

**Village of Walden  
Board of Trustees Meeting  
September 12, 2006**

Mayor Becky Pearson called the regular meeting of the Village of Walden Board of Trustees to order at 6:30PM.

On roll call the following were:

|          |              |                   |
|----------|--------------|-------------------|
| Present: | Mayor        | Becky Pearson     |
|          | Deputy Mayor | Mary Ellen Matise |
|          | Trustees     | Roy Wynkoop       |
|          |              | Mary Jean Norman  |
|          |              | Richard Hurd      |
|          |              | Jose DeJesus      |
|          |              | Edmund Leonard    |

|               |                               |
|---------------|-------------------------------|
| Also Present: | James Politi, Village Manager |
|               | Nancy Mitchell, Village Clerk |
|               | Kevin Dowd, Village Attorney  |

**Public Hearing-Introductory Local Law I-5 of 2006, “Zoning”**

Mayor Pearson presented the Affidavit of Publication, Affidavit of Posting Notice and Notice of Hearing, which was read by the Mayor.

Mayor Pearson also indicated that the County of Orange supports the Village in its efforts to prevent overcrowded living conditions, and improve upon the quality of life for its residents. The county stated that this project will have no major impact upon State or County facilities nor have any significant inter-municipal issues. It is also consistent with the County Comprehensive Plan and local laws.

There were no comments from the public

Trustee Wynkoop moved to close the public hearing. Seconded by Trustee DeJesus. All ayes. Public hearing closed.

Deputy Mayor Matise moved to declare the Board of Trustees lead agency with regard to SEQRA. Seconded by Trustee Wynkoop. All ayes. Motion carried.

Deputy Mayor Matise moved to declare a negative declaration with regard to SEQRA. Seconded by Trustee Leonard. All ayes. Motion carried.

Deputy Mayor Matise moved to adopt Introductory Local Law I-5 of 2006, “Zoning” as Local Law No. 6 of 2006. Seconded by Trustee Norman. All ayes. Local law adopted.

## **Approval of Minutes**

Trustee Leonard moved to adopt the minutes of August 8<sup>th</sup>, 2006 with the following corrections: Page 3, fifth paragraph, change crypt to thrift, Page 1, include I talked to Jan about that. You get bills the end of the month, you get bills at the beginning of the month and you have a couple weeks to pay bills, so we pay bills every two weeks, so we should not be late on any bill that comes before us. We have one meeting the beginning of August; we don't have a meeting the end of the month, so if a bill comes in before our meeting we don't pay it until the beginning of September. We've done that for years, what's the difference. She wasn't signing some bills because on Sunday when she comes in some of those bills are not signed and she was told in the beginning don't sign bills unless the manager signs them first. I'm suggesting Friday cut off so that over the weekend that no bills get put into this packet on Monday and Tuesday before the meeting. The cut off will be Friday. It makes a difference to her because she is looking at the bills on Sunday and when she looks at them on Sunday she doesn't know what bills are coming in on Monday and Tuesday and he's not going to give her a list of those bills; Page 15, include, Jose: We got a letter regarding the trees on Oakland

Mayor Pearson asked what letter, we got another letter?

Trustee Wynkoop stated that it was in your mail, did you just pick it up.

Trustee DeJesus asked if he works for All Tree Removal?

Manager Politi stated no, that I didn't understand, I think that's a card and he was trying.

Trustee DeJesus stated that there was a letter to Mary Ellen and everybody else.

Manager Politi stated that he was trying to address it to both.

Trustee DeJesus stated that he says in the letter that he spoke to a representative from All Tree Removal and the letter head he has his address on one side and he has letter head from All Tree Removal.

Deputy Mayor Matise stated no, no, no, that's a business card and Nancy just photocopied the business card.

Trustee DeJesus stated, so he wants the trees chopped down.

Mayor Pearson asked is it the same gentlemen who had a problem with the trees last year. You trimmed those trees.

Manager Politi stated yes, they've been trimming the trees and I want to go back to Jimmy Pursutti's original survey where he did the boring to see if that's a tree that has to come down.

Seconded by DeJesus. All ayes. Minutes adopted.

### **Public Comment**

Sandy Griffin McLaughlin stated that on the corner of Union Street and Sherman Avenue there is a property that is a mess. Her mother in law lives next door and she is embarrassed to have people over. There is a go cart, boat, tent and lots of garbage. There is a hose that comes out of the house and in the winter it freezes in front of her driveway. She presented pictures to the Board that were taken in 2002, and 2003 and its still the same.

The Mayor indicated that she also took pictures.

Ms. McLaughlin stated that there are vehicles with expired registrations.

Manager Politi stated that Mr. Ronk was been cited yesterday.

Mr. Dowd stated that there is a period of time in the notice to remedy and if he doesn't the Building Inspector the Board can set a hearing and go through the process again to clean it up and charge back the property.

Manager Politi stated that the Building Inspector feels you have more of a punch here then going through the court. The Building Inspector gave him ten days to clean up.

Mr. Dowd stated that at the next Board meeting the Board would have the recommendation from the Building Inspector and if he didn't clean it up you would then set the hearing.

Mayor Pearson asked about the health department.

Mr. Dowd stated that they will not get involved.

Trustee DeJesus asked about the generator and what role the Fire Department would have with that.

Mr. Dowd indicated that the Building Inspector is the Fire Inspector.

Manager Politi stated that the violation covers failure to clean yard areas, junk, debris, old mowers, cut all grass areas, clean up garbage, repair and paint house and general maintenance of complete property. The Building Inspector gave Mr. Ronk 10 days to do so.

Mr. Dowd indicated that the Board could have a special meeting on September 23<sup>rd</sup> and have a hearing on September 26<sup>th</sup>.

Trustee DeJesus stated that he doesn't see the need for a special meeting because we're going to go through the same motions that they have in the past, so they should do this at the next scheduled meeting.

Trustee Hurd stated that as bad as this is he has a problem treating this any differently then they would treat any other code violation similar to this.

Mr. Dowd suggested the Board meet on September 26 and they can have a special meeting for the hearing.

Manager Politi stated that he will work on that time line.

Trustee DeJesus asked why shouldn't the Department of Health be called into something that looks like a hazard.

Mr. Dowd stated that they won't come. It would have to be an extreme case such as raw sewage running into the yard that they might get involved.

Mayor Pearson asked what about the water that is coming out of their house into the road.

Mr. Dowd stated that if the water goes into the street the Village can test it.

Mayor Pearson asked that they check to see if he is getting a bill.

It was the consensus of the Board to set a hearing at the September 26<sup>th</sup> meeting.

Bob Carlson, 43 Pine Street stated that three weeks ago the Village put in new curbs and he can't get into his driveway without scraping the bottom of his car.

Manager Politi stated that he will send someone out to look at that.

Mr. Carlson asked if the Village was going to put a boat ramp to the river off of Pine Street.

Manager Politi stated there are a couple spaces cut in for parking. It's only to carry in craft, you can't back in.

Mayor Pearson asked if they were to make a berm where the dip is. She did mention to the Water and Soil Commission that people sometimes don't just have canoes and kayaks to carry in. She hasn't received a response back.

Manager Politi stated that the original concept was not to bring the truck in, so you wouldn't get motorized craft.

Mr. Carlson stated that most of the boats that go in the river are fourteen footers.

Mayor Pearson asked the manager to contact Kevin Sumner.

Marcus Millspaugh expressed how pleased he was seeing the river bank cleaned up, the retention pond and the other side of the park. He wasn't happy when he heard that it's not going to be accessible to the river down by the pump house.

Mayor Pearson stated that they will work on that.

Dennis Pantano, 12 Lafayette Street and Mrs. Collard of 94 Wait Street stated that at 98 Wait Street there is a house that the lawn hasn't been mowed in three months and there is a pile of brush in the back yard. It's incredible that no one has known about it. It's also incredible that when you call on it you're told that we've had one other complaint, but the women can't find anyone to remove the brush. There are other issues with inspections and code enforcement that are eight months old and nothing has happened.

Deputy Mayor Matise stated that the property owner at 98 Wait Street was cited.

Mr. Pantano stated that on the corner of Madison and Seeley there was an eye sore torn down and now there are two eye sores.

Mayor Pearson asked that something gets done with that.

James Lucinski, 24 Gladstone Avenue stated that he is concerned with the constant loud and excessive noise coming from 11 Gladstone Avenue. It's a 22 year old kid playing the drums. He gave the Board members a copy of all the phone calls he has made to the police department starting from June 27<sup>th</sup>. No one acknowledge it until the fifth time. The decibel meter is supposedly broken.

Trustee Hurd stated that even if the decibel meter was working, probably what is carrying are the low frequency noises, the decibel meter is really reading intensity.

Trustee Wynkoop stated that if it's annoying someone why aren't we doing something about it.

Mr. Lucinski stated that if you hit them hard in the pocketbook they will stop playing the drums.

Mayor Pearson stated that there are ways to silence drums.

Trustee Hurd asked Mr. Lucinski if he's spoken to the person.

Mr. Lucinski stated that he is a police officer with 15 years on the job and he has a lot to lose.

It was the consensus of the Board to direct the manager to have the police do something about that.

Mr. Dowd stated that there are certain decibel levels in the law, which you would need the meter to work. The noise is not supposed to go beyond the person's property line. There is a provision for sound production devices, after 11pm on Sunday, Monday, Tuesday and Wednesday or Thursday and after 12:30am on Saturday and Sunday morning. There is a decibel level of 65 DBA that it can't exceed which has to be measured at the property line.

Mayor Pearson asked that the decibel machine be checked.

Deputy Mayor Matise asked if they can check if the drum playing is a hobby or a business.

Mr. Lucinski stated that if you fine the guy he will stop.

Trustee Hurd stated that if we don't have a law to fine him we have a problem.

Mr. Dowd stated that he can be fined, but we need something to measure the decibels.

Mayor Pearson advised Mr. Lucinski that the manager will follow up on this. She also asked the manager to follow up on Wait Street and Seely Street.

Fred Earl, Trustee at the Masonic Lodge stated that two years ago he sent a letter to the Village about the dumpsters behind the Masonic building. The ordinance indicates that the dumpsters are to have enclosures. In their deed a building cannot go behind a building. He knows he had two violations when they rented the store downstairs, one for a sign and one for stuff on the sidewalk. They took care of that right a way. This has been over two years that they've heard nothing about it. Related Management stated that they refuse to remove the dumpsters. According to the Village ordinance a dumpster cannot be seen from any of the Village streets. He had pictures taken from Orchard Street that show the dumpsters and also you can see them from Scofield Street. Sometimes they have trouble getting up the fire escape because the dumpsters are so close.

Mayor Pearson asked why nothing has been done.

Manager Politi stated that he will look into this.

Vinnie Melnick complained about the speeding on Yale Drive and requested stop signs be located at the intersection of Yale and Stanford and make a three way stop.

Trustee Leonard stated that he agrees with the comments, he lives at 130 South Montgomery Street and he has witnessed the cars coming out of Berwick and speeding down South Montgomery Street.

Trustee Hurd stated that this isn't the first time this Board has had to deal with this kind of problem. You are not supposed to use stop signs to control speed.

Mayor Pearson stated that the Village did that on Highland Avenue. She had asked the manager to take this request to the police chief.

Manager Politi stated that Chief Holmes indicated if the Board wants to do we will do it.

It was the consensus of the Board to have stop signs on Yale and Stanford.

Deputy Mayor Matisse suggested Yale Drive be made one way. She went online and there are all kinds of things that can be done to slow down traffic.

Mr. Dowd indicated that a local law will have to be adopted before the stop signs go up.

Trustee DeJesus requested the agenda be changed to have the Village Engineers speak on Beazer Homes.

### **Beazer Homes**

Mayor Pearson stated that this came about because she went for a site visit and there were concerns about that development that they wanted answered.

Ron Gainer stated that they attempted to summarize answers to the concerns. They have also contacted Beazer Homes to keep them up to date on various construction issues. Some of the more evident ones were the issue of accessing Ponds I. They recently obtained a county permit and work has started. They have been reminded of their obligations to the timing of the improvements to replace the McKinley Avenue pump station now that Ponds II has residents in the project. They talked about fencing along the southerly property line of Ponds II, the Planning Board approval requires the developer to place an eight foot high fence along the backs of certain properties, 350 feet of fencing is required. Several Trustees have requested the developer give consideration to placing a berm in the area where permitted with some screening along the berm to provide a better ability to screen where the fence is provided. The fence and the screening are two different issues. The fence was intended to prevent access and to protect the farming operation, not for screening. The berm and vegetation would be the

better way to provide screening. It's not the developer's responsibility to protect the farming operation.

Trustee DeJesus stated that it is the Village's to try to prevent a problem with the road that they want to reduce the width.

Mr. Gainer stated that they also addressed that and in their view the Village might want to consider that.

Trustee DeJesus stated that it's not originally their responsibility to do, but also they have come to this Board to ask for changes in the road. He doesn't feel the Village should foot the bill for their lack of proper engineering. It's not the first issue that the Village has had with engineering and we don't want to go through another Jacob's Ridge where we had a lot of issues. He's expecting give and take and it's a two way street.

Mr. Gainer stated that it's always to the developer's advantage to understand the issues of the Village Trustees and to be as accommodating as possible.

Deputy Mayor Matise stated that when they went out there with Manager Politi she gave him stuff from the internet about Beazer and they seem to have a particular problem in a lot of their developments about drainage and about retaining walls. These are issues they went out specifically about and she would hope as this project goes along those are things they will pay particular attention to, because they don't have a great track record.

Mr. Gainer stated that drainage is always the greatest issue. That is the reason that the very first activity they insist the contractor do on site is to set up erosion control and retention basins and provide that protection. They work routinely to keep an eye on those things. Relative to that there are other layers of protection that are afforded on erosion control and that comes directly from DEC in the permitting process for any significant projects, which both these are effected. DEC directly gets involved issuing permits to developers. DEC has a separate layer of responsibility.

Trustee Leonard stated that the Board should consider a four way stop at Berwick Avenue and South Montgomery Street and the entrance road to Ponds I.

Deputy Mayor Matise stated that South Montgomery Street is a county road.

Trustee Leonard stated that there has been a problem on South Montgomery Street with speeding and any help they could get would be appreciated.

Mayor Pearson stated that she has concerns with water run off and no silt fences. She had concerns because the project started in March and those regulations were not being met in her eyes and she had major concerns about that. There are a lot of people watching this project, there are two engineering firms, there's the developer and she had major, major issues on a lot of that. Her concerns were major run off. She spoke to the



engineer who said there is no recourse because DEC has to get involved and we don't have a law on our books that will make it stronger for enforcement of storm water run off.

Mr. Gainer stated that the Village is looking at it from a perspective of what's happening on the property, so if there is any issues that leave the project affecting any downstream resident you have very strong enforcement through the Village departments. That is what they measure and it entails the treatment devices that they insist be put in that come straight out of State DEC requirements or guidelines. They are intended to pick up any runoff and any erosion on the site. Anytime you have construction you're going to have erosion to some limited extent. The intent is to keep it on the property. The devices that are in place for both projects are functioning. If there is an issue they immediately call the Building Inspector or Village Manager. DEC have other specific requirements and they are more stringent. The one issue the Mayor was referring to was they specifically obligate the developer not to disturb more than five acres at a time, specifically for the purpose of minimizing erosion. The DEC permit obligates the developer to hire an independent person to monitor the requirements of the permit. Those inspections are being done by a representative that works for the developer. He has very strict obligations to maintain lots and to visit the site routinely and to visit during rain events and maintain records of those activities as well as any guidance provided.

Deputy Mayor Matise stated that the Village has an obligation to the future homeowner who will be buying the house and will be effected by the lot next to him or her or above him or her.

Mr. Gainer stated that the ultimate issue on erosion protection is to get vegetation started on any clear areas.

Mayor Pearson stated that this project started in March and the seed is just coming up now, they had all summer to plant seed. Why does it take seven months for grass seed to work or why wasn't it put in six months ago when spring rolled around. She doesn't think things are being looked at the way she wants them to be looked at.

Mr. Gainer stated that the whole construction SPEDES permit process, which is governed by NYS Law through DEC, that whole process, you're an MS4 community, the whole intent of that program that you're going through as part of the MS4 effort that you will eventually become responsible for the enforcement. You do have the ability in the interim, after 2008, you as well as other communities impacted by the MS4 regulations are going to be required to step in and commence with enforcing them, but you don't have that enforcement now. You can adopt a law and accept that responsibility. He's never seen anyone want to do that because there is a cost to it.

Deputy Mayor Matise stated once the Village accepts the project then we have the ability to enforce.

Mr. Gainer stated that the Village is not going to accept the project if there is erosion.

Deputy Mayor Matisse stated yes, because we are required to meet the DEC requirements, not the homeowner.

Trustee Leonard stated that the engineer's memo from August 29<sup>th</sup> walking around in the rain, he was there the second or third and he agrees with the engineers comment regarding the water on McKinley Avenue, he was there before and it was quite high.

Mr. Gainer stated that they've identified that to the developers engineer and he acknowledges there is an issue to be addressed. Anytime they see any of that it gets written up and passed on.

Trustee DeJesus asked who the developer hired to monitor.

Mr. Gainer stated that the condition of the permit mandated that the developer hire and independent monitor and they are identified in the permit. It's a local engineering firm. They are the ones who create the storm water pollution prevention of which the DEC bases there permits.

Mayor Pearson stated that part of this discussion is about the road.

Trustee DeJesus stated that right now we have issues that need to be addressed and all this has to be addressed together, from his point of view. They want certain things from the Village and we have issues with this whole process and he's not willing to do anything now until we see how we are going to come to a mutual agreement on all these other issues.

Trustee Wynkoop stated that he agrees with Trustee DeJesus, we have to get together with the developer and work things out.

Mr. Gainer stated that the hardship was self created and there is no responsibility to the Village and he has obvious need to get relief from the Village or a significant effort to modify his project to provide that width that was approved by the Planning Board. There is no reason to consider any reduction in roadway width without some intended benefit that the Village arrives at. They have discussed it with the developer that he should determine what he in his heart thinks is appropriate just as a good community citizen.

Mayor Pearson asked if that is for one road or two roads.

Mr. Gainer stated that he's asking for relief for two locations, one is a small cul de sac, Forest Court, one is the continuation of Hidden View Drive which will be a through road to South Montgomery Street. In their view there is no reason to consider any reduction in that new road because it will be a main route road through the two projects. He has the ability to modify his design; he still controls the right of way and the

individual lots. The issue of reducing for a very limited width, the entrance of the throat of the cul de sac, Forest Court, he has no great opinion on this. It is off an intersection and it immediately goes into a cul de sac, so technically there is not going to be any significant issue with any site reduction.

Deputy Mayor Matise asked how many houses are on the cul de sac.

Mr. Samuelson stated that there will be four.

Deputy Mayor Matise stated that she agrees with Trustee DeJesus that they should deal with these other issues first and then we will deal with that.

Deputy Mayor Matise asked if the roads will belong to the Village.

Mr. Gainer stated yes.

Deputy Mayor Matise stated that then they are going to have a homeowners association that will just deal with the pond.

Mr. Samuelson stated that is correct.

Deputy Mayor Matise stated that the detention ponds will belong to the Village.

Mr. Samuelson stated that is right.

Mayor Pearson asked who is responsible for the fence around the retention pond.

Deputy Mayor Matise stated that the developer is.

Trustee DeJesus asked what the next step would be.

Mayor Pearson asked if the Board would like to meet with the developer.

Trustee DeJesus stated not tonight, we should go back and read the information that was given to them by the engineer; they have questions from before, and then meet with them.

Mr. Samuelson stated that he would like to clarify a lot of the issues that have been brought up. It will make a factor in the Board's decision making.

Trustee DeJesus stated that his preference is that the Board goes over this and then they have time to speak with the developer, tonight they have a very extensive agenda.

Deputy Mayor Matisse stated that from her understanding from Mr. Samuelson's note to the Board which was received on September 8<sup>th</sup> is that he feels that all the issues that Mr. Gainer and Mr. Fitzsimmons brought up have been met.

Mr. Samuelson stated that regarding erosion control, the site is in compliance with the general permit issued by DEC as of that date when he was there. Himself or a representative from his office does conduct inspections every Friday and after every average rainfall.

Mayor Pearson asked if Mr. Samuelson was saying before that date it wasn't in compliance.

Mr. Samuelson stated that there were several issues going through construction that you're always going to have. They mentioned this deficiency to the contractor and they have been remedied.

Deputy Mayor Matisse asked if some Board members could meet them on Friday and see what's been remedied.

Mr. Samuelson stated that there are other issues they need to clarify in addition to erosion control. One being he has spoken to Beazer and they would be happy to sit down and discuss issues regarding the fence/proposed berm on the neighbors to the south. During their approval process part of the land where the fence goes is in army corp wetlands. They had to get approval to install that fence. The developer wants to be good neighbors to everyone and they are happy to do what ever it takes, but its illegal for them to put in the berm in the wetlands without a permit.

Mr. Gainer stated that you would never put a berm close to wetlands.

Mr. Samuelson stated that along that property line is all wetlands. He would be happy to do what they can do legally.

Mr. Gainer stated that the way it occurs is the fence would remain permanently.

Trustee Leonard stated that was because we wanted another two feet of fence. The fence actually has become worthless at this point, because at the time the planning Board was looking at that all they had was foot prints of houses. It was to be a stream. He suggested they go to the Planning Board with a site plan change and discuss it there.

Mr. Samuelson stated that is on a piece of property they don't control.

Mayor Pearson stated that two engineering firms can get together with the issues of the fence and come to the Board after this is worked out.

Mr. Samuelson stated that the issue of the water at McKinley, yes, he was notified by the engineer that there is a problem. He has come to a solution and he needs to

express that to the engineer. He has not gotten that to them yet. The last issue is the pond, the detention pond should have easements and rights to them and the water out of the pond will not go into any of the retention ponds. It will go right to the river. The retention pond only takes water that comes off of the streets.

Deputy Mayor Matise asked how many detention ponds there were on Ponds I.

Mr. Samuelson stated one.

Mayor Pearson asked about the water that comes out of the pipe from the pond to the lower end. The water is not coming from the pond its coming from the pipe underneath. When she looked up the pipe there was no water coming from the pond and half way up the pipe there was water coming out of the pipe.

Mr. Samuelson stated that he's not aware of that situation.

Mayor Pearson stated that she mentioned it to John and the Village Engineer and she will not accept a road with that pipe still leaking.

Trustee Leonard stated that's coming through the joint.

Mr. Samuelson stated that was previously observed by their own site people and has been identified to the contractors. Before the dedication process proceeds everyone will be on site to help with a punch list.

Deputy Mayor Matise stated that we don't want to end up with a wall that's making a road too narrow.

Mayor Pearson stated that another comment regarding the pipe the water looks like a constant run, it doesn't look like it stops at the end of the pipe. She asked if that should have stones and gravel there so the mud doesn't carry down.

Mr. Samuelson stated that at this time that outlet pipe is directed towards the existing spill that goes out to the river. When they complete their mitigation that swale will be removed and that water will be allowed to flow over land through the wetlands that they create.

Mayor Pearson asked if that stream should have more rocks in it for control of erosion.

Mr. Samuelson stated that every time he's been there all the mud has been stopped at the rocks, nothing makes it off site to the river.

Mr. Samuelson also mentioned the request not to change Hidden View Drive. They still are requesting to narrow four or five properties.

Mr. Gainer stated that he doesn't see that to be significant, but he feels this could be one of the negotiations for this board to consider.

Trustee Hurd stated that the other material he was given to look at for this meeting wasn't anything they discussed.

Manager Politi stated that the information was from the meetings they had on site.

Trustee DeJesus stated that this came about, he and Trustee Leonard were on site and they had identified many issues that were brought up tonight. The Mayor also went on site and she also got logs and looked at logs. Then there was a meeting that the Mayor was at. They went on the site because of their experience with Jacob's Ridge, they have taken a more active role in this development. From there they identified a number of issues and they were forwarded to the engineer and this is the outcome.

Mr. Gainer stated that if the Board finds the responses lacking in some regard please let them know and they will clarify it.

Mayor Pearson asked about site erosion measures appropriate which says, "for the most part", what does that mean.

Mr. Gainer stated that anytime you have on site inspections and supervising activities, if he's moving soil stockpiles and in that activity at the end of the day placed silt fence, they will identify that issue. He may not respond immediately, it may take him a day or two. That's what he is saying, if he doesn't immediately respond. If they are significant of concern they would insist he takes care of them.

Mayor Pearson stated that she was looking at the bills and the engineer met with the site developer on erosion control during heavy rain and it doesn't really say if you directed them to put it on there or whether you didn't. The engineer met with them before with heavy rain and those silt fences weren't up six months ago and now all of a sudden they are up. That is her question, when does that all happen.

Mr. Gainer stated that the soil stock piles have been added throughout time. Silt fence does exist in that pile. What has happened is he has just continued to add material and he just extends the pile beyond the layers of the silt fence they replaced. They do remind him to address that problem.

Deputy Mayor Matisse asked about the design engineer who has the responsibility to monitor site conditions. Who is the design engineer.

Mr. Robinson stated he is.

Deputy Mayor Matisse asked who he works for.

Mr. Robinson stated Beazer Homes.

Mr. Gainer stated that the permit is with the developer and developer pays an engineer to do the monitoring.

Deputy Mayor Matise indicated that this says that the permit mandates that an independent third party has responsibility to monitor.

Mr. Gainer stated that the developer has to retain someone. The developer can't monitor his own compliances.

Deputy Mayor Matise stated that if he is paying the monitor, that makes the work independent questionable.

Trustee DeJesus agreed.

Mayor Pearson stated that these same funds pay our engineer.

Deputy Mayor Matise asked Mr. Robinson what time he will be on site Friday.

Mr. Robinson stated anytime.

Mayor Pearson asked the Board where they stand on this, do they want to make a decision on the road. Do they want to go look at the road, to be able to see about negotiations.

Trustee DeJesus asked if Beazer wanted to respond to what the engineer wrote.

Mr. Gainer stated that he hasn't attempted to ask the developer to offer something. He has an issue where he has to get approval to reduce the road.

Trustee DeJesus stated that there is a limit with a lose as to what he can do or not do. We can say yes or no to the extension of the road and they could say yes or no to the other things we are requesting. We can not say to them we're not going to give you the reduction of the road if you don't give us this. That has to be made clear for the record that there is no intent here to persuade anybody to do anything for an exchange for anything else.

Trustee Leonard asked that the Board move on with the meeting. There are two other presentations and it's getting late.

Mayor Pearson stated that there will be no decision this evening.

Mr. Samuelson stated that Beazer is happy to do anything the Village requests to make the situation best for everybody. His advise to them is to not offer anything because it would look like a bribe and he doesn't want it to go in that direction.

Deputy Mayor Matise asked if he had any involvement with Ponds at Riverside II now that people are living there.

Mr. Samuelson stated that they are still doing inspections on the remaining unsold lots.

Deputy Mayor Matise asked about the houses that are occupied.

Mr. Samuelson stated that they are private property of someone else.

Deputy Mayor Matise stated that often people have to go back to the builder and say, look at this crack, is there a track record being developed.

John Herzog, Property Manager for Beazer stated that they have an extensive care process which is our builders on site daily turn over to the customer care department and they have to score 90 or above before they sell the home. The customer care department will go through another whole check list. Sixty days after they close they will also get another list a form that they fill out. There is also a one year period.

Deputy Mayor Matise asked if there was a warrantee period.

Mr. Herzog stated yes.

Deputy Mayor Matise asked about the people that have moved in so far.

Mr. Herzog stated that they have seeing eye scores and they are very high in Walden. He invited the Board to knock on any door and ask them what they think of Beazer.

Deputy Mayor Matise asked if Beazer was willing to share that with the Village.

Mr. Herzog stated yes.

Trustee DeJesus stated that is the Deputy Mayor's request, not a Board request. That gets into private ownership and the developer, so he for one is not asking for that.

### **Well Redevelopment**

Mr. Gainer stated that the Village made application to outside regulatory agency in January for the approval of the well. They have been trying all summer to get their comments back or approval received. It has been done. Three weeks ago they were verbally advised by DEC that the water supply permit will be issued. They are still waiting for the permit but they did advise that they would allow the Village to go to bid on the project. Yesterday he was advised the regulatory agency will be releasing comments to us, they faxed the comments to the engineer and he has staff responding to them. Most of the comments are clarification. They should be ready to satisfy all the



conditions with two weeks. He asked the Board to authorize the project to go to bid once the technical comments are received and satisfied.

Deputy Mayor Matise moved to authorize the well project go to bid once the technical comments are received and satisfied. Seconded by Trustee Wynkoop. All ayes. Motion carried.

### **General Code Publishers**

Bruce Cadman, General Code Publishers spoke to the Board regarding the Village's codification needs and the need to have their legislation in an electronic format.

Trustee Hurd asked if the electronic format would include forms.

Mr. Cadman stated no.

Deputy Mayor Matise stated that the forms can go on the Village's website.

Mr. Cadman suggested that even before they write this analysis the Village send out a memo to the department heads asking for the opinion of the issues with the code, so they can address them too. The process would be to take the legislation and incorporate the revisions and changes that the Village decided on. They would take the legislation and revise it, prepare the code for publication. The Village's decision was to keep the existing binders and replace the paper. Along with that they would prepare a law that adopts the code and draft the notices. Once the law is adopted then the process of amending the code and keeping it up to date and also keeping the electronic versions up.

Mayor Pearson asked what the time frame from start to finish is.

Mr. Cadman stated that it would be 3 to 4 months to get the report to the Village and the Village has sixty days to respond back and then they have sixty days to finish.

Deputy Mayor Matise stated that the Village is working on zoning changes and would this be a good time or bad time to start this process.

Mr. Cadman stated that he feels it's a good time. In their analysis they would be reviewing the zoning, from a language perspective.

Deputy Mayor Matise stated that some of the items in the code have been superseded by State legislation and yet they are still in the code book and misleading.

Mr. Dowd asked if the code would be downloadable to a PC.

Mr. Cadman stated that the Village would get a CD that would be downloadable and every time a new law is passed you get a new CD. The CD will also provide you with a historical copy of the code at any time.

Deputy Mayor Matise asked if the forms could be cross referenced to the codes.

Mr. Cadman stated that could be. He also needs to send the Village a revised authorization page.

It was the consensus to go ahead with this project.

### **Taylor Recycling**

Jim Taylor addressed the Board regarding his proposed expansion. He also asked that the Board attend the Town's meeting on September 21, 2006 at 7:30pm.

Steve Neuhaus stated that anyone can go to [taylorrecycling.com](http://taylorrecycling.com), there is a link to Taylor biomass which explains the whole process. If the Board has any questions they can always email or call him and they are also available for tours.

It was the consensus of the Board to have a letter sent to the Town of Montgomery supporting Mr. Taylor's project. Trustee DeJesus wants to read up more.

### **Village Historian Report**

Suzanne Isaksen stated that there are two projects she is working on, one being the status of the New York State and National Registers of Historic Places nominations for the firemen's statue and McKinley statue. She has been working primarily of the historical argument for the nominations. That is coming along very well for the statues. She is targeting the end of October for submitting the nominations to the New York State Office of Parks and Recreation Historic Preservation. She needs measurements on the statues.

Manager Politi stated that he will have that done.

Ms. Isaksen stated that she has received money from the Orange County Historians Office for Families of Walden project. This is a project where file cabinets can be set up so people can come and they can start files on their own families or do research on a particular family. She has a booth at the Walden Harvest Fest. She will be attend the next meeting of the board of the Josephine-Louise Library to see if the filing cabinets can be in their local history room. She has two new projects, Village of Walden's Historians News letter which will be distributed. The county historian has a monthly mailing and a copy could be provided to him to be included in that mailing at no charge to the Village. She would also like to provide copies to the schools. She would also like it on the village web site. She would like the Board's approval.

It was the consensus of the Board to have the historian do a newsletter.

Ms. Isaksen stated that she is also working on concepts for displays of the knife factories. She asked for copies of the knife factory workers that the Village has. She also requested a resolution in support of a Thomas Wilson Bradley Day. He was born on April 6, 1844, Civil War Hero, Congressman and a great benefactor to our Village. She would like to have a ceremony at the Walkkill Valley Cemetery on April 7 or 8.

Deputy Mayor Matise stated that the Women's Club is doing something at their March dinner about Col. Bradley and part was to have a resolution.

The Board was in favor of a resolution in support of a Thomas Wilson Bradley Day.

Deputy Mayor Matise advised the Board that Nancy Phelps received an award for fourth grade local history and collecting primary source materials. She suggested the fourth graders be invited to a meeting and have the historian give them a certificate from the Village.

### **Audited Bills**

Trustee Norman moved to pay the audited bills of September 12, 2006. Seconded by Trustee Leonard. All ayes. Motion carried.

### **Resolution No. 2-06-07 – Adoption of Nims**

Deputy Mayor Matise moved to adopt Resolution No. 2-06-07, Adoption of Nims, (attached). Seconded by Trustee DeJesus. All ayes. Resolution adopted.

### **Resolution No. 3-06-07- Greenway Communities Grant**

Trustee Leonard moved to adopt Resolution No. 3-06-07-Greenway Communities Grant, (attached). Seconded by Deputy Mayor Matise. All ayes. Resolution adopted.

### **Walden Little League**

Bill Pullar stated that they are looking to do a reconfiguration to the smallest field. They would like to take the existing driveway and have it veer off to the and dead end at the skateboard park. They would have to remove two trees located on the east side of the existing driveway. The existing field is ninety feet and it will go up to 170 feet, so you will double the use.

Mayor Pearson asked if they could go around the trees?

Mr. Pullar - when they start the work they will kill the trees. There is one that definitely has to go; they could work around the other one.

Trustee DeJesus suggested that Board go look at the area and vote at the next meeting on this.

Trustee Leonard moved to have the engineer take an informal look at this and give the Board his recommendation.

There was no second.

Mr. Pullar stated that he can meet the board at the site.

Trustee Norman stated that she would like the one tree saved.

Mayor Pearson stated that she has no problem with the work on the field, but she is against taking down the trees.

Manager Politi stated that Mr. Pullar will line out the area so the Board can see the effect of it.

Mayor Pearson stated that there were trees planted there for WWII veterans and they are all cut down now. She does understand that they will be replaced and she appreciates that, but she still has a problem with trees being cut.

Manager Politi stated that they have to move the roadway to make the line work.

Mr. Pullar stated that the Board can do whatever they want to do, they have to do what they have to do.

Deputy Mayor Matisse suggested the manager work it out with them.

Trustee DeJesus stated that this Board has a responsibility beyond what Mr. Pullar sees.

Manager Politi indicated that he will get a diagram for the Board.

### **Luke Muehlin, 36 Oak Street-Small Cities Application**

Mr. Barnes stated that the owner of 36 Oak Street have been doing the work himself on the building which is a two family house. The owner wants to borrow \$48,000 from the Village for materials and hire labor for completion of the property. Under the guidelines the manager would have authority to approve up to \$30,000. He is over the limit for the manager's approval so therefore the Board has to approve. He has a \$160,000 first mortgage, \$30,000 second mortgage and ours would bring the total loan to value ratio to 73.5%.

Trustee DeJesus indicated that he doesn't meet the guidelines.

Manager Politi stated that the value of the house stands at \$219,652.00.

Mr. Barnes stated that's the value as of when he bought it in April. He has spent \$100,000 in improvements.

Manager Politi stated that he can't get to the split until he completes the project. Generally when the applications come in that 80% percent is the value you already have. Here you achieve the 80/20 split at the end of construction, which hasn't happened.

Mr. Barnes stated that when Mr. Muehlin is done the house will be worth \$324,000.

Deputy Mayor Matisse asked if there will be two apartments.

Mr. Barnes states yes, he will occupy the upstairs and rent the bottom.

Mayor Pearson stated that the upstairs is occupied right now. Does he have a certificate of occupancy.

Mr. Barnes stated that he is in the process of moving in.

Trustee DeJesus stated that there is a mail box for the second floor apartment.

Manager Politi stated that he will find out if there is a C.O.

Deputy Mayor Matisse asked if there will be a repayment schedule set up and what would be the interest rate.

Mr. Barnes stated that they will set up a payment schedule which would be a ten year loan. They will look at the income. He looked at it as a two family house rented out with him living in his current house. It throws off pretty good income.

Mayor Pearson asked if he will be living on the second floor.

Mr. Barnes stated yes.

Mayor Pearson stated then he will only have one apartment.

Mr. Barnes stated that he will have one rental and he will rent out the house he used to be in.

Trustee Norman indicated that house is for sale.

Mr. Barnes stated that the reason he is here is to loan him the full \$48,000 that he needs to finish everything.

Manager Politi stated that if you're going to do the loan lets make sure the job is complete and finished. He doesn't know if it will work.

Trustee DeJesus stated that Mr. Barnes knows that there were new guidelines that the Board was working on and now, this is not something they've done before. The letter stating the appraisal was done by Whitegate Realty and they say in their opinion the current fair market value of the property is \$225,000.

Deputy Mayor Matise stated that Whitegate Realty is their tenant in the Walnut House.

Trustee DeJesus asked where the application is with the financial information. It requires more then just the Board taking action. They all want to help this man.

Mr. Dowd asked Mr. Barnes if he's been in the building.

Mr. Barnes indicated that he was.

Mr. Dowd stated that the \$60,000 was the estimate to finish which is down to \$48,000 to do the work himself. If you look at Dean's work writeup that 60,000 shows extensive work on both floors. If someone is living there a lot of this work is done. Why does he need \$48,000.

Mr. Barnes stated that he was approved for something, he didn't say what and he continued working on his own apartment.

Mr. Dowd stated that the Village can't pay for work that has been done, so we are not looking at \$48,000.

Deputy Mayor Matise stated that the Building Inspector has to go in there and do another work up.

Mr. Dowd stated that the Village won't be loaning him \$48,000, it will be less because work is done and has moved in.

Mayor Pearson asked if he's moved in there legally. Someone should check to see what those numbers come out to be now.

Mr. Barnes stated that he would be happy with \$28,000 or \$30,000.

Deputy Mayor Matise stated that this is not really an independent appraisal. Her other concern is when do they start repaying their loan.

Trustee Leonard asked what position does the Village become with the other two mortgages.

Mr. Barnes stated that the Village would be in third. He would start repayments once he has a tenant or two months after completion.

Trustee DeJesus stated that the guidelines state only second position.

Trustee DeJesus asked for the manager's recommendation.

Manager Politi stated that the Board never wanted to be in third position and it would be a construction loan which was never done.

Mr. Barnes suggested the Village pay someone for a full appraisal.

Mr. Dowd stated that once the Board finds out how much work has been done they can reduce how much they would be willing to lend to finish the project. In so reducing that you get closer to meet the ratio. This is not an appraisal, she is not an appraiser, she is a real estate broker who is saying last year there were some comparables And this is what it would be worth when it's done, plus the market is softening, so can you get \$325,000 when the project is done. How much money is he paying in his debt service before you loan him any money and how much money is he going to be able to realize for the two apartments. The Village needs to investigate more before they lend out \$38,000 or \$30,000.

Trustee Leonard stated that there is also the question of how much has he completed on the second floor.

Mr. Barnes stated that the last time he saw the upstairs apartment it was pretty much finished.

Deputy Mayor Matise stated that evidently the local banks have a concern about people with rental properties and the concern is if he does not rent the apartment right away can he carry the property and make all the payments. You can't base it on him having income from that apartment. Right now rentals are very high and apartments have had signs in front of them for six months or longer.

Mayor Pearson stated that the Board is at the point where they need information, questions answered, whether he is living there, whether he has a C.O., how much work has been done and how much he really needs.

Manager Politi stated that a lot of the questions will be answered with the C.O.

Mayor Pearson stated that an application for 2006 Tree Planting Cost Sharing Grant that Kerron Barnes gave her the other day with an October deadline. She would like to get money for trees, it is a match.

It was the consensus of the Board to go for the grant.

Deputy Mayor Matise moved to apply for the 2006 Tree Planting Cost Sharing Grant. Seconded by Trustee Norman. All ayes. Motion carried.

Deputy Mayor Matise asked for list of what grants are out there and where we are with them.

### **Banking District Application**

Manager Politi stated that no one is here to speak on this.

Mr. Dowd stated that he knows what Mr. Gibney asked for and apparently he's answered the one question about tax abatement, but he doesn't see how he is going to qualify for this. He doesn't personally see what the Village gets out of this and what advantage the Village would get from this. You have a commercial bank and you have been very competitive with your bonds. He doesn't know how competitive they would be with the commercial banks. You also have to consider what Walden Savings has to say about this. You don't want to make it seem like you're saying good to Walden Federal and sorry Walden Savings you're too late. The one who gets the advantage is the bank because they get cheap money at a discount rate to make loans.

Trustee Hurd asked what is wrong with having one more bank compete and if Walden Federal is in our community and they happen to be able to buy money cheaper, what is the down side.

Trustee DeJesus stated that they may get money cheaper, but they don't necessarily lend it out at that rate.

Mayor Pearson stated that she spoke to Dave Cocks, President of Walden Savings and he indicated that he had heard about it and he said that both banks have been here for a long time and he would want the same treatment for him to also apply and whoever comes out on top, comes out on top, because you can only take one. There is room at the Thruway for a commercial bank to come in.

Deputy Mayor Matise stated that her decision is no.

Mayor Pearson stated that she is not comfortable knowing Walden Federal and Walden Savings and she is not comfortable with just because one comes to you first its still a small village and people still have to live here and deal with everyone that is here and she is not comfortable with it. Who says we're even going to take our money there.

Trustee DeJesus stated that he doesn't believe that law is really not intended for a situation like this, we have banks in this village and banks not far from this village.

Trustee Wynkoop stated that if you let Walden Federal apply for this then you're making an unfair advantage over Walden Savings.

Trustee DeJesus stated that they can apply on their own so leave it at that.



No action taken.

### **Local Law Café Seating**

Deputy Mayor Matisse moved to table the local law for café seating. Seconded by Trustee DeJesus. All ayes. Motion carried.

### **Introductory Local Law I-6 of 2006, “Zoning”**

Mr. Dowd explained that the Board had a long discussion about part of the RM2 going to RM5, knock down, rebuild. What he did was he took the residential properties on Orchard, Pine and Cedar, south of West Main Street and made them RM5. By doing this you will cut down on your non conformings.

Trustee DeJesus stated that they cut into the granite curbing.

Mr. Dowd stated that he asked Mr. Sorensen if this was something they can do that is consistent with the newly adopted Master Plan. Mr. Sorensen had no problem with this.

Trustee DeJesus moved to introduce Introductory Local law I-6 of 2006, “Zoning”. Seconded by Deputy Mayor Matisse. All ayes. Motion carried.

Trustee Leonard moved to hold a public hearing on Introductory Local Law I-6 of 2006, “Zoning” on October 10<sup>th</sup>, 2006 at 6:30Pm. Seconded by Trustee DeJesus. All ayes. Motion carried.

### **Wallkill River Task Force**

Mayor Pearson read the letter from the Wallkill River Task Force stating that through the River Valley Fund possibly funding a college intern to carry out water quality monitoring at Olley Park to determine the cause and nature of phosphorous introduction that leads to the heavy algae growth every season.

Trustee Hurd stated that he finds this unnecessary. Farmers put fertilizer on their field and that puts phosphorous in the water.

Trustee DeJesus asked if this would be something that you would go to the source.

Trustee Hurd suggested they test the fields where the runoff is coming from.

Mayor Pearson stated that the question is whether this college student can do testing and get credit for the summer season at no expense to the Village.

Trustee Hurd stated that he sees this as they are doing this research because they have an agenda and that agenda comes down to some point they are going to ask the government to take action to control this and they're going to define the requirements and they are going to define what's going to be done. He would like our Board to determine those things and for the Board to be the initiator.

Trustee Leonard suggested this be tabled.

Deputy Mayor Matise suggested the Village get input from Kevin Sumner.

Manager Politi asked why they would spend the money to go to Olley Park when we know the source. He will call Kevin Sumner and get the answers.

It was the consensus of the Board to table this until they get more information.

### **Stormwater Runoff Regulations**

Mayor Pearson stated that she wanted this on the agenda because of what she saw at Beazer Homes. She wasn't happy and what she is hearing from the engineers is we don't have any recourse. It has to go to DEC.

Trustee Leonard stated that we do have recourse; we can file a complaint with DEC as a municipality. It's not like Jacobs Ridge where the water was running down and there were serious issues. It's going on the right of way. It's not going into anybody's backyard.

Mayor Pearson stated that she's saying for further development. We should have more regulations.

Trustee DeJesus stated that he and Trustee Leonard went into that property which is private and they had concerns, are they private citizens or did they come back as trustees with their concerns on the development they have oversight over.

Mr. Dowd stated that they were acting as trustees. They went on a property to look at it without authorization and they were trespassing. It's not posted, but they know its private property. We have engineers who are doing oversight for the Village. His suggested is they don't go on these miscellaneous walks, just ask to go there on a working day and walk the property, they seem to be cooperative.

Trustee DeJesus asked if he can do that as a trustee.

Mr. Dowd indicated yes.

Trustee Hurd congratulated the board members and commended them for taking the time and effort.

Trustee Hurd asked if going to the sewer plant and asking to be shown around, is he not commandeering their time.

Mr. Dowd stated yes, but it depends on the purpose you are going down there for. If you're going fact finding because you need to have knowledge of that plant so you can make decisions that will affect the Village that is one thing. If you're going down there to interfere with the process that's going on down there then you're overstepping your bounds. It is a right as a trustee to see certain things that would make you a better trustee.

Trustee DeJesus stated that he thinks there has to be a discussion as to what is your goal as a trustee and define the roles.

Trustee Hurd stated that we need to know our lawful role in a Village Manager form of government.

### **Business Breakfast**

Manager Politi informed the Board that he will be rescheduling the business breakfast for October. He will put together an agenda.

### **Public Comment – Discussion Items**

No comments from the public.

### **Correspondence**

Mayor Pearson stated that the Walden Community Little League invites the Board to the end of their season picnic on Saturday, September 23<sup>rd</sup>, 2006 at 12:00 noon.

Mayor Pearson stated that correspondence was received from the Town of Montgomery thanking the Mayor, Chief Holmes, and Village Manager Politi for the meeting regarding the potential for incorporating intermunicipal cooperation and sharing police services.

Manager Politi suggested Chief Holmes address the Board regarding the meeting.

Mayor Pearson stated that one of the concerns was they are talking about expanding that facility there. They are not necessarily wanting a commitment, but in the future they want to know they have enough space that if people are thinking in that direction they want to commit enough space.

### **Informational & Village Manager's Report**

Manager Politi informed the Board that the Historical Society is planning a special day of recognition for all veterans on Sunday, November 12<sup>th</sup>, 2-4pm on the 3<sup>rd</sup> floor of the Municipal Building.

Manager Politi also stated that the Village received the Quality Communities Grant. That is for the work for marketing the Railroad Place redevelopment.

Manager Politi stated that a letter was received from a resident of East Main Street who was happy with the paving of the street.

Mayor Pearson indicated that she feels there should be mandatory training for Planning and Zoning Board once a year.

Manager Politi stated that Mr. Sorensen and he met with Jan Uhl who is coordinating the grant for the rail trail and there is a meeting tomorrow morning. They will present another scenario and do some more lobbying.

Manager Politi stated that he gave an article to the Board regarding the skate park in Otisville and he feels we are going in the right direction.

Mayor Pearson stated that the kids where playing football on the skate park and they were leaning against the fence pushing it out.

#### **Board Comments**

Trustee Leonard stated that Paul Winter, from Bruderhof told him they've been approached by Central Hudson to run a high voltage power line across the top of the hill.