00 PM** – Supervisor opened the meeting and led the Pledge of Allegiance.

**7:00 PM** – Supervisor opened the Public Hearing on proposed Local Law No. G– 2011, a local law to amend Chapter 74, Section 3 of the Town Code regarding the control of pets on multi-use trails.

Supervisor explained the local law was to modify the length of the dog lease that can be used.

It must be non-retractable and no longer than six feet. This is the standard used for the NYS Parks.

### **1. REPORTS** from Town Board Department liaisons.

Assessor – Councilmember Litts reported that at the Workshop meeting Assessor Elaine Rivera said that she was in the process of adjudicating the grievances for the properties that came before the Board of Assessment Review; there are several commercial properties that have asked for reduced assessments, which have been turned over to the legal counsel for processing.

Audit – July 1 to September 30 – Councilmember Litts reported that this is three-month assignment and he is amazed at the number of vouchers that come into the Town Hall and the fact that he is signing his life away on them. He asked that the Board sends a letter to the Department Heads asking that if there are bills and vouchers that are not self-explanatory, a notation is put on the paper so that the Board member doing the auditing understands what the voucher is paying; an invoice number is not adequate.

Supervisor agreed to write a memo to the Department Heads.

Building Department – Supervisor Costantino

Building and Grounds – Supervisor Costantino

Dog Control – Councilmember Brennie

Environmental – Councilmember Hammond

Events – Wendy Rosinski

Grants – Supervisor Costantino

Highland Fire Districts – Councilmember Paladino reported that work has begun on the site for the 911 Memorial at the sign in front of the firehouse; Everett Erichsen arranged to receive a part of the Twin Towers. He noted that it is a nice thing to happen and appreciates Everett's effort to get it done. They are trying to complete it for September 11 so that the memorial ceremonies can be held there.

Highland Central School – Councilmember Hammond

Highland Landing – Matt Smith, Project Manager, read the following report:

The Highland Landing Park Association held its annual membership meeting on July 30 at the Bob Shepard Highland Landing Park. We had a barbeque, live music and perfect weather. About 70 members attended. The meeting started at 6 PM and went almost to dark. A great time was had by all!

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Tai Chi continues to be well attended. Yesterday evening there were nine people down there in the rain.

Sal Cuciti (Park designer), Dave Toder (architect) and I are working on getting Ray Jurkowski, Morris Associates, the information that he needs for the bulkhead bid package. We did soundings every 10 feet along the bulkhead and figured out the proper elevations for the dock and bulkhead constructions. Detailed drawings are being done for the dock renovations and dolphin replacements.

We dug across the road for the buried electric service conduits; as long as we were digging, we installed two additional conduits, one at 4½-feet for a future water line and one alongside the electric conduit for whatever else might be needed. Kingsley Arms, the contractor for the Sewer Plant job, did the digging at no charge. We hit rock and they brought down a hammer on an excavator and broke through to the 4½-foot depth that was needed. What was supposed to take a half day turned into a 14-hour marathon. It is done and we thank Kingsley Arms for their donated work.

Vito Dispensa looked at it this morning and we made a list of electrical parts for me to pick up tomorrow (08.11) so we can start pulling the cable and getting electric into the building.

Dick Hardman continues to mow as necessary with Bill Warren doing the weed whacking all around and cutting brush between the wall and the River (Bill is around 80 years old). A big thank you to both of them.

Two weeks ago, we sent in a reimbursement request to NYS for grant money we spent (approximately \$1500). We got an email on Monday saying that the money is on the way (it may be here by now). So far, our money has always arrived within a few weeks of our request for reimbursement.

Highway

Historian – Liz Alfonso

Hudson Valley Rail Trail – Supervisor Costantino

Justice – Councilmember Hammond

Lights – Councilmember Brennie

Planning Board – Councilmember Paladino reported that public hearings were closed. At the public hearing on Silver Fox, a 9-lot subdivision which is near Cross Creek Run off Route 9W, residents commented that they were concerned about use of their road. Matt Smith received a Special Use Permit with conditions on cosmetic fixes on the building and the parking lot area on Commercial Avenue; they have also granted the potential of additional parking on the north side of the building, subject to that being fenced in, which Smith agreed to do. Highland Woods, Route 299, received a permit to construct two more trailers on the property. The Odell family, Pancake Hollow Road, did not come to the public hearing and he feels that they were prepared to furnish the site plan that the Planning Board requested and their public hearing has been extended. They were asking for a Special Use Permit for their dog rescue center on their property.

Supervisor clarified, regarding the Special Use Permit for Matt Smith, Commercial Avenue, that use is permitted use in General Business so when it says ‘permitted use’ it is not a question as to whether or not the Planning Board is going to give him the permit, it is the conditions to that use and said that the Planning Board could never deny him the right.

Paladino concurred.

Matt Smith agreed that is correct but felt that the conditions could be harsh enough that it would be impossible to do that.

Paladino added that conditions were worked out in an amicable way. Both Paladino and Smith said that the neighbors came to the meeting in support of the plan.

Police – Councilmember Hammond

Personnel – Councilmember Brennie

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Recreation – Councilmember Brennie reported that bids were opened on the improvements to Berean Park.

Supervisor said that Roehrs Construction was the low bidder at \$177,000 and the other bids went up to \$270,000; the engineer notified us that the bid was in order, however, it is over budget. He said that the bid and plans will be reviewed to determine what can be done by the Town to save money. The Town Board may have to have a special meeting to award the bid as the season is over at the Park and work can begin. There is a total of \$181,000 in the Recreation Reserve Fund.

Brennie said that discussion has ensued to expand the Recreation Director's role to include Building and Grounds, in a full time position. He reported that SummerFun just concluded another successful season and expects that Frank Alfonso, Director, will have some numbers at the September meeting

Supervisor noted that the extra week of SummerFun was successful, with which Brennie agreed.

Brennie added that Tony Williams Park is used heavily everyday, especially with Pop Warner now using the Park. Part of the reason to expand Alfonso's role is that all of the improvements that have been made to the Parks need to be overseen.

Shared Services – Councilmember Paladino

Water and Sewer – Councilmember Litts noted that he was not notified of the new time and date of the Committee meeting; he came to the meeting on the first Thursday of the month (August 4) at 3:00 PM, along with several other members, but there was no meeting.

Supervisor responded that he will contact him of any changes and reiterated that the meetings are the first Thursday of each month at 3 PM.

Transfer Station/Recycling – Supervisor Costantino

Zoning Board of Appeals – Councilmember Litts reported that there was a meeting last month; they did not have three meetings in a row due to a lack of business. A two-lot subdivision was requested for the property of the former Benjamin Franklin School, a variance was needed as they do not have adequate coverage on the flag lot. The next meeting is tomorrow night (August 11) which he will not be able to attend.

Paladino offered to sit in for him.

Barton announced that River Road will be closed on August 11, from Bellevue Road to the Hudson River so that they can set the crane at the Sewer Department.

## **2. OLD BUSINESS**

A. Proposed Local Law E to amend Chapters 55, 89 and 90 and proposed Local Law F to amend the Town Zoning Code to add a Planned Residential Development.

Supervisor stated that the two laws were circulated to the Town of Lloyd Planning Board and the Ulster County Planning Board. There was no comment on the proposed Local Law E regarding Performance Bonds and a Public Hearing will be set tonight for next month.

The Ulster County Planning Board had some comments on the proposed Local Law F to add a PRD and that will be reviewed by the Town Board, Planning Board and the Zoning Board of Appeals.

B. Bids on Police Vehicles

Supervisor said that bids were opened this afternoon on the two used Police cars, (one had been given to the Assessor) which will be reviewed.

### 3. NEW BUSINESS

#### A. Robert Rhodes, Commander, VFW

Supervisor introduced Carl Crosley, Adjutant of Post 6534 VFW.

Adjutant Crosley said that he was at the meeting with some of his comrades to ask the Town Board for a grant. He explained that the VFW is the second largest veterans' group in the world; a member is required to be honorably discharged from the service and served in a combat zone in an overseas war. The group has been self-sufficient and has paid their expenses with spring and fall raffles, a yearly picnic and dues. The Post pays rent to the American Legion for the use of the hall, pays half of the cost of the flags placed on graves for Memorial Day, gives warm garments to the patients at Castle Point Veterans Hospital at Christmas, monetary awards to local eighth grade students who write the best Memorial Day essay, sends wreaths to funerals of veterans who have passed away and buys the lawn tractors and snow blowers that are used for the raffles.

Due to the economy and for other reasons, the raffles have not brought in the desired income and the picnic actually lost money this year. They need financial help in order to continue to do the things that they have done in the past. Most VFW posts receive grants from their city or town. It is his understanding that the Town of Lloyd gives money to the American Legion and he asked that the Town Board considers this request.

John Bernhardt, VFW, addressed the Board and said that he is the past State Commander and is currently the Financial Director, handling about \$5-million yearly. He is asked to visit towns, villages, cities as they request aid. He is aware that money is given to the American Legion and he is appealing to the Board to help the local VFW and their 60 members.

He asked if, under line item A6510.4, help could be given to the VFW by splitting the money given to the American Legion. He pointed out that many towns buy the flags for the graves. He suggested that the Town could get some money out of Albany; his department lobbied and NYS gave them a grant to help veterans to process claims.

Supervisor said that the budget process starts in September and asked Crosley if he had a number in mind.

Crosley answered that they would like the same amount that is given to the American Legion.

Supervisor stated that the Town gives money to American Legion for the Memorial Day Parade and he would like to look at the records as to how and why the money is given and the resolution to do so. It is under the item "Celebrations" in the budget and money is given to offset the Parade expenses; the Town has an agreement with the American Legion that their building may be used if necessary without charge to the Town. He feels that the Town Board is receptive and will work it through the budget process.

Robert Rhodes, Past Commander of the VFW, stated that the Town currently gives \$4000 to the Legion per year, part of that money is used for the cemetery flags but over the years the VFW paid for half of the flags and \$500 is hard on their budget (the last bill was \$478 and change); \$300 for the use of the hall per year, \$200 on the day of the barbeque for the hall and \$100 for the use of the soda machine.

Brennie recommends that a condition of the money given to the Legion is to allow the VFW to use the hall without charge.

Supervisor said that the Town Board will give serious consideration to their request.

Litts thanked them for coming to the meeting and for their service.

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#### 4. PRIVILEGE OF THE FLOOR

Kit Cowan read the following letter, in the absence of Fran Raucci:

Dear Town Board Member:

As a representative member and spokesperson for the Lloyd Development Association, I would like to state for the record that our constituents have expressed the following requests:

1. The Town Board should refrain from acting on the proposed Blue Point project otherwise known as The Hudson Valley Wine Village at this time, as well as any and all town zoning changes. Blue Point is a huge undertaking that includes zoning changes with a plan for 900 new residences over approximately 20 years. Our town clearly cannot support this as there are already so many houses that are empty or unsold. This is not the time to consider such an enormous housing development. We have been sued by Lowes and now we are being sued by Vineyard Commons and the Highland Square for tax relief. The financial straits of these developments and the legal fees involved only add to the tax burden of the residents of the Town of Lloyd.
2. As Town Board members you need to stop changing the zoning regulations to fit the needs of developers. The Town should enforce the present zoning regulations as stated in the Comprehensive Master Plan.
3. It is for the good of the community that we think there should be a moratorium on the building of large residential developments since there are so many homes and other residential units that are empty or for sale. There are also many people waiting to sell their homes but cannot do so in this market.
4. The Town Board should no longer act as "Lead Agency" on large commercial and/or residential development projects. The Planning Board should be allowed to do their job and make recommendations to the Town Board.

Thank you in advance.

Sincerely, Fran Raucci, LDA Representative and Treasurer

Cowan then asked the Town Board not to rush into changing the zoning and wait until the next administration takes office.

Brennie asked why Cowan felt the Town Board should not be lead agency.

Cowan replied that she understood that the Town Board needs to be lead agency because the Town Board is the only board who can effect zoning change but the Planning Board was designed to review issues and present it to the Town Board.

Brennie feels that the Planning Board is designed to do the work that the Planning Board cannot do. The Planning Board is appointed and the Town Board is elected so the decisions made by the Planning Board are not answerable to the taxpayers. He said that it is the job of the Board to make the hard decisions and the buck should not be passed to the Planning Board.

Paladino said that even if the Town Board is the lead agent, the Planning Board does give recommendations.

Cowan contends that it appears to the taxpayers that the Town Board takes lead agency and cuts out the Planning Board; the Town Board is elected to represent the opinions of taxpayers and that she would like taxpayers to be included more in the process.

Litts said that there are now monthly Tri-Board meetings where all large projects and zoning change issues are discussed; these are open to the public and are held on the fourth Thursday of the month. Concerns such as these are voiced at the meetings long before it gets to the point of changing zoning or approving a project.

Cowan responded that she had attended the last Tri-Board meeting, which was the first time, and she will attend more.

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Pam Krinsky reiterated that the Town is being sued by the last projects built in areas that were rezoned because they were not successful; these expenses are being paid by the taxpayer and she felt that it is not fair when people are economically strapped.

Litts agreed but said that it is a delicate balance. If residential is allowed and not balanced by commercial, the tax burden does go back to the homeowner, who is already taxed. He feels that smart growth is needed which only comes through a collaborative effort of all of the boards and people in the Town. Projects take years of effort to go through the process. He said that he would like to see more people volunteer to help the Town make these decisions. He explained that the current lawsuits are businesses who would like to reduce their assessments. The public hears about the large commercial lawsuits because that is what makes the newspaper but there were also dozens of homeowners who came before the Board of Assessment Review to reduce their assessments.

Sean Murphy, attorney, said that there were nine certioraris this year.

Elise Viola related that projects are sold to the public on the strength that they will bring tax dollars to the Town; however, once the project goes through, these project owners turn around and try to get the taxes lowered.

Paladino noted that 'try' is the word; the businesses come in with a claim that is ridiculous as a business tactic; however, without the businesses, the tax burden becomes that much more on the residences. It is a concern and has to be addressed but the benefit going forward is stronger than the negative side; what has happened in the last ten years economically has not happened in our recent history.

Cowan pointed out that it has been said that the Blue Point project had been in the process for eighteen months before anyone in the Town heard about it. She feels that developers meet with the Town behind the scenes.

Brennie said that it is not practical to update everyone with every change from the beginning of the concept; projects drift in and drift out.

Cowan asked if her group could not be in on how the Town works with the developers from the start of the process so that it is not a shock when it gets to the presentation stage.

Krinsky expressed a concern about the balance of the community when the Town entertains development of big, ugly businesses such as Wal Mart or Shoprite,.

Brennie answered that the Town does steer those businesses away because residents have said that they do not want them.

Paladino commented on 'built as of right, according to zoning' in the last few months with respect to the Winery project. The corner of Route 299 and Route 9W, instead of Highland Square, 'as of right' could have been a Wal Mart, which he felt that the majority of the people would not want. This was considered a better alternative and the Town of Lloyd was deemed the poster boy of smart growth by Ulster County when Highland Square was first proposed. The Winery property is zoned as 2-acre and 1-acre zoning in front and there could be +/-300 houses and that is all. The tax burden would be dramatic to the school.

Cowan argued that her group feels that the maps should be matched to the Comprehensive Plan.

Viola added that there should be a series of workshops with the public sitting down with the Comprehensive Plan.

Councilmembers commented that is what happens.

Litts noted that there are people in the back of the room agreeing as they have come to all of the meetings. He said that it is a burden on five people to make these decisions and he would appreciate having interested people helping. He said that the changes that are

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proposed for the southern end of Town, GB, is what the Master Plan asks; the Master Plan specifies that the major development for business should be Route 299 (limited because there are not large parcels of land) and Route 9W where there are large parcels of land. That is why the proposed zoning changes match the Master Plan better.

Cowan asked if the Comprehensive Plan was on line.

Peplow offered to help her find it on the Town of Lloyd website.

Brennie agreed that there have been many zoning changes but he always asks himself if this is going to be good for the Town. It is not true that the Board changes the zoning for a developer which would fit the proposed development.

Cowan said that her group is trying to communicate to the Town Board how they feel about development and how the Board can use that information to make their decisions.

Brennie said that the only way that children would be allowed to live at Vineyard Commons is if the Board agreed to that after public hearings; the perception is that Vineyard Commons is going to go bankrupt and the rules will have to be changed to fit that situation. He asked them to express one negative aspect about Vineyard Commons in the Town.

Cowan and Viola said that the units are not being filled. Viola felt that it was harmful to people trying to sell their houses.

Paladino stressed that it was a market condition and it could not be foreseen five years ago; however, the Town is not a market maker, they do not make decisions on how a project should be marketed. He added that Woodland Pond is in the same economic status, a high-end, large development. The developers take a risk as to what they feel the market would be three to five years to the future. In response to the current market, they went from 62-and-over, which was allowed by law, to 55-and-over senior living and reduced the rates. He understands that they have about 100 apartments now rented.

Supervisor, in response to Viola's concern about public hearings, said that all public hearings are held in the Meeting Room of the Town Hall and they are published and the meetings are held in the open.

Peplow felt that Viola may be misunderstanding what it says under Old Business; at a previous Town Board meeting, the Board had drafts of a local law and directed the Town Clerk to circulate to the Planning Board and the Ulster County Planning Board for review; the Town is expecting comments to come in which might modify the proposed PRD law and that will be discussed at the Tri-Board meeting.

Supervisor added that the information on the agenda may be abbreviated but the whole law is available for review. The Town Board has had conversations about it with the Planning Board and it was sent to the Planning Board for approval and/or suggestions; we are now waiting for comments to come back from Ulster County Planning Board.

Viola feels that the Board decision is one that can direct the future of the Town and it has nothing to do with market.

Litts offered that the decision is also based on comments from the consultants who work with Planning and Zoning; when the PRD was eliminated with the new Master Plan, what was put in its place has not been working.

Supervisor said that in its place it became Traditional Neighborhood; the Planning Board suggested that Commercial Avenue should be Traditional Neighborhood and the Town Board did not take that suggestion and left it alone. The Comprehensive Plan says to development the Hamlet, increase the density. The Board felt that the PRD might work in the Hamlet to infill on Commercial Avenue, St. Augustine's school and behind Elia's house.

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The Board explained that Vineyard Commons and Sunnybrook are PRD's; Bridgeview is a PUD, which also has a commercial aspect. The Winery project is not asking for a PRD. Supervisor returned to the thought that Vineyard Commons is hurting the Town of Lloyd. Brennie posed that even if a judge would agree with them on a change, there would be more property taxes paid on the property before they developed the property.

Cowan countered that is true unless they go bankrupt.

Supervisor reiterated that at this time there are nine certioraris, lawsuits against the Town, and they sometimes have to be defended, sometimes they can be negotiated; sometimes appraisers and attorneys have to be hired. He noted that we all shop in Bridgeview but every year they sue the Town; Mike Artega and the Guardian Self-Storage is suing the Town this year to reduce their assessments, not just the new developments.

Paladino said that it is a business climate; Vineyard Commons gave us over \$1-million in fees when they started; they hooked up to water and sewer. They are paying for water, they are a big customer of the Town and it is hoped for the benefit of the Town that they actually succeed.

Litts added that it is a business decision to ask to have their taxes reduced; residents also come to the grievance board to ask to have their taxes reduced. It is not a lawsuit with residential property but they can also ask for lower assessments.

Brennie explained that if the assessment is lowered, the amount that it is lowered is spread over the other residential properties around Town.

Cowan feels that is the problem.

Supervisor said that Lowe's is paying \$14-million in taxes, which was lowered from \$16-million. That is \$14-million more than we had four years ago; they are helping us to pay our taxes. He referred to the letter he received from the Lloyd Development Group which called Highland Square as 'another insolvent project' and said that is not known at this time; 'they have not paid the escrow fees', they were paid before this letter was written. He quoted, "this again puts a tax burden on the taxpayers to pay outstanding legal fees as well as carry a development's property tax". The Town is not carrying the developer's tax; as far as the outstanding legal fees, he asked Cowan if she was not part of the lawsuit against the Town.

Cowan said that she was helping the people who had that lawsuit.

Supervisor said that it was thrown out of court so it was frivolous and the Town had to pay \$48,000 and your members were part of that. He feels that everyone should work together and more dialogue is necessary. If the Town does not move forward and stays still, doing nothing to raise the assets and rateables of this Town, the Town is going to go backward.

Cowan asked the Board to take the time to evaluate the zoning change for the Winery property and not to push to get it done.

Paladino added that the owners have spent hundreds of thousands of dollars and this has been many years of background work. No one is rushing or making any changes yet.

Cowan is concerned that it is being rushed as this is the first she has heard of the project.

Litts said that the first presentation was made to the Board last Wednesday.

Supervisor said that was the first presentation to the Board and the project was made public and, further, changes were made in the plan each time that he spoke with the developers over the last eighteen months; they had no project so we did not know anything about zoning changes. They proposed a motel on Blue Point and he told them he did not think anyone will go along with that.

Litts added that 15 years ago they were going to build mini-mansions on the bluff and no one wants that.



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Supervisor told her that as-of-right zoning allows them to do that; they suggested a tradeoff to come off the bluff if the Town will give them a couple of more houses. They have a right to put houses over the bluff and down to the River. They have to come in for a special use permit from the Planning Board but that tells them not to cut trees over 18-inches, houses look like the natural habitat and it does not preclude them for doing that.

Cowan asked if there was recourse for breaking the BOD (Bluff Overlay District).

Paladino said that you don't break it; you have to adhere to the conditions of the BOD

Litts explained that the Waterfront Revitalization Program and the Waterfront Overlay District does not preclude development; it specifies development standards in that area.

If there is building in a buffer zone, the trees that are being cut need to be mapped.

Building cannot be denied but they must meet the standards i.e. a white house would not be allowed but if the house was tan or brown, it cannot be stopped. He made sure that those standards were adopted in the Master Plan.

Viola questioned the attitude that they are giving up the bluff that the Town should give them something else in return that is not good for our Town.

Paladino stressed that the developer is going to run the water down Route 9W at their expense and become a large customer of the Water District. They are asking for a Light Business zone and build businesses in it that would be a major tax rateable for the Town, create jobs and create a new destination not only for our own residents but those outside the area. A developer spending \$10-million to \$20-million can't get \$200,000 return on his money. As a trade-off, they need additional density; there is a dollars and cents equation that has to be met. The number of houses has not been determined.

Cowan asked about the private sewer system and the instance that it might be left to the Town to handle in the future.

Supervisor said that in Wappinger Falls, years ago, each developer had their own sewer plant and then walked away, forcing Wappinger Falls to absorb all of these little stations. That will not be allowed in Highland, this has been discussed with the developers. The plant will be built to the specifications of the Town of Lloyd, turn it over to the Town of Lloyd immediately and put in the Sewer District. This will help those people in the Sewer District to reduce their burden of taxes; the developer will pay to help rebuild the Highland Sewer District Plant; the Town will run it and man it when it is brand new and it will be kept brand new. It will not be run into the ground and abandoned. This is user-district so whoever uses the sewer has to pay for it. For example, if the sewer was run all the way up Hawley's Corners Road, all of the users of the on Hawley's Corners Road solely pay for that extension. Adversely with the Water District; waterlines could be run all over Town and the cost would be shared by everyone in the Water District. This is why it has been difficult to run the sewer line on Lower Grand Street to serve the American Legion and the Little League fields, as there are not enough users to spread the cost. The Board cannot take Sewer District money and pay for just that street's sewer. The Town did pay for a map plan and report; there are six houses sharing the road frontage. The Little League has not asked for sewer. The Legion has not had a problem since the Sewer Department cleaned their septic tank. The property owners declined the sewer line. It is still under consideration.

Jon Decker recalled that the American Legion did contact their NYS and Federal representatives to try to get funding to pay for the sewer line.

Viola pointed out that if the developer cannot make his project work financially within the existing zoning that is their problem, and asked why it is her responsibility as a taxpayer to make the project work.

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Paladino said, as of right, they could build 350 houses on that property along the Water Bluff Overlay; these would be houses with children, and your taxes are going to go way up. This is one of the most negative things you could do to your tax dollar. The answer is to offset it with either senior housing without children or create commercial development. The developer is proactively creating balance within their 400+ acres. They have met with Scenic Hudson and are staying off the Water Bluff Overlay and are doing a lot of positive things without being asked. This is a very unusual situation to have an owner who can self-finance and to do the project in the way that they are proposing.

Cowan feels that the school district was misquoted as there is not a lot of available room in the Highland schools for new students.

David Barton explained that the presentation at the Workshop meeting was the beginning of the process and said that the comment that is heard in Town Hall is 'I didn't know about it'. He said that in order to be a good citizen, you have to read the paper and show up at the meetings, as this group has. In attending the meetings, you will see the Winery project come back and other projects come in, you will all have an opportunity to speak. The process for the Winery has, literally, been active a week and the process of review by the Town has just begun. The developer's process has probably been active longer than that. There will be plenty of time to comment.

Supervisor said that his meetings with the developer have been on and off; they would leave for six months at a time, come back with another rendition. At first blush, they showed a big conference hotel on Blue Point that was spectacular and he told the developer that it would never fly. He told them that they had to stay off the bluff, consider the proximity to Franny Reese Park, people coming on the property and connecting the trails.

Cowan asked if the rest of the Board was involved in those discussions and she feels that her group is not involved in the process.

Supervisor answered 'no' as they come into his office during business hours and leave after a 10-minute conversation; this happens to each supervisor in office.

Brennie added that they come to the Supervisor because the Supervisor is available at Town Hall and they would not come to see him (Brennie) at the pizzeria.

The Board reiterated that the process did not start until last week.

VandeBogart offered that the developer came for advice and spoke to the Supervisor to get a sense of what he thought might be helpful. Anyone is welcome to come to the Supervisor's office with a concern.

Mark Reynolds, *Southern Ulster Times*, understands that the Town Board handles zoning changes and that is why the Town Board takes lead but he asked if there is a statute to give this to the Town Board.

Supervisor answered that as the executive branch makes the laws, they do take the lead; he is not aware of a statute.

Sean Murphy, attorney, offered that it depends on the interested agency; if there are other interested agencies, the Town Board notifies them that they intend to be the lead agency. Another interested agency could say 'no' and that they want to be the lead agency.

Supervisor does not feel that the Planning Board is an interested agency until the project is given to them to review.

Litts added that the Town Board can become lead agency or another agency can be delegated, i.e. Planning Board, ZBA, Water/Sewer Departments.

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Supervisor said that the work that the Planning Board does is actually the job of the Town Board but they created the Planning Board to do that work because the Town Board does not want to spend three or four nights at Town Hall.

Reynolds asked why the Town Board would not take the lead on the zoning change and the Planning Board take the lead on the planning.

Litts answered that there is only one SEQR process.

Supervisor said that in regard to the Winery project, for each stage, they will have to go back to the Planning Board for site plan approval for the building, for the warehouse, for adaptive reuse. Parameters are going to be for the design standards for the whole development.

Barton said that the Town Board will be the lead agency as the only agency able to change the law.

Litts feels that the Winery project will come before the Tri-Board meeting several times.

Jeffrey Mitchell, Cambridge Court, asked for a status on the noise reduction at Ultra Tab on Toc Drive.

Supervisor said that this Town Board needs to address the Code, as technically they are in compliance. The Code reads, 'to the property line'.

Barton reiterated that several months ago his department received phone calls on the noise emanating from Ultra Tab; as part of their processing, rooms have to be depressurized. There are two impeller shafts on the on the west side of the building. After several discussions, Ultra Tab built an enclosure on the west side of the building. The decibel reading was 74 before the enclosure was built, after at the property line, the decibel reading was 60. The remaining problem is that there is an impeller on the roof. In heading west from the Town Hall toward the Rail Trail, it acts like a berm and the noise level drops. However, on the top of Maple Avenue, at the Middle School or high enough on Cambridge Court, to have a line of sight, the impeller is still loud. We were told that they were having a special muffler made, coming from Europe, for the impeller which is designed so that it does not impede the air flow. In speaking with them two weeks ago, it was delayed.

Supervisor said that leads to the fact that Barton has enforced the Code as much as he can do, to the property line. The noise is heard from different part of the Town.

Mitchell referred to the Code on line and said that it says 'for extended durations and excessive noise', which is a broad-bush statement.

Julian Hogan, 62 Main Street, across the street from Highland Middle School, works at home and at the property 24/7; she first noticed the noise in the winter; she uses a sound machine and cannot sleep, especially in the summer with the windows open; she feels that it is worse at night. She cannot enjoy sitting outside in her yard.

Mitchell said that he came in to complain in January and feels that the Town is talking about attracting new businesses and the Town can't handle a business that is here.

Barton said that this is Police enforceable.

Steven Spor, 64 Main Street, said that he called the Police, he was told that businesses are excluded and he is very aggravated; he suggested that he will go to court and asks how the owner of the business would defend it. He feels that students with ADD and hearing the noise through open windows at the school will be very disturbed by the sound.

Supervisor said that there is no question that there is noise but the question is how the law can be fixed to empower the Police and Building Inspectors to enforce.

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Litts asked if the owner has told Barton that the device to muffle the sound will bring him within compliance.

Barton said that it would but the problem is that the bearings have failed and it is metal on metal.

Spor asked why the Town cannot go to the business and shut it off until it is fixed; if it is broken, it is unsafe. He asked who can be contacted for help.

Mitchell has also noticed that dust/power is being expelled from the building at different periods throughout the day and he is concerned about a health violation there as well.

Litts suggested that he contact the Department of Labor, the proper agency, if Mitchell feels that there is a threat to his health and safety.

Mitchell added that if they had corrected the noise problem he probably would not have noticed the dust but now everyone is going to be watching Ultra Tab closely and that would be harmful to the company.

Paladino asked Barton if the last time that he heard from them they were 'waiting on the parts'.

Barton concurred and said that is when he was told that the lead time was increased. He added that he usually hears the noise in the morning when he walks up the ramp from the parking lot to be backdoor of the Town Hall.

Supervisor asked what would be a reasonable time to turn off the noise.

Mitchell offered that it should only run on business hours.

Hogan stressed that the noise was awful and should be off all night long.

Paladino asked if Barton felt that they were trying to mitigate it but he asked Barton to follow up and Barton answered that they did spend \$20,000 on the enclosure.

Spor stated that the equipment failure is being ignored and we are guessing what is wrong.

Mitchell pointed out that there were three houses on Toc Drive that are for sale and he does not believe that these houses could be sold due to the noise.

Hogan feels that she could not sell her house either because of the noise.

Litts said that he would prefer that Ultra Tab becomes a good neighbor rather than shut them down and put 80 people out of work.

Supervisor agreed and said that is why Barton has not shut them down but it is now really getting to be annoying for everybody.

Paladino suggested that Barton should be called for an update after giving him a few days to get an answer from Ultra Tab.

Spor said that he did file a Police complaint and it was tossed; the same night there was a call to the 911 dispatcher over the same thing.

Supervisor the Board is going to look at a new noise code.

Mitchell just wants them to do what they agreed to do which was put a muffler on the impeller.

## 5. RESOLUTIONS

A. **MOTION** made by Brennie, seconded by Brennie, to approve the minutes from: Workshop Meeting of July 6, 2011; Regular Meeting of July 20, 2011.

**Four ayes carried.**

B. **RESOLUTION** made by Brennie, seconded by Litts,

**WHEREAS**, the Town of Lloyd has issued a request for proposal for work to be done at the town's "Berean Park", pursuant to the Berean Park improvement plan; and

**WHEREAS**, it is envisioned that certain of the work, including removal of trees, removal and replacement of fencing and construction of a retaining wall, is on

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property adjacent to real property owned by Robert Maier and Beth Maier, and located at 49 Reservoir Road in the Town of Lloyd; and

**WHEREAS**, Robert Maier and Beth Maier have agreed to grant to the Town of Lloyd a 10-foot wide temporary easement over, under and across real property owned by them at 49 Reservoir Road in the Town of Lloyd to effectuate the proposed work; and

**WHEREAS**, details of the temporary easement are contained in the Easement Agreement between Robert and Beth Maier and the Town of Lloyd attached hereto as Exhibit 1.

**WHEREAS**, the Town Board of the Town of Lloyd has determined that approval of the Easement Agreement attached as Exhibit 1 constitutes a Type II action pursuant to the State Environmental Quality Review Act (SEQRA) and is exempt from further proceedings under such act.

**NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:**

1. The Easement Agreement attached hereto as Exhibit 1 be, and the same hereby is, approved by the Town of Lloyd.
2. The Supervisor is hereby authorized to execute said Easement Agreement and any other documents required by law to complete the intent of the Agreement, which is to be recorded in the Ulster County Clerk's Office. (See Attached)

**Roll call:** Costantino, aye; Paladino, aye; Litts, aye; Brennie, aye.

**Four ayes carried.**

**C. MOTION** made by Paladino, seconded by Brennie, to close the Public Hearing on proposed Local Law No. G– 2011, a local law to amend Chapter 74, Section 3 of the Town Code regarding the control of pets on multi-use trails at 8:35PM

**Roll call:** Costantino, aye; Paladino, aye; Litts, aye; Brennie, aye.

**Four ayes carried.**

**D. RESOLUTION** made by Paladino, seconded by Brennie,

**WHEREAS**, proposed Local Law No. G – 2011, a local law to amend Chapter 74, Section 3, of the Town Code regarding the control of pets on multi-use trails, was introduced at a meeting of the Town Board held on the 20<sup>th</sup> day of July, 2011 at 7:00 p.m.; and,

**WHEREAS**, a public hearing has been held thereon on the 10<sup>th</sup> day of August, 2011 at 7:00 p.m., at which time all interested parties were given an opportunity to be heard thereon; and,

**WHEREAS**, the Town Board of the Town of Lloyd has determined that the within local law is an unlisted action under the State Environmental Quality Review Act (SEQRA) and a short form EAF has been prepared on behalf of the Town Board, with the Board assuming lead agency to do all necessary reviews in the matter, and the Town Board having examined the short form EAF and considered the environmental effects of this local law, finds, as lead agency, that there is no environmental impact, hereby issuing its Declaration of Non-Significance.

**NOW, THEREFORE, BE IT RESOLVED** that Local Law G – 2011 be enacted as in the form attached hereto as Schedule “A” as fully as if set forth herein, being a local law to amend Chapter 74, Section 3, of the Town Code regarding the control of pets on multi-use trails.

**Roll call:** Costantino, aye; Paladino, aye; Litts, aye; Brennie, aye.

**Four ayes carried.**

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**E. RESOLUTION** made by Brennie, seconded by Litts, to hire Cheryl E. Benjamin as a part-time dispatcher at the rate of \$12.00 per hour, effective August 10, 2011, the background check having been satisfactory, upon successful completion of her pre-employment physical at the recommendation of Chief David Ackert.

**Roll call:** Costantino, aye; Paladino, aye; Litts, aye; Brennie, abstain.

**Three ayes carried.**

**F. RESOLUTION** made by Brennie, seconded by Litts,

**WHEREAS**, a local law, being proposed as Local Law No. E – 2011, was introduced as follows: Local Law No. E – 2011, a local law to amend Chapters 55, 89 and 90 of the Town Code in respect of construction of improvements and of performance bonds and other security. (Copy of Local Law attached)

**WHEREAS**, this Board desires to hold a Public Hearing with respect to the adoption of the said local law.

**NOW, THEREFORE, BE IT RESOLVED** that a Public Hearing will be held by the Town Board with respect to the adoption of the aforesaid local law at the Town Hall on the 14<sup>th</sup> day of September, 2011 at 7:00 p.m.; and it is further

**RESOLVED**, that the Town Clerk is directed to publish and post a notice of said public hearing in accordance with law and circulate pursuant to the Town of Lloyd Code, the New York State Town Law and the New York State General Municipal Law to the Town of Lloyd Planning Board, the Ulster County Planning Board, surrounding towns and any other interested agencies for response prior to the public hearing; and it is further

**RESOLVED**, that the Town Board of the Town of Lloyd has determined that the within local law is an unlisted action under the State Environmental Quality Review Act (SEQRA) and a short form EAF has been prepared on behalf of the Town Board, with the Board assuming lead agency to do all necessary reviews in the matter.

Town of Lloyd, Ulster County, New York

Local Law No. E of the Year 2011

A Local Law to amend Chapters 55, 89, and 90 of the Town Code  
in respect of Construction of Improvements and of Performance  
Bonds and other Security

**Section 1. Purpose**

To clarify the procedures for construction commencement and completion when a performance bond or other performance security is filed, before required improvements are completed and accepted by Town agencies and officers.

**Section 2.**

Chapter 89 of the Town Code is amended to delete present Section 89-15 and enact a new section as follows:

**“Section 89-15 Performance bond.**

**A.** Prior to signing of any subdivision or commercial plan or map by the Town Planning Board Chairman, or prior to the start of any construction, and as a guaranty for the performance of the requirements of this section of any new road, street, utility, stormwater control facility, or of any improvements to any Town street, and as a guaranty of timely completion of the work being bonded, the developer shall deposit with the Town a written security agreement whereby the developer agrees to construct the improvements, such agreement to be approved by the Town Board and, as to form, by the Town Attorney, along with security for the developer’s

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performance. Security shall be in the form of: (i) a performance bond of an acceptable surety company; (ii) bonds of the United States of America; (iii) an irrevocable letter of credit from a bank located and authorized to do business in New York State; (iv) the deposit of funds in an account or certificate of deposit issued by a bank or trust company located in and authorized to do business in New York State, such account must be assigned to the Town; or (v) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of the improvements. Any such security shall be delivered to the Town or held in a Town account at a bank or trust company. The security agreements shall provide:

- (1) That the developer will commence with the work to construct the improvements within six (6) weeks upon depositing the acceptable security with the Town;
  - (2) That the developer will continue with the work, continuously without cessation or unreasonable delay, in constructing the improvements, particularly between March 15 and November 15 of each year;
  - (3) That within two (2) years of the signing of the subdivision or commercial plan, the developer will complete the construction of all required improvements, as required by law, and in accordance with the approved plans and specifications. The time for completion may be shorter if a developer elects to complete the improvements in phases. See Town Code 90-4 (D)(8);
  - (4) If streets are to be dedicated to the Town, that, upon certification by the developer's professional engineer and by the Town Superintendent of Highways that the construction of the street, utilities and required stormwater control facilities have been completed in accordance with the approved plans and specifications, the developer will dedicate the completed street to the Town for use as a public highway free and clear of all liens and encumbrances. This guaranty of dedication shall apply to the owner of the property as well as the developer, where the two are not synonymous.
  - (5) That, upon the developer's failure to construct the required improvements as required by the terms of the security agreement, including, without limitation, the developer's cessation of construction without Town approval, the Town Board may declare the security agreement to be in default and take the security posted and construct the improvements so secured but only to the extent of the available funds. The Town is not obligated to complete all subdivision work unless the owners of lots provide additional funds. The Town may restrict the issuance of building permits, in its discretion, in such circumstances.
- B.** The minimum total amount of the posted security shall be determined by the Town Engineer by applying the quantities or dimensions shown on the approved plan at the rates per unit as established by the schedule of rates adopted by resolution and amended by the Town Board from time to time by resolution.
- C.** The security agreement shall be for such term as determined by the Planning Board, up to three (3) years, but may be extended by the Planning Board upon agreement of all parties, including the surety, if applicable."

**Section 3.** Chapter 55 of the Town Code is amended by deleting present paragraphs 55-10 B. (1) and (2) and enacting new paragraphs 55-10 B. (1), (2) and (3) as follows:

**"B. Performance guarantee.**

- (1) Construction completion guarantee: In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Lloyd in its approval of the stormwater

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pollution prevention plan, the applicant or developer must provide, prior to commencement of construction, a security agreement which guarantees completion of the project, satisfactory to the Town. Such agreement must be approved by the Town Board, and, as to form, sufficiency and manner of execution, by the Town Attorney. The security for performance shall be in the form of: (i) a performance bond of an acceptable surety company; (ii) bonds of the United States of America; (iii) an irrevocable letter of credit from a bank located and authorized to do business in New York State; (iv) the deposit of funds in an account or certificate of deposit issued by a bank or trust company located in and authorized to do business in New York State, such account must be assigned to the Town; or (v) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of the improvements. Any such security shall be delivered to the Town or held in a Town account at a bank or trust company.

The minimum amount of the posted security shall be in an amount to be determined by the Town Engineer based on submission of final design plans, with reference to actual construction and landscaping costs. The developer and the form and content of the security shall comply with Town Code Section 89-15 in all respects. The security agreement shall remain in force until the surety is released from liability by the Town of Lloyd, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town of Lloyd.

(2)Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to commencement of construction, may be required to provide the Town of Lloyd with a security agreement and security by bond from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction and until the facilities are removed from operation. The developer or owner shall comply with Town Code Section 89-15, in all respects. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Lloyd may declare a default on the security agreement and draw upon the security to cover the costs of proper operation and maintenance, including engineering and inspection costs.”

**Section 4.** Chapter 90 of the Town Code is amended to replace the definition of “Security” in present Section 90-2 with a new definition as follows:

“**SECURITY** – A written security agreement whereby the developer agrees to construct certain improvements and/or maintain such improvements, such agreement to be approved by the Town Board and, as to form, by the Town Attorney, along with security for the developer’s performance. Security shall be in the form of: (i) a performance bond of an acceptable surety company; (ii) bonds of the United States of America; (iii) an irrevocable letter of credit from a bank located and authorized to do business in New York State; (iv) the deposit of funds in an account or certificate of deposit issued by a bank or trust company located in and authorized to do business in New York State, such account must be assigned to the



Town; or (v) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of the improvements.”

**Section 5.** Chapter 90 of the Town Code is amended to delete present Section 90-4(D)(8) and enact a new section as follows:

- “8. Signing of plat. In order to protect the health, safety and welfare of the public and in addition to the requirements in Town of Lloyd Code Chapter 89-15 and Chapter 55-10B(1) and (2), the following regulations shall apply to all infrastructure proposed within the subdivision.
- (a) Prior to signing of the Plat, roads, stormwater control facility, utility or other improvements shall be built or satisfactory security posted to ensure the promptly completion of such improvements.
  - (b) If the developer chooses, the improvements may be constructed after the preliminary or conditional approval, but before the plat is signed for recording with the Ulster County Clerk. The developer will pay inspection fees prior to any work performed, to cover the Town’s costs in inspecting the work. Those fees shall be determined through calculation by the Town Engineer using the fee schedule of rates adopted by resolution of the Town Board and amended by resolution from time to time. A 150 % multiplier shall be applied to the amount of the Performance Bond calculated by the Town Engineer.
  - (c) Acceptance of the road if dedication has been approved by the Town Board, will be upon the Town Superintendent of Highways certifying that construction has been completed in accordance with the approved plans and specifications.
  - (d) If the developer chooses, the construction of required improvements may be phased.
    - i. The Inspection Fees may be determined per individual phase, but shall be calculated within two (2) months prior to the beginning of construction of each phase.
    - ii. Construction in an individual phase shall commence construction within 6 weeks following the deposit of an acceptable security agreement and security, for that individual phase, with the Town as provided in Section 89-15, 55-10 and other applicable sections of the Town Code. Construction must be complete within two (2) years of the commencement of construction of the phase.
    - iii. If the construction of the required improvements is not completed within two (2) years, the Town may declare the security agreement in default and commence action, through the Town Attorney, to collect the security and complete the improvements within the phase under construction.
    - iv. If necessary, phases may be joined together, to take advantage of economies of scale and staging of machinery, but the time period for completion will not be extended beyond those set forth in the Town Code.
  - (e) No building permits will be issued until all streets or roads have been completed and accepted for dedication by the Town or their completion has been secured as provided herein. A note shall be placed on the plat disclosing that no Building Permits shall be issued until the phase within which the parcel exists has a road under construction, with the appropriate security posted.
  - (f) When performance security is required, the Planning Board shall authorize the Chair to endorse the Board's approval on the plat after the performance security has been approved and filed, and all of the conditions of the resolution pertaining to the plat have been satisfied.

- (g) When no security is filed, the Planning Board shall authorize the Chair to endorse the Board's approval on the plat after all conditions of the resolution have been satisfied, and all improvements have been satisfactorily completed.
- (h) Notation of approval.
  - i. Every subdivision plat submitted to the Board for its approval shall carry the following endorsement:  
Approved by resolution of the Planning Board of the Town of Lloyd, subject to all conditions and requirements of said resolution. Any change, erasure, modification or revision of this plat as approved shall void this approval.  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, \_\_\_\_\_, Chair
  - ii. In the absence of the Chair, the Acting Chair may sign and shall indicate his office on the plat.”

**Section 6.** Chapter 90 of the Town Code is amended to delete present Section 90-7 and enact a new section as follows:

**“§ 90-7. Completion of Improvements.**

- A. After adoption of a resolution by the Planning Board approving a subdivision plat, the applicant shall be required to complete all improvements specified in the resolution or to file adequate security for as provided in Section 89-15 and 55-10 of the Town Code. The developer shall also maintain such improvements for a period of one year from the date of their completion, and at the Town’s option, file with the Town Board a security in an amount estimated by the Planning Board as sufficient to maintain such improvements for a period of one (10) year as provided in Section 90-8(C) hereof.
- B. Said improvements shall be constructed in accordance with the terms of the Planning Board's resolution of approval to the standards specified in these regulations, or such other standards as the Planning Board may specify, to the satisfaction of the appropriate Town departments. Said improvements shall be completed within the periods set forth in Section 55-10, 89-15, 90-4(D)(8) and any other applicable sections of the Town Code.
- C. Posting of performance security. When the applicant files a performance security, such security shall comply with the requirements of the Town Law and Code, Chapter 55, Stormwater Management and Erosion and Sediment Control and Chapter 89, Article III, Road Specifications, and shall be posted prior to the signing of the subdivision plat. The amount of the security and the period within which the required improvements must be completed shall be conditioned on the satisfactory completion of all required improvements within such period, although the Planning Board may require that the security also be conditioned on the completion of certain phases of construction within such shorter period as may be specified in the Board's resolution. The security shall also provide that the road shall be maintained in all-weather passable condition if certificates of occupancy are issued during the term of the security under the provisions of this Chapter.
- D. Cost to be borne by applicant. All required improvements shall be made by the applicant, at his expense, without reimbursement by the Town or any district therein.
- E. Failure to complete improvements.
  - 1. Where performance security is not posted, if the improvements are not completed within the period specified by the Planning Board in the resolution approving the subdivision plat, the approval shall be deemed to have expired. The applicant may reapply for approval of his proposed subdivision in accordance with these regulations. If the subdivision expires, is reapplied for and approved, the applicant

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shall submit all fees in place at the signing of the subdivision plat, regardless of whether they paid fees at the original signing.

2. Where performance security is furnished, if the improvements are not completed within the term of such performance security, and if no application for the extension of the security has been made by the applicant and approved by the Planning Board, the Town Board may thereupon declare said security to be in default, may collect on the security and utilize the funds to complete the improvements.

F. Inspection of improvements.

1. The Town may employ an engineering inspector or authorize the Town Highway Superintendent or his authorized representative to inspect the required improvements during construction to assure their satisfactory completion, and the Building Department shall require a certificate from such official stating that all required improvements have been satisfactorily completed. The applicant shall pay the Town the costs of inspection before the subdivision plat is signed for filing. Such payment is to be paid to the Building Department.
2. If the engineering inspector or Town Highway Superintendent or his authorized representative finds, upon inspection, that any of the required improvements have not been constructed in accordance with the land development regulations and the approved construction plans, the applicant and the provider of the security (i.e. surety) shall be severally and jointly liable for completing said improvements according to specifications.
3. Road inspections.
  - (a) In the case of a new road or a change in an existing road, the work shall be inspected at the completion of each of the following four stages of construction by the Town Highway Superintendent or his duly authorized representative:
    - (i) Cutting of brush and trees, removal of stumps and all topsoil moved to roadside and stored; removal of any wet, unstable soil to any depth required until suitable subsoil (35 pounds per square inch) remains to form a firm base for a road bed.
    - (ii) Rough grading and installation of road base and drainage ditches; culverts, headwalls, catch basins and other similar elements recommended by the Town Highway Superintendent or his authorized representative, not to be covered until examined by the inspector; side bands and shoulders graded as per specifications.
    - (iii) Satisfactory pavement placed, crowned, rolled or compressed on the road bed; covering of headwalls and culverts and finished grading on shoulders and banks; placing of topsoil where necessary. The Town's inspector may require that test holes be dug in order to inspect pavement thickness and type.
    - (iv) Oiling, cleaning up of shoulders, seeding of banks and installation of road signs.
    - (v) Road construction and inspection shall be conducted in multiples of 1,000 feet of road length. In certain instances, based on the dimensions of the subdivision plat, the Planning Board may permit road construction and inspection for distances less or greater than 1,000 feet.
4. In order that these inspections may be made at the completion of each stage of construction, as specified above, the applicant shall notify the Building Department or the engineering inspector of the times when required inspections may be made. In general, inspections shall be made within two days following the day of notification, excluding holidays and weekends. No work shall proceed on the subsequent

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construction stage until the prior stage has been completed to the satisfaction of the Town's inspector. Any violation of this procedure may result in a complete stoppage of all construction.

5. In order to facilitate the inspection procedure, all roads shall be staked during construction at each side of the road right-of-way, at intervals of approximately 50 feet, except where a shorter distance is required on curves, and each stake shall be marked with the appropriate station number consistent with the corresponding station number shown on the construction plans.
6. Written certification shall be made to the Building Department by the Town's inspector at the completion of the abovementioned successive stages of work, stating the date of each inspection and the fact that the work, when inspected, was in accordance with the approved plans and specifications. A copy of each of the notices of certification shall also be transmitted to the Town Highway Superintendent.
7. Final inspection and certification of construction.
  - (a) Upon completion of all improvements, the applicant shall notify the Building Department and the Town's authorized inspector and request a final inspection. Such request shall be accompanied by one of the following:
    - (i) Three copies of the construction plans and the subdivision plat, modified where necessary.
    - (ii) Three copies of a new construction plan and plat.
  - (b) Either set of plans and plat shall show the actual location of the required improvements as constructed. Specifically, such plan and plat shall show:
    - (i) The center line of the right-of-way.
    - (ii) The center line and edges of the traveled way at one-hundred-foot intervals and at points of curvature and tangency.
    - (iii) Profiles of the finished surface of the traveled way at fifty-foot intervals along the center line.
    - (iv) The locations of all catch basins and headwalls, by the plus and offset method, and the elevations of the top, the pipe invert and the sump invert.
    - (v) The locations of all culvert pipes, with length, diameter and material.
    - (vi) The location of spill offs.
    - (vii) The location of paved gutters by plus stations.
    - (viii) The center line and the edges of the traveled way at a turnabout; the location of the center of the turnaround; the elevation of the outer edges of the turnaround at each side and at each side and at the farthest end.
    - (ix) The location of edges of pavement returns at road intersections.
    - (x) The location of all utilities furnished either by the applicant or by others.
    - (xi) The grades of all slopes along the road.
    - (xii) The amount of road crown by gutter and center line grades.
    - (xiii) The location of all monuments.
    - (xiv) The location of drainage easements.
    - (xv) Such plan and plat shall bear a dated certification by a licensed surveyor or professional engineer to the effect that the data shown thereon was accurately determined by field survey. The Town's inspector shall make his inspection and submit his report thereon to the Building Department. He shall include the modified plans with his comments.”

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**Section 7.** This local law will take effect when filed with the Secretary of State in accordance with the Municipal Home Rule Law.

**Roll call:** Paladino, aye; Brennie, aye; Costantino, aye; Litts, aye.

**Four ayes carried.**

**G. RESOLUTION** made by Brennie, seconded by Paladino to approve the following budget amendments:

General Fund

Signs                    00-02-3310-40    +\$2,500.00

Contingency        00-01-1990-40    -\$2,500.00

(to cover cost of signs that have been ordered)

Highway Fund

General Repairs CE 01-04-5110-40        +\$25,000.00

CHIPS funds Revenue    01-3501        -\$25,000.00

(as requested by Frank Lombardi, Highway Superintendent)

**Roll call:** Costantino, aye; Paladino, aye; Litts, aye; Brennie, aye.

**Four ayes carried.**

**MOTION** made by Paladino, seconded by Brennie, to go into executive session to discuss personnel and contracts at 8:37 PM.

**Four ayes carried.**

**MOTION** made by Litts, seconded by Brennie, to come out of executive session at 9:16 PM.

**Four ayes carried.**

Supervisor stated that a new contract has been negotiated with David Barton and the Board is passing a resolution tonight to approve the new contract.

Franco Zani asked if Barton's contract is due for renewal and if not, why it is being opened for renegotiation.

Litts answered that the Board is adding duties to Barton and are taking those duties away from consultants in an effort to save the Town some money.

Zani asked if those duties consistent with his job description with Civil Service.

Litts asked if that was checked and the Supervisor affirmed.

Paul Hansut commented that the Board went into executive session at the end of the Regular Meeting and came out of executive session without the presence of the public; he asked if there was a reason that this could not be held off until the September meeting and put on the agenda in the interests of transparent government.

Litts said that when they went into executive session on personnel matters and three other items were discussed.

Hansut said that he understood but they were coming out of an executive session to extend a contract which is in effect until 2013; he noted that his comments did not have anything to do with David Barton but the action does not portray open and transparent government.

Litts felt that it could be an agenda item for the next meeting; however, he is signing off on vouchers for work that could be done by Barton and not pay consultants whose fees are \$100 to \$200 per hour. He would like to shift some of those responsibilities to Barton.

Supervisor offered that if the reasoning is sound for tonight, it would be sound for next month.

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Zani would like to see where Civil Service has signed off on the extra duties in the job description.

Supervisor stated that the Town Board would adopt a resolution to extend the contract for David Barton.

The resolution was postponed until the next Town Board meeting.

**MOTION** made by Litts, seconded by Brennie, to adjourn the meeting at 9:21 PM.

**Four ayes carried.**

Respectfully submitted,

Rosaria Schiavone Peplow  
Town Clerk