

**Village of Walden  
Board of Trustees Meeting  
May 22<sup>nd</sup>, 2007**

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 Matisse
	Trustees	Roy Wynkoop
		Richard Hurd
		Jose DeJesus
		Edmond Leonard

Absent:	Trustee	Mary Jean Norman
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Also Present:	James C. Politi, Village Manager
	Nancy Mitchell, Village Clerk
	Kevin Dowd, Village Attorney

**Approval of Minutes**

Trustee DeJesus moved to adopt the minutes of May 22<sup>nd</sup>, 2007 with the following corrections:

Page 4, first paragraph, omit, to let them.

Page 4, change Waive to Waiver

Page 8, eleventh paragraph, change to, Seconded by Trustee Leonard.

Page 10; change Board Comments-Work Session Items Only to, Public Comments-Work Session Items Only.

Page 18, eleventh paragraph, change 8-12am to 8am-12pm

Seconded by Trustee Leonard. All ayes. Minutes adopted.

**Public Hearing – Community Development Block Grant Application**

Mayor Pearson presented the notice of hearing.

Manager Politi stated that this public hearing is for suggestions for the CDBG funding.

Mayor Pearson stated that at the last meeting Trustee DeJesus suggested they apply for funding for the day care. Other things this funding can be used for is acquisition and disposition of real property, public works, public facilities site improvements, code enforcement, clearing, demolition and rehabilitation for public use,

housing rehabilitation loans and grants, special projects for the elderly and handicapped, provision of public services, payment of non-federal shares of other grant programs, relocation payments and assistance and planning management and program administration.

Trustee Leonard suggested the county property on East Main Street.

Deputy Mayor Matisse suggested the house at Olley Park.

Trustee Hurd asked, if the village asks for one major project, say the day care, does that carry more weight than if we split it among multiple projects.

Mr. Barnes indicated that it's hard to say. Most communities apply for one thing. If you do apply for two or three they ask what your priorities are.

Trustee DeJesus stated that there is a request from the seniors for money and basically we do not have money in the budget. Traditionally we have used this for major projects, but there are some community groups that are not for profit groups, that could use this money. The day care center is a major priority.

Mayor Pearson stated that the manager was going to look to see what type of funding they needed. She asked if they've found another location.

Trustee DeJesus stated that they started to get the facility on North Montgomery Street and that fell through.

Mayor Pearson indicated that the village needs to know the amount.

Trustee Hurd stated that when he spoke to them they needed close to \$25,000. just to cover the closing cost plus some additional. If we asked for \$60,000 to \$70,000 that would give them enough money for their closing cost plus seed money to start repairs.

Mayor Pearson asked if the day care had another site they were looking into.

Jodi Lynn stated that they don't have a new site. She has checked the status of the prior site, 2 South Montgomery Street, which is still on the market. They are still looking for another location.

Trustee Leonard asked if Ms. Lynn had a figure in mind.

Deputy Mayor Matisse advised Ms. Lynn that the money doesn't come in until this time next year.

Ms. Lynn asked if this was a zero to low interest loan.

Trustee Hurd indicated that it is a grant.

Ms. Lynn stated that they are operating at full capacity at the center and their lease has been extended to August 31<sup>st</sup>. The church has been most gracious extending their lease, but that location structurally has some problems and some issues that were addressed in the structural engineers report. The congregation itself will have to make the decision as to whether that church will continue as is or whether it will be sold or demolished and rebuilt on that site or relocated, which will affect day care as well. A poll was taken on Sunday that relocating seemed to be the majority. She has no time frame. It's obvious that the day care is needed in the village.

Trustee Hurd stated that even if the money is granted it won't appear for 12 months or more, will that be of any use to them at that point.

Trustee DeJesus stated that they are serving a community that could not afford the services otherwise. If they close a lot of the individuals will have to go outside the village. The fact is under the guidelines they would fall within the HUD guidelines for low income individuals. This grant will help them plan so they can stay alive.

Ms. Lynn stated that it's a quest that continues on a daily basis. They are always looking for space. It's the restrictions by the state and the fact that the day care center cannot just move into a home. The S. Montgomery site was the best site for them. That property is still on the market and they do have planning board approval for the parking and the building in the back is well suited for them without needing a lot of work. It does need some excavation work for a handicapped bathroom. The funding is where they are falling short.

Trustee Leonard asked Mr. Barnes, what high number they can put out there with a good chance of getting the grant.

Mr. Barnes stated that he can't really say, but he has seen \$125,000 for strong projects. His sense of the day care is it's a good project. You would have to have site control in terms of definite contract to purchase and cost estimate for what ever it is they are asking for. They would be better off looking at the financial structure and say the fees the parents pay supports certain debt structure and they can pay \$200,000 for this facility to buy and renovate and its \$275,400 and that is the gap.

Ms. Lynn stated that it is obvious they do need the funding. She can't just throw a number out. They were short on their closing cost. Moving would mean, at some point, paying rent at one place and a mortgage on another. They have all the financials because they had to submit them to the bank. They can take on more children they just don't have the place for it. They get calls weekly for kids to be put in the program. The parents ask to be put on a waiting list. They know what they can pay as far as a monthly mortgage goes. They always felt they should be a renter, not a landowner. In order to keep this business going, it has a possibility of increasing; it's a risk they are willing to take.

Mayor Pearson asked if anyone has contacted the day care about purchasing that building and renting it out to the day care.

Ms. Lynn stated no.

Mayor Pearson asked if the price of the house has come down.

Ms. Lynn stated no. She heard from the realtor that the property owner is trying to convert the one building into a two family home.

Mayor Pearson stated what that the deputy mayor is saying is that their time frame is much shorter than what they think it's going to be then what this funding is for, so where does that slack come into play.

Trustee DeJesus stated that there is no slack. There is a long term plan here.

Mayor Pearson stated that they are looking for money and they don't have the money when they need.

Trustee DeJesus stated that now having the idea of funding in the future that would give you better planning in terms of which way to go.

Ms. Lynn stated that she doesn't expect the church to fold tomorrow and she thinks they need their income and they have been extremely generous and she doesn't expect them to not extend their lease in August. They estimate to move into the back building, one story structure, where the day care would be located, their start up costs they have estimates of anywhere from \$6,000 to \$20,000 because it requires excavation work.

Deputy Mayor Matise asked the manager if the village does apply for this money and they do receive it as a grant does it affect the type of contractors and the salary requirements that they would be held to.

Mr. Barnes stated that it would be federal wage rates.

Ms. Lynn asked when the application has to be in.

Deputy Mayor Matise stated June 20<sup>th</sup>.

Ms. Lynn asked when the decision would be made.

Mr. Barnes stated by September.

Trustee DeJesus asked if the village manager and Mr. Barnes would meet with the day care center and come up with a figure.

Ms. Lynn stated that they will be able to provide the figures. If they have a deadline they will be able to come up with the numbers.

Mr. Barnes stated that day care will only be eligible if they can show that the majority of the people using it meet the income limits. He also stated that since the money wouldn't come until April or May 2008 they might want to do a construction loan in the meantime.

Ms. Lynn stated that also looked into a modular facility.

Manager Politi indicated that he will contact Ms. Lynn and arrange a meeting.

Jim Fox stated that he has two children that attend the day care center and if it wasn't for the center they would have to drop the children off in Newburgh or New Windsor. It's perfect because the girls walk his son over to school and picks him back up. They were highly recommended by his daughter's teacher.

Mr. Redenberg stated that his five year old daughter goes to the day care center and he wanted to emphasize the social interactions and the education level. His daughter is so smart now. They do a wonderful service.

Deputy Mayor Matise stated that she would like the Olley House done.

Trustee Wynkoop stated that he can remember serving on the day care board and it was a struggle then. You have dedicated people there that are tremendously dedicated. Half the time they are putting their own money into it. It's a great help to this village.

Trustee Hurd echoed what Trustee Wynkoop said.

Mayor Pearson stated that she doesn't think any of the board members have an issue that they are not contemplating doing this for the day care. It's working out whatever else they can do.

Jessica Parsher stated that there is a liaison that comes to the day care and does volunteer work. She was able to hire her on a volunteer status to the end of school and during the summer she will be working there.

Deputy Mayor Matise stated that they want to see the day care stay in the village. It's great when they walk the children up and down the block and visit the Farmers' Market. It's an important educational experience for the children when they are in a community.

Trustee DeJesus stated that he has a question on the eligibility criteria to 41% and the 51%. Is the 41% for the service for the individuals who are getting the service at the day care center and the 51% for the community?

Mr. Barnes stated that one is based for doing a project that serves a census block group. If that area is 41% or more low income the project is eligible. If you are serving a specific cliental, in this care people who register for day care, then you're called limited clientele and in that case 51% have to be lower income.

Trustee DeJesus stated that the fact that we have a good number of low income people in the village would that qualify in itself.

Mr. Barnes stated that if you're saying that day care principally serves just the Village of Walden, 95% are from Walden and 48% is low income. You would still need collect some income data to justify it.

Deputy Mayor Matise stated that if it were a day care center in a housing project that would be different, specific to people only living in a certain housing project.

Trustee DeJesus stated that we're not talking about housing projects we're talking about using either or the other and what he is saying you don't have to exclusively use the clientele, you can use the fact that if we have 51% or whatever it is.

Mr. Barnes stated that when you have name, address and income you use clientele.

Trustee DeJesus stated that he understands that, but if you don't have that 41% he doesn't want to exclude people because there is another method, so he wants both methods looked at very closely.

Mike Lynch, 54 Albany Avenue stated that one thing he didn't hear was that it takes a village to raise a child and we are all part of this village and we as residents and taxpayers, we in Walden take care of ourselves and he doesn't think an appeal to the public would hurt because he wastes \$10.00 a week on stupid stuff and taking that \$10.00 out of your pocket and putting to something positive you'd be going somewhere.

Mayor Pearson stated that Maple Street could really use sidewalks and new blacktop.

Trustee DeJesus asked the manager how much was in the budget for sidewalks.

Manager Politi stated that \$47,000 would be what you would be able to use, the other funds are dedicated.

Trustee DeJesus stated that the sidewalks on East Main Street towards the Tinbrook Apartments need to be done.

Mayor Pearson stated that they need to designate streets, so she would be one for Maple Street for sidewalks and curbing.

Trustee Hurd indicated that they need to prioritize it. He asked if it would have an affect.

Manager Politi stated that it depends on the projects that come in and the funding available.

Mr. Barnes stated that if you show your needs, sidewalks that are used by a lot of kids and residents would obviously be in need.

Mayor Pearson stated that what Trustee Hurd was saying is if they made sidewalks number one priority would that hurt the day care.

Trustee Hurd stated that if it doesn't then he would say go ahead. He further stated that he always thought that the block grants were just that, that you would apply for a sum of money and the community could use it for almost anything. This seems like its project specific.

Mr. Barnes stated that it's because the applicant is the county, not the village. The county splits it up in this fashion based on a system they devise to allow municipalities to apply. There is a process of decision making on their part.

Deputy Mayor Matisse stated that the village has a children's program at Olley Park and the Olley house could really use some rehab to enhance that program.

Manager Politi stated that there is a parks and recreation program grant that the village will be applying for which will be for Olley Park.

Mayor Pearson asked how much the grant is for.

Mr. Barnes stated that the maximum grant is \$500,000 which is a 50/50 match. This is highly competitive.

It was the consensus of the board to do the following projects in the following order:

1. Day Care Center
2. Sidewalks
3. Olley house

Mayor Pearson asked if the board had a preference on the monitory amounts of each.

Manager Politi stated that the first priority is the number you have to look at first.

Deputy Mayor Matisse stated that the board set aside \$47,000 in the budget for sidewalks and they haven't prioritized which sidewalks yet.

Trustee DeJesus stated that they could go to the areas that are a little more run down with the sidewalks. That is where they should go with the community development block grant.

Mayor Pearson stated that she is also looking at the school with the children. That may be an influence to get that too. Maybe put some curbing in there because the water is running all over the sidewalks. She asked if the board would be in agreement with having the engineer looking at a couple streets to get a cost estimate.

It was the consensus of the board to have the village engineer look at a couple sidewalks to get a cost estimate.

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

### **Public Comments**

Robert Segall, R& R Antiques requested permission to continue having their merchandise on the sidewalk. They are requesting Friday, Saturday and Sunday, Memorial Day through the summer.

Mayor Pearson asked if there were any complaints.

Manager Politi stated no.

Deputy Mayor Matise moved to allow R&R Antiques to hold their sidewalk sale on 5/25,6/26,5/27,6/1,6/2,6/3,6/8,6/9,6/10,6/15,6/17,6/22,6/23,6/24,6/29,6/30,7/1,7/6,7/7,7/8,7/13,7/14,7/15,7/20,7/22,7/27,7/28,,7/29,8/3,8/4,8/5,8/10,8/11,8/12,8/17,8/18,8/19,8/24,8/25,8/26,8/31,9/1,9/2. Seconded by Trustee Hurd. All ayes. Motion carried.

Mike Lynch, 54 Albany Avenue stated that the reason he is here is because he came home to a wonderful wall in his back yard, sitting within 15 feet of his property line. He thinks there are set back rules. No one is above the law. He asked if there is a setback rule in the village. The parking lot they built two years ago is within the confines of his property. The railroad tie wall hold backs are under his property. The new wall that was built is the second wall in that same field. It's an eye sore. It's going to be a graffiti wall. He asks that the wall be removed. He knew nothing about it and no one here knew about it. Dave Green does as he wants to do. When he served on the Little League Board they had the courtesy to speak to people before they did this. He spoke here about who is running this show. He voted for some of these people and he feels bad that he did. Again, when he was here last time nobody could tell him what was going on and here we are a couple years later and no one still knows who is running the show. They removed his survey stakes and broke the sidewalk outside his house.

Deputy Mayor Matise asked the attorney if a municipality is bound by its own zoning.



Mr. Dowd stated that is correct.

Deputy Mayor Matise stated that it doesn't make the village good neighbors.

Mayor Pearson stated that the issue is the board didn't know about it. So we are back to the issue of making sure the board does know what is happening.

Manager Politi requested everyone to come and meet and look at the wall.

Mayor Pearson stated that they should have met before the wall went up.

Trustee DeJesus stated that the fact is it was built and the board did not know about it. The issue is what we are going to do about it. We had a major discussion about it last time. The village does appreciate materials that are donated by different, but there has to be a way of people knowing its being done. He was there, Trustee Norman was there and the Mayor was there and the wall is very close.

Deputy Mayor Matise stated that there are no park policies and procedures. We are suppose to start working on a master plan for parks and if we have a master plan for parks then maybe these things won't happen because we'll have this specific procedure for how village parklands are used, even by other people.

Trustee Leonard stated that they should have come in and talked to the board.

Mayor Pearson stated that Jim said this has been going on for a couple years and we still didn't know about it two years ago, so the communication part has to happen.

Manager Politi stated that he thinks the communication part is you're hearing what you want to hear sometimes. He told the board they were doing upgrades, they replaced the dugouts, he told the board that was going on. The wall came to the board as a surprise. If there is one items, that was it, that he didn't bring to the board.

Mayor Pearson stated two walls.

Manager Politi asked which wall.

Mayor Pearson indicated that there is a wall out in the outfield.

Manager Politi stated that the board that was sitting at the time it was built knew about it and Jim Fitzsimmons went out and inspected it. The board knew about the wall because they talked about a tree, and they talked about the fence.

Deputy Mayor Matise stated that was four years ago, maybe the present board didn't know.

Manager Politi stated that when it was built that board agreed.

Trustee DeJesus stated that it's the new wall that there is a concern with.

Mayor Pearson asked if any of the board members wants to go see the wall.

Manager Politi stated that the board can then make the decision as to if they want it removed.

Trustee Hurd stated that it would be essential that the board does go and look at it. Whether there is a plan in place for a master park plan is really not the issue. You don't build a wall without coming to the board. We have to give them the benefit of the doubt that it was done with the best of intentions. Let's go look at it and see where we can go from here, so it doesn't happen again.

Mayor Pearson stated that the parking lot happened, nobody knew about the parking lot either.

Manager Politi stated that the board did know about the parking lot.

Trustee Leonard stated that they did know about the parking lot.

Trustee DeJesus stated that no one is using the parking lot you can just put up a fence, level it and put grass there. He doesn't know if it's a legal parking lot. The other wall he doesn't have a problem with. The problem is people are complaining about that wall. We have to make some decisions and a meeting with the Little League Board would be in order.

Manager Politi stated that Mr. Lynch did complain about foul balls going into his yard, so in order to stop that you're going to remove the concrete, but you will still need that size fence to stop the foul balls.

Mr. Dowd explained that if the wall is more than five feet from the property line there is no set back requirements. The height is the interesting thing.

Manager Politi stated that there is a question of his encroachment on ours. He further stated that he will contact the board when he gets a date for the meeting.

Lori Keator, 29 Rifton Place thanked Manager Politi and everyone who participated in the Soap Box Derby on Saturday. It was an awesome day. She requested the board put the truck route back on Grant Street. The Village is getting more and more crowded every day and you have semi's trying to turn by the monument and its way too tight. She further stated that the village has no ordinances regulating driving ATV's on your own property. She has someone in her neighborhood that drives for several hours at a time any time of the day or night. They were kicking up so much dust this afternoon

that she had to bring her laundry in. Her personal opinion from the meeting two weeks ago, she personally thought it was disgraceful that the mayor voted against the budget.

### **Townhouse Zoning**

Trustee Leonard stated that he invited Tom Lane, Director of Community Development and Alice Dickenson, Director of Rural Housing, Chairman of the Affordable Housing Committee and Chairman of the IDA in the Town of Montgomery.

Deputy Mayor Matise asked if they calculate the carrying for the monthly homeowners charge in that.

Mayor Pearson stated in a townhouse zone where they have to pay a monthly fee, do you carry that into the affordable calculation.

Mr. Lane stated that it should be.

Mr. Jacobowitz stated that it should be, but why should it be. He doesn't think it should, if this was a regulated program which federal or state funds would be requested then it should be. This is not being subsidized by federal or state money, therefore how you define what you want for the Village of Walden is the way you want it. It doesn't matter how the county suggests it should be done or the program.

Mayor Pearson stated that they brought them in for questioning to see if they could come up with a solution to some of their answers and he's saying it should be. We will ask him why it should be.

Mr. Lane stated that typically when you do a calculation in terms of how much of a payment people can afford you want to take into consideration any and all expenses related to the actual real estate portion of the property. The county charges a fixed amount that is charged to the homeowner on a monthly basis to take care of common areas and things like that. Banks also take that into consideration when underwriting a project. It's a standard industry practice to include that.

Mayor Pearson stated that for the affordability part of that we were saying 28%, is there a percentage that is a norm, is it monthly income.

Mr. Lane stated that the federal government will allow you to go up to 30%.

Ms. Dickerson stated that the main reason for using the 30% is because that is what the banks use and the other reason is the HOA fees will be counted when someone goes into the bank.

Deputy Mayor Matise asked if the banks did a projection of an increase over a 10 or 15 year period.

Ms. Dickerson stated that she doesn't know, but she knows they will do the initial calculation based on the offering.

Mr. Lane asked if it meant the calculation in terms of what the homeowner's fees would be. They will do a projection based upon the rate of inflation based on five years.

Deputy Mayor Matisse stated that we don't have any way of knowing if they will be fifteen or thirty year mortgages.

Trustee Hurd stated that if you look at the criteria that Mr. Sorensen added, PMI, which wasn't in there last time around, on page 9. We had principle, interest and taxes and then we added the PMI insurance. A developer could pretty well guess on those using the current rates of interest right now. The taxes, you good get pretty close on estimating that. If you know what the interest rate and taxes are you can calculate your PMI. The problem with including the homeowner's association dues is how would you know. It's a nebulous number by a homeowners association that doesn't even exist yet based on expense levels that you don't even have an idea of yet, so how could a developer calculate what the number would be.

Mr. Lane stated that what you would do is you would make a projection in terms of what services you are covered under the homeowners association and then do a comparison based on other condominiums or homeowner's associations across the county.

Mr. Jacobowitz stated that this is the Village Of Walden and this is the Village of Walden's affordable housing initiative. You may do with it as you wish. There is nothing that is standard or compelling and there is nothing the village is mandated to do.

Mayor Pearson stated that she understands that.

Mr. Jacobowitz stated that he is speaking to the whole board. This is a 20% affordable housing law. Not a 10% affordable housing law. No one has 20% anywhere. So whatever is standard or not standard some place else is irrelevant. Standardized practice at a bank is for market type units. Yes, if you were going to do a market type project then these are standardized analysis. When you're talking about affordable housing that is not standardized. You require the club house and it must be a certain size so you are immediately imposing burdens and costs on this project that are not the usual within an affordable housing project. He's not familiar with too many that have club houses and amenities as part of their mandated requirement in an affordable housing law. That is also a big distinction between whatever the experience is with Alice and Tom in connection with affordable housing. It's not the board's experience, they are doing something different. Banks are not using 30%, banks are using 32% and even a little more than that, because of what's happened to the cost of housing. Find you're projections; he's not familiar that banks look at a borrowers five year projection of income and expenses when they grant a mortgage. They get their current numbers. They make an analysis of their current income and their current housing costs and they determine whether they are eligible on that basis under their underwriting standards.

He's never seen a five year analysis by a bank of a mortgage borrower for a single family residential dwelling that will be their principal dwelling. They may want to do it if you're an income producing property, but a single family residential principal dwelling is not a five year projection. Can you cut the mustard now and the bank takes the risk of divorce, lost your job, health problems, and no raise, increased taxes, that is why banks get interest. If they didn't have those risks they wouldn't have to charge it. If the board wants to go with 10% affordable housing then his speech is over, forget what he said, but if you want 20% than there are different parameters that are necessary. What is in the draft law the board has, he thinks they talked about 32% and they went back and did some calculations and analysis and they said they don't need 32%, 30% will work for what the board is trying to accomplish. As far as the household expense they suggested they add PMI insurance. PMI insurance is an insurance premium the borrower must pay if he wants to finance more than the banks normal level. They anticipate in these houses that there will be people who are going to be eligible, under the village's standards, who will need 90% and therefore they will have to take the PMI insurance and that is why they added that. That should be a housing expense. Alice and Tom are not sources for wrong information, they are not wrong, it's just that's not what the board is talking about.

Trustee Hurd stated that when the village took that property it was already zoned for multi family rental and the board decided they did not like that idea because they wanted to provide some means of ownership for families starting out. So they came up with the idea of townhouse construction which by its very nature is inherently less expensive than a single family traditional home. Mostly because of the land cost. By itself townhouses provide a certain affordability factor, market value townhouses. Then we said maybe we can leverage the developer/building, within the project itself, an affordability portion. When you talk about affordability, we're not talking about affordability in the sense of this is not subsidized housing, this is not low income housing. This is to provide a certain percentage of these homes that are affordable. He recognizes the factors they are talking about and he asked the board to keep in mind the most important thing is that these town homes be built and the project comes to fruition. The very fact that we were about to ask for and get 20% is astonishing high and he's happy to get it. He hopes they come to some solution to get these homes built.

Mayor Pearson stated that it's the board's solution to make.

Trustee Hurd stated that he's asking the board to consider this, he feels it's critical that this happen. He's more concerned about conditions changing on the ground. Where our interest rates go within the area over the next year or two. If we delay, delay and delay this it may be totally unfeasible by the time we get to it.

Mayor Pearson stated that she doesn't think the board is delaying this on purpose.

Trustee Hurd stated that he's not saying that. He doesn't want to see the board stumble over whether they put in common charges or not.

Deputy Mayor Matisse stated that she feels that is very important because the common charges are something that the individual homeowner won't have any control over and too often they become at the mercy of the HOA.

Trustee DeJesus asked how they are at the mercy of the HOA.

Trustee Hurd stated they are the HOA.

Trustee DeJesus asked again, how are they at the mercy.

Deputy Mayor Matisse explained that if you default on your common charges an HOA can foreclose.

Trustee DeJesus stated that if you default on a new bank loan they will foreclose on you, so what's the difference.

Deputy Mayor Matisse stated that you are trying to make sure that if you're figuring a difference between 28% and 32%, if you're figuring it higher or you're not figuring in the common charges, then you're not being realistic in what these people have to carry every month and they are not being realistic when they enter into it. Every year the common charges are going to go up.

Trustee Hurd indicated that we're not going to control that.

Trustee DeJesus stated that we don't have any control over that. We're not going to establish a policy saying that the HOA cannot increase their charges.

Deputy Mayor Matisse stated that it's your initial determination on whether this candidate is somebody who is going to succeed or not succeed based on the percentage of their income.

Trustee DeJesus stated that it's not the roll of this board to make that determination. Other issues that come into play, do they qualify for a mortgage to begin with.

Mayor Pearson stated that you are still trying to make these units affordable.

Deputy Mayor Matisse stated, do they qualify with the carrying charges included or without the carrying charges. It's a big difference.

Trustee Hurd stated that anybody that tries to qualify for affordable units will know going in what their costs are going to be. The bank won't say, there are homeowner's charges, but we're not going to tell you about them. They will have to make their own determination when they go. The bottom line is the more you build into this it forces the unit price down. These parameters determine those prices. He doesn't

want to see the initial prices, on these parameters, get down to the point where a developer looks at it and goes nope, and walks away.

Trustee DeJesus stated that's not even our concern. That would be for the developer to figure out.

Ms. Dickerson stated that the fact is what she doesn't understand is the bank is going to count HOA fees, how could you not count HOA fees. At 110% median income with 10% down someone could afford to buy a house for about \$234,000 or \$235,000. If that is the selling price and they go into the bank and HOA fees are going to be counted then their ratio is at 30% that means they can qualify earning \$84,000/\$85,000 a year. If they go into the bank and you don't count that then their not going to qualify for the mortgage in the first place. She suggested someone from a bank come here.

Trustee Hurd stated that the scale starts at a hundred and one, not a hundred and ten.

Ms. Dickerson stated that she was only using that as an example. It's from 110 to 120, so at 120 someone could buy a house for \$257,000 and that would be a median income of \$91,686 at 30%.

Trustee Hurd stated that we are 76,000 at 100. So we're about 78,000.

Ms. Dickerson stated that no one has a choice of saying HOA fees count or don't count, because banks have to sell their mortgages and HOA fees have to be part of their underwriting. Some of the banks will hold the mortgages, which means they can do what they want and they can count HOA fees or not count HOA fees.

Trustee Leonard stated that he did some research about the 20% affordable, the reason of the committee was because this was the last significant parcel in the village and this is our last shot at affordable.

Mr. Jacobowitz stated that he understands, what Trustee Leonard is saying is because you didn't do something about this for the last 200 years of the village's existence you're going hit the last property owner with a burden beyond what is reasonable.

Trustee Leonard stated that it wasn't the design in the history of the village.

Mr. Jacobowitz stated that they are trying to cooperate and everything Alice said is correct, however the result of it is that the houses would be cheaper and the question is what is your policy, what are you trying to accomplish here by having this project. Do you want to encourage cheaper housing and occupants who have less income. You already have a 48% low income number in your community. Do you want more people in the 48% group or do you want to try to get a better balance in the community with respect to income levels, demographics, purchasing power and other attributes that

people have, that brings to their homes when they move into the community. That is your policy decision. What Alice said is true, but the affect of it is you will reduce the prices that these units will be able to be sold for. You'll get people with less income, less disposable income and that's the issue before you. You already have 48% of that in the community. Whether you want to target more of it is your policy to make. He asked to clarify it for Deputy Mayor Matise, it's 30%, we are not asking for 32%.

Deputy Mayor Matise stated that there was a range in the discussion from the last meeting.

Mr. Jacobowitz stated that they believe it can work on that basis. If you want common charges then make it 32%. It's all a matter of what these numbers working together to arrive at pricing structure that is going to meet the demographics that he thought this board was trying to reach.

Trustee Hurd stated that he feels they are. They wanted this to be a signature project; they wanted this housing to be exemplary. The affordable factor, they were hoping to find young people, our police officers, our nurses, and our teachers starting out. Giving them the opportunity to buy a quality property and give them an opportunity to get that first home and build equity. That was his understanding.

Mr. Jacobowitz stated that he believes that the law that is in front of the board is 30% and doesn't include the common charges, but does include PMI. He thinks they've all talked about this a great deal, not too much. The more we talk about things the more they understand things and the more they can find good solutions. At this point they might want to consider calling the public hearing so that it's out there in the public and that there could be a broader array of comments brought to the board so you can then consider the public. He feels it's ready to go to the public and let the public have a say and make your judgments.

Trustee Hurd stated that Mr. Jacobowitz never asked the board to reduce the 20% factor.

Mr. Jacobowitz stated that was because that is what he understood that is what the board wanted.

Trustee Hurd stated that what he is saying is if the board wanted to put in common charges and then you reduced your affordability factor from 20 down to 17 does that do the same thing.

Mr. Jacobowitz stated that the other affect will be that the HOA will be less of a service provider to this developer. He suggested take out the club house. If you want people to come live here who have a certain income level and can't afford that, take out the demands that you're making and make the streets public streets instead of private streets.



Trustee Leonard stated that the other 80% is going to expect amenities.

Mr. Jacobowitz stated the he feels it will make a lovely project. He thinks they pointed out to the board in the plan that was submitted they showed how the affordables are going to be located. Throughout the project it's not going to be on one street or one building and to do that it cost money. That is an extra cost to accomplish that. They understand the board doesn't want segregation and it should be viewed as an intergraded community and that is the way they are going to try and do that.

Deputy Mayor Matise asked Mr. Jacobowitz if when he said cheaper is that cheaper in cost or cheaper in materials.

Mr. Jacobowitz stated that it's the cost that goes into it, labor, material, and amenities that are there. There are ways to landscape it to make it look beautiful and there are ways to landscape that it will look just okay and you want it to look beautiful.

Trustee DeJesus asked the village attorney if they are ready for a public hearing.

Mr. Dowd stated that he knows what Mr. Jacobowitz is asking for, we've been kicking this around for quite a while. He would not want to go to a hearing process and in the middle of that process find that you are going to change the law and have to redo it again with the changes of the text. He hopes they come to a decision tonight.

Trustee Hurd stated that if we leave this like this is all its going to amount to is there will be some people who won't make the cut.

Ms. Dickerson stated that it's not so much that they won't have the extra income. If you're setting it to be affordable, she is using 110% that is \$84,122 that is who you have to sell it to.

Trustee Hurd stated that 101% is \$77,000.

Ms. Dickerson stated right, but that is not going to change. She also pointed out that these incomes are \$35.00 to \$50.00 per hour. You're not talking about low income housing.

Trustee Hurd stated that they didn't want this to be low income housing.

Mr. Jacobowitz stated that is aggregate income for a family who the guy has two jobs and his wife has a job. They are not earning \$50.00 per hour. If they were earning \$50.00 per hour there would be one worker in the family working 40 hours. He doesn't know if there are too many people like that.

Deputy Mayor Matise stated that if a bank is going to factor in the common charges, why wouldn't you factor it in and maybe then slide something else. Say 15% to 20% and recreate a range there.

Trustee Hurd stated that he just said that. If you build in common charges and you drop your affordability factor down to 15% there will be a number you can work at. He would rather keep it at 20% and keep it like it is. He would rather have the 40 units than 30.

Deputy Mayor Matise asked how many people will apply and then go to the bank and be turned down.

Trustee Hurd stated no, it's not that. They will come in and have a joint family income, four people, \$84,000 and those people will qualify.

Mayor Pearson stated that is a lot of money.

Trustee Hurd stated that we are not doing subsidized housing.

Mr. Jacobowitz stated that he doesn't agree with Mr. Dowd. What he's saying is you should decide this tonight. The whole purpose of the public hearing is to let the public speak. As the result of the public hearing people come in and they convince the majority of this board that it should be something different and it's a substantial material change in the law, then you will have to have another hearing if you change the law, but in the absence of that you are free to do your job.

Deputy Mayor Matise stated that every other week people could come in during public comment and talk about it. Anyone right now could stand up and talk about it. What do you need a public hearing for.

Mr. Dowd stated that you are required by state law to have a public hearing.

Deputy Mayor Matise stated that they are not up to that point yet.

Mr. Dowd stated that Mr. Jacobowitz is asking to hold a public hearing.

Trustee Hurd stated that what he is saying is if we go with what we have here.

Trustee DeJesus stated minus the 28%, 30% or the other.

Mr. Dowd stated the law says 30% without common charges, right now.

Trustee Hurd stated then he's saying if the public convinces the board later that we should do something differently then we could change that section.

Mr. Dowd stated yes.

Trustee Dowd stated that he would rather keep the 20% affordable and stay with this, then have to have something slide or have to have these units be smaller or sub standard.

Mayor Pearson stated that you're for 20% not changing the PMI and not doing common charges.

Trustee Hurd agreed.

Trustee DeJesus stated that his question is if you do 31% and include the fees, would that work.

Trustee Hurd stated that he said 32%.

Deputy Mayor Matisse stated that he said 30%.

Mr. Jacobowitz stated 31%, take one percent of \$84,000 is \$840.00 and divide that by 12 is \$70.00 per month. So you're saying you've built into it \$70.00 per month ability to pay a common charge. Who knows what these number will be three years from today. Who knows what interest rates will be, who knows what mortgage terms will be. Right now its 30, does it move on to make mortgages 40 years. You're trying to focus on the best you can do today and what happens tomorrow is difficult. He's not trying to dodge the questions, if that is what the board ends up doing, you're helping to solve a problem.

Deputy Mayor Matisse stated that in terms of the affordable units there is a certain level of responsibility that is being built into the law because those people can only sell to somebody else that is income eligible. They might sit on a potential sale waiting for a sale longer than somebody else, and it might deplete their resources, they might not be able to meet the commitment. There could be a lot of scenarios because of that. The law is building some kind of responsibility into it.

Mr. Jacobowitz stated that if the board includes the common charges they are making salability less likely, because that person won't be eligible under the law.

Deputy Mayor Matisse stated that it's setting a standard anyway because they also have to meet the points for residency, jobs and income.

Mr. Jacobowitz stated, assume they meet all of those. You're making it harder for somebody who has lived there for ten years, who now wants to sell because they have to move wherever, move in with their children because they are getting old and they have a less likelihood to sell that.

Deputy Mayor Matisse stated no, not any harder than it was for them because it's the same criteria. If common charges were taken into account for the original sale, than they're taking into account for the resale. What makes it any different.

Mr. Jacobowitz stated that it makes the resale less easy.

Deputy Mayor Matise stated that it makes the original sale less easy.

Trustee Hurd stated that it defines it all the time.

Mr. Lane stated that you have to include the common charges.

Mr. Jacobowitz stated that is making it less likely to sell a unit when they go to resale.

Mr. Lane stated right, because they will have to have more money to be able to afford that house. You can't ignore the common charges. If it's a choice between PMI and common charges go with the common charges. The common charges will be determined by the homeowner who lives there.

Mayor Pearson stated that everyone will be responsible for them anyway. If you can't afford it you're not going to be able afford it anyway.

Mr. Jacobowitz stated that it has nothing to do all of that. The issue is what economic level you want people to live in Walden in this project. Forget about the mortgaging; forget about the resale, who do you want to live in your community. That is the issue.

Ms. Dickerson stated that is not fair, because someone is paying HOA charges going in which means a higher income. You're making it sound like if you take away HOA fees they will get undesirable people in there.

Mr. Jacobowitz stated that he never said that. He said the board decides who they want to live in their community. He never said anything like that. That is a red herring.

Trustee DeJesus stated that his solution is the 31% with the HOA.

Trustee Leonard stated that he agrees with that.

Trustee Wynkoop stated that he also agrees.

Trustee Hurd stated that he's concerned because he still doesn't think its still is not going to be enough. He's afraid they will wind up with what they didn't want. If you went 32% that would go \$140 towards that and then they could have a starting value of around \$240,000 which would give them a quality structure. He asked how much common charges are.

Mr. Lane stated that he's seen it in townhouse condominium type of places go as low as \$250.00 and as high as \$300.00.

Trustee Hurd stated that the main thrust of this is to build a market value, high quality development that has an affordability component.

Trustee DeJesus stated that they have to get the \$250. or \$300. from somewhere.

Trustee Hurd stated that if you go to 32% that gives you \$140.

Deputy Mayor Matise stated that she would make the sliding scale between 15 and 20% depending on the number of units.

Trustee Leonard stated that you don't want to go there.

Trustee Hurd indicated that he wants to keep 20%. We will never get 20 again.

Deputy Mayor Matise stated why, we have the whole village as affordable.

Trustee Leonard stated not so much anymore. There is a lot of rehab and expensive homes out there.

Trustee Hurd stated with everything we have going with our rail trail and with the possibility of a commuter rail he thinks housing is expensive now and he thinks it will get more expensive. This is our last hope to lock in 40 affordable units in perpetuity.

Trustee DeJesus stated that this is not affordable. This is a different price range and it's not affordable standards that HUD sets. We are looking to have 20% lower price housing for a segment of the community according to the schedule that this board has set. It's barely work force housing for the people who work in the village. We have to stop kidding ourselves over the affordable. We also have to make a decision whether we're getting 31, 32, the fees and so on. Mary Ellen, he's not so sure she's supportive of anything that has to do with the low income concept.

Deputy Mayor Matise asked Trustee DeJesus stop it there.

Trustee DeJesus stated that he doesn't have to stop it there. It's his right to speak. So don't tell him to stop it there.

Deputy Mayor Matise stated then don't put words in her mouth.

Trustee DeJesus stated that actually she was very clear, she just mentioned it a minute ago that you wanted to reduce it to 15 because we have enough low income housing in this village.

Deputy Mayor Matise stated that this is not going to be low income housing.

Trustee DeJesus stated, let's make a decision on this issue tonight, before we leave here. This is unfair that this man has been here a number of times. We have people come and speak and we keep fooling around with this.

Mayor Pearson stated that this is our law and it's not unfair to anyone. We have to have these discussions to make the law right.

Trustee DeJesus stated that he understands that but we need to get off the merry go round and make a decision. Enough is enough.

Trustee Leonard moved to go with the 31% and include the HOA fees. Seconded by Trustee DeJesus.

Trustee Hurd stated that he would go with 32%. Seventy seven thousand dollar income, 30% is \$23,100 a year, \$19,050 per month and if you go to 31% its \$23,870 which is \$1989. per month and 32% is \$24,640 a year, \$2053. per month. That is a difference of \$103.00 per month. The difference between 31% to 32% is \$51.00 per month.

Mayor Pearson stated that you don't know what the selling price will be.

Trustee Hurd stated that you actually do know because if you know your mortgage is a certain rate and you know what your estimated taxes are and what your PMI is, you just divide it and you have it exactly.

Mayor Pearson stated that what she is saying you don't know what the townhouses will be sold for.

Trustee Hurd stated that he doesn't know what the market side of it is going to be, but we are defining what they are going to be sold for on the affordable side.

Mayor Pearson asked Trustee Hurd to explain the numbers.

Trustee Hurd stated that you have \$1950., \$1989. and \$2053. That is the monthly payment and everything has to go into that. You have a \$50.00 difference. He heard the developer say 32% and common charges works.

Mr. Jacobowitz stated that these are not condominiums and there is no subsidy of taxes. That is a big factor here. The condo would be half of the taxes. If you want to go with 32% and common charges you're getting closer to dealing with the issue.

Trustee Hurd moved to amend the motion to 32% and include HOA charges. Seconded by Trustee DeJesus. All ayes with the exception of Deputy Mayor Matise abstaining. Motion carried.

Trustee DeJesus stated to the deputy mayor that if something is controversial now she abstains just because she doesn't like it.

Deputy Mayor Matise stated that Trustee DeJesus can keep his opinion to himself. He doesn't have to tell her how she can vote. She asked the mayor to tell him to be quiet.

Trustee DeJesus stated no, you cannot have it both ways.

Deputy Mayor Matise stated that Trustee DeJesus was out of line.

Trustee DeJesus stated that the deputy mayor is not being effective.

Deputy Mayor Matise stated that she doesn't have to do anything Trustee DeJesus tells her to do.

Trustee DeJesus stated that she tells the mayor what to do all the time why shouldn't it be any different. Give him a break.

Mayor Pearson stated that any abstaining vote is a no vote anyway, so what's the difference.

Deputy Mayor Matise stated that it's just an abstention.

Trustee DeJesus asked the attorney if an abstention is a no vote.

Mr. Dowd stated that in effect it's not to vote for the motion. In essence if there was three votes yes and one vote no, then one abstention.

Deputy Mayor Matise stated that then it becomes a no vote. With four votes it doesn't make any difference.

Mr. Dowd stated that it is the equivalent of a negative vote in the sense that it is not a nay but it's not counting towards the majority to carry a motion. That's the affect of it, but its not a no on the record. He further advised the mayor that she doesn't have to vote only in the case of a tie, so she chose not to vote.

Mayor Pearson stated that she will vote yes.

Mr. Dowd stated that he will make the changes. He does have one other question about the fencing issue. Right now the only thing in the law regarding fencing is you're allowed a four foot fence on the rear lot line. His concern with that is for townhouses you do not want individual homeowners trying to erect a fence on there 60, 50 or 20 foot wide patch and nothing else. He suggested they make it in such a way that the developer or the HOA speak for what walls and fences go up in a development and no individual property owner can ask for a wall or fence.

Trustee Hurd asked if they should allow a six or eight foot section of fence so when they step out there door they have privacy.

Deputy Mayor Matise indicated that the attorney was trying to make the fences more uniform in terms of lot line.

Mr. Dowd stated that this will be resolved at the development stage with the planning board.

Trustee Hurd asked who normally decides that.

Mr. Dowd stated that the planning board will decide. Especially what guidelines are in the law for fences. He feels there should be some reference to fencing in the law. Once the developer comes through with a plan that there will be or won't be fences and then the HOA will take over for the developer at some point in time so that the HOA can come back and say we want to amend the fence provision in the code.

Trustee DeJesus stated that it would also be the type of fencing allowed.

Mr. Dowd stated that it's the height of the fence, the type of the fence and where the fence can go.

Trustee Leonard stated that he thinks they should leave it up to the HOA. It's their development, they have to live there, and so let them set the guidelines.

Mayor Pearson stated that at Winding Brook they all have dividers on the sides. No one has them on the back side.

Mr. Dowd stated that you don't want to obstruct the front in anyway. If someone wants to put up a fence in the rear where would that fence go?

Trustee Hurd stated that he doesn't feel they should be allowed to put it in the back. We should allow the screening, go back eight feet to give them privacy.

Mr. Dowd stated that everyone's taste is different.

Mr. Jacobowitz suggested that they have fences and walls shown on the site plan that is submitted to the planning board.

Mr. Dowd stated that if that would have to be amended in the future it would be the HOA that would have to approach the planning board, not individual property owners.

Mayor Pearson stated that you are talking about four feet and most people want that privacy which would be higher than four feet.

Trustee Hurd stated that he would go six feet.



Mr. Dowd stated that right now the law states four feet along the back property line.

Mayor Pearson stated that they are talking about the sides.

Trustee Leonard stated that this project, the rear yard privacy fences won't open up to a large common area like Winding Brook.

Trustee Hurd stated that the center section has a big common area.

Deputy Mayor Matise stated that people might have children and want a fence in the back.

Trustee Hurd stated that it seems to him that part of this type of a development is that the builder normally puts up the initial privacy area.

Mr. Dowd stated that this developer might put that privacy wall up. A decorative wall or fencing which would be something decided at the planning stage as part of the site plan.

It was the consensus of the board to leave the fencing up to the developer and the HOA.

Mr. Dowd stated that he will make the changes and get them to the board within the next day or two. In the meantime Mr. Jacobowitz is asking the board to schedule a public hearing and to start the entire process. He further stated that a copy of the law will have to go to the planning board members, Orange County Planning Department and a long form EAF which will also go to the Orange County Planning Department.

Trustee Hurd moved to hold a public hearing on June 12<sup>th</sup>, 2007 at 6:30pm regarding townhouse zoning. Seconded by Trustee Leonard. All ayes. Motion carried.

### **Stantec-Appointment as Village Consulting Engineer**

Mayor Pearson stated that the board knows her concerns, she has voiced them two meetings in a row. She asked Mr. Gainer if they sometimes charge per job as opposed by hour.

Mr. Gainer stated that would be difficult.

Trustee DeJesus asked about mileage.

Mr. Gainer stated that mileage is an expense they pay employees when they use personal cars for business miles. That is not too often.

Trustee DeJesus stated that they didn't charge mileage other years.

Mr. Gainer stated that they always have. It's just like the village pays mileage to their employees.

Trustee DeJesus stated that is different, we have a contract, there are high fees so that is a different ballgame. He would think the engineering fees would include the mileage as well.

Deputy Mayor Matise asked about the capital projects which some are design projects and the price ranges are all over the place, some high and some low.

Mr. Gainer stated that the prices relate to specific activities.

Deputy Mayor Matise stated that street improvement, Bank and Main Streets will be a village project that means the engineer is designing the whole thing.

Mr. Gainer stated that that includes project documents that they will be preparing.

Deputy Mayor Matise moved to appoint Stantec as Village Consulting Engineers for the fiscal year 2007-2008. Seconded by Trustee Hurd.

Mayor Pearson stated that she would like to know that they are little more on the inspection side of developments that are happening. Also water run off when they are looking at developments.

Mr. Gainer stated that he understands the concerns and he has spoken to the mayor about that.

All ayes. Motion carried.

### **Audited Bills**

Trustee Hurd moved to pay the audited bills of May 22, 2007. Seconded by Trustee Leonard. All ayes. Motion carried.

### **Lou Donnelly – 105 North Montgomery Street**

Lou Donnelly, owner and developer of Riversedge Commons stated that presently his project is a 55 and older project and he would like to talk to the board, because he didn't get any subsidies and there is a problem with renting the project because there are so many more projects that are subsidized and he can't be competitive in the market because he can't pay the mortgage. So what he is here for is he would like to talk to the board about easing up on the restriction of 55 and older and to turn this project into a condominium complex. The reason he didn't do condo format was because he was an acre shy of the requirements. The project is up and it's a beautiful project but

unfortunately its become a burden for him because he can't rent it because the price point he needs to be at just to cover his mortgage he's only getting 50%. He would like the board to point him in the direction he needs to be. He would really like to turn it into condos and keep the price \$200,000 and below. They are 1200 square foot units, hardwood floors, tiled bathrooms, 100% handicapped units, beautiful appliances and balconies.

Deputy Mayor Matisse asked if he's considered selling the whole project.

Mr. Donnelley stated that he has. People are renting \$550.00 a month and he can't do that. To break even he has to charge \$1200.

Trustee DeJesus asked what happened with the planning board. There were some special accommodations that were made.

Mr. Dowd stated that he's located in a single family zone and under the code he applied for a planned residential development which is a special exception use permit. When you decide how many units per acre your allowed to get, depending on the zoning you are in, you take the acreage and divide it by the total number of units in that zone and round it off to the nearest whole number. When you add in the senior citizen, 55 and over, it also gives you a density bonus. So he got a density bonus for the number of units he could actually put on the property because he was doing senior and including a laundry facility and a community room. So he was getting all the bonuses for a senior complex so therefore he got nineteen units instead of sixteen. He understands the economics, but from a zoning perspective and from what he was given when he built he got the density bonus that he was entitled to by using seniors.

Trustee Hurd asked if he could sell condos.

Mr. Dowd stated no, because they wouldn't be considered single family anymore, they would be multi family.

Mr. Donnelly stated that he was going to do seven lots and he met the criteria.

Trustee Hurd asked about co-op.

Mr. Dowd stated that this project was approved as the applicant requested as rental units under the special permit conditions of our code. He doesn't know how the board can allow him to escape legally. It is in a single family zone, so to allow him to go to something that would be considered multiple family it's not in compliance with the zone.

Mayor Pearson asked if Mr. Donnelly had an agency renting these apartments out.

Mr. Donnelly stated no.

Mr. Dowd asked him how many apartments are presently rented.

Mr. Donnelly stated 12. His only other option would be to go to social services and they will put people in there.

Mayor Pearson indicated that Mr. Donnelly is a developer and he should know the market and he should have done the market research.

Mayor Pearson stated that the homes in Goodwill are going to be senior homes at \$1200 and \$1300. There is a market out there.

Deputy Mayor Matise asked if they could drop the age to 50.

Mr. Dowd stated they relaxed it to 55.

Mr. Donnelly stated that he could have done condos if he had another half acre.

Mr. Dowd stated that he doesn't have the acreage. He had to go to the zoning board to cut off the house that was there.

Deputy Mayor Matise suggested he contact independent living to rent out the handicapped apartments.

Mr. Donnelly stated that he tried.

Trustee Hurd asked Mr. Donnelly where his break even was.

Mr. Donnelly stated that his price runs \$1400 per month. If you go anywhere else \$1400.00 is what they get.

Trustee Hurd asked if he had four more rented would he even be here.

Mr. Donnelly stated that he would be breaking even. He has already spent about \$65,000 carrying it every month. If he went to the state he would have people here.

Trustee DeJesus stated that they have to be 55 or older so it doesn't matter if you go to the state.

Mr. Donnelly stated that there can be 19 people living in an apartment, but as long as one of them on the lease is 55.

Mr. Dowd stated that if he put one undesirable in a unit to get that filled you could actually lose the other tenants.

Mr. Donnelly asked the board to work with him to see what direction he could take to try and resolve his situation.

Trustee Hurd stated that Mr. Donnelly's concept might work but what he hears from the village attorney is there are a lot of hurdles to go through.

Mr. Dowd stated that he would have to subdivide off each and every unit and each unit can't stand on its own merit. The number of units he has on that site shouldn't be there. He asked Mr. Donnelly if he was thinking about chopping off three units.

Trustee DeJesus stated that changing this would set a precedent and he took advantage of something that was made available to him and he feels its unfair to ask this board to change it now.

Mr. Donnelly stated that he has the opportunity to buy the piece of property next door which will bring him into the criteria for his lot size. There's a house on it, he'd knock down the house. That is all he needs.

Trustee Hurd stated that he doesn't think it would satisfy the zoning that is there.

Mr. Donnelly stated that if he does a lot line change and he incorporates that half acre into this project now he meets the requirements for his unit count and his area variance.

Mayor Pearson stated that he has already built what he wanted to build. He chose to make that decision.

Mr. Dowd stated that before Mr. Donnelly buys another piece of property which would put him further in the hole economically he'd like to know what Mr. Donnelly is looking at that says he can do what he wants to do.

Mr. Donnelly stated that he went through the zoning with the engineer that was his stumbling block, that he didn't meet the acreage size.

Trustee DeJesus stated that adding a piece of land is not going to change what has been built.

Trustee Hurd stated that the zoning would have to be changed.

Mr. Donnelly stated that if he had acreage he would still use the same amount of area.

Trustee Hurd stated that he needs to go before the zoning board.

Trustee DeJesus stated that it is more than that.

Mayor Pearson stated that his project is already built. He can get someone else to promote his apartments better.

Deputy Mayor Matisse stated that the zoning board is an independent body and they are a quasi druidical body and they may not agree with anything this board says. You go in there and they say no and now you have a piece of property with a house that you want to tear down and you still have this other thing that doesn't meet the requirements and they can say no. When they say no you can appeal it once and that is it.

Trustee Hurd stated that the solution really lies in the ability of Mr. Donnelly to rent out the existing property in the format that it exists. What the mayor is saying is that it is really up to him to use his own creatively to attract tenants there. Maybe you will have to offer a bonus, first year you pay \$800 and then graduate it up. Some rent is better than no rent. It's questionable as to whether it could even be done and even if it could be done it could take a really, really long time.

Mayor Pearson stated that the village doesn't even have a law for condos in the Village of Walden.

Mr. Dowd stated that condominiums are for ownership. The question is whether it would fit into the zoning.

Mr. Donnelly stated that he will go talk to his attorney. The only thing different is they are going to create something that is affordable so as a first time owner I can buy it.

Trustee Hurd stated that's not what he went in there for, you can't keep shifting around to gain the advantage.

Trustee DeJesus stated that the other problem is you have renters and you can't just throw them out. Mr. Donnelly is asking the board to, now you built a project and you want the board to create a zoning law to protect something that he built and he already has that.

Mr. Donnelly stated that he wouldn't throw the renters out, he would put provisions in there for them to stay as long as they want.

Trustee DeJesus stated that realistically that won't work because you have twelve people who are renting and you have nineteen apartments, who will carry the cost, the other seven people that will be buying. It creates another nightmare. He feels Mr. Donnelly got a break when he went to the planning board the first time around.

Mr. Donnelly stated that he made a mistake.

### **Oakland Avenue Block Party Request**

Mayor Pearson indicated that the board received a request from a resident on Oakland Avenue requesting permission to hold a block parking on August 18<sup>th</sup>, 12 noon to 10pm.

Manager Politi stated that 25 people signed the petition to have the block party and there are 48 homes on the street.

Trustee Hurd asked about alcoholic beverages.

Trustee DeJesus asked if they would be tying up an officer all day.

Manager Politi stated no.

Deputy Mayor Maise stated that she was wondering if they needed the whole street or the wider part of the street.

Mayor Pearson suggested the bottom of the street under the trees.

Trustee DeJesus agreed on the lower part of the street.

Deputy Mayor Maise stated that the manager could work it out with them.

Deputy Mayor Maise moved to allow the Oakland Avenue block party on August 18, 12 noon until 12pm. Seconded by Trustee Leonard.

Trustee DeJesus asked if the block party on Ayr Court was that until 10pm.

Trustee Hurd asked if the board was going to waive the open container law.

Village Manager Politi stated no.

Mayor Pearson asked if they would be notified of the open container law.

Village Manager Politi stated that it will be in the letter. An officer will stop by periodically.

All ayes. Motion carried.

### **B & D Taxi – Taxi License Renewal**

Trustee Hurd moved to renew B&D Taxi license. Seconded by Deputy Mayor Maise. All ayes. Motion carried.

### **Resolution No. 18-06-07, Budget Amendment**

Manager Politi advised the board to delete 2705, \$17,500. that is a wash. We had extra monies in the personnel services in recreation.

Mayor Pearson asked why do we have more money there.

Manager Politi stated that he didn't use it all up in his line.

Mayor Pearson asked if there was still that second person in that line.

Manager Politi stated that was cut back, it was seasonal.

Deputy Mayor Matisse asked about the state aid.

Manager Politi stated that it was grants that came in. We did well overall. We just got hit hard on the PBA negotiations and CSEA.

Trustee DeJesus stated that it's important to have the expenditures for the Soap Box Derby.

Manager Politi stated that its run on the street so there is quite a bit you have to pay for.

Trustee DeJesus stated that he has to account for that. He shouldn't have any overtime.

Mayor Pearson stated that the engineer, they should analyze that.

Deputy Mayor Matisse stated that there are a lot of big village projects coming up.

Manager Politi stated that is different.

Mayor Pearson asked for numbers on how much the Soap Box Derby cost.

Trustee DeJesus stated that he would like to see the numbers for the National Night Out.

Trustee Hurd stated that they should have it for everything.

Trustee DeJesus stated that also they have to understand that there is a contribution that the village makes. The business community was 100% behind the Soap Box Derby. He also would like to know how much everything is costing.

Manager Politi stated that labor negotiations caused the increase. The engineering fees they will be recovering some of that.

Mayor Pearson asked what the engineers fees were for.

Manager Politi stated that there is a small piece on the developer's side, but generally it was the village.



Deputy Mayor Matise asked where does the money coming from, what line.

Village Manager Politi stated that there was extra monies in the personnel services in recreation.

Trustee DeJesus moved to adopt Resolution No. 18-06-07, Budget Amendment. Seconded by Trustee Hurd. All ayes. Motion carried.

### **Request for Bond Reduction – Beazer Homes @ Ponds at Riverside**

Trustee Hurd indicated that they are in order, they kept their 15% reserve, he has a break down in everything and it makes sense.

Deputy Mayor Matise stated that she doesn't feel they should get a bond reduction until the McKinley pump station is up and working.

Trustee Hurd stated that is not how it works. The developer works in good faith and he does his punch list. Everything here is broken down and we've kept our 15% performance guarantee that we mandated and it's fair and equitable that the bond be reduced to reflect the amount outstanding.

Trustee DeJesus stated that we just have to keep their feet to the fire with the other stuff that is going on. He understands that they have done what they were supposed to and we have no legal basis for saying no. We cannot use this to punish. We have to continue to make sure they are doing what they should be doing.

Deputy Mayor Matise asked if the damage to Hidden View was figured in here. The planning board directive was not to take trucks down that street at all.

Mr. Gainer stated that there is a very significant cushion.

Manager Politi stated that there is still \$900,000 and it won't cost that to pave that street. From the intersection down that has to be repaved. Going up we could calculate that cost.

Deputy Mayor Matise asked when they were going to fix the two bumps on South Montgomery Street where they made their utility cuts. The village manager also asked the county to contact Beazer to get them to fix them.

Mr. Dowd stated that there is a different bond for that.

Trustee Leonard asked the board if they wanted the village engineer to figure out how much it would cost to pave Hidden View Drive.

Mayor Pearson stated that they were told in January not to use it.

Deputy Mayor Matise stated that they were asked from the very beginning not to use it by the planning board.

Trustee DeJesus stated that we have \$900,000 and we can take it out of there.

Deputy Mayor Matise stated that there may be other problems between now and then.

Trustee Leonard stated that they would still have to know how much it will cost.

Manager Politi stated that it won't take a tremendous amount of money to rebuild that and repave it.

Deputy Mayor Matise stated that Trustee Leonard is asking if we want to ask for an additional amount.

Manager Politi stated lets see what the number is first.

Mayor Pearson stated that she doesn't have a problem with that.

Trustee Hurd stated that we spend all this money on our engineers to give this break down and to give us their recommendations. They built in their contingency fee. He would like to make the motion to accept this bond reduction.

Trustee Hurd moved to approve the bond reduction.

Mayor Pearson stated that the pipe from the Phase II which is the first one they did.

Trustee DeJesus seconded the motion.

Mayor Pearson continued to state that from the pump station she knows that the gravity feed was a little off and they had to redo something in that space between the Phase II to the pump station. That was figured into part of this reduction or in that in the Phase I reduction, because it is connecting into Phase II.

Mr. Gainer stated that the original plan to connect the phases together was built into the bond. The additional work he found necessary, which he put in place, was beyond that. It's not factored into this because that wasn't done at the time the bond was done. You're holding all that money as if it was not completed.

Mayor Pearson stated that the pump station isn't running with that.

Trustee Hurd stated that is not part of this.

Mr. Gainer stated that they have almost all flows directed into the pump station at the present time. There are still a few houses at the lower end of Hidden View that are not hooked in yet.

Mayor Pearson asked if that was Phase I or Phase II.

Mr. Gainer stated that he's not had credit for any of those connections yet. We are still holding that money even if you approve this bond.

Trustee Leonard asked for the status of the McKinley pump station.

Mr. Gainer indicated that the McKinley pump station is in place and operating. They are still doing some trouble shooting.

All ayes. Motion carried.

**Resolution No. 19-06-07, Declaring Itself to be Lead Agency and Issuing a Negative Declaration Pursuant to the Stat Environmental Quality Review Act for Route 207 Sewer Line Replacement Project**

Trustee Leonard moved to adopt Resolution No. 19-06-07. Seconded by Trustee Maise. All ayes. Motion carried.

**Waste Collection & Disposal Law Review**

Deputy Mayor Maise moved to hold a public hearing on Introductory Local Law I -3 of 2007, "Waste Collection and Disposal" on June 12, 2007 at 6:30pm. Seconded by Trustee Leonard. All ayes. Motion carried.

**Walden Area Council for Senior Citizens Request**

Trustee DeJesus stated that the money was given away.

Mayor Pearson stated that we gave \$500.00 to the firemen's museum. The senior citizens are looking for \$450. from their last budget time frame.

The village clerk indicated that the motion was to take the \$500. donation to the firemen's museum out of the 2007-2008 budget.

Mayor Pearson stated that we still have this money left, \$450.00.

Trustee DeJesus stated that the Tax ID is not going to give them tax exempt status. They need a 501-C3 and they need a lawyer for that.

Deputy Mayor Maise stated that this group is not set up as a non profit and they should be.

Trustee DeJesus stated that they should go to the office of the aging for guidance.

Mayor Pearson suggested they take the \$450 and set themselves up.

Trustee DeJesus stated that they have to spend it by May 31<sup>st</sup>.

Manager Politi stated that he will contact them.

It was the consensus of the board to give the seniors the \$450.00.

### **Graffiti**

Deputy Mayor Matisse stated that Officer Montanaro requested this when the former NELCO building was graffitied and what the board needs to do is direct the attorney to come back with something for our own code. Package Lighting has graffiti all over it. There is nothing in our code to have the property owner directed to paint over it.

Mr. Dowd indicated that he will look at this and see what the village has on the books. He will see if the building inspector has anything under the new State Property Maintenance Code.

### **Public Comment – Work Session Items Only**

Lauren Keator stated that in regard to the townhouse zoning she is concerned about the fences too and they all look nicer uniform. She also stated that in regard to Riversedge no one is going to find rental properties for \$600.00 a month. In regard to the waste collection, she has seen a lot of people put out anything curbside whether its bulk pick up or not bulk pick up. She would like that in the code.

Deputy Mayor Matisse stated that the code enforcement officer keeps up on it. Also, if you drive down any street there is someone with their garbage cans on the front lawn all week long. Those things are already in the code, so its just enforcement.

Ms. Keator asked that the information regarding bulk pick up be on the calendar.

Marcus Millspaugh stated that the bond reductions are always a tool and you should make sure everything is done even if there is enough money to cover it. There should be a list of things to be done before you cooperate with them.

### **Correspondence**

Mayor Pearson stated that she received a letter from Pat Graziano. Also, June 10-13 is the NYCOM meeting. She further stated that there is a company that comes in and looks through the village's utility bills and phone bills to make sure we are being charged

fairly and show you what to look for. You're paying them 50% of any and all recovered funds, which is one time.

Manager Politi stated that it would be his suggestion this be a one time thing.

Trustee Hurd asked what the period of time would be.

Mayor Pearson stated that she thinks they went back five years.

Manager Politi stated that he will talk to the company to make sure its not a recurring thing.

Trustee Hurd stated that it should be based on what we actually get and then they get their pay, not what their calculations are.

Deputy Mayor Matise asked if this should be combined with an energy audit to see where you are.

Mayor Pearson asked the manager to look at this and report back to the board by the next meeting.

### **Village Manager's Report**

Manager Politi thanked everyone for their help with the soap box derby. There was a letter from Beazer and there is the letter they sent out after the village sent their letter out.

Mayor Pearson stated that she didn't get a copy of the village's letter.

Manager Politi stated that he gave the board copies of the department head reports.

Mayor Pearson asked about the flowers on Main Street.

Manager Politi stated that Mr. Edwards is going to hang them. He asked about the hooks for the flowers on the west side.

Mayor Pearson stated that he hasn't heard anything yet. The flowers won't be ready for Memorial Day for the west side.

Mayor Pearson asked about what is happening in the water department, who is doing our testing.

Manager Politi advised the board that Mr. Berti is working with the highway department. Someone from the highway department was transferred to the water department. The license is through Joe Henry, Engineer.

Mayor Pearson asked if they have to come to the village often to do something.

Manager Politi stated that they have set a schedule. We have a program set and he will make sure all the appropriate paperwork is done. He will do spot checks and do a weekly write-up and monthly write-up.

Deputy Mayor Matisse asked who was moved to the water department.

Manager Politi stated Fred Perna who worked in the water department for five years.

Mayor Pearson asked about the bill from Walt Sweed which talked about water/well training.

Manager Politi stated that he attended a meeting when they had the initial meeting.

Mayor Pearson asked if they will find out the reason for Mr. Berti's transfer.

Manager Politi stated that he was just transferred from one to the other.

Mayor Pearson asked if it was disciplinary.

Manager Politi stated no, it was a transfer which he is allowed to do.

Mayor Pearson asked if they were on schedule for cleaning up Olley Park.

Manager Politi stated they did a lot of work today.

Trustee DeJesus asked if they were to paint the gazebo and the picnic area.

Manager Politi stated that he did speak to Mr. Howland about that and it is a part of his maintenance program.

Deputy Mayor Matisse asked if the weeds growing over the porch were going to be done and if the house was going to get painted.

Manager Politi stated that right now they are concentrating on the barn.

Deputy Mayor Matisse and Trustee DeJesus stated that it does look bad.

Trustee Leonard asked how they are going to paint that.

Manager Politi stated that they might use a sealer on the pavilion.

Mayor Pearson stated that the board is also talking about the maintenance of our parks.

Manager Politi stated that they are moving in the direction as discussed at budget time.

### **Board Comments**

Trustee Hurd stated that the soap box derby was a success and it is getting bigger and bigger every year. He praised Manager Politi for all the work he did. It is helping to build a positive image for the village. He predicts next year they will have more than sixty cars and he thinks they will get to the point where they can make the event, not just the soap box derby but a car show or other event around that theme.

Trustee Wynkoop stated that he would like to mimic what Trustee Hurd said about the soap box derby. He also stated that the Ronk property needs to be cited again. The property on Hill Street has all kinds of stuff on his lot.

Trustee DeJesus stated that the soap box derby was great and the breakfast went well. He thanked the mayor for sending the letter to MTA in support of the railroad feasibility study.

Deputy Mayor Matise asked if Mr. Dowd had an issue about the executive session the board had.

Trustee Leonard moved to adopt the minutes of May 17<sup>th</sup>, 2007.

Deputy Mayor Matise stated that she had a question as to whether the meeting was called properly.

Mr. Dowd indicated that he hasn't had a chance to talk to the village clerk.

Mayor Pearson stated that this can be discussed at the next meeting.

Deputy Mayor Matise asked if there was to be an executive session tonight.

Manager Politi stated no.

Deputy Mayor Matise stated that they thought they were going to have one about Harrison Street.

Manager Politi stated that he doesn't have anymore information. If there is a question he won't act on it.

Trustee Leonard moved to table the adoption of the May 17<sup>th</sup>, 2007 minutes. Seconded by Deputy Mayor Matise. All ayes. Motion carried.

Trustee DeJesus thanked the manager for having the tree stumps removed from Oakland Ave.

Manager Politi reminded the board about the special meeting on May 23<sup>rd</sup> at 7pm.

Deputy Mayor Matisse asked about the landfill payments.

Mr. Dowd stated that its on the way to the attorney generals office.

Deputy Mayor Matisse asked if the village had the money set aside for this.

Mr. Dowd stated yes.

Deputy Mayor Matisse asked about the web site.

Manager Politi stated that he is waiting for the third price.

Deputy Mayor Matisse stated that she attended the historian's meeting and there are great things you can do with the web site. She asked about the weeds on Main Street.

Manager Politi stated that he will find out.

Deputy Mayor Matisse stated that she attended a meeting on the second floor last night and she found a plastic bag on the toilet. She asked if people are allowed to roam this building. It was after the library closed. She did show the bag to Mr. Landolina.

Manager Politi stated that typically the bathrooms are locked. He will find out why that was open. What did Mr. Landolina assume it was?

Deputy Mayor Matisse stated that he assumed it was someone's pot stash. She took it to Officer Werner and he confirmed that. She also stated that at the next meeting she would like to revisit the whole thing on demolition.

Manager Politi stated that there is a policy already in place.

Deputy Mayor Matisse stated that the building inspector gave some good recommendation to beef it up.

Deputy Mayor Matisse stated that Officer Montanaro advised her that people have been complaining about garbage in the parks and private parties are creating the garbage and not picking up after themselves. We don't have a policy for cleaning up the parks after a party.

Manager Politi asked that she not assume we don't, because Mr. Howland has quite a bit for the different activities.



Trustee DeJesus asked if this is being communicated to the Chief by Officer Montanaro.

Deputy Mayor Matise stated that he mentioned it to them because it's the board's job to develop codes.

Manager Politi stated that he should follow the chain of command. He will speak to Mr. Howland.

Mayor Pearson received a call about the Ronk house.

Mayor Pearson asked if there were still openings on the planning and zoning board.

Manager Politi stated that there is one seat open on each.

Mayor Pearson asked about Well #8.

Manager Politi stated that they are waiting for the final paperwork for the purchase and Jim Fitzsimmons is working with DOH.

Mayor Pearson reminded the board about the Memorial Day parade. Line up is 9:30am on Wait Street. She asked about labor negotiations.

Manager Politi stated that they are on going.

Mayor Pearson asked if the manager got the woman on Second Street FEMA paperwork.

Manager Politi stated that he hasn't.

Mayor Pearson asked about the skate board park.

Manager Politi stated that he doesn't know if Trustee Norman has any information.

Mayor Pearson asked if anyone is at the skateboard park supervising.

Manager Politi stated yes.

Mayor Pearson stated that her husband was at the park umpiring and he saw someone jump the fence of the skateboard park. There was an officer down there talking to someone and he did nothing about it.

Manager Politi asked for the officer's shield number.

Manager Pearson stated that he didn't know who it was.

Mayor Pearson asked about the road cuts on Watkins Drive.

Manager Politi stated that he will ask Mr. Edwards.

Mayor Pearson also asked about the hole on Walnut Street. It is the contractor's responsibility. When a contractor opens up a street someone from the village needs to be there. Do we do that?

Manager Politi stated that he doesn't think its done willy nilly, he does believe they are inspected.

Deputy Mayor Matise stated that the building inspector is supposed to go out and photograph first. She also stated that Gladstone hasn't been done either.

Mayor Pearson asked about Harrison Street, can they get a report.

Manager Politi stated that he will get the board a report. There was quite a bit of information given out at the executive session. A report would will tell you what the cameras saw along the way.

Mayor Pearson stated that she would like the report.

Manager Politi excused himself to speak to the attorney. Upon returning he advised the board that any information he shares with the board members regarding Harrison Street he asked they not share it with anyone else.

Trustee DeJesus stated that in regard to those reports there is a potential for litigation. His concern is releasing those reports they become public information. Through a litigation process there has to be a process of getting information. He doesn't want a copy of the reports because he doesn't want to be subpoenaed.

Deputy Mayor Matise asked if they could F.O.I.L.

Mr. Dowd stated yes, but that doesn't mean they will get the information.

Mayor Pearson stated that she needs to know that it will not happen again.

Manager Politi stated that they are working to make sure it doesn't happen again.

Mayor Pearson asked about Bonnie Porter who sent her garbage bill stating that she is not paying it because she disposes of her own garbage. She asked if the manager responded to her.

Manager Politi stated no he hasn't.

Mayor Pearson asked about the MS4 report.

Manager Politi asked if anyone had any comments about that. He asked for the comments in writing.

Mayor Pearson asked if the village is still doing catch basin cleanings and is there a schedule.

Manager Politi stated that he will find out.

### **Adjournment**

Trustee Hurd moved to adjourn. Seconded by Trustee Leonard. All ayes. Meeting adjourned.

Respectfully submitted,

Nancy Mitchell  
Village Clerk