

TOWN OF RED HOOK WORKSHOP MEETING
February 6, 2007

A meeting of the Town Board of the Town of Red Hook, Dutchess County, New York was convened in public session at the Town Hall, 7340 South Broadway, Red Hook, at 7:30 p.m.

Present: Supervisor Marirose Blum Bump
Councilman James Ross
Councilwoman Sue Crane
Councilman Harold Ramsey
Councilwoman Lisa Pullaro
Town Clerk Susan McCann

Also Present: Attorney Christine Chale
Deputy Supervisor William O'Neill

Supervisor Blum Bump opened the meeting with a ten minute comment period. As there were no comments the Board continued on with the agenda.

PAYMENT IN LIEU OF TAXES (PILOT) PROPOSAL FOR PERX DEVELOPMENT:

Supervisor Blum Bump introduced Attorney for the Town, Christine Chale.

Attorney Chale informed the Board that the Red Hook Senior Housing Project is moving forward with Phase II. They are asking the Town Board to consider a PILOT agreement for Phase II. We approved a PILOT agreement for Phase I. The Phase II PILOT agreement has a different and higher proposed PILOT payment. The format of the agreement is the same as we had for Phase I. The proposed PILOT payment is \$729.00 per dwelling unit for 48 dwelling units, which is approximately \$35,000.00. This project is for 48 units of residential rent for low income senior housing for those 55 and older meeting New York State Department of Housing and Community Renewal regulations for low income housing, tax credit and housing trust fund projects. The income and rent limits are to be applicable for the 40 year term of the PILOT agreement. We asked them last time to specify the maximum rents and maximum income limit so that we would know what we were getting for the money.

Councilman Ross asked if the rents went up would the PILOT payment proportionately go up.

Attorney Chale read the agreement stating that it will be pro-rata to their rent increases if they get increases.

Councilman Ramsey stated that the rent increases would have to be approved by the State if there were to be any increases.

Attorney Chale answered that increases would be under the way the program is operated. She asked the Assessor to provide some background information as to the "what if" there was no PILOT agreement in order for the Board to put the proposed PILOT in context.

Councilwoman Crane...the remainder of the project after Phase II will be some commercial space in front that will hopefully be directed to the 96 units in that area. She thanked Attorney Chale for all the research she did on this.

Councilwoman Crane spoke to Ken Kearny, the developer, and he said that he expects to be receiving applications by May. He will be meeting with people and the Senior Services Committee is planning to bring him in and make him available to the public and let him tell them what they will need for the application process.

DIAL-A-RIDE

Supervisor Blum Bump...we've been trying to increase the ridership to make it a little more cost effective and thinks the Perx project will be a great source of riders for Dial-A-Ride. The Board agreed to sign the agreement.

APPROPRIATIONS REQUEST

Supervisor Blum Bump asked Councilman Ramsey about the application for the grant for Annandale, specifically the traffic light at 9G and Kelley Road. She received a phone call from our new representative in Congress and they want to know if we are still interested in a grant for that. The application is due by February 20th so we'd have to hurry on this.

Councilman Ramsey said he thought the DOT was taking care of that. He doesn't think we applied for a grant for it but will look into it. He also requested support for the Annandale intersection.

Supervisor Blum Bump will call and clarify the appropriation request.

Councilwoman Crane asked if we have a Roads and Traffic Committee at this time. She is getting calls from citizens who cite accidents in their locations.

Supervisor Blum Bump answered that we have a committee but we don't have a membership.

Councilwoman Crane asks for direction as to what to say to people. She received a phone call about three accidents on Route 9 North by the Elks Club.

Councilman Ramsey said that he's got a request into the County about road issues and that is one of the areas. To change a speed limit we have to pass a resolution stating that as a Board we want the County to look into it. He will follow up on that and look into the area, then draft up a resolution.

Supervisor Blum Bump suggested the PDCTC. They have a unified planning work program. If we could get someone to go the monthly meetings we could get projects put on their program.

Councilwoman Crane said that once we pass a resolution, they'd have to come and hear us and review what's going happening on those stretches of road. It isn't a long range thing.

Councilman Ramsey will get the name and phone number from Councilwoman Crane and follow up with the resident who has the concern about that stretch of Route 9.

INTERMUNICIPAL TASK FORCE MONTHLY REPORT

Chairman Bill O'Neill referred to the water report from Russell Urban Mead. He is prepared to make a presentation about his work. We are setting up a meeting with Russell Urban Mead, the people from Tivoli, and Hank VanParys.

There are two other reports not yet completed. The first is the sewer report from C.T. Male who is out of Town. He has to meet again with the Task Force about the location of it. That is still a work in progress. We hope to have the final report by the end of February.

The third report by Peter Fairweather is not completed. He has been meeting with the Task Force and is still putting together his numbers. He hopes to have that report done in February.

Everything will be pushed back until March. Tentatively we are looking at each of the Tuesday meetings in March to present some of the results of the reports and to introduce some of our recommendations. Drafts are available if the Board wants to see them.

Councilwoman Crane asked if anyone in the group has identified sources of money for the sewer system. If there are grants out there the cost doesn't seem so overwhelming.

Deputy O'Neill answered that he thinks it will be in the report. The developer in a smart growth way puts up money, and with that seed money he begins the sewer system. To this point there hasn't been concern about how to come up with funding.

Attorney Chale said that this is something that C.T. Male should address. Grant money is much less available depending on the nature of our project. It depends on the federal funding for our program.

Councilman Ramsey suggested looking into the CDBG money for small cities. Tivoli received their \$400,000 Montgomery Street Infrastructure Grant from them. He thinks we might have to income qualify. Councilwoman Crane agreed to look for information at the Association of Towns conference.

L.O.S.A.P. (Length of Service Award Program)

Supervisor Blum Bump said she'd like to have a couple of sessions regarding LOSAP especially while PANDA was here.

Councilman Ramsey recused himself with cause from this part of the meeting at 8:15 p.m.

Marcus Molinaro said that they appreciated the opportunity to give another presentation. He introduced Ed Holohan from PENFLEX. Marcus explained that this is a hybrid of a pension plan for volunteer firefighters. New York State law was changed several years ago to allow for this benefit for volunteer EMS (fire and rescue personnel). Instead of placing dollars into the State retirement system based on their salaries, in this case it's based on EMS participation. Dollars are set aside in a hybrid pension plan. The issue is that most volunteer fire services throughout the state in most communities are dealing with a sizeable reduction in the number of individuals coming forward to volunteer primarily in rescue, but secondarily within the fire community. Secondly, retaining those individuals is an issue. Therefore the State allowed for this program hoping that by providing some benefit to volunteers they will hopefully encourage more extensive participation in the service. That being said, two years ago the Village of Tivoli and the Red Hook Fire District/Company began reviewing the implementation of the Length of Service Award Program (LOSAP), it became very clear that the two would be better served if we would develop a program together, a shared program, and move forward with that process. Under the law the two Villages, in Tivoli's case because it is the sponsor of the Tivoli Fire Department, and the Village of Red Hook because it is the geographic sponsor of the Red Hook Fire Department, are required under State law, if we proceed with the LOSAP program, to conduct (after an affirmative vote of the Board) a public referendum. We initially thought the referendum could be extended to those living within the Town of Red Hook being served by either the Tivoli Fire Company or the Red Hook Fire Company. State law does not permit that. It does not allow a Town wide referendum. For the Town to participate, that's done through a contractual obligation arrangement between the Town and its two Departments. The Red Hook Fire Department serves predominantly the Town constituency. In Tivoli the geographic area of the Tivoli Fire District is much larger than the Village of Tivoli. Clearly there needs to be some relationship between the Town and the Fire Districts in order to proceed. Not to mention sharing the cost to some extent. The Town would have to enter into a contractual arrangement with the Villages. The Villages do not want to proceed without that arrangement.

Mr. Molinaro would like to clarify that he does not qualify for the service award program because he does not meet the requirements.

It is logical to assume that this program will retain volunteers. This will provide greater benefits for some of the younger members than it does for some of the older members, but it is a compromise that needed to be made to get everybody on the same page.

Ed Holohan explained the Defined Contribution Plan (point system). They've done a lot of analysis. Each individual volunteer has an account in the program. Sort of like a little 401K plan. There is a point system. Volunteers get points for responding to calls, for taking training courses, etc. At the end of every calendar year, the fire companies will produce a list of all the active members who earned the points. The point system is governed by State law. Those records are subject to audit by the State Comptroller, and are available through Freedom of Information. There are many ways they can be audited. Based on those records, for every volunteer who earned the points, a \$500.00 contribution is made by the Village/Town into the account in their name in the program. Those funds are then pooled together and invested. The Village Board of Trustees will set the investment policy on those. After July 1, you'll even have the option of having the Comptroller run your program. Each volunteer has a simple account where every year, if they make the points (they stay active), \$500.00 goes into the pot for them. Under State law the amount can be as high as \$700.00 or as low as \$120.00 but the amount is supposed to be the same for everybody and it has to be disclosed in the voter propositions. If you want to start at \$500, then in five years increase it to \$700.00, you'd have to have two more elections. If approved under this \$500.00 proposal, every year the volunteer firefighter earns the points \$500.00 goes into their account. The contribution plan is simple. There are 61 volunteers in Red Hook and 33 volunteers in Tivoli. Between the two if 50 volunteers make the points, its 50 times 500. That is \$25,000.00 a year plus administration fees. He made his projections using \$700.00. This Defined Benefit Plan is a simple version of the State Retirement System. The funds will be pooled together. In the case of the Defined Contribution plan the two simple parts that are very advantageous is its \$500.00 or \$700.00, or whatever we are going to do for each person, and also whatever investment income is earned by that fund gets credited to the volunteers account so that ultimately as their accounts grow, and hopefully that they are all active enough, the larger the payment to them will be. The variations from year to year on the investment performance or life expectancy have no impact on the cost, whereas just the opposite is true on the Defined Benefit Plan. That being said, of the 700 programs in New York State, probably 680 of them are the Defined Benefit Plan because for most Fire Departments, their age distribution is more heavily weighted toward the more senior people. They for that reason went with it. Most of our clients that do the Defined Contribution Program went to the \$700 program because it's simpler, less expensive to administer, half as much cost to fund and beginning this year all these programs are subject to audit. Each Village will have to retain an Auditor. This is a new law administered by the State. If you choose the Comptrollers Office they'll probably charge to administer, but he's not sure. Under this law we have the option of including with credit from five back years. A Committee defines the point system. Those point systems are subject to review and approval by respective Village Boards.

Marcus Molinaro explained that we have two fire districts that want the same program so that we don't have members jumping from one district to the other to get the benefit. We need to create the contractual relationship. We want to be sure that the program is fiscally sound, it has to be very much responsible and there needs to be municipal oversight. So part of what we agreed to initially is that representatives from the fire companies, the two Villages and the Town, would serve on sort of a steering committee to finalize and manage the point system. Ultimately the fire companies are responsible for maintaining the records and as part of the State provision are required to be subjected to an audit annually.

Ed Holohan said that the audit is more of an accountability audit to make sure that everything is as should be. It is pretty straight forward and is not a complicated audit.

Councilwoman Crane asks how the municipalities decide where to invest.

Marcus Molinaro . . . the goal here is to create as close to one program as possible. Through contractual obligation we can. The standard precept is that each Village has its program that it is responsible for, however the standard requirement will be the same.

Ed Holohan said that they went through and made sure that every word in each plan document is the same. They say in both documents that these programs shall be

administered by a joint committee of representatives of both Villages and both Fire Companies. We've been planning from the beginning to have a pooled account with the same investment policy.

Marcus Molinaro... we believe that the referenda in the two Villages would be written in a way that would require both of them to pass for the program to be administered. That's the question we have to ask to make sure we can include that and secondly, we're asking on behalf of the Villages with the Town that your contract be subject to adoption of permissive referendum. If in fact the referendum were to fail there is no contractual obligation from the Town.

Ed Holohan said that the cost is spread out over ten years. They set up the accounting to treat it like a ten year mortgage. That is built into his numbers.

Supervisor Blum Bump asked what if a large number of people showed up to volunteer for this benefit.

Ed Holohan said there are two parts to that answer. Some fire departments have caps on the number of members. Secondly in 18 years and in 250 programs, it's never happened.

Marcus Molinaro said that the benefit they are seeing is so far removed that he doesn't see that there is going to be a mass of people coming to join. There is something to be said about marginal members. Folks that are just maybe at say 42 points may become a little more active because of this. Having one more person respond to a fire is a great thing. Having five more members would be great.

Ed Holohan said that it's not just a matter of joining the fire company. They have to take courses to get into a fire company, they have to continue their drills, and this isn't an easy thing. Some fire companies amend their by-laws to say we're going to cap our number of active members. It's unlikely though that many people will want to join because of this.

Marcus Molinaro...the total town wide cost including the two Villages is \$38,807.00
If you have a 100% participation the total combined cost town wide it would be \$73,074.00.

Ed Holohan...it will probably be somewhere in the middle. He read the rules and explained that volunteers would have to make the points in the first or second year to qualify. They will go back and look at ten years worth of records to see if they have five years. They have to look at those records and count points as if this system had been in place since 2003 for example.

Supervisor Blum Bump said that people have been asking how this actually works. The issue is that residents want to understand and they have concerns. The taxpayers want to know if their taxes are going up for this.

Marcus Molinaro answered that it does put the Town, at the referendum perspective, at a different plane in the conversation. For the two Villages it's adopted by public referendum. If you were to take the current scenario for the Town of Red Hook, the taxable assessed valuation is \$945,426,714.00. If you take the two programs we discussed with the committee the suggestion is that at the moment the Town of Red Hook component would shoulder 60% of the total project cost, the Villages individually shoulder 40%. If you assumed 60% of the project cost at 50% participation the taxpayers of Red Hook would pay \$23,284.00. If you assumed 100% participation at 60% funding the Town of Red Hook taxpayers would be responsible for \$43,845.00. If you take those numbers and calculate the assessed valuation the per \$1,000.00 rate in the Town of Red Hook for 50% participation would be .03 cents per thousand. If you assume 100% participation, the rate would be .05 cents per thousand. On a home assessed at \$200,000.00 the cost would be \$6.00. If you assume a \$500,000.00 house the impact would be \$15.00 for 50% participation and \$25.00 for 100% participation. If the Town provided the funding for 60%, the Town would be obligated to do so for the length of the fire contract. As far as oversight, the Town has a huge amount of oversight. If the Town is responsible for 60% of the program and every two years you have to renegotiate the

contract and the Town Board decides that they don't like what they're doing the Villages have the responsibility of picking 100% of the cost. That creates a series of checks and balances. Every two years the Town can back out by contract if they think the program is not working.

Councilwoman Pullaro stated that the paperwork she has shows a payout at age 65, and asks if it is a mandatory payout, and if they can accumulate credits after that age.

Ed Holohan answered that 65 is the age that they will be paid, and yes, they can accumulate points as long as they stay active. They are subject to federal income tax. You can't roll them over because this is hybrid.

Supervisor Blum Bump asked if most of the surrounding Towns have this and how it works for them.

Ed Holohan...most of the Towns in this County, just about every Town has them, and yes they have the Defined Benefit Plan. Above you, Columbia County has about almost all Defined Benefit Plans; Albany County has a lot of Defined Contribution Programs.

Supervisor Blum Bump asked if the firemen will be hit with having income taxes because of this and when are they responsible for the taxes.

Ed Holohan answered that under the current rules they have to include this in taxable income. Whatever they get when they reach 65, they can't roll it over. It is treated in NY State as private annuity, not as NY State Retirement. All that is under review. There is proposed legislation to make these tax free at the Federal level which normally would roll down to the State level, but that would be up to the State.

Supervisor Blum Bump asked if any other types of plans were considered.

Ed. Holohan...those are the only two available.

Marcus Molinaro...firefighters are not personnel or employees so this is all we can offer them.

Supervisor Blum Bump asks if this will lead to pensions for other volunteers.

Councilman Ross ...this is the only one that is authorized by the State.

Supervisor Blum Bump asked if eventually we would have a paid fire department.

Marcus Molinaro... then those individuals would receive their payment and pension through the State retirement system. Those who remain as volunteers would still benefit from this program. He doesn't see Red Hook having a paid fire service in the immediate future. If we can't maintain the ranks, the fire department might be forced to hire people for particular services.

Susan Simon asked Mr. Holohan if he is a former firefighter. She asked if his company had any administrative fees and if so what they are and how does that apply to the various costs. How does the money the company collects get invested or if there is a bank account what would the costs be concerning that as well? Where does the liability fall on the pension? Is it the Towns or Villages?

Mr. Holohan...no, I've never been a firefighter. Yes, the PENFLEX will charge an administrative fee.

Marcus Molinaro stated that the services that PENFLEX would provide are subject to bid. Prior to instituting the program they would have to go out to bid for the administrative service that PENFLEX would provide. Similarly, the investment component is also subject to bidding. Ultimately, PENFLEX has been hired by the Villages to provide the development of this program.

Ed Holohan ... the Defined Contribution Plan fee is about half as much as the Defined Benefit Plan. The fee is low \$2,000 - \$2,400. They do not sell the investments, they are the administrators. We don't get commissions. Our typical client, on the investment side, might pay ¾% per year.

Susan Simon asked regarding the IRS code, if changes were made to the plan would it be retroactive.

Ed Holohan suspects that if the law was to be amended, he doesn't see Congress making it retroactive.

Vicky Perry asks about the oversight of the program. There is talk about an Oversight Committee, is that is staffed by Village and Fireman?

Marcus Molinaro...this is a contract between the Town and the two Villages. The oversight is primarily for management of the point system. There is no governance by this particular Board. If they were to change something that had been identified within the contract between the Town and the two Villages it would be for the Town Board to act on not this group. He's not positive that it included members of the fire service, however he doesn't know that there is a prohibition that they participate. The Committee is to make sure the point system is being monitored and that the program is being run effectively. With or without the Committee the fire departments are administering the program and they are responsible for managing their paperwork.

Vicky Perry asks if the administration or oversight is within the contract and why it doesn't include representation from the Town if the Town is paying.

Marcus Molinaro repeated that the Villages and the Town have representation and in fact we may have even suggested the Town have 2 representatives, and each Village have one each. It was the intent of this process that the Town be seated at the table

Vicky Perry asked how this becomes retroactive. Why not start this in this year and move forward?

Ed Holohan answered that the volunteers earn the points in the first or second year. To keep them if they make it in the first year, they will look back in order to keep the volunteers. It is a bonus for those who have been active and it only affects the people who are active starting this year.

Vicky Perry asks if the Town Board has any data about recruitment or retention problems.

Councilwoman Crane answered that in considering the program they talked to many firefighters in Red Hook and Tivoli. All of them said they've seen a fall off in participation in both fire companies. It is a concern to us and I trust that the people who work in these programs are telling the truth and that this might help retain people.

Supervisor Blum Bump told Ms. Perry that the firemen seemed pretty happy with their ranks, but the problem was during the day time hours. There was lack of firemen close enough. For the Rescue Squad the situation is more challenging. They seem to need some incentive to build their numbers and to keep their membership.

Vicky Perry asked what kind of by-laws the firefighters have. Are there rules to become a member? What does one go through?

Mr. Molinaro answered that the fire companies can provide you with their by-laws. There are standards for volunteers to meet that are subject to review by Dutchess County Department of Emergency Response.

Vicky Perry looked at the Town budget and can't see where the fire expense comes in. It is one lump sum. Can you explain?

Supervisor Blum Bump will be happy to provide that information to Ms. Perry.

Vicky Perry thanked them for their effort on working on this.

LeeAnn Hansen asked if the pension continues to be paid to the volunteer's surviving spouse.

Ed Holohan stated that the firefighter gets the check at the age of 65, if they die, it goes to their beneficiary.

Robert McKeon strongly supports the program and hopes the Board will support it. He sees this as a big investment in our community. He is concerned about retention. He hopes the voters see this as a terrific investment. Why not consider putting the Town contribution up as a referendum.

Attorney Chale answered that in the State authorizing legislation there is something called a sponsor and the sponsor is the entity that has control over the fire company.

Robert McKeon...there is nothing that would prevent us from putting up a proposition with language saying something like, "should the Town of Red Hook contribute towards"...

Attorney Chale said that there is no statutory authorization for that, therefore it is prohibited. She stressed that if there is no statutory authorization it is not permitted.

Marcus Molinaro thinks the Town of Red Hook should consider funding 60% of the project cost at the \$500.00 level and amend the current fire contract, subject to the approval of the referendum should the Villages proceed to include any contractual obligations, and that be part of a two year service contract that you have with the Village and the Red Hook Fire District. We are asking that the Villages proceed subsequent to your action to consider the referendum question. That referendum question, if possible, will be worded so that if one were to fail they both would fail. Your contractual obligation is subject to the adoption of the referendum.

Kathy Stewart suggested having a supportive petition. Her question is if PENFLEX receives a fee forever until this fund is closed?

Ed Holohan...we update everybody's account; we send each volunteer a statement. We charge a fee for that every year. We are not the actuary.

Supervisor Blum Bump thanked Ed Holohan and Marcus Molinaro for their presentation.

Attorney Chale... the Villages are asking the Town to agree to a contractual obligation. There was a committee that met with the Villages to discuss possible terms of that agreement at the 60% level. That would be an amendment of your current contract for support of each of the fire companies and that would be subject to a Public Hearing. The next step if you want to support the program is to set a Public Hearing on the amended contract at the \$500.00, 60% level based on the program documents that have been presented to you.

Councilman Ross would like Attorney Chale to draw up the amendment so that we can have it in front of us next Tuesday and approve it and set up the Public Hearing.

COMMUNITY PRESERVATION ACT

Councilwoman Crane refers to an e-mail dated January 22, 2007 that she sent in regard to the Community Preservation Act. What was clarified for her that she was not aware of was a number of things. One, she was assured that our local CPA mirrors the other existing New York State laws, those on Long Island and in the town of Warwick, and that law that Communities may adopt it has been drafted by New York State. The other thing that she learned that if there is a dwelling on exempted property from the 2% transfer tax, the structure is subject to the 2% transfer tax, the land is not. This is an

important point to know. There are difficulties with deed restrictions on properties. Properties with deed restrictions will not be exempt because that will be too difficult to manage over time. There was a concern, she talked with Marc Molinaro about, if we should decide that the exemptions are something we'd like to take another look at, what was the likelihood of us going back to New York State and proposing an amendment to that exemption clause and he discouraged her because the legislation was passed on Red Hooks behalf assuming that we sent them what it was that we wanted. He felt it would have a very negative impact on our credibility with the Legislature and the Senate in the future. Lastly, she is sure it's not a perfect law, but we went through this in good faith and did the very best we could to have a law go to Albany that we felt would serve the community very well. Councilwoman Crane had a report from Fairweather who did an estimate on what the transfer tax would mean to the Town on an annual basis. Their numbers are a huge amount of revenue to put towards the Town. She will vote to pass it as is.

Attorney Chale stated that we have made progress toward this process by establishing the Community Preservation Fund and we have the Open Space Law adopted. To move this process forward, we have to have the Board constituted before we entertain adoption of this local law. There are procedural issues to go through. We have to schedule an election date if you choose to move forward as it is subject to mandatory referendum. If we make substantial changes to the Local Law we would need to have another Public Hearing. If you are going to move forward, you have to create a Community Preservation Plan.

Councilwoman Crane would like to follow the Attorney's timeline and vote on this in order. People by this time have made up their minds about what they are going to do. She is not prepared though to establish the Advisory Board tonight.

Robert McKeon said that we do not have to have the Advisory Board in place for the referendum.

Councilman Ramsey will not be at the next meeting. This project was started with good intentions. He has concerns with the exemptions with deed restrictions. He'd like our Attorney to look into that to see if it's enforceable. Plain and simply this is a tax on the homeowner and we don't have any kind of hardship clause at all which concerns him. The intent is good, the money coming in is going to good causes, he just has concerns. Councilman Ramsey thanked Councilwoman Crane for the information she gathered.

Councilman Ross thinks it's a good idea but he cannot vote for all the exemptions it has. He doesn't see why land with PDR's should be exempt. If you've sold your development rights on that property you've already gotten paid for it. If you sell the property one, in theory it should be below what market value would be if you didn't have the development rights sold on it. Why shouldn't they pay? He feels the only property that should be exempt is something sold to a municipality for the public good. Otherwise he doesn't think anything should be exempt.

Supervisor Blum Bump felt that if we had the flexibility to change the law at this time she would go in that direction, but we don't and she doesn't want to throw out the whole thing because of that.

Councilman Ross questions the deed restrictions. He is afraid this will cause a whole other battle. Those properties shouldn't be exempt.

LEEANN & RICHARD HANSEN EASEMENT (Permanent Conservation Easement)

Christine Chale said her understanding that this permanent conservation easement was forwarded to one of your committees for a recommendation as to the substantive issue of whether or not this was a desirable property from a conservation easement prospective. Then you needed to deal with the issue of whether or not you wanted to entertain a permanent easement application. You don't have a process for one.

Councilwoman Crane misinterpreted the Hansen's request and asked if they would consider a term easement.

Attorney Chale said that would not satisfy the Planning Board's requirements so that it can't be a term easement.

Supervisor Blum Bump asks what the difficulty is with permanent easements. We have to do enforcement and oversight with term easements.

Attorney Chale said acceptance of each and every one of those easements is a discretionary decision based on the recommendations of your committee. There is a process for those established where you are going to get a recommendation and an evaluation from your CAC and your Planning Board that say this is why this easement is something that the Town should entertain as something the Town should hold and spend money monitoring. There is an interest on the part of the Town in taking this. The Board has to make a decision as to what the conditions under which you would be willing to entertain this kind of an easement are.

Supervisor Blum Bump would have thought that it would be desirable to put in permanent easement, and the Town would be happy because it fulfills the needs.

Attorney Chale said the Board needs to think about its monitoring process and make sure that the process is in place and you need to think about the process of evaluating whether you want to take these and whether you want to follow a similar process to the one that you have for your term easements. It's a little different because you are giving a tax benefit in that case. The Planning Board is never requiring a conservation easement.

Councilwoman Crane...the question is how to satisfy the owners desires with what we can achieve on their behalf and our own behalf.

Attorney Chale...the only question is that the Boards can help you evaluate those easements and determine whether they are in the best interest of the Town. What are the criteria that you want to evaluate?

Robert McKeon said the program is set up to have permanent easements. We just haven't had anybody to apply for a permanent easement because there hasn't yet been an incentive for them to go permanent. Now under New York State law there are in fact incentives for people who are thinking of doing it long term. The Hansens' do qualify for our benefits under the Conservation Easement Program because they meet the minimum criteria and it allows for permanent easements. The term "15 year or more" was the minimum to get the maximum benefit.

Richard Hansen said there is language in there for perpetuity and through the process he thought this was a bargaining chip. He thought they were fortunate enough to do it. Since the language is in there, make some accommodations for it. Mr. Hansen wanted a deed restriction at no further building, but the Planning Board said that wasn't good enough and they wanted a permanent easement.

Councilman Ross suggests having the Town Board send a memo to the Planning Board that we don't want a permanent easement; we feel a deed restriction should be sufficient protection.

Councilwoman Crane told Mr. Hansen that if he was signing up for the term easement law, that we know the parameters of. She is trying to get the simplest way for Mr. Hansen to get what he wants in the Planning Board sense, and asks if it would be possible for the Hansen's to accept signing a term easement for 15 years or perpetuity.

Mr. Hansen answered that isn't what the Planning Board wants. He felt they backed the Hansen's into a corner and told them that this is what they had to do.

Attorney Chale said the Planning Board will need a permanent restriction of some type in order to take this into account.

Councilwoman Crane...if we grant them a term easement in perpetuity why won't that satisfy the requirements?

Councilman Ramsey...are we leading the Planning Board down a path that we shouldn't be doing. We can't tell them what to do. Having said that, the reason we are here is that the Planning Board is requiring a permanent easement.

Attorney Chale answered, no. Her understanding is that the Planning Board is entertaining an application in which the applicant has proposed in this particular subdivision plan to give a permanent easement. They are not extracting an easement. This is one development proposal that based on the configuration of this particular plan; it depends on having a permanent easement.

Richard Hansen said that the Board has to address the permanent/perpetuity situation. You will eventually have to address this or change the law. You made the situation, make it work.

Attorney Chale thinks the problem is twofold; the applicant doesn't currently qualify for the program because he doesn't have a discreet piece of land. With respect to the applicant you'd have to amend your program to allow that you have a program document which is not in a local law so it's not particularly difficult to amend the program.

Councilman Ramsey...we don't require a defined lot for the term easement program.

Attorney Chale...the easement is granted on the entire lot then there is a development area. In fact it is granted on that. The Hansen's don't want the easement on the entire lot. That is one of the issues here. The question is flexibility in this program. The question is have you addressed the issue of permanency and the issue of the cost of maintenance. She is asking that the Board address that. The other issue is in this particular application if it is going to be presented under this program do you want to direct your Boards to review it as if it were a separate parcel so that you can evaluate it based on their recommendation about the substantive quality of this particular easement because you haven't got that in front of you yet. You can't move forward until you have that information in front of you.

Robert McKeon...for further clarification, he doesn't believe that accepting the easements needs to go at the same time they receive the benefits from having the easement, if you will. The Town can accept the parcel with the easement. When it is finally subdivided they become eligible for the benefits through the Conservation Easement program. You need to get the approval to subdivide their parcel, then that parcel becomes an eligible parcel into the program.

Councilman Ross stated that if we accept an easement, that's like us guiding the Planning Board telling them that we want that easement, which you can't do. If the Planning Board grants it with a deed restriction and says we want you to seek that permanent easement upon the granting of this and making it a condition of their granting, then we could say, okay the Planning Board made it a condition of their granting so we ought to entertain this and make it part of our easement program and modify it to become a permanent easement.

Robert McKeon said there are a couple of things we need to be very clear about. This is a voluntary step and it's very important that this remain a voluntary step. This is an offer that they are making as part of their Planning Board application. If the IRS does not deem this to be a voluntary measure they will not be eligible for the tax cuts that go along with a permanent easement.

Richard Hansen said that what confuses him is that he would think that with all conditions in place there would be a time we came to a conclusion to this rather than say "what came first, the chicken or the egg"?

Councilman Ross said the hold up is that the Planning Board has to accept them at face value that they would seek the easement upon approval of the subdivision.

LeAnn Hansen said that the Planning Board will not give us that until we have the easement. It is contingent on us getting the easement.

Attorney Chale told the Board that the key issues are do you want to entertain the permanent easement then ask the CAC and Planning Board to give you the review and comments that you would normally get on a forwarded application. Notwithstanding that its not a separate parcel, they can give you those comments as a matter of reviewing their evaluation criteria so you can move this process forward and have that in front of you so you can make a decision; concurrently with what the Planning Board is doing. If you want to do a program like this you are going to have to do a concurrent review. You may have to go back and forth a bit.

Councilman Ramsey...assuming we wanted to do this and have a permanent easement as part of the conservation easement, we could have the information brought to us from the CAC and the Ag Committee as they would on any other term easement. Based on the parcel that's written and drafted in the sketch plan, we could conditionally approve that based on the final Planning Board approval.

Attorney Chale... is concerned that the form of the easement that you have for your term easement is for a different purpose than for this type of easement. This type of easement is intended to be a permanent easement which is going to serve your clustering purposes. This needs to have some more substantive provisions in it than the one you are using in your term easement. Different purposes, different programs...needs to be a different easement.

Supervisor Blum Bump asked Attorney Chale if she could write that easement up if she has that form of an easement.

Attorney Chale does have forms of easements like that but there are many different types of forms.

Councilman Ramsey asked if it was a major modification to our term easement or is that another addendum to it.

Attorney Chale...it's a different kind of easement.

Councilman Ramsey asks why the term easement that says "in perpetuity" not good?

Attorney Chale ... the only thing that she thinks says "in perpetuity" is your program. It says that if you grant it in perpetuity you can still qualify for the maximum number of years of credit.

Councilman Ross stated that we can edit that program any time we want to.

Attorney Chale agreed.

Robert McKeon...by having the application the Planning Board is already weighing in on it, all you need is the CAC to weigh in on it. It's not likely that the CAC is going to turn down permanent easement applications. The final question is what the Assessor thinks is the benefit that they can derive from having an easement. If they get conditional approval with an offer on the easement, the CAC could then make the recommendation.

Councilman Ramsey... but you're going back and using the language of the term conservation easement, even though it says in perpetuity from what I'm hearing Attorney Chale say is that it is a different type of program and it is not really a permanent easement.

Supervisor Blum Bump suggests continuing this discussion in one week from now.

Mr. Hansen asks one more question about modifying it to be a 15 year term agreement. If he modifies that, then will he go back to the same timely schedule where it took 45 days to get here?

Attorney Chale advises him that the Planning Board will not accept that. There is no point in pursuing that. This program is still discretionary on the part of the Board. The 45 day period is just part of a process to get the Board moving on saying yes or no at some point. Even though the Hansen's could come into the term program, she's not sure that could work. You have to meet the standards in the zoning code and subdivision regulations.

Supervisor Blum Bump...we are not trying to deny, we are trying to work with you.

Councilman Ross asks if they as a Board can ask Attorney Chale to sit down with Christine Kane, the Chair of our Planning Board, to find out exactly what they'd like so in some way we can work this out so that the Hansen's aren't delayed many months more.

RESOLUTION 2007 # 35

RE: Authorizing Attorney for the Town to talk to Planning Board Chair and lawyer for the Hansen's.

On a motion of Councilman James Ross, seconded by Supervisor Marirose Blum Bump, move to authorize Attorney for the Town, Christine Chale to talk to Christine Kane, Planning Board Chair and Mr. Hansen's lawyer and make recommendation to the Town Board.

Adopted Ayes 5 Blum Bump, Ross, Crane, Ramsey, Pullaro
 Nays 0

APPRAISAL OF WIL-HI FARM

Supervisor Blum Bump stated that regarding the appraisal of Wil-Hi Farms. Purchasing Agent Ted Kudzy questioned that we said \$2,000 for the initial appraisal; the appraiser came back and said he'd give the Town a \$4,000 price for the whole thing but \$2,700 if we only do the first part. Ted wanted to make sure the Board was ok with that.

WINNAKEE TRAIL EASEMENT REVIEW

Supervisor Blum Bump asks the Board to review it so that they can discuss it at the next meeting.

PURCHASE OF RECREATIONAL LAND

Councilman Ramsey stated the Planning Board gave conditional approval to the applicants for this. Conditional approval on the 2 parcels on the side, not on Linden Ave with the option of going back and re-looking at it on Linden Ave. What we are hoping to do with that conditional approval is to get an engineer to layout the rec. lands and give us the best option that we have.

Supervisor Blum Bump...before we close?

Attorney Chale...we should do that immediately, they can begin their preliminary work. Councilman Ramsey...should we contact our engineer and have them start looking at that.

Councilman Ross...Their engineer has already done a rough sketch and our engineer can just do that and write a letter why it makes more sense; it will be a lot safer.

Councilwoman Pullaro...they have the preliminary approval and we have to do the work anyway.

Councilman Ramsey...would you like me to contact Morris Associates for an estimate?

Supervisor Blum Bump replied that this is fine with her.

RESOLUTION 2007 #36

RE: Appraisal for Wil-Hi Farms

On a motion by Supervisor Marirose Blum Bump, seconded by Councilwoman Lisa Pullaro, move to pay for the appraisal for Wil-Hi Farms

Adopted Ayes 5 Blum Bump, Ross, Crane, Ramsey, Pullaro
 Nays 0

DISASTER PREPAREDNESS PLAN

Supervisor Blum Bump brought up the animal response addendum.

Councilman Ramsey said the committee is not in place yet, therefore they can't look at the plan until we get them in place. If we get the majority of the committee together by next meeting then we can start looking at the animal response addendum.

Supervisor Blum Bump said that we will be talking about the PANDA contract and the Time Warner Contract. She would like the Board to review them for discussion at the next Board meeting.

Town Clerk McCann brought attention to the fact that the Board has a lot to do with the Reorganization. She received a phone call from Real Property Tax about the Assessment Review Board asking where their paperwork was. She thought they were going to do that tonight.

Attorney Chale asked if the Board could consider the Assessment Review Board tonight.

Supervisor Blum Bump said that they usually like to have real estate people on that Board.

Councilman Ross stated that with the bump in assessment in Tivoli it would be a good idea to have a Tivoli representative on that Board.

The Board of Assessment Review will be appointed at the next Board meeting.

EXECUTIVE SESSION

On a motion by Supervisor Blum Bump, seconded by Councilman Ramsey, move to go into Executive Session for attorney consultation at 11:12 p.m.

Adopted Ayes 5 Blum Bump, Ross, Crane, Ramsey, Pullaro
 Nays 0

On a motion by Councilman Ramsey, seconded by Councilwoman Crane, move to close Executive Session at 11:27 p.m.

Adopted Ayes 5 Blum Bump, Ross, Crane, Ramsey, Pullaro
 Nays 0

On a motion by Councilman Ross, seconded by Councilwoman Crane, move to adjourn the meeting at 11:30 p.m.

Adopted Ayes 5 Blum Bump, Ross, Crane, Ramsey, Pullaro
 Nays 0

Respectfully submitted,

Susan McCann, Town Clerk