

August 9, 2005

A regular meeting of the Town Board of the Town of Harrison, Westchester County, New York was held at the Municipal Building, 1 Heineman Place, Harrison, NY, Westchester County, on the 9th day of August 2005, at 7:30PM. Eastern Daylight Savings Time. All members having received due notice of said meeting:

MEMBERS PRESENT:

Stephen MalfitanoSupervisor

Thomas Scappaticci)Councilmen
Joseph Cannella)
Robert Paladino)
Patrick Vetere)

ALSO ATTENDING

Frank Allegretti	Town Attorney
Fred Castiglia	Village Attorney
Jonathan Kraut	Deputy Village Attorney
Joseph Latwin	Deputy Village Attorney (arrived at 9:30 PM)
David Hall	Chief of Police
Maureen MacKenzie	Comptroller
Judith D'Agostinis	Director of Purchasing
Ron Belmont	Superintendent of Recreation
James Calandrucio	Assessor
Michael Amodeo	Engineering Office
Frank Balbi, Jr.	Engineering Office
Ed DiBuono	Code Enforcement Officer

Councilman Scappaticci personally thanked Commissioner Bob Wasp and the Department of Public Works as well as the Fire Department for their wonderful efforts in assisting the residents of his neighborhood after the heavy rains of last week when his entire street was flooded. He said they pumped out the basements of many houses, including his, and helped remove the many items of furniture and appliances which had been ruined. He also thanked the members of the Police Department who assisted during the event. Supervisor Malfitano stated that the Town is trying to get some funding to help the residents who suffered such damage.

August 9, 2005

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AWARD OF CERTIFICATES OF APPRECIATION

TO

SAM SOKOLSKY, MARCOS SALAVERRIA, MATTHEW DIBIASI AND JULIE YOON

Supervisor Malfitano awarded Certificates of Appreciation to the following people, in recognition of their efforts with the Beautification Committee in planting flowers at various locations throughout the town:

Sam Sokolsky, Marcos Salaverria, Matthew DiBiasi and Julie Yoon

Ms. Yoon was not present but a friend accepted the certificate on her behalf.

ACCEPTANCE OF CORRESPONDENCE AND REPORT

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to accept the following Reports:

- 1a. Monthly report: Recreation Department for June 2005
- 1b. Monthly report: West. Shore Humane Society for June 2005.
- 1c. Monthly report: Building Inspector for June 2005
- 1d. Semi-annual report: Town Historian for Jan-June 2005
- 1e. Quarterly report: HVAC for April – June 30, 2005
- 1f. Monthly report: Town Clerk for July 2005.
- 1g. Monthly report: Receiver of Taxes for July 2005
- 1h. Monthly report: Fire Marshal for July 2005
- 1i. Monthly report: Building Inspector for July 2005
- 1j. Monthly report: Police Department for July 2005

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

PUBLIC HEARING RE: APPLICATION OF THE FIRM OF NOKIA FOR A SPECIAL
EXCEPTION USE PERMIT FOR MODIFICATIONS TO AN EXISTING PARKING LOT AT
THEIR PROPERTY AT 102 CORPORATE PARK DRIVE

On motion of Councilman seconded by Councilman, with all members voting in favor, the Hearing was opened.

Mr. Peter Wise appeared on behalf of NOKIA.

There weren't any questions or remarks from the Board or the public.

On motion of Councilman Cannella, seconded by Councilman Vetere, the Hearing was closed.

August 9, 2005

APPROVAL OF THE APPLICATION OF THE FIRM OF NOKIA FOR A SPECIAL
EXCEPTION USE PERMIT FOR MODIFICATIONS TO AN EXISTING PARKING LOT AT
THEIR PROPERTY AT 102 CORPORATE PARK DRIVE

On motion of Councilman Vetere, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the application of NOKIA, Inc. for a Special Exception Use Permit for modifications to an existing parking lot at 102 Corporate Park Drive, West Harrison.

FURTHER RESOLVED to forward a copy of this Resolution to the Building Inspector, the Town Engineer, the Law Department and the officials at NOKIA, Inc.

Adopted by the following vote:

AYES: Councilmen Vetere, Scappaticci, Cannella and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

TOWN OF HARRISON ZONING ORDINANCE DEFINITIONS AND AMEND
PARKING REQUIREMENTS FOR OFF-STREET PARKING SPACES FOR
NON-RESIDENTIAL USES (SECTION 235-37)
DECLARATION OF THE TOWN BOARD AS LEAD AGENCY

On motion of Councilman Cannella, seconded by Councilman Scappaticci, with all members voting in favor, the Town Board was declared Lead Agency for this application with regards to SEQRA.

On motion of Councilman Cannella, seconded by Councilman Scappaticci, with all members voting in favor, the Hearing was declared open.

Village Attorney Jonathan Kraut stated that he had circulated to the members of the Board a comparison of the parking requirements in various other communities as prepared by Town Planner Pat Cleary.

Councilman Paladino referred to Deputy Village Attorney Latwin's memo of May 2, 2005, regarding the definition of a "customer service station," which stated that "customer service station" means the area where a customer sits, stands or otherwise stays when the service is provided to or for the customer, and requested clarification.

Attorney Kraut stated that the definition is not intended to include waiting areas, or businesses where goods are being provide to the customer, but instead is oriented to service businesses, such as a hair salon, a nail salon, or a shoeshine place.

Mr. Paladino asked if the definition of a "customer service station" would include a place where one can buy a bagel, and has tables where one can sit and eat it.

Mr. Kraut replied that it would not apply to any restaurant or the food service industry.

Mr. Paladino requested the language be amended to clarify that the proposed law does not apply to food service places as, if it does not specifically exclude food service, later interpretations could be faulty.

Supervisor Malfitano pointed out that different businesses have differing length of stay for their customers, so the number of parking places should be different. He added that the Town has not addressed this issue in many years.

Councilman Paladino asked if the 10 parking space waiver for businesses will still apply.

Councilman Cannella stated that these are separate issues, that there are two different segments being discussed tonight to amend to Section 235. The 10 spaces exclusion should be discussed separately.

Councilman Paladino stated that the reason he brought up the question is, in the memo from

(Town Planner) Pat Cleary which the Board had just received, it includes a reference to the 10 space waiver in the (Downtown Revitalization)Target Area.

Attorney Kraut stated that the 10 space waiver overrides any parking requirements under the customer service businesses, adding that the fourth Public Hearing scheduled for tonight's meeting addresses that matter, (a further amendment to Ch 235. -- it more specifically defines the 10 space waiver, and changes the requirement in residential areas.)

Councilman Cannella asked if there were any further examples of customer service businesses that fit the definition (addressed in this amendment.)

Examples given were hair salons, old-fashioned shoe shine shops and barbershops.

Councilman Paladino then questioned if a place with four tables, and varying numbers of seats, would be a restaurant, with reference to mixed use establishments. He added that if the town is requiring a parking space for a man who goes in to get a shoe shine, should not a parking space be required for the man who goes in to buy a sandwich, and then sits at a table for forty-five minutes.

Attorney Kraut replied that the definition of a restaurant does not deal with tables. (That definition) is given in Section 235 - 4 and refers to a place whose principal business is the preparation and sale of food and beverages in a ready-to-consume state (with several other provisions) including that the food is served by an employee or it is a cafeteria-type service. He added that Section 235-7 requires refers to permanent seating.

Supervisor Malfitano suggested that there is no harm in including various examples, with the statement that they are examples but it should also state that they "are not limited to" those listed.

Councilman Paladino said that by not being specific, there can be confusion as to what establishments are or are not restaurants and he did not want them to be exempted due to lack of clarity. He added if there is a hybrid establishment, it must be dealt with, that a "customer service station" is a place where you walk in, order a cup of coffee, for example, and walk out, with a short term parking need. Mr. Paladino continued that if there is a situation where there are tables and chairs and counters where people can sit and consume food, the situation is shifted to the other Section, adding that if the establishment is not (regulated) under "restaurant," he did not want them to be exempted from parking requirements under this section.

Councilman Cannella asked if there was consensus (among the Board members) that there should be different parking requirements for the two types of businesses.

Attorney Kraut, in reply to a question from Councilman Scappaticci, stated that other municipalities often have difficulty with the differences between regular restaurants and fast-food places, but there are always "hybrids," for example, a hair salon which also sells products relating to hair care, and then the determination is left to the Building Inspector. He added that the real question is (does the Board) feel there should be a different requirement for places like nail and hair salons where people set appointments and come in, then these are for some of the

other uses.

Councilman Cannella stated that the question is easily taken care of by stating that it is not to include a facility that fits into any other definition.

Supervisor Malfitano then recommended that the Hearing be kept open, sent back to the Law Department for revisions as well as the Building Inspector for his review and suggestions, and then returned to the Board at a later date.

Councilman Paladino stated that the Board needs to look at mixed use businesses, as the current business plan seems to be to expand the services that are offered by each. He added that he does not want to penalize restaurants that are forced to have off street parking, and then face competition from the hybrids who are taking business away from them (and are not required to provide such parking.) He added that the Board may need to re-open Section 235-4. which has the definitions.

Councilman Cannella pointed out that the problem with many of the studies that the Board does is that the study small, moves to larger and larger areas, and then nothing get done. He suggested that the Board focus on the narrow issue.

Attorney Kraut summed up the discussion as follows, stating that he understands that the Board wants a revised draft of the law showing that the law clearly excludes certain other uses that the Board did not talk about, or more specifically, defines the type of businesses that it does apply to, and in addition, for the law Department to take a look at the restaurant uses in the Town as defined and give an explanation as to how the present parking requirements apply to them.

On motion duly made by Supervisor Malfitano, seconded by Councilman Scappaticci, with all members voting in favor, the Hearing was continued until the September 15, 2005, Town Board meeting.

August 9, 2005

2005 -- 313

PUBLIC HEARING RE: CONSIDERATION OF THE MODIFICATION
OF THE REGULATIONS IN THE "B" ZONE,
REDUCING THE LOT COVERAGE FROM 35% TO 30%
ADOPTION OF LEAD AGENCY STATUS BY THE TOWN BOARD

Supervisor Malfitano stated that the Town Board had sent this issue to the Planning Board, and the Planning Board, after a review, had sent back to the Town Board a report that it essentially agreed with the reduction in lot coverage in the "B" Zone from 35% to 30%. A Public Hearing by the Town Board was scheduled and held, and the Board approved the reduction in lot coverage from 35% to 30%. The reason the matter is in front of the Board this evening is due to a technical error -- the public notice was not published timely, and so the Board was asked by the Law Department to schedule a second Hearing to meet all requirements.

On motion of Councilman Cannella, seconded by Councilman Paladino, with all members voting in favor, the Hearing was opened.

On motion of Councilman Cannella, seconded by Councilman Scappaticci, with all members voting in favor, the Town Board was named Lead Agency for purposes of SEQRA.

Resident Robert Luiso, a builder in the town, spoke in opposition to the reduction. Mr. Luiso stated that he had been building in the "B" zone for about 12 years, and asked what was the benefit in reducing the size of the house from 35% to 30%.

Councilman Cannella replied that there has been a concern throughout the town about overdevelopment, particularly in the small lot areas, the "B" zone, that there are examples of homes that are built on small lots or slightly larger lots which are inconsistent with the surrounding neighbors, and which are overbearing and too large. He added that the concept is to sponsor responsible re-development.

Mr. Luiso asked if this will be a deterrent to builders, to stop building.

Mr. Cannella replied that the concept is to sponsor responsible redevelopment on the remaining lots, particularly troubled lots which had been passed over for various reasons, because the town is seeing a greater number of teardowns and rebuilds.

Mr. Luiso asked if the law has been decided, with the builders not have much of a say.

Mr. Cannella replied that is not correct.

Mr. Luiso continued that it seemed that the main reason (for the proposed law) is to keep the surrounding areas, the esthetics (of the area) the same, rather than having big bulky houses.

Mr. Cannella pointed out that it has clearly come to (the Board's) attention over the course of the last two to three weeks that there seems to have been an uproar with respect to this proposal, adding that the reason it was sent to the Planning Board was to provide a forum to discuss the issue, with consideration of various alternatives in dealing with what most of the Board believes to be a problem.

Mr. Luiso asked if it wasn't more beneficial for the town -- the bigger the house, the more the taxes?

Mr. Cannella replied that if one looked at it purely as an economic matter, the answer is yes, but nothing can be looked at from only one side, and the Board's responsibility is to protect the community at large on the one hand, and on the other hand, with due consideration of the benefits of redevelopment. He added that the Board has to balance everything. He continued that, despite the fact it was referred to the Planning Board for consideration, it is only in the last couple of weeks that (this proposed change) has (surfaced as an issue), there is a reaction that it is confiscatory. It is now opened up for discussion again.

Supervisor Malfitano stated that (the misunderstanding) is no one's fault, (but) that all too frequently people are not paying attention, and when they learn that something is about to occur, there is this uproar. He added that the Board seeks to have due process throughout the entire exercise, and that is why (the Board) is here tonight.

Deputy Village Attorney requested that the minutes of the July 14, 2005 meeting be incorporated into this Hearing by reference, TBR 2005 - 269A, which was the initial Hearing on this matter, noting that there were two speakers at that Hearing, the President of the Brentwood Preservation Association and the President of the West Harrison Neighborhood Association, both of whom spoke in favor of the adoption of the law.

Joseph Billotta of West Street also addressed the Board. He stated that when you build a two family house, you try to accommodate people with children and if you try to reduce the envelope, you cannot build a house for a family with three or four kids, five or six people. He continued that today you need a master bedroom with a bathroom (something that) thirty years ago did not exist, that you need a large kitchen, and any child's room has to be at least 10'x12'. He then asked if (this change) will be across the board -- what happens to the R-75 and R-1 areas. He then stated that the R-50 (zone) is the working man's house, that (the Board) is taking it away from them, trying to keep the (hometown) kids away from this town and that is completely wrong.

Joe Carnevalla of West Street also addressed the Board. He stated that he had been building on 50' x 100' lots for 12-15 years now and that taking 500 feet off a house will make it uninhabitable. He continued that now they (the builders or owners) are getting good rents, good tenants are coming into town, and they are paying good taxes. He then stated that he cannot see (the good) of this change. Mr. Carnevalla then said that in the 75' x100' area, you could take ten feet off, you could work it out, but in the 50' x100' areas, you cannot take 500 (square feet) off the house.

Councilman Cannella pointed out that there are some things that happen from time to time that are "not so great", adding that therefore the question is, if you think about it in a technical way as a builder, what approach should the Board be taking to deal with the problems.

Mr. Carnevalla repeated that the houses are paying good rents, paying good taxes, bringing good people into town.

Mr. Luiso agreed with Mr. Carnevalla, that they (the builders) are keeping it a nice community,

that the old things that are being knocked down ---

Supervisor Malfitano pointed out that (the accuracy of that statement) is relative, and depended on your perspective. He added that new development is clearly a benefit, but responsible development is something that this community is demanding.

Mr. Carnevalla said that the builders cannot reduce the size of the house, adding that now instead of a house being worth \$500,000 to them (when purchasing it for redevelopment, it will be less valuable to them,) they won't buy it, which will slow things down. Secondly, (smaller) houses will rent at cheaper rents. He then said that the Board should leave the 50' x 100' lots alone, adding that if you take a look at the houses that Mr. Luiso and he have built, they are beautiful houses, with a five foot (setback) on the one side, and a ten foot (setback) on the other side, nice yards, with a lot of money put into stone and brick (in the construction.)

Mr. Luiso again pointed out that these houses are, as Mr. Billotta said, for the working man, giving them a nice yard, not humongous front and back but nice, and the quality of living is good, (it's) a nice home to live in. If you cut back by 500 square feet, you will not have the same quality.

Supervisor Malfitano stated he had reviewed the building records for the past two years, with regard to the structures (builders) have been putting up, and asked, in (their) view (as builders) have they all maxed out (at 3,500 square feet,) or have they been 3,100 or even 2,800 square feet?

Mr. Carnevalla replied that he had just put up a nice home on Ann Street with setbacks of about 15 feet on both sides, a beautiful house on a lot that was 80' x 100.'

Supervisor Malfitano pointed out that the Board was not talking about lots of 80' x100,' only 50' x100'. The history is that the range of square feet in the "B" zone is anywhere between 2700 and 3500, and with a rough calculation, about 50% of the 27 homes that were built fall into under 3300 sq. ft. Question is, is the building industry always looking to max out -- the statistics don't bear that out. He asked if there are there other issues that have not been addressed, adding that one example would be setback issues that might be more relevant, that might be of more benefit to the community.

Mr. Cannella said that that (discussion) was what was supposed to happen at the Planning Board adding that there is a problem, everyone understands that and it must be fixed, that (the Board) must protect the Town against irresponsible (builders.)

Mr. Paladino pointed out that the Planning Board had given to the Town Board a one-page memo (on this issue,) that there had been only four (members) present (at the meeting,) and that he had not seen any Minutes from the Planning Board. (RE: May 24th Resolution of the Planning Board.)

Mr. Cannella agreed that the (full) discussion did not take place (at the Planning Board meetings,) and so it is now before this Board.

Mr. Malfitano pointed out that there is agreement that for (building) lots in excess of 50' x100' the coverage is way too high, that for (building lots of) 75' x 100' pushing to 35% coverage of the lot is absolutely wrong. He added that (coverage limitation) clearly has to change as well. He continued that he thinks the Board ought to be looking at side yard setbacks as part of this process, that there may be a way, in conjunction with some other consideration, to come to a mutual agreement that in the 50' x 100' lot, the proximity to the neighbors as well as the size (of the house) is an issue.

Mr. Paladino pointed out that it is not only the side yards, that the larger the dwelling unit, the greater the number of people living there, and the number of vehicles there, and if the builder is not providing enough off-street parking, then it is creating a problem in a neighborhood that (the Board) is allowing to get worse. He added that the Code allows one parking space for a two-bedroom apartment and then said, in this town, if you ask anyone how many cars there are for a 2 bedroom apartment, the answer would be at least two and possibly even more. He concluded by stating that the reality is, the Board is talking about parking, but is not providing for it.

Mr. Luiso protested that his houses are usually three bedroom ones, and he provides ample parking.

Mr. Paladino replied that just a two car garage is provided, plus two spaces in the driveway, and that he did not agree that people don't park on the street. He said that he agreed with need for this type of houses, agreed that in many instances these dwellings do improve the neighborhood and they certainly improve peoples' values. He continued that (today we have) McMansions which do not relate to "B" zone dwellings and some of the houses Joe Carnevalla has built do look like McMansions in relation to the existing dwellings (in the neighborhood.) He concluded by stating at a reduction of 500 square feet may mean two bedrooms and it could still be three cars.

Mr. Luiso pointed out that two bedroom houses aren't going to rent and so you don't get the money. Today's costs are \$500,000 for the lot, and \$400,000 to build -- for almost \$1 million. You have to get your money back.

Builder Bob Amelio addressed the Board and said that he thought his grandson did not say it all. Adding that they can understand people complaining about the very massive homes, but they are not in that category, that they have never built (to) the maximum allowed, and he has built (many) homes. He continued that he did not know where the figure of 3,000 sq ft came from, but asked if it were possible to increase the side yard by two feet, and give it back to (the builders) in depth, so that they only lose 250 sq ft, adding that 500 sq ft is actually two rooms.

Supervisor Malfitano stated that he and Councilman Paladino had looked at some homes recently, and they did not max out (on square footage) and were tastefully built, but that there are people who are (maxing out.) He added that when you look at the stats, about half the homes in

"B" zone do not max out.

Mr. Amelio suggested to the Board that they put the restriction on, but at least give them the opportunity to purchase a lot for \$500,000, build a house costing \$335,000, and be able to sell it for \$1 million. He added that he is only providing for local people, that over 70% of the homes he builds are for local people.

Fred Sciliano addressed the Board, stating that he was President of the West Harrison Neighborhood Association and a member of the Architectural Review Board and wanted to repeat what he had said at the last meeting, that the Neighborhood Association is in favor of cutting back. He added that it is not going to restrict the builders. He continued that many builders come before (the Architectural Review Board) every month and it is not going to hurt the builders, that they are still going to build the house, still get their money for it, and it is going to make the local neighbors a lot happier. He commended the Board for taking on the issue.

Mr. Amelio stated that he did not agree with Mr. Sciliano, but going back to parking, how often did businesses come into town where they do not have to provide any parking whatsoever.

Councilman Paladino agreed, stating that he had been arguing against the Revitalization Area parking exemption for as long as he had been on Town Board, that it is silly, doesn't work, and he has been wanting to get rid of it for years, trying to get rid of the loopholes in it.

Mr. Amelio asked the Board to keep more people here in the town where they have been born and bred by providing two family homes they can afford. He repeated his suggestion of taking the 2 feet off the side lines, add it to the back, adding that you don't lose two rooms that way. He also said that he did not want to reduce at all, but if you have to, this is one way.

Mr. Luiso asked if there is a happy medium we could find tonight?

Builder Joe Billotta suggested that for a 75' x100' lot, reduce (the coverage) by 5%, but leave 50' x100' alone as you cannot restrict the poor people --- how can you deny a kid a 10' x 10' or 10' x 12' bedroom room?

Councilman Paladino pointed out that on a 50' width lot, with a 5' set back on one side, and a 10' set back on the other side, how does the parking work? Is the driveway the same width as the house, or wider than house? How wide can that driveway be? He added that he is trying to make the point, with all due respect, that the biggest problem in the "B" zone is parking.

Mr. Luiso protested that the majority of people in his houses have one or two cars.

RoseAnn Pugliese addressed the Board, stating that she was representing the Brentwood Preservation Association, and they were really in favor of 30% coverage as it affects everything, the water, the flooding, parking, everything.

Mr. Billotta replied that he had been conducting business in the Brentwood (area) since 1959, and he thought that most of the problem is the illegal apartments. He suggested that the Board look at Briga Circle, his development, that there are no problems there, it is a model community.

Councilman Vetere suggested the Board keep the Hearing open until the next meeting. He added that when he was on the Zoning Board, they were always concerned about the side yards, that if there was a problem, the change was towards using the back yard, not the side yard.

Mr. Billotta pointed out, in regards to increasing the width of the side yards, that a stairway has to be at least 6' wide. He added that (today) you must have duplex apartments, so (the builder) has to be careful about the width of the house, it is narrow as it is now and you also have the two driveways.

Mr. Cannella pointed out that there are inconsistencies even within the building community as to how the Board should approach this problem.

Mr. Malfitano said that the Board will give consideration to the side yard issue, and the matter of coverage of the larger lots, particularly the corner lots, with input from other areas, and come back on September 15th.

Councilman Cannella asked Village Attorney Kraut what had happened to the suggestions dealing with elevation issues.

Supervisor Malfitano replied that that suggestions have been made, and one was to restrict the height of the finished building to a percentage of its original grade elevation, but nothing else has come back to the Board. Mr. Malfitano continued that the problem exists when there is a presentation to the Architectural Review Board but grade elevations are not included, with the real problem being the measurement of finished height and how that is measured.

Mr. Cannella concluded by stating that, with everyone's productive input, the Board can come up with something that works, no one will be thrilled with it, but the goal is not to be confiscatory, not to hurt the community. He added that there has to be give and take to reach a fair conclusion, and that it has to be done fairly quickly.

Councilman Vetere pointed out that there is a house going up on Oak Street that just sticks up in the ground a full story, so the neighbors are looking at a three story building, not just a two story one.

It was agreed to ask the Building Inspector and the Town Planner for their opinions, and ask that they attend the next Town Board meeting.

On motion of Councilman Scappaticci, seconded by Councilman Cannella, with all members voting in favor, the Hearing was continued until September 15, 2005.

August 9, 2005

2005 -- 314

PUBLIC HEARING RE: AMENDING CHAPTER 235 OF THE CODE OF THE TOWN OF
HARRISON ZONING ORDINANCE TO AMEND THE PARKING REQUIREMENTS FOR
CERTAIN USES AND LOCATIONS WITHIN THE TOWN

On motion of Councilman Cannella, seconded by Councilman Scappaticci, with all members voting in favor, the Hearing was opened.

On motion of the same Councilmen, the Hearing will be continued on September 15th.

August 9, 2005

2005 -- 315

PUBLIC HEARING RE: ADDING CHAPTER 199, ENTITLED "STEEP SLOPE
PROTECTION," TO THE CODE OF HARRISON ZONING ORDINANCE

On motion of Councilman Cannella, seconded by Councilman Scappaticci, with all members voting in favor, the Town Board was declared Lead Agency for SEQRA for this proposed Local Law.

On motion of Councilman Cannella, seconded by Councilman Scappaticci, with all members voting in favor, the Public Hearing was opened.

Supervisor Malfitano submitted a letter from the law firm of McCullough, Goldberger & Staudt regarding this ordinance, they're not be able to attend, that the Hearing be continued to a later date so they can make their position known.

Responding to a question from Councilman Vetere, Deputy Village Attorney Jon Kraut stated that there had been another proposal on this same subject in 2002 which, after considerable discussion, was adjourned without a future date being set. It had been proposed at the request of many different groups within the Town. He added that this current legislation is different, it is not a revised version of that (2002) proposal, the Town does not presently have a Steep Slope law.

Councilman Paladino asked who authored the present proposal.

Mr. Kraut stated that it was largely the work of the Town of Greenburgh, which town incorporates a number of villages with similar topography to Harrison, and it seems to be working well there.

Councilman Cannella offered an overview, stating that what the Town had in the last proposal was a very, very detailed and to a large extent incomprehensible series of mathematical equations as to what you could or could not build depending on grades. And there was a horrific reaction as it was realized that people could not put decks on, or other improvements, without major problems. He added that (the) Silver Lake (section of town) could not exist under it, and probably not the Ridge section. He continued that the present proposal is a much more flexible model, depending on the severity of the slope, from a tri-part definition of "steep," "very steep" or "excessively steep" which puts the applicant into categories of evaluation by the Building Inspector or the Planning Board, and there are appeals throughout the process. He added that it is a more subjective process than the mathematical formulas but on balance it is more workable as it allows for Board judgments and evaluations. It provides a platform for a level of protection that the town does not now have. He continued that, on balance, he thought it was a very good proposal and the Board could deal with specific problems or ideas about it.

Supervisor Malfitano agreed and suggested that what be done this evening is to give the Building Inspector the opportunity to review (the proposal,) as well as the Planning Board.

Councilman Paladino said that he had several questions, for clarity. The definition of a lot in this instance with slope grades that go from 0% to 15% (is defined) as a Slope; Steep Slope which is 15% to 25%; and a Very Steep Slope which is a grade of 25% to 35%, and excessively Steep Slope which is a grade greater than 35%. For purposes of review, the last two have been combined for a process that goes before the Planning Board, and the Steep Slope (application) goes before the Building Inspector.

Attorney Kraut agreed that was accurate.

Mr. Paladino asked if every application for any approval involving land or structures issued by the Building Department, the Planning Board, Department of Public Works, the Town Board or

Zoning Board must complete a Slope Clearance form. He added that this Slope Screening Form, which is defined in Section 199-5-a-1-m, is fairly extensive. Mr. Paladino continued that what he is getting at is, if he is building a house on a lot that is flat, does he have to pay the \$250 fee, or only have to pay the fee if he needs to get a permit.

Attorney Kraut said that for any application for any permit, whether it is for a deck or anything else, he has to get a slope clearance, the applicant must complete the screening form. If they check the box indicating that there isn't a slope, sign it, then they won't have to pay this fee.

Councilman Paladino then asked how the application would be handled if the person has a steep slope on the property, but the activity would not take place in that area.

Attorney Kraut cited the two Sections that would apply, stating that the person would state that there was a slope but it would not be affected.

Mr. Paladino asked how Section 199-5 applies in the context of a subdivision, if there are mixed lots, then what happens. He further questioned why different people handle different circumstances. He stated that he thought that where there are mixed lots, it should be before the Planning Board, that the Building Inspector should not be involved.

Mr. Kraut said that the Building Inspector makes the initial determination, and if needed, refers it to the Planning Board, regulated under Section 199-8. He added that the initial indication comes from the screening form. He added that if clarity is needed, it would be added. He also stated that there is nothing in this law that says that a builder cannot build on a slope just that there is a process to be followed.

Councilman Cannella pointed out that in the building application, there are a number of questions with boxes to be checked off, and this steep slope question would be just another box. It would then be verified by the Inspector during the verification process.

Councilman Vetere asked for information about terracing, in order to provide level land.

Mr. Kraut answered that would be regulated and would require a permit.

Mr. Cannella pointed out that this process (for a steep slope permit) is no different than the process that would be involved in obtaining a wetland permit -- different subject but same process.

Councilman Paladino further stated that, to the extent a subdivision has steep slope element, that the analysis is to be done by the Planning Board, not the Building Inspector. He also stated that on an individual building lot application, if there is an excessively steep slope, then that should go to the Planning Board, unless the owner can build in an area that will not disturb that slope. He then added that if the owner later wants to build a pool, or something (and has to disturb the steep slope), then what happens. Does he then need a variance?

Mr. Kraut cited Section 199-8, which states that it has to go to the Planning Board.

Mr. Paladino then asked what triggers the need for the permit? How close to the slope can you be?

Mr. Kraut replied that (the decision) is at the discretion of the Building Inspector, but it would be a (disturbance of) a minimum of 10 feet.

Mr. Paladino questioned if there is a buffer zone, or is it an invasion of the slope at all. He asked that the definitions of slope, steep slope and excessively steep slope be clearer, particularly with reference to the 500 square foot threshold. He then asked if Section 199-6(d) regarding the issuance of a permit, is this a SEQRA alternative analysis?

Mr. Kraut stated that this is not anything like a SEQRA alternatives analysis.

Mr. Paladino pointed out that there are places that state "all reasonable alternatives" and it should be very specific that it is not SEQRA and we should be clear what the Town wants.

Mr. Kraut stated that SEQRA is still required, but the two should not be confused (with each other.)

Supervisor Malfitano then invited the public to make their comments.

Former Supervisor Ron Bianchi addressed the Board on behalf of his neighborhood. He first questioned the number of Section 199-9 -2(a), on variances, suggesting that it should be a separate subsection. He then stated that he and his neighbors are in favor of a steep slope ordinance particularly with the proposed subdivision of 13 houses in their area which subdivision is planned to be on a very steep slope, in the area of Silver Lake that used to be a ski slope. Mr. Bianchi further stated that this proposed development sits on top of a river which meanders through the back yards of many homes, adding that his experience has been that when you build on top of a body of water, the water gets backed up. He pointed out that the land is privately owned where the water flows, but problems develop, and the neighbors want the town to solve the problem, which can't be done. Mr. Bianchi further stated that attention is given to the actual building of the subdivision, but asked what happens after the builder complies with all the rules, the C of O is issued, and then later the new owner makes changes. He concluded by stating that if the town does not want to be like Los Angeles with houses sometimes sliding down the hills, it needs a good steep slope law and therefore, he and his neighbors would like to see (this proposed law) passed.

Attorney Kraut and Councilman Cannella agreed with the comment on renumbering.

Nelson Canter also addressed the Board, stating that he is a lifelong resident, a member of the Purchase Fire Department and a former chief of that Department. He stated that he is 100% in support of this proposed law, that it is comprehensive. He commended the Board for its bipartisan recognition of the importance of the adoption of this law, as well as the efforts of the Town Attorneys. He continued that he believes there is a grave sense of urgency to get this law enacted as it is long overdue. He urged the Board to act promptly so that the rights of the

residents are protected. He then discussed several Sections of the law, as earlier raised by Councilman Paladino.

Councilman Cannella suggested to Attorney Kraut that all decisions regarding slopes go to the Planning Board, that there isn't any need to divide the authority.

Mr. Kraut said it would be done.

Mr. Canter also stated that there are several minor ambiguities in the proposal which could be addressed and resolved tonight, but if the law is not adopted tonight, he asked that a moratorium be put in place until this law is adopted or rejected.

Holly Bukofser of the Environmental Committee then addressed the Board stated that this proposal is something that the Environmental Committee has been requesting for some years. She added that overall the law is well done, although there are several small matters she would like to address at another time. She continued that it provides protection and review for the steep slopes, and it puts the burden on the developer to be sure that what they are doing is thoroughly responsible. Mrs. Bukofser pointed out that the parcels being brought before the Planning Board have great constraints, they are difficult to develop, so it is appropriate to be doing this at this time. She concluded that she hoped it will be done quickly as what is being presented now has these constraints.

Lois Falberg of Pinehurst Drive addressed the Board stating that the Mamaroneck River, although not as big as the Mississippi, runs behind her property, and asked if the proposed law takes into account that the slope behind her property runs into a flood plain, and it has been flooding for the last 35 years. She added that her neighborhood was built (in the mid 60's) on wetlands and probably should not have been developed. However the houses are there, approved by the town, and (the area) floods every time there is a heavy rain. Ms. Falberg continued that houses have been built on a slope behind her, and the water table was changed drastically when all the trees were removed in the area behind her house. Previously, it was the river that flooded her house, now the water comes up through the basement floor. She asked if the current law takes the flood plain and the river into consideration, and if there is any federal laws that cover any of this problem. At one time, she continued, the Army Corps of Engineers looked into it, but nothing changed.

Attorney Kraut said he did not know any federal law that would apply to building on steep slopes.

Attorney Latwin added that the federal government only has jurisdiction over navigable waterways. He added that one consideration (for approvals of applications) is that it minimizes flooding, not that it eliminate it, but that it minimize it. The amount of water that flows naturally will continue to flow, but it should not be exacerbated.

Supervisor Malfitano said that there are some town regulations for flood zones that would apply.

Ms. Falberg pointed out that the water flows underneath Pinehurst Drive, which has sunk and

they are getting a new sewer system because of that. She added that for the people who live at the bottom of Pinehurst Drive, as she does, anything that is built in the area will impact them drastically. She invited the Board to drive down her street after a heavy rain to see the ducks swimming across the street.

Councilman Paladino said that in Section 199-6, it specifically states that it will minimize flooding. He added that there is a general provision in the town law provides that to the extent any one does anything on their property, they are specifically prohibited from allowing water to leave their property and go onto another property.

Supervisor Malfitano stated that the intent of the legislation to provide for a more thorough review, and to assure the community that if development is going to take place, it will take place in a responsible manner so it will not have a negative impact.

Mr. Kraut added that the Law Department will be putting before the Board some legislation regarding storm water as there isn't anything in the current law that addresses that.

Ted Demirjian, present on behalf of himself and his neighbors, it is good that the Town Board is going to adopt a policy on steep slope that lot sizes are becoming constrained and developers are looking for creative ways to build. He added that it was good that the Board is looking at how a steep slope not just affects the homeowner but for the longer term management, what are the processes for the new homeowners. He concluded that he thought a moratorium would probably benefit all parties concerned.

Town Clerk Joan Walsh said that it probably was clear that most of the people present were concerned about a particular subdivision, and asked if it could be built into the deed for the property that the runoff water would be contained and that the retention basins proposed be maintained.

Attorney Kraut said it might not be a good idea to address a particular subdivision, but in general if a subdivision were to be approved which had infrastructure for detention of water, could there be deed restrictions placed for the maintenance of it. Legally it can be done, and is done.

Mrs. Walsh pointed out that, in general, if you are building on a steep slope, one house or many, if the vegetation is removed, there will be more runoff.

Supervisor Malfitano stated that he did not think this is an area the Board should be getting into, and asked if anyone else wished to speak.

Jeff Wallberg of Tam O'Shanter Drive, stated that he was supportive of the steep slope law, and supported the request for a moratorium until the law is passed or rejected.

Mr. Malfitano stated that any subdivision application process takes many months to complete.

He added that the case law on moratoriums is extremely poor and is not something that he is willing to consider. He added that the thought this Board was interested in moving forward with this law. He further stated that the Law Department was available to receive any particular comments.

Richard Goldstein of 22 Pinehurst Drive, at the corner of Dorado Drive, addressed the Board, supported the comments of Ms. Falberg, that it is painful to see four or five homes flooded after rains. He added that this year for the first time he had flooding in his basement, and he could not understand why. He added that he was in real estate and is pro-development, but building on top of the adjacent slope is unconscionable. He added if it occurs, they will all suffer for it.

A request was made for a copy of the attorney's letter that was mentioned at the beginning of the meeting, and it was stated that copies would be available in the Town Clerk's office, as well as any other comments that are submitted.

Mr. Malfitano recommended that the proposed legislation be submitted to the Building Inspector for his comments, that it be submitted to the Planning and Zoning Board for their review, and that the Hearing be continued at the next Town Board meeting on September 15th.

On motion of Councilman Cannella, seconded by Councilman Scappaticci, with all members voting in favor, it was agreed to continue the Hearing at the September 15th Town Board meeting.

August 9, 2005

2005 -- 316

APPROVAL TO SET THE DATE OF SEPTEMBER 15, 2005 FOR A
PUBLIC HEARING RE: PROPOSED SIGN ORDINANCE

On motion of Supervisor Malfitano, seconded by Councilman Scappaticci,

it was

RESOLVED to set the date of September 15, 2005, for a Public Hearing regarding a proposed Sign Ordinance.

FURTHER RESOLVED to forward a copy of this Resolution to the Commissioner of Public Works, the Director of Purchasing, the Law Department and the Chief of Police.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino

Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 317

AUTHORIZATION TO ADD MICHAEL KMETZ TO THE RECREATION
PART-TIME AVAILABILITY LIST

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of the Superintendent of Recreation, Ron Belmont, and add Michael Kmetz to the Recreation Part-time Availability List, effective immediately, at the hourly rate of \$8.00.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Superintendent of Recreation.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino

Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 318

AUTHORIZATION FOR POLICE SGT. MARK TAMUCCI TO TAKE A COURSE AT
MANHATTANVILLE COLLEGE, SUMMER 2005. COST: \$2,029.62

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Police Chief David Hall for authorization for Sgt. Mark Tamucci to take the following course at Manhattanville College during the summer semester 2005: Teaching Geography/Economics at a cost of \$2,029.62.

FURTHER RESOLVED to authorize the Comptroller to reimburse Sgt. Tamucci upon presentation of invoices and proof of having satisfactorily completed the course.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Chief of Police.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella and Paladino
Supervisor Malfitano

NAYS: Councilman Vetere

ABSENT: None

August 9, 2005

2005 -- 319

AUTHORIZATION FOR FIRE MARSHAL STEVE SURACE AND ASSISTANT FIRE
MARSHAL MARTIN GOTTE TO ATTEND THE NYS CODE ENFORCEMENT COURSES
IN WHITE PLAINS ON SEPTEMBER 21, AND OCTOBER 26, 2005,
AT NO COST TO THE TOWN.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Fire Marshal Steve Surace for authorization for Assistant Fire Marshal Martin Gotte and himself to attend the NYS Code Enforcement Courses being held in White Plains on September 21, and October 26, 2005, without any cost to the Town.
(1 day each)

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Fire Marshal.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 320

AUTHORIZATION FOR FIRE MARSHAL STEVE SURACE AND ASSISTANT
FIRE MARSHAL MARTIN GOTTE TO ATTEND THE NYS FIRE MARSHAL'S AND
INSPECTORS SEMINAR IN MONTOUR FALLS, NY, OCT. 18-20, 2005,
AT A COST NOT TO EXCEED \$700.

Fire Marshal Surace explained that these classes will be credited to the annual requirement of 24 hours of in-service training each year.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Fire Marshal Steve Surace and authorize him and Assistant Fire Marshal Martin Gotte to attend the NYS Fire Marshals & Inspectors Seminar/Education courses to be held in Montour Falls, NY from Tuesday, October 18th, through Thursday, October 20, 2005, at a cost is not to exceed \$700. This is a budgeted item.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Fire Marshal.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 321

AUTHORIZATION FOR POLICE CHIEF DAVID HALL TO ATTEND THE
INTERNATIONAL CHIEF'S OF POLICE CONFERENCE IN MIAMI, FLORIDA,
SEPTEMBER 24-28, 2005. COST: NOT TO EXCEED \$1,000.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Police Chief David Hall for authorization to attend the International Chief's of Police Conference in Miami, Florida from September 24 through 28, 2005, at a cost, including travel expenses, is not to exceed \$1,000. This is a budgeted item.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Chief of Police.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 322

RATIFICATION OF THE APPOINTMENT BY THE LIBRARY BOARD OF TRUSTEES
OF SUZANNE FULLER AS A PART-TIME SUBSTITUTE LIBRARY CLERK

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to ratify the appointment by the Library Board of Trustees of Suzanne Fuller to the position of part-time substitute library clerk, effective August 10, 2005 at \$13.50 per hour and \$14.50 per hour on Sundays.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Director of the Library.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 323

RATIFICATION OF THE APPOINTMENT BY THE LIBRARY BOARD OF TRUSTEES
OF DANIEL BRIEM AS A LIBRARY CLERK, EFFECTIVE AUGUST 22, 2005

Library Director Virginia Vogl informed the Board that Mr. Briem's name appears on the Civil Service Eligible List No. 02-100 for this title.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to ratify the appointment by the Library Board of Trustees of the promotion and appointment of Daniel Briem to the position of Library Clerk effective August 22, 2005 at the annual salary of \$30,852. Mr. Briem's name appears on Eligible List No. 02-100 for this title.

FURTHER RESOLVED that this appointment has a probationary period of twenty-six (26) weeks.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Benefits Officer and the Director of the Library.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 324

AUTHORIZATION FOR ASSESSOR JAMES CALANDRUCCIO AND DEPUTY ASSESSOR
MARK HEINBOCKEL TO ATTEND THE NYS ASSESSOR'S ASSOCIATION ANNUAL
CONFERENCE ON ASSESSMENT ADMINISTRATION IN ROCHESTER, NY,
SEPTEMBER 11-14, 2005. COST: \$900 PER PERSON

Deputy Assessor Mark Heinbockel stated that these seminars are vital to remaining current with the updated assessment practices, as well as hearing all the latest changes in State Legislation affecting Real Property and exemptions.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Deputy Assessor Mark Heinbockel and authorize him and Assessor James Calandruccio to attend the New York State Assessors Association's Annual Conference on Assessment Administration at the Clarion Riverside Hotel in Rochester, New York, from September 11-14, 2005, at a cost of \$900 per person including travel expenses and hotel. This is a budgeted item.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Assessor.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 325
AUTHORIZATION TO ADD ALESSIA PILLONI
TO THE PART-TIME AVAILABILITY LIST

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of IT Director Arun Ankola to add Alessia Pilloni to the Part-time Availability List, at an hourly rate of \$11.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the IT Director.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 326

APPROVAL OF A SPECIAL EVENTS PERMIT FOR MANHATTANVILLE COLLEGE
TO HOST A FIREWORKS DISPLAY AS PART OF ALUMNI WEEKEND
ON SATURDAY, OCTOBER 1, 2005

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Joseph Hinchey of Manhattanville College for a Special Events Permit for the College to host a fireworks display as part of Alumni Weekend on Saturday, October 1, 2005, without a rain date being scheduled.

FURTHER RESOLVED that the fee be waived.

FURTHER RESOLVED that a Certificate of Insurance is required, and that the College notify the Purchase Fire Department, the Department of Public Works, the Fire Marshall and the Police Department.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Fire Marshall, Mr. Hinchey and the Building Inspector.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 327

AUTHORIZATION FOR THE PAYMENT OF BOARDING FEES FOR
RETIRED K-9 DOG ENNO DURING THE VACATION OF
RETIRED POLICE OFFICER MALLINSON.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Chief of Police Dave Hall for authorization for payment of boarding fees, for eight (8) days, in the amount of \$405.00 for K9 dog Enno during the vacation of P.O. Mallinson as Officer Mallinson does not have family members to care for Enno while he is away.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and Officer Mallinson and the Chief of Police.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 328

AUTHORIZATION TO REIMBURSE A PROPERTY OWNER FOR AN OMITTED
STAR EXEMPTION FOR BLOCK 741, LOT 1, (62 Underhill Avenue)

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Deputy Assessor Mark Heinbockel for reimbursement for an omitted STAR exemption for Block 741, Lot 1.

FURTHER RESOLVED to authorize the Comptroller to reimburse Antoinette R. Cinicolo, owner of the unit at 62 Underhill Avenue. (Park Knoll Owners, Inc.) for the amount of the exemption.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Assessor.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 329

AUTHORIZATION FOR MANHATTANVILLE COLLEGE TO USE THE RECREATION DEPARTMENT'S SOUND STAGE DURING THE WEEKEND OF SEPTEMBER 16-19, 2005

President Berman stated that, if his request is approved, he would appreciate the stage being delivered to the campus on Friday, September 16, 2005 and picked up on Monday, September 19, 2005. He added that the Superintendent of Recreation Belmont had told him that the stage is available for these dates. Mr. Berman also stated that there would not be a rain date.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Manhattanville College President Richard Berman, for authorization for the use of the Recreation Department's Sound Stage.

FURTHER RESOLVED to forward a copy of this Resolution to the Superintendent of Recreation and the Commissioner of Public Works.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 330

PERMISSION GRANTED TO JEFF MONTALBANO TO PARK A MOVING VAN ON
WASHINGTON STREET THE NIGHT OF AUGUST 24, 2005.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Jeff Montalbano of 223 Park Avenue for permission to have a moving van parked on Washington Street at the end of his driveway while it is being loaded the night of August 24, 2005, with the van to be moved on August 25th.

FURTHER RESOLVED to forward a copy of this Resolution to the Chief of Police and Mr. Montalbano.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 331

APPROVAL OF A BUILDING PERMIT FOR 131 OAKLAND AVENUE,
BLOCK 22, LOT 33, FOR A HOUSE TO BE BUILT IN THE FLOOD PLAIN.

Town Engineer Hugh Greechan stated that in accordance with Town Code Section 235-31-B, Town Board approval is required before a building or structure can be erected on a lot bounded by a stream or one in which a stream or other body of water is located.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Town Engineer Hugh Greechan for authorization for a building permit to build a house at 131 Oakland Avenue, Block 22, Lot 33, in accordance with Town Code Section 235-31-B.

FURTHER RESOLVED that the recommendations of the Town Engineer are adopted as follows:

- (1) The first floor extension is proposed without a basement underneath. The first floor elevation is well above the one hundred (100) year flood plain which exists toward the rear of the property, and therefore is acceptable.
- (2) The application does not include any regrading of the property.
- (3) Silt fencing and other Erosion Control Devices must be properly installed within close "down slope" proximity to the proposed addition. These devices must be in place prior to the start of construction, and the Engineering Department must be notified to inspect the area to assure compliance prior to building or the issuance of a Building Permit.

FURTHER RESOLVED that the owner must give the Town an Indemnification Certificate prior to beginning construction.

FURTHER RESOLVED to forward a copy of this Resolution to the Building Inspector, the Town Engineer and the Commissioner of Public Works.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 332

APPROVAL OF AN AGREEMENT BETWEEN THE COUNTY OF WESTCHESTER AND
THE TOWN OF HARRISON FOR THE LEASE OF AN 18-20 PASSENGER SHUTTLE VAN,
AT AN ANNUAL COST OF \$1.00

On motion of Councilman Vetere, seconded by Councilman Cannella,

it was

RESOLVED to approve the request of Deputy Village Attorney Joseph Latwin for approval of an agreement between the Westchester County Department of Public Safety and the Town of Harrison acting by and through the Harrison Police Department, and a Certificate of Insurance naming the County of Westchester as additional insured, for the lease of an 18-20 passenger shuttle van for use by the Fire Department.

FURTHER RESOLVED that Chief of Police David Hall be authorized to execute the Agreement.

FURTHER RESOLVED to forward a copy of this Resolution to the Director of Purchasing, the Commissioner of Public Works, the Chief of the Fire Department and the Chief of Police.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 333

APPROVAL OF THE APPORTIONMENT OF ASSESSED VALUATION
OF LOT 3(3 thru 17) IN BLOCK 154 FOR THE FINAL ASSESSMENT ROLL OF 2004

Assessor James Calandrucchio stated that the Town conveyed this land to Mr. Vincent Gironda in October 2003, but the deed was not received until November 2004 so it could not be re-apportioned until the 2004 Final Assessment Roll.

On motion of Councilman Vetere, seconded by Councilman Cannella,

it was

RESOLVED to approve the request of Assessor James Calandrucchio for apportionment of assessed valuation of Lot 3(3 thru 17) in Block 154 in the appropriate Assessment Rolls.

FURTHER RESOLVED to forward a copy of this Resolution to the Assessor and the Receiver of Taxes.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 334

APPROVAL TO REPLACE THE PERFORMANCE BONDS FOR PHASES #7, #8, AND #9
OF THE PARK LANE SUBDIVISION WITH A MAINTENANCE BOND
IN THE AMOUNT OF \$175,000.

On motion of Councilman Vetere, seconded by Councilman Cannella,

it was

RESOLVED to approve the request of the Chair of the Planning Board for the replacement of the performance bonds for Phases #7, #8, and #9 of the Park Lane Subdivision, with a maintenance bond in the amount of \$175,000.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Town Attorneys, the Town Engineer, the Building Inspector and the Chair of the Planning Board.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 335

DISCUSSION OF THE FORMATION OF A SEWER DISTRICT FOR
THE WOODS END, WESTCHESTER AVENUE AND CONVENT LANE AREA.

Mr. David Mooney appeared for the applicants and requested consideration of the application at this time as a new subdivision is being built in the area and would be part of this District. He stated that a design had been prepared, and that there were two routes that could be used to connect the proposed sewer to an existing one, one with gravity flow and the other requiring a pump.

Mr. Mooney was informed that the first step in such an application is a petition requesting the formation of the District which must be presented to the Town Board, signed by at least 51% of the eligible property owners. He was also told that there must be a description of the properties, a description of the boundaries of the District, and a statement as to how the construction will be paid for.

August 9, 2005

2005 -- 336

NOTIFICATION OF A GRANT FROM THE WESTCHESTER COUNTY COMMUNITY
DEVELOPMENT BLOCK PROGRAM IN THE AMOUNT OF \$80,000,
WITH THE TOWN TO CONTRIBUTE A MATCHING 25%

The Board did not identify a funding source for the matching 25% of funds.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to accept the grant from Westchester County Community Development Block Program in the amount of \$80,000, with \$30,000 to be for drainage programs and \$50,000 for sidewalk programs.

FURTHER RESOLVED that the Town agrees to provide a 25% match for these funds.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Town Attorneys, the Town Engineer, the Commissioner of Public Works and the Building Inspector.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 337

APPROVAL TO ALLOW COMMUTERS TO PARK ON SUNNYSIDE AVE. ON THE
TUESDAY, WEDNESDAY AND THURSDAY OF LABOR DAY WEEK 2005
TO RELIEVE OVERCROWDING IN THE PARKING LOT ON THOSE DAYS.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Town Clerk Joan Walsh that commuters be allowed to park on Sunnyside Avenue on the Tuesday, Wednesday and Thursday of Labor Day week, September 6, 7, and 8, 2005 as that is the most crowded week of the year and additional parking spaces will be needed on those days. space will be available as Court will not be in session that Tuesday.

FURTHER RESOLVED to forward a copy of this Resolution to the Chief of Police.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 338

APPROVAL OF THE 2005 CONTRACT WITH THE WESTCHESTER BRASSMEN DRUM
AND BUGLE CORPS FOR PERFORMANCES AT THREE PARADES COST: \$3,000

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the 2005 contract with the Westchester Brassmen Drum & Bugle Corps, for performances at Memorial Day, Columbus Day and Halloween Parades, at a cost of \$3,000.

FURTHER RESOLVED that the Supervisor be authorized to execute the contract, and upon audit and approval, the Comptroller to pay same.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Town Attorneys and the Director of the Brassmen Drum & Bugle Corps.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 339

APPROVAL OF A BUDGET TRANSFER IN THE AMOUNT OF \$1,982.
FOR NEW CHAIRS FOR THE DAIS IN THE COURTROOM.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of the Director of Purchasing for a budget transfer, in the amount of \$1,982.00, to be taken from the Supervisor-Postage Account 1220-4 and placed into the Supervisor-Furniture Account 1220-210, for chairs for the dais in the Court Room and one Office Chair.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller and the Director of Purchasing.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 340

APPROVAL TO ACCEPT THE RESOLUTION
RE: CONCETTA RUSSO-CARRIERO'S DEATH.

On motion of Supervisor Malfitano, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the following Resolution.

WHEREAS, the savage murder of Concetta Russo-Carriero on June 27th has acted as a severe reminder of the dangers of sex offenders who reside within our communities; and **WHEREAS**, Counties, Towns, Villages and Cities throughout New York State to continue to address the complex issue of how to protect citizens from sex offenders; and **WHEREAS**, sixteen states already have in place civil commitment laws which allow the state to confine violent sexual predators to secure treatment centers rather than to be released to the community; and

WHEREAS, these civil commitment laws are designed to ensure a system whereby violent sexual offenders whose terms of incarceration are about to end are evaluated to determine whether they should be released into the community or sent to another secure facility; and

WHEREAS, the State Legislature and the Governor have the sole authority to enact civil commitment legislation on behalf of the people of the State of New York; and

WHEREAS, in the absence of a civil commitment law, other procedures can be put into place immediately to help ensure that violent sex offenders are not permitted to roam throughout our communities; and

WHEREAS, such procedures include, (1) providing Westchester County with a waiver from the State's Office of Temporary and Disability Assistance, which the County Executive has requested to institute a policy of confining any Level 3 Sex Offender or Level 2 Sex Offender whose victim was a child under the age of 16 who resides in a temporary housing shelter to said facility at all times, (2) requiring the New York State Parole Board to cease granting parole to any Level 3 sex offenders who are currently eligible, (3) imposing lifetime post release supervision on all Level 3 sex offenders so that they are supervised for life, (4) requiring Level 3 sex offenders and Level 2 sex offenders who victimized a child, and who are currently on parole, to wear electronic monitoring devices, and (5) convening a Task Force to examine sentencing guidelines and conditions for parole for violent sex offenders to ensure that we are maximizing our efforts to protect the public at large; and

NOW, THEREFORE BE IT RESOLVED, that the Town and Village of Harrison calls upon the Governor and the State Legislature to immediately pass and enact a civil commitment law in a special legislative session and, to immediately institute the additional policy changes articulated in this Resolution; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be sent to Governor Pataki, Assembly Speaker Silver, Senate Majority Leader Bruno, and the members of the Westchester County Delegation to the State Legislature.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

AUTHORIZATION TO ADVERTISE AND RECEIVE BIDS FOR THE SALE OF
A 1985 MACK FIRE ENGINE BY FIRE DISTRICT #2.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the request of Director of Purchasing Judy D'Agostinis for authorization to advertise and receive bids for the sale of a 1985 Mack Fire Engine by Fire District #2.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Director of Purchasing and the Chief of Fire District #2.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

BID AWARD TO THE VILLAGE OF MAMARONECK FOR A1985
SEAGRAVE PUMPER TRUCK, IN THE AMOUNT OF \$15,000 (FIRE DISTRICT #1)

On motion of Councilman Vetere, seconded by Councilman Cannella,

it was

RESOLVED to approve the request of Director of Purchasing Judy D'Agostinis for a Bid Award to the Village of Mamaroneck, having met all the requirements and specifications and being the only bidder for the Sale of a 1985 Seagrave Pumper, V.I.N. #1F9ET28H7FCST2124-S/NS-79525, in the amount of \$15,000.

FURTHER RESOLVED to authorize the Law Department to prepare the contract, which the Supervisor is authorized to execute.

FURTHER RESOLVED to forward a copy of this Resolution to the Law Department, the Comptroller and the Director of Purchasing.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

TABLED: REQUEST FOR APPROVAL OF THE MEMORANDUM OF AGREEMENT
ESTABLISHING THE BRONX RIVER WATERSHED COALITION

The matter was tabled until the September 15th meeting.

It was requested that the documents relating to this Agreement be re-distributed to the Council members.

Councilman Cannella wanted assurances that the Town did not have an economic obligation if the Agreement was approved.

Deputy Village Attorney Latwin stated that there would not be any obligation to fund any projects.

August 9, 2005

2005 -- 344

APPROVAL TO PAY THE FIRM OF O'DAY, LYNCH & ABBISTISTA, ENGINEERS.

FOR A STUDY RE: REPAIR OF THE MIDDLE SCHOOL POOL COST: \$5,700

Supervisor Malfitano reminded the Board that last November the Board had approved funding for repairs to the Middle School pool, up to an amount of \$40,000. The School Board then voted to do the repairs themselves at school district expense. Mr. Malfitano added that the Town had already retained an engineering firm to do a study of the pool, and that fee is now overdue.

Councilman Paladino reminded the Board that he and Councilman Vetere had originally voted against authorizing the Town to do the repairs to the pool as they believed that it was a school expense. He add that, since the work has been done, he would vote for this expenditure as the firm has to be paid.

On motion of Councilman Cannella, seconded by Supervisor Malfitano,

it was

RESOLVED to pay the invoice of the firm of O'Day, Lynch & Abbistista, Engineers, for a study regarding the repairs needed for the Middle School indoor pool, in the amount up to \$5,700

FURTHER RESOLVED that funds for this invoice are to come from the Recreation Subdivision Account.

FURTHER RESOLVED to forward a copy of this Resolution to the Law Department, the Comptroller, the Commissioner of Public Works and the Director of Purchasing.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 345

APPROVAL TO SCHEDULE A PUBLIC HEARING ON SEPTEMBER 15, 2005
FOR A SPECIAL EXCEPTION USE PERMIT

RE: CONSTRUCTION OF THE RYE LAKE WATER FILTRATION PLANT
BY THE WESTCHESTER JOINT WATER WORKS, AS PER COURT DECISION.

It was pointed out that the Board has not seen the plans for this plant, and that they should be distributed to the council members before the September 15th meeting. Supervisor Malfitano stated that the Planning Board reviewed the plans and approved them several years ago, although this structure is not exactly the same as the original one.

It was stated that the structure would be located off Purchase Street, between Purchase Estates and Wolfe Lane.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to schedule a Public Hearing for September 15, 2005, for a Special Exception Use Permit for the construction of the Rye Lake Water Filtration Plant by the Westchester Joint Water Works.

FURTHER RESOLVED to forward a copy of this Resolution to the Law Department, the Comptroller, the Commissioner of Public Works, the Town Engineer, the Building Inspector and the Manager of the Joint Water Works.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 346

AUTHORIZATION TO NOTIFY THE NYS DEPARTMENT OF TRANSPORTATION OF
THE TOWN'S APPROVAL TO REMOVE THE SIDEWALK ON THE BARNES LANE
BRIDGE OVER I-684 TO ALLOW THE CONSTRUCTION OF A 16" WATER MAIN TO

CONNECT THE WEST HARRISON AREA -- THE FORMER WATER DISTRICT #1 -- TO
THE WESTCHESTER JOINT WATER WORKS WATER SYSTEM

Supervisor Malfitano stated that the New York State Department of Transportation has requested a letter from his office petitioning the removal of the sidewalk on the Barnes Lane bridge over I-684 to accommodate the new water main. He added that there are sidewalks on both sides of the bridge, although there are not any sidewalks leading to the bridge, and none within 1.8 miles of the bridge.

Councilman Vetere asked if there would be curbing on the bridge adjacent to the pipe to prevent accumulated snow or rain from falling on the cars passing under the bridge, and was assured that there would be a provision for that.

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to authorize the Supervisor to send a letter to the NYS Department of Transportation stating the Town's approval for the removal of a sidewalk on the Barnes Lane bridge over I-684 to allow for the installation of a 16" water main that will connect the West Harrison area with the Westchester Joint Water Works water main on Purchase Street.

FURTHER RESOLVED to forward a copy of this Resolution to the Law Department, the Commissioner of Public Works, the Town Engineer and the manager of the Westchester Joint Water Works.

Adopted by the following vote:

AYES:	Councilmen Scappaticci, Cannella, Vetere and Paladino Supervisor Malfitano
NAYS:	None
ABSENT:	None

August 9, 2005

2005 -- 347

MATTERS FOR EXECUTIVE SESSION

Personnel	4
Update of Litigation	7

Settlement of claims 3
Discussion of Certiorari 1

Village Attorney Jonathan Kraut informed the Board that the Law Department had received notice of the release of mortgage on property (which the town had sold but on) which the Town had retained the limitation of non-encumbrance on the property together with a reversion right.

The Meeting was, on motion duly made and seconded, recessed for Executive Session at 10:55 PM.

The meeting was, on motion duly made and seconded, reconvened at 12:05 AM, on August 10, 2005.

August 9, 2005

2005 -- 348

SETTLEMENT OF CLAIM: BAKER vs TOWN OF HARRISON

On motion of Councilman Scappaticci, seconded by Councilman Canella,

it was

RESOLVED to settle the claim of Baker vs Town of Harrison, for damage to his vehicle, in the amount of \$410.22.

FURTHER RESOLVED that the settlement is subject to the claimant signing a General Release.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Law Department and the Commissioner of Public Works.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 349

APPOINTMENT OF ARTHUR J. FUSCO IV AS A PAID FIREMAN IN FIRE DISTRICT #2,
EFFECTIVE IMMEDIATELY UPON CERTIFICATION BY THE CIVIL SERVICE
DEPARTMENT OF THE COUNTY OF WESTCHESTER,
AT THE ANNUAL SALARY OF \$ 46,232

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to appoint Arthur J. Fusco IV as a paid fireman in Fire District #2, effective immediately upon certification by the Civil Service Department of Westchester County, at the annual salary of \$ 46,232.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Benefits Officer and the Chief of Fire District #2.

Adopted by the following vote:

AYES: Councilmen Scappaticci and Cannella
Supervisor Malfitano

NAYS: Councilman Vetere and Paladino

ABSENT: None

August 9, 2005

2005 -- 350

SETTLEMENT OF CLAIM: YANG vs TOWN OF HARRISON

On motion of Councilman Scappaticci, seconded by Supervisor Malfitano,

it was

RESOLVED to settle the claim of Yang vs Town of Harrison, for damage to her vehicle by a fire

truck, in the amount of \$1, 401.00

FURTHER RESOLVED that the settlement is subject to the claimant signing a General Release.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Law Department and the Chief of Fire District #2.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 351

AUTHORIZATION FOR SETTLEMENT OF CLAIM:
LUCY ROBERTSON vs TOWN OF HARRISON

On motion of Councilman Scappaticci, seconded by Councilman Canella,

it was

RESOLVED to authorize the Village Attorney to settle the claim of Lucy Robertson vs Town of

Harrison, for personal injuries, up to an amount as discussed in Executive Session.

FURTHER RESOLVED that the Settlement is subject to the claimant signing a General Release.

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Law Department and the Commissioner of Public Works.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

August 9, 2005

2005 -- 352

APPROVAL OF STIPULATION OF SETTLEMENT : POST LESTER PARTNERSHIP
vs TOWN OF HARRISON, ASSESSOR AND ASSESSMENT BOARD OF REVIEW

On motion of Councilman Cannella, seconded by Councilman Scappaticci,

it was

RESOLVED to approve the Stipulation of Settlement in the matter of Post Lester Partnership vs Town of Harrison, the Assessor and the Assessment Board of Review reducing the 2003

assessment of Lot 7 in Block 122 as follows: Year 2003: from \$17,550 to \$13,000, with any overpayment of taxes to be refunded by the town, the school district and the county.
(Index #17039/03)

FURTHER RESOLVED to forward a copy of this Resolution to the Comptroller, the Law Department, the Assessor and the members of the Board of Assessment Review.

Adopted by the following vote:

AYES: Councilmen Scappaticci, Cannella, Vetere and Paladino
Supervisor Malfitano

NAYS: None

ABSENT: None

There being no further matters to come before the Board,
the Meeting was, on motion duly made and seconded,
declared closed at 12:06 AM.

Respectfully submitted,

Joan B. Walsh, Town Clerk