

**Village of Walden
Board of Trustee
February 10, 2009**

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	Mary Jean Norman
		Roy Wynkoop
		Richard Hurd
		Susan Rumbold
		Marcus Millspaugh Jr.

Also Present:	James C. Politi, Village Manager
	Nancy Mitchell, Village Clerk
	James C. Politi, Village Manager

Village Manager's Report

Manager Politi stated that Delaware Engineering is on site and they brought in VRI Engineering to be the operator of record. They are doing the final report so they can get it to the Board as well as DEC.

Deputy Mayor Matisse asked if DEC gave a time frame.

Manager Politi stated that he doesn't know the date off the top of his head. It will come from the EPA and we haven't received anything.

Manager Politi advised the Board that Delaware is working with water to get the well projects underway. He also stated that the WBA will be coming to the meeting when the sign law is discussed. He further stated that the engineering RFP will be going into the paper.

Deputy Mayor Matisse asked if they've established a channel or a mechanism to ask the WBA different things or opinions on certain issues.

Manager Politi stated that the web page has the contacts on it. They can contact the chair person.

Deputy Mayor Matisse stated that she is wondering if they would like to comment on the dumpster issues. She asked the manager to convey that to them.

Manager Politi stated that there is a letter to the State Comptroller regarding the police consolidation.

Deputy Mayor Matise asked if Mr. Dowd was in phone contact with the State Comptroller's office.

Mr. Dowd indicated that he did leave a message for him today. He hasn't returned the call.

Manager Politi asked if any of the Board members had comments on the department head reports.

Deputy Mayor Matise stated that there were five calls for the dog control officer, three were unfounded, and two were founded. We're being billed for the town's animal control officer. Why is there this duplication of service? If the state is trying to get us to share services to cut cost why is the Town not providing us with the service we are paying for.

Mr. Dowd stated that he is looking into that further. He will look into if the Town's animal control officer should get A Fund or B Fund charge.

Deputy Mayor Matise stated that she asked NYCOM and it is a permissible charge. If it's permissible why aren't we getting the services we're paying for.

Mr. Dowd stated that they may be when the Village's dog control officer isn't available.

Deputy Mayor Matise asked if it could be under the mutual aid agreement.

Mayor Pearson stated that the Village of Maybrook has an agreement with them that they actually pay a fee.

Mr. Dowd stated that the Town attorney is checking that out.

Trustee Millspaugh stated that he's noticed that some of the cross walks for the railroad haven't been cleared off. He recalled a bill for easements. He was wondering if they were responsible for cross walks and should the Village be billing them.

Manager Politi stated that the easements are water and sewer lines that pass underneath the rail. That is what the easements are for. He will look into that.

Trustee Millspaugh stated that in regard to the Route 208 sewer line there was a manhole from an abandoned sewer line when Big Apple Circus was there. If that crosses the railroad are we paying for an abandoned crossing?

Manager Politi stated that was an internal sewer system for the trailer park. That system was dyed to find out where that system went and they couldn't find the outlet so it was deadened at some point. He couldn't tell him if there was an easement for that.

Public Comment

Lynn Schwandt, 143 N. Montgomery Street stated that she was reading the minutes from the last meeting, when does Manager Politi's contract expire?

Mr. Dowd stated that the official date of expiration was January 31st, 2009 however the Village Board extended that contract until such time that the whole Board gets together to authorize a new contract.

Deputy Mayor Matisse stated that the motion was to extend it until tonight.

Ms. Schwandt asked the Mayor, at the last meeting she voted no to extend Manager Politi's employment agreement and she also didn't want anything to do with it. Is there a reason, do you not like him or you don't like his work ethics.

Deputy Mayor Matisse asked if Ms. Schwandt had a question of the whole Board.

Ms. Schwandt stated that she is talking to the Mayor.

Deputy Mayor Matisse suggested Ms. Schwandt calls her separately and talk to her. She should take her questions up privately.

Trustee Norman asked why Deputy Mayor Matisse was speaking for the Mayor.

Deputy Mayor Matisse stated that it's not the business of the whole Board.

Trustee Hurd stated that she has the right to address anyone she wishes to address.

Trustee Norman asked the Deputy Mayor why she was speaking for Becky. Let her speak for herself.

Deputy Mayor Matisse stated that she's not. She is speaking for herself as a Board member. She does not feel that she has to sit here and listen to a cross examination of any Board member.

Trustee Hurd stated that you're not required to respond, but you have to listen to public comment.

Deputy Mayor Matisse stated that if it's a personal question take it up in person.

Ms. Schwandt asked why the Mayor can't tell her that, instead of the Deputy Mayor. She was directing her question to the Mayor.

Deputy Mayor Matise suggested she direct her question to the whole Board.

Ms. Schwandt stated that she wanted feed back from all three Board members who voted no.

Deputy Mayor Matise stated that they don't have to answer her they already voted. They don't have to give her a reason why they voted. Maybe she voted no because one person in the Village said vote no and she is representing that one person in the Village.

Ms. Schwandt stated that she has talked to several people who said they are trying to get Susan Cockburn in here and get Jim out of here.

Mayor Pearson stated that it is a rumor.

John Revella stated that he just wanted to make sure that funds that are paid from the Town of Montgomery aren't being paid out of the Village funds.

Deputy Mayor Matise stated that the Village Attorney is working on that.

John Revella stated that the Restore New York Grant we are eligible for 2.5 million.

Mayor Pearson asked if he had anyone interested.

Mr. Revella stated yes.

Mayor Pearson stated that she was thinking of Ray Ozman's building.

Jan Weiner, Jeff Holmes and Anthony Lamendola appeared before the Board. Chief Holmes stated that this morning at our staff meeting the comment Deputy Mayor Matise made to the Village Clerk was brought up which was about health care. About health care for exempt employees may be changed to something cheaper.

Deputy Mayor Matise stated that she didn't say that.

Chief Holmes stated that he is asking the Board right now before we go any further, we as a staff, exempt employees would like to have an open meeting with the Board to discuss those types of items. There are other issues they would like to discuss with the Board, but they would like to do it at a separate meeting, not during the meetings for the budget. There are eight or nine employees.

Ms. Weiner asked if that wasn't the comment what was the comment.

Deputy Mayor Matise stated that we could look at getting comparable coverage.

Trustee Hurd and Norman asked who we are.

Deputy Mayor Matise stated that she has asked the manager this before. We have discussed as a Board previously. Comparable coverage at a lower premium.

Trustee Hurd and Norman indicated that they've never discussed this.

Mayor Pearson stated that anytime they are looking at monies they should always be looking at things like that. Whether they would change or not change she still thinks it should be looked at. She didn't make that comment and she didn't hear about that comment.

Ms. Weiner stated that you are talking about eight employees compared to two unions that you can't touch and you can't touch the retirees which is about 15. You are talking about eight of us. We have put in many years; some of us are a lot more than those that are retired. One was employed here for four years and will get health insurance for life. You are talking about Nancy Mitchell, Judy Byington, Vicki Kurtz, Jeff Holmes, herself, Dean Stickles, John Howland and Mike Bliss.

Mayor Pearson stated that it doesn't mean that their health care would be any less than what it is now.

Ms. Weiner asked why would they have to take a different health care.

Mayor Pearson stated that they might be saving tax payers dollars on that for the same services.

Chief Holmes asked why they would be treated differently than the other employees who have a union.

Ms. Weiner stated that they do not have a contract.

Mayor Pearson stated that they should not be doing that. They should look at all of that. She's not saying to discriminate against anyone.

Chief Holmes stated that is what our concern is; because we are exempt employees we don't have a union behind us.

Mayor Pearson advised Deputy Mayor Matise that this is her comment she is talking about.

Deputy Mayor Matise stated that it's not to single anybody out. As we go into looking at the budget for next year we need to look for savings. It's not to eliminate anything. It's to get a more cost effective way to do it. When they sat here and talked about NYSHIP coverage for Board members and then they found out they could get a comparable policy for about 40% less.

Manager Politi stated that Oxford has different values for different family scenarios. It would only affect one person.

Chief Holmes stated that when you get into a situation like you're in now or even the comments made that we could be changing our health care we again are very limited in our protection, we have to work at the pleasure of the Board. We don't have the protection that the unions have and you're looking at employees that have between us between 20, 26, 30 and 32 years of service to the community where we could potentially lose the health care that we are use to getting, the health care that most of us are looking at retirement getting. It could affect whether we want to continue here. It is very important to us. A majority of us want to stay here. This is the community we live and work in. It gets personal.

Deputy Mayor Matise stated that it wasn't meant to get personal.

Chief Holmes stated that is why we want to talk to the complete Board, not during the budget sessions.

Ms. Weiner stated that the other employees would like to come too. She would like to set a date.

Deputy Mayor Matise stated that as they start to look at budgets they don't know what changes are going to have to be made.

Chief Holmes indicated that they are aware of that.

Deputy Mayor Matise stated that they are picking at nickels with the Town because the Town is cost shifting to the Village things that they should be and they are trying to get out from under it.

Chief Holmes asked at what cost, to your employees or to the community.

Ms. Weiner stated that she has a question with the Manager's contract, is it true it's only for six months.

Mayor Pearson stated that it hasn't been voted on.

Ms. Weiner asked if it will be for six months.

Mayor Pearson stated that it hasn't been voted on yet.

Ms. Weiner stated that she feels there are five department heads and she hasn't talked to anybody about it. This is a concern for all of us, not just Manager Politi, all of us. We are wondering if he is going to be here for six months and what happens after six months.

Mayor Pearson stated that she doesn't know.

Ms. Weiner stated that nobody has asked any of them how they feel about the man, what kind of manager he is, nothing. She doesn't know why they are going with just a six month contract. As long as she has been here she's never had a manager go through this. She doesn't understand it. She's sorry and it will probably cost her appointment come April, but she had to say it.

Trustee Norman stated, no it won't.

Mayor Pearson stated no, because everyone has the right to say what they want to say. She also indicated that Ms. Schwandt can ask any question she wants.

Ms. Schwandt stated no, because you won't answer it, she answers, she answers for everybody.

Trustee Norman stated not for me.

Ms. Schwandt stated that she directed the questions to the Mayor and the Deputy Mayor's mouth opens up right away.

Mr. Paz, Attorney representing 845 Area Code stated that he thought they would be back on the agenda and he doesn't see it on the agenda so he doesn't want it to slide by. He knows Mr. Dowd prepared a local law for the Board's review. If it's going to be added to the agenda he will sit down. If its not he would like to address it. He looks for a public hearing to be set on the local law.

Mayor Pearson stated that she just received the local law and hasn't had to time to comprehend it.

Mr. Dowd stated that he was waiting for Mr. Sorensen's comment which he didn't get until yesterday and then he made the final changes today.

Mayor Pearson indicated that she is not prepared right now to do that because she just got it. She does have some comments.

Trustee Hurd asked if this was discussed at the last meeting.

Mr. Dowd stated yes. It addresses the Board's concerns.

Mayor Pearson stated that it didn't address her concern. She didn't see it in there. Her concern was the scenic part of it. She asked if the Board wanted to discuss it now or later.

Trustee Norman stated that they are already here why not discuss it now.

Mayor Pearson stated that you're in public portion so she suggested it be put on for later so the public can finish their comments.

It was the consensus of the Board to put it on later.

Resolution No. 14-08-09, In Opposition to the Creation of a New "Mobility Tax"

Mayor Pearson stated that she received a letter from Nancy Calhoun regarding the MTA Tax.

Trustee Rumbold moved to adopt Resolution No. 14-08-09, In Opposition to the Creation of a New "Mobility Tax", (attached). Seconded by Trustee Millspaugh. All ayes. Resolution adopted.

Village Manager's Contract

Trustee Rumbold asked that the Village Manager's contract be moved up to an action item.

Trustee Rumbold authorized the Mayor to sign the Village Manager's contract as presented last week effective February 10th, 2009. Seconded by Trustee Hurd. On roll call Trustees Rumbold, Norman and Wynkoop voted yes. Trustee Wynkoop stated that he's a great manager. Trustee Hurd voted yes and stated that Jim Politi is the best manager this village has ever had. He has a ten year record of accomplishment that has never been matched by any other manager in this Village. Trustee Millspaugh stated that reluctantly he is voting no. He feels the Village needs another manager style so he's voting no. Deputy Mayor Matisse stated that she likes a lot of the things they put in the new contract, it's a two way street. Its give and take on part of the Board and the Village Manager and she likes a lot of the things they put in it but people have asked, she's heard comments, people have expressed their concern to vote no, so she represents their vote with no. Mayor Pearson stated that she is voting no because she feels with 59 violations in the sewer plant she cannot recommend him as manager. Part of that responsibility is the Boards'. We could be faced with thousands of dollars worth of fines. This is just one issue. A manager is responsible for the over seeing of the public works and everything that is here and she feels that responsibility, although it does lay with us too it's also the responsibility of the manager and she has a problem with those violations. She has spoken personally with him about it and the Board knows how she feels. There are other issues, but she will leave it at that.

Trustee Wynkoop stated that he was under the assumption that they voted five to two to approve his contract long before this.

Mayor Pearson stated that they voted five to two to work on the project and move it further and make sure it got to this point.

Motion carried.

Trustee Rumbold stated that she understands there were 59 violations but she also believes that there's culpability with the engineering advice and she believes that Jim has taken responsibility for his portion of the culpability in that. She also believes that you don't wait until your house is on fire to go look for a new fire department. There are things that they need to do and move forward and she doesn't feel this is the time to make any other kind of move. She too is responsible for the people and she made that a decision from a business point of view because this is a business.

Mayor Pearson stated that her point was also that this is a business. With money and where is it coming from and how are we going to get it, she doesn't know, hopefully we are rectifying that nicely now with the new engineering firm. She thanked Trustee Millspaugh for bringing up that new engineering firm or we would still be where we were before because of issues that didn't want to be dealt with and she has problems with that and she has problems with people not taking responsibility to do things that need to get done not matter how hard it is to do it. It's not a pleasant thing and it's not something we want to do, but we are looking out for the taxpayers. Funding and money is the responsibility of the manager to do those jobs. That is where she is coming from

**Trustee Salary Increase & Healthcare
Introductory Local Law I-8 of 2008 – Increasing the Salaries of the Elected Officials
of the Village of Walden During Their Current Terms of Office**

Trustee Rumbold moved to declare the Board of Trustees lead agency and declare a negative declaration under SEQRA with regard to Introductory Local Law I-7 of 2008, Board Salaries. Seconded by Trustee Hurd. All ayes. Motion carried.

Trustee Rumbold moved to adopt Introductory Local Law I-8 of 2008 as Local Law No. 1 of 2009. Seconded by Trustee Hurd.

Mayor Pearson asked when health benefits for Board members would stop.

Mr. Dowd stated that it will stop by resolution of this board on April 6, 2009.

On roll call Trustee Millspaugh voted no because the economic situation of the country, we have citizens that are hurting and we will be tight on the budget with coming up for the work at the sewage disposal plant. He can't in good conscience raise his own salary, so he's voting no. Trustee Hurd stated that he votes yes, because he's decreasing his benefit salary by \$17,000. We just reduced our benefit program from \$97,000 to \$43,500. That is a major reduction. Trustee Norman voted yes and stated that she agrees with Trustee Hurd. Trustee Wynkoop voted yes and stated that they've cut a lot of money out already. Deputy Mayor Matise stated that this is just a buy out in disguise so she is voting no.

Trustee Norman stated that Deputy Mayor Matise should know about buy outs.

Mayor Pearson voted no. She felt differently a few months ago, she was for it and now she doesn't know what shape the Village will be in during the coming months.

Trustee Rumbold stated that this was the third piece the Board discussed. The first piece was they were going to ask those members who took health care benefits to pay a portion of it. We went from that to remove the health care totally and we increased the stipend the Trustees were given so that if a Trustee wanted to have health benefits they could pay for them. For a single there is a \$10,000 savings, if someone had family coverage there is a \$12,600 savings. The other piece was that we created a law that was retro active to make legal illegal buy outs that were taken. That was the second piece. The third piece was to allow Board members who needed the health care to be able to pay a portion of that. She gave her word when she came to the compromise of this Board that this was going to be a piece of it and she is not going to go back on her word because that was the compromise they came to. If we are that strapped for cash we can always go back and rescind the law that they made to forgive buy outs and collect buy outs from people that took them.

Deputy Mayor Matise stated that they could also go back and sue the people who initially put the buy outs into play illegally. You're going to get it, why do you need to carry on.

Trustee Hurd stated that prior to this when he was married and had family benefits his total benefit salary was approaching \$19,000 a year, salary was a small part of it. If seven members of the Board had family coverage the total amount would have been \$133,000 per year. The actual out reached was \$88,000 to \$97,000 per year. His proposal was since they were going to do away with health insurance benefit to get some level of parity. He proposed a salary of eight or nine thousand dollars. Trustee Rumbold thought that was too much and proposed six thousand dollars. If you do the math the amount from \$97,000 to \$43,000 and prior to that our present benefit salary was \$26,510. We did away with \$55,000 in health insurance benefits and we've increased salaries from \$26,500 to \$43,500 which is \$17,000 spread out over 2200 families which is \$.63 a month per household. So he doesn't see how they feel they didn't save the Village a lot of money by enacting this law.

Deputy Mayor Matise stated that by only accepting the \$3600 you've saved the Village even more.

Local Law adopted.

Review of Police Mutual Aid Agreement

Mr. Dowd stated that this came from the Town's Chief of Police. He did review it. This is an original document that came from the Town. You really need to look at this because there are some issues about mutual aid agreements that they may want to discuss as to how and when and if you'll sign the agreement. If your officers leave the Village

who authorizes them to leave the Village, when they can leave the Village, are they required to leave the Village, what happens if something happens on their way to a scene out of the Village? This was a first blush memo that came out from the Town. He has highlighted areas of concern that he has and he will pass them on to the Board.

Trustee Rumbold asked the attorney to do that.

Mayor Pearson asked to review it now.

Mr. Dowd stated that on Page 3, right now under State Mutual Aid Statutes, it would require the Chief Executive Officers of the Village and the Town to communicate asking for the help and assistance of the Chiefs of Police. The very first line says each party authorizes the officers working at the time. It says this request should come from the supervisor or officer in charge of the shift. The question would be if there is no shift commander on or the Chief is not available are you going to have your line officers making the decision to leave the Village to go to a mutual aid call and do you want that kind of authority in the hands of the line officer. Once they are out of the Village they are now not in the Village, how do they go and who authorizes them to go because once they cross the Village line into the Town there are potential liabilities every time they address a call. It does allow the responder to be called back into the Village or not to even send them. You do have to notify the requesting party that you're pulling your troops back to the Village. The third paragraph has given the authority to the Village Officers to enforce the laws within the Town of Montgomery. The Town Officers already have that in Village. The question becomes when they arrive at a scene who is in charge of the scene, is it the requesting party or is it the responding party. If the responding party is a sergeant and the requesting is just a regular officer should someone defer it to the higher ranking officers who may not be what they think they are. You also have State Troopers coming to scenes and they sometimes defer it to one of the ranking officers on the scene.

Mayor Pearson asked if it has to come from the Town or can the Village have the agreement and write it like we want it written.

Mr. Dowd stated that this is just a working draft agreement and it's open for negotiations. He doesn't know if the Town Board has seen this.

Deputy Mayor Matise asked if the Police have a system set up similar to the Nims where a chain of command would be established.

Mr. Dowd stated that the last part of the paragraph talks about the sharing of investigatory purposes. He's not too sure the Village wants to get into that. It talks about liability and compensation, it pretty much follows the State law now, and everyone is responsible for their own officers and their own liabilities. If you damage a car in the Town it's your responsibility. All your responsibilities in the Village extend to the Town and visa versa. This may not be a bad thing to have but the question is you have limited officers on and they're leaving the Village.

Mayor Pearson stated that this happens now without an agreement.

Mr. Dowd stated that those calls are not necessarily true mutual aid calls in the sense that they are authorized by the proper parties. It's something the Board should consider but they need to consider the implications of what they would be signing on to. If the Board wants to change it lets change it and see if the Town wants it back.

Trustee Rumbold asked right now who makes the decision.

Mr. Dowd stated that the agreement states the line officer.

Deputy Mayor Matise asked how this compares to the mutual aid agreement that the Village has with the County.

Mr. Dowd stated that we signed the agreement for equipment.

Chief Holmes stated that was for radio communications and use of equipment.

Manager Politi stated that they will see if there are other policies out there.

It was the consensus of the Board for the attorney and Chief Holmes to review this and then give the recommendation to the Board.

Introductory Local Law I-2 of 2009 – “Subdivision of Land” – Overlook at Kidd Farm

Mr. Dowd stated that the legislative intent is pretty straight forward. The definitional change is to the Village's subdivision regulations and it's adopting the state code definition of cluster development. The key to this is Section 3, its very specific to the Kidd Farm project and the Board authorizing the Planning Board and its discretion to approve a cluster subdivision plan in the R-3 Zone and to authorize the Planning Board to allow a subdivision plat on the R-3 that's contiguous to the townhouse that will include townhouse projects, the dimensional regulations in which will be the townhouse project.

Mayor Pearson asked, the R-3 is the piece of property that sits next to the townhouse property.

Mr. Dowd stated that is correct.

Mayor Pearson stated that what she is reading is that they are only looking for the clustering on the R-3 not on the total townhouse division.

Mr. Dowd stated that is correct, they are tying the whole project together with the 204 units that they discussed at the last meeting and to allow them to spread some of the density from the townhouse project onto the R-3.

Mayor Pearson stated at the meeting with the Planning Board she was talking about clustering Mr. Dowd stated that it was clustering the whole project not the R-3. He said it would be clustering everything. She asked if that was changing.

Mr. Dowd stated that perhaps he was misspoken in the sense the townhouse project is by the regulations the Board adopted as a site plan, a subdivision that allows these attached houses. The R-3 is right now single family, detached. So the actual cluster authority is for the R-3. That 4.5 acres that is immediately contiguous to an abutting townhouse and the language is included to say, you're going to allow the cluster and you're going to use the townhouse regulations for the buildings that are on the R-3, the R-3 is going to be allowed to have so many townhouse subdivided lots and buildings but the whole project, the whole sets of lands together are maxed out at no more than 204 townhouse units.

Trustee Wynkoop stated that is a considerable reduction from what they wanted.

Trustee Hurd stated that this follows exactly what was spoken at the joint meeting.

Mayor Pearson stated that there is no clustering on the townhouse part of that property.

Mr. Dowd stated no, the clustering is on the R-3.

Mayor Pearson indicated that is not what Mr. Dowd said last time. She was concerned because then what the whole cluster law has to do with the scenic view and they were talking about the top of that property.

Mr. Dowd stated that the clustered R-3 is part of the whole integrated project. So if they are authorizing the cluster you still have the requirements the state law says that you're suppose to authorize cluster for them.

Mayor Pearson stated that it's only on the R-3, not the whole piece of property.

Mr. Dowd stated correct, but they are being considered as an integrated project. So, if the Board doesn't believe that the cluster authority is going to provide for the requirements of a cluster under state law they can say no. If they look at it as a whole integrated project, you heard from them two weeks ago and at the Planning Board that they believe that they are saving open space and they are trying to preserve ridge lines and alike.

Mayor Pearson stated that she didn't hear that, she heard there was going to be a gazebo at the top looking into the windows of the townhouses.

Mr. Dowd stated that they are going to build into the hill to reduce the amount of cut and fill.

Deputy Mayor Matise asked if this should be citing the S-B-L's?

Mr. Dowd stated that he doesn't think it has to.

Deputy Mayor Matise stated, because of the confusion, you have three different zoning districts in this project. You have an OLI.

Mr. Dowd stated that OLI is not part of this law.

Deputy Mayor Matise stated that the townhouse zoning and the R-3 are part of the cluster. Mr. Dowd had said that in the townhouse zoning it was clustering as of right that they didn't need this law.

Mr. Dowd stated that if you look at the fact that the townhouse, how it is defined, it's subdivided lots but they are conjoined in buildings, four to six in a building. In a sense that is a cluster. It's not single family all divided up.

Deputy Mayor Matise stated that the clustering is talking about how you plat them, not so much that the units are clustered, but make A unit a four unit, B a four unit and C a four unit.

Mr. Dowd stated that the lots have to be clustered in order to provide the open space. The applicant is requesting the spreading out of the townhouse units onto the R-3 beyond the 11 single family homes to make the project a better project as well as to save open space and more environmentally sensitive areas.

Deputy Mayor Matise stated with the clustering we're coming up with on those 4.75 acres, 5 x 6, how many units?

Mr. Dowd stated, no more than 30.

Trustee Rumbold stated that it is her understanding that all we are doing is giving the Planning Board the permission should they so deem that clustering is beneficial to this project.

Mayor Pearson stated that as Mr. Dowd said last time who designates any restrictions that you want to put in there. It should be right now.

Mr. Dowd stated that this Board can condition the authority to cluster and that's what this local law does. It has four conditions and the one major one was the 204 units you don't want them to go beyond that.

Mayor Pearson stated that she had a question on number 3 of that, the affordable housing requirements of the townhouse zoning district shall apply to the townhouse units

proposed and built on the lands located in the R-3 zoning district. Does that mean it's only there or is it everything plus that.

Mr. Dowd stated everything. The townhouse zone is nothing but townhouse regulations that requires affordable housing.

Mayor Pearson stated that she is confused because before Mr. Dowd said it was going to the cluster. Everything was going to be considered cluster.

Mr. Dowd stated that the townhouse zoning district requires 20% set aside for affordable housing. What three is saying is that those affordable housing requirements are now going to be required of any townhouse units, whatever that number is.

Trustee Rumbold stated that they have to be integrated into the project.

Mayor Pearson stated that it doesn't say that there.

Mr. Dowd stated that is what the law says.

Deputy Mayor Matise stated that in looking at this concept you have five buildings with six units each, you have a line here for the parcel, this is the R-3, and do these buildings have to meet the setbacks.

Mr. Dowd stated of the townhouse, yes, between the buildings and side yards. The authority allows you to apply the townhouse, both regulations as far as separation between buildings to that property. It may be during the process that line may fade away, but the bottom line is that the dimensional of regulations of the R-3 would apply and the townhouse would apply.

Deputy Mayor Matise stated that there is also a lot line clearance, set back from the lot line. So if this is a lot line between the R-3 zone and the townhouse zone maybe a four unit building here would meet that requirement.

Trustee Hurd stated that those lines will disappear if you authorize it. It has to in order to make the plan work.

Trustee Rumbold stated that you're amalgamating those two pieces of property.

Mr. Dowd stated that without moving those lot lines what the law is intending to do is they are allowed to put the units on the R-3 as a cluster subdivision townhouse development along the regulations of the townhouse law which apply to all the units in that R-3 as they relate to the site. The fact that it might be on the R-3 and has to be 50 feet from the next nearest building on the townhouse parcel, it has to meet those dimensional regulations.

Mr. Jacobowitz stated that the Planning Board has ordered that the 4.5 parcel is to be merged with the TH parcel as a condition of the subdivision approvals that they granted to Mr. Tarolli when he sold the front house off. So that for all purposes its one piece of property for planning purposes and the Planning Board's approval when and if they give it will have an express condition that the title of that needs to be merged together so its one property.

Mayor Pearson stated that the cluster is only on the 4.5 acres so it doesn't have to accommodate your other part of the townhouse so the scenic preservation with the clustering law. Where in that 4.5 acres is your scenic spots?

Mr. Jacobowitz stated that the delegation that is provided here says that in approving the cluster the Planning Board shall make findings that the plan fulfills the purposes and goals for a cluster development as set forth in this local law and in Village Law 7-738 which is the clustering authorization and the standard that is in that law is that the plan will preserve the natural and scenic of open land. The Planning Board will have to make a finding.

Mayor Pearson stated on those 4.5 acres, they don't have to do it on the other parcel because its townhouse and it's not going to be clustered.

Mr. Jacobowitz stated that as for the townhouse parcel the Planning Board will have to make all the other findings that are in the law to impose as part of townhouse. In the townhouse zoning you didn't impose that specific language.

Mayor Pearson asked, the Planning Board makes the determination where the scenic part of that is.

Mr. Dowd stated right.

Mayor Pearson stated that she would like to go back and read the minutes or hear the tape because she is convinced that at the last meeting they were at they were talking about the whole project was going to be cluster, has that changed since the last meeting. She asked Mr. Paz if he remembers stating that when she said where are you going to put the scenic part because she read the law into the minutes.

Mr. Paz stated that they made a presentation to this Board that as of right this project could have 225 single family residences on it and that they were proposing 204 and those 204 could be on both the townhouse and R-3 zoned properties. What they are looking to do here is to put 30 of those town homes, instead of 11 single family residences and 214 town homes on the townhouse zone to put 30 of the 204 total on the R-3 zone and put the other 174 in the townhouse zone. As part of doing that you'll leave more open space in both the townhouse zone and the R-3 zone and there will be less environmental impact because you will have significantly less pavement and you'll have significantly less cut and fill. The bottom line is 204 over the 32.75 acres verses 225 and the Village will have less infrastructure cost.

Mayor Pearson read from the January 27th minutes regarding the whole project being clustered.

Mr. Paz stated that all those issues will be addressed by the Planning Board during the process.

Trustee Millspaugh stated that clustering is going to benefit the whole project, how can we get that thought in there. He would like to change the word plan to project.

Trustee Wynkoop stated that we're just charging the Planning Board to be able to authorize what goes on there.

Trustee Hurd stated that our Planning Board is experienced to do this.

Mr. Dowd stated that 7-738 and the authority you're giving refers to clustering where it's authorized to be clustered and that is on the 4.575 acres.

Trustee Millspaugh stated that we're doing this to improve the whole project, how do we get that thought in the law.?

Mr. Dowd stated that the authorization you're giving the Planning Board is the authorization that is provided by Village Law and that is to do a cluster subdivision plan to the R-3 and in doing that they have to make the findings as it says that the clustering meets the provisions of 7-738 which is to preserve the open and scenic spaces.

Mayor Pearson stated that is just for the clustering portion. It should be elsewhere.

Trustee Rumbold stated that you don't have to because you have the townhouse law.

Mr. Dowd stated that there will be the whole SEQRA process.

Mayor Pearson asked why they are putting 204 in there, you could put any number. If you want other stipulations this is where you put it in.

Mr. Dowd stated that you can do that and then they will revise their plan and present a different plan to the Planning Board that will give you more density and not protect anything and give you a public road.

Mr. Jacobowitz stated that the Planning Board must make a finding as part of what they do that they will preserve the natural and scenic qualities of open lands under the plan that they approve for the 4.575 acres. If they make that determination and we have 30 units on that property and we're taking off the other you have accomplished that. They will make that judgment call in deciding of whether removing 30 units, 24 units, they can't move more than 30, based on the way this is drawn, they may say only 24 can be moved onto that.

Deputy Mayor Matisse stated that in Section 3 it says this permits the Planning Board to consider an approved subdivision plat that allows for the placement of approximately 30 townhouse units. Why wouldn't you say not more than.

Mr. Dowd stated that it may be that the Planning Board would want 34.

Mayor Pearson stated that he said the Village Board could make that determination.

Deputy Mayor Matisse stated not with the wetlands.

Mr. Dowd stated that they won't know until they actually do more engineering and we do SEQRA. If they want it to say no more than 30 they can change the language.

Trustee Hurd stated that he wouldn't do that because it takes discretion away from the Planning Board.

Trustee Wynkoop stated that he feels the Planning Board should handle this.

Trustee Rumbold stated that she feels the Planning Board should handle this. She feels they are mixing apples and oranges.

Mayor Pearson stated that she is not mixing anything, which is the way she understood it. She heard at the Planning Board meeting that the whole project was going to be under the cluster. She wants to go over the minutes to see what was said there.

Mr. Dowd stated that it may be that he said we're talking about making an integrated project between two different zoning districts and clustering the integrated project.

Mayor Pearson stated that is not how it was talked about at the Planning Board meeting. She asked Ed Leonard, Planning Board member if he remembered that.

Mr. Leonard stated that it was his understanding that it was the 4.575 acres that would be clustered. The rest pertains to the townhouse law.

Mr. Dowd stated that he believes he captured what the law says you can do and what their thoughts were from the last meeting about what it should say, capping numbers, applying regulations from the townhouse to anything that goes in the R-3, affordability factors. If the Board wants him to change the draft let him know.

Trustee Millspaugh stated that the concept is 100%.

Trustee Hurd stated that he has the confidence that the Planning Board knows the Village Boards' concerns. They are very experienced.

Deputy Mayor Matisse stated that maybe there is confusion between the conventional and the cluster plan.

Mayor Pearson stated that she likes the idea of not more than 30.

Trustee Hurd stated that he would like to leave that as is so the Planning Board can make the determination.

Trustee Hurd moved to introduce Introductory Local Law I-1 of 2009 "Subdivision of Land". Seconded by Trustee Wynkoop. On roll call Trustees Wynkoop, Norman, Hurd, Rumbold, Millspaugh, Deputy Mayor Matisse and Mayor Pearson voted yes. Motion carried.

Trustee Hurd moved to set a public hearing for Introductory Local Law I-1 of 2009, "Subdivision of Land" on February 24th, 2009 at 6:30pm. Seconded by Deputy Mayor Matisse. All ayes. Motion carried.

Public Comments on Discussion Items

Anita Vandermark asked what the length of the Village Manger's contract was.

Mayor Pearson stated that it's for six months.

Richard Casper stated that in regard to police mutual aid, we have two agencies available to us above the Town of Montgomery Police Department. One being the County Sheriff and the other State Troopers. He feels that the first call should go to the County Sheriffs Department and then to the State Police. The Board should closely consider the mutual aid project and advise the Town to move upward in jurisdictional area rather than downward.

Approval of Minutes

Trustee Hurd moved to adopt the minutes of January 22, 2009. Seconded by Trustee Rumbold.

Mayor Pearson asked if the parking situation on Election Day was discussed yet.

Manager Politi stated that he hasn't yet. He doesn't know if that is the solution because then you will have people parking all day.

Mayor Pearson suggested they put 15 minute parking signs up.

Trustee Rumbold stated that on Page 26 of the January 27, 2009 minutes, last paragraph, change March to February.

All ayes. Minutes adopted.

Trustee Hurd moved to adopt the minutes of January 27, 2009 with the correction on Page 26. Seconded by Trustee Rumbold. All ayes. Minutes adopted.

Payment of Audited Bills

Trustee Rumbold moved to pay the audited bills of February 10, 2009. Seconded by Trustee Millspaugh.

Trustee Millspaugh questioned the bill for the Route 208 project. He feels the certification should have been more specific. He thought the quantity for repair was excessive. There was a unit price in the contract and that should be investigated and recomputed. He's also like a statement that the manholes are in the proper location.

Mayor Pearson questioned the temporary pavement. Why didn't we know that the county requires something different?

Manager Politi stated that they knew that when they filed their permit to the county. It's temporary because its winter and you don't have hot patch. The permit won't be closed until that is up to standards.

Trustee Rumbold stated that there was a \$1200 difference because it was an estimate because you don't know what you are going to hit when you're digging.

Mayor Pearson stated that there were bills for t shirts, she suggested they shop locally.

Mayor Pearson asked if the Stantec bills have been finalized.

Manager Politi stated that they are in progress. The bills for the wells might be outstanding.

Trustee Millspaugh asked that the bill for JMK for the change order be held. He further stated that he had bid \$76.00 a square yard for the pavement and the change order comes out to two hundred and something a square yard.

It was the consensus of the Board to hold the bill for JMK change order

The motion was amended to pay the audited bills with the exception of JMK's change order bill.

Trustee Millspaugh asked what the protocol is for change orders.

Manager Politi stated that the Board authorized him to move forward with the project and he will see it through.

All ayes with the exception of Trustee Hurd voting no. Motion carried.

Deputy Mayor Matise asked when the Tin Brook pump station was scheduled to be done.

Manager Politi stated that it is on line. They are cleaning out the main line.

Deputy Mayor Matise asked when they could have the dedication.

Manager Politi stated once that is cleaned out.

Correspondence

Mayor Pearson stated that she received correspondence from Nancy Calhoun on the MTA.

Board Comments

Trustee Norman stated that Mrs. Hunter's water bill was supposed to be on the agenda for tonight. She would like to make sure it's on the next agenda.

Manager Politi stated that he spoke to her about the payment request, but he hasn't received an answer from her.

Mayor Pearson stated that the Board received an email from Mrs. Marcel regarding the senior discount for garbage. She would like it on the next agenda. She asked the manager to call her and advise her.

Trustee Norman stated that she will not be able to attend the Board meeting tomorrow night. She asked if the Board wanted to change it. She would like to attend the Community Council meeting.

Trustee Norman moved to change the special board meeting from February 11, 2009 to February 19, 2009 at 6:30pm to discuss General Code. Seconded by Trustee Rumbold. All ayes. Motion carried.

Deputy Mayor Matise stated that the library arranged for Fox Hill to do the painting on the second floor she feels the Village should send a thank you.

Deputy Mayor Matise asked about the water and well field protection plan.

Manager Politi stated that they haven't received any contracts from the county yet. There is interest out there.

Deputy Mayor Matisse asked if anything has happened with the credit procedure that Mr. Barnes was working on.

Manager Politi stated yes, it's all set.

Trustee Hurd stated that in regard to public comment he feels as a Board member that we want to encourage the public to attend the Board meetings and as Americans we want to be able to speak freely of what we think and feel. As a member of the Board even if you attack him he will listen politely. He will disagree with you respectfully, but he encourages everyone to be here and speak their mind. It's the Boards' job to listen; it's not their job to agree.

Trustee Millspaugh asked what happened to the annexation map that was brought in on the annexation. The night Mr. Jacobowitz presented the map the Village limits were not recorded correctly.

Manager Politi stated that he will get the status on this.

Trustee Millspaugh stated that the requirements should be that the new limits are recorded on a GIS system.

Trustee Rumbold stated that when they do the budget they have meetings with the department heads, how do they know within their present budget.

Manager Politi stated that they get a status report.

Trustee Rumbold stated that she feels MTA has a lot of gall to try and do what they are doing.

Mayor Pearson stated that there was a concern with the entrance to the Rail Trail, a pole has been bent.

Manager Politi stated that he is aware of that.

Mayor Pearson asked if there was someone interested in Restore New York. We don't want that to fall.

Adjournment

Trustee Norman moved to adjourn. Seconded by Trustee Rumbold. All ayes. Meeting adjourned.

Respectfully submitted,

Nancy Mitchell

Village Clerk