

**REGULAR MEETING, WARRENSBURG TOWN BOARD, JUNE 9, 2010**

The regular meeting of the Warrensburg Town Board was held on Wednesday, June 9, 2010 at the Albert Emerson Town Hall at 6:45 p.m. with the following members present:

<b>PRESENT:</b>	Supervisor	Kevin Geraghty
	Councilman	John Alexander
	Councilman	Bryan Rounds
	Councilman	Austin Markey
	Councilman	Dean Ackley

**OTHERS PRESENT:** Donna A. Combs, Town Clerk; Ed Pennock, Highway Superintendent; Richard Galusha, Sewer Superintendent; Mark Schachner, Town Attorney and numerous Town residents.

**RESOLUTION #115-10  
MOVE TO SCHEDULED PUBLIC HEARING**

On motion of Councilman Markey, seconded by Councilman Alexander, the following resolution was ADOPTED – VOTE - AYES 5 NAYS 0

**IT IS RESOLVED**, that this meeting be interrupted to hold a public hearing advertised and scheduled for this evening at 6:45 p.m.

**PUBLIC HEARING – LOCAL LAW #1, 2010-STOP SIGN FOR DINU DRIVE**

Public Hearing was called to order at 6:45 P.M.

Following distribution of the proposed Local Law to the Town Board members in May of 2010, a legal notice was printed on May 26, 2010 in the Glens Falls Post Star, with a copy of said notice posted on the Town Hall bulletin board on May 21, 2010. The contents of that legal notice were read into the record.

Supervisor Geraghty explained that the stop sign was for Dinu Drive and would be placed in the South East direction at the intersection of Lake Avenue.

A recess was called at 6:50 P.M.

No one else wished to comment

**RESOLUTION #116-10  
CLOSE PUBLIC HEARING**

On motion of Councilman Alexander, seconded by Councilman Rounds, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

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**IT IS RESOLVED**, to close the public hearing at 7:00 p.m. and to return to the regular meeting.

### **RESOLUTION #117-10**

#### **MINUTES**

On motion of Councilman Ackley, seconded by Councilman Rounds, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

**RESOLVED**, to accept the minutes as presented.

### **REPORTS OF TOWN OFFICIALS**

Reports were received and placed on file from the following Town Officials: Town Clerk, Supervisor, Assessor, Justice, Dog Control Officer, and Enforcement Officer.

### **TOWN COMMITTEE REPORTS**

The following town committees gave reports: Highway, Lighting, Museum, Historian, Parks and Recreation, Sewer, Water, and Youth.

### **DISCUSSION – ECHO LAKE AND TOWN PARKS**

Councilman Markey opened discussion saying he has had three phone calls concerning the area where the dry hydrant is, people are starting to go down there because there has been a couple of hot days. Councilman Markey said there are a couple of issues the Town Board needs to address, to give direction to the people who have called him, there are issues with people who are entering the beach through the beach rights of the property owner. Councilman Markey said he has told the callers to contact Chris during Town hours, but, most of this is happening later, there are parents there with the kids. Councilman Markey told the callers to call the police department.

Supervisor Geraghty said the Town has researched that several times and has had the property surveyed.

Councilman Markey told the Supervisor this is one of the concerns of the residents that live in that area, they all have beach rights as well as the town having access there because of the dry hydrant; if kids are down there and get hurt it opens a big can of worms; he would just like direction.

Supervisor Geraghty suggested some signage and said the Town does not want swimming there because it is not the beach area.

Discussion ensued on who would be affected by the signs and where the strip of property leads to, what the town owns for property.

Instruction was given to have the police called if someone is seen on the property after hours and to call the Town during regular hours.

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### **COMMUNICATIONS:**

- a) A letter from the Warrensburg Emergency Squad thanking the Town Board for continued support.

### **CONGRATULATIONS**

Supervisor Geraghty said he wished to congratulate Oscar's Smoke House for being named Small Business of the Year by Adirondack Regional Chamber of Commerce.

### **RESOLUTION#118-10**

#### **RESOLUTION AUTHORIZING GRANT APPLICATION FROM NEW YORK STATE OFFICE OF PARKS, RECREATION, HISTORICAL PRESERVATION AND PLANNING PROGRAM.**

On motion of Councilman Alexander, seconded by Councilman Markey, the attached resolution was ADOPTED – VOTE – AYES 5 NAYS 0

### **DISCUSSION – REQUEST FOR EASEMENT**

Supervisor Geraghty opened discussion explaining the Town had received a request from Hickory Hill Ski Center regarding an easement to dig along Hickory Hill Road, for a water line to the Hudson River for their snow making equipment. Supervisor Geraghty explained Hickory Hill is a road adopted by use accordingly by the laws of 1963, the Town does not have legal jurisdiction over the sides of the road, Hickory Hill would need to address an easement with the property owners on either side of the road. Supervisor Geraghty said it was his understanding they are discussing running the line down the center of Hickory Hill Road with the Highway Superintendent Ed Pennock.

Councilman Ackley asked if the County owned property in front of the Bridge.

Discussion ensued on who owned what property and the locations of the property.

### **RESOLUTION #119-10**

#### **ADOPT LOCAL LAW #1 OF 2010**

On motion of Councilman Markey, seconded by Councilman Ackley, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

**IT IS RESOLVED**, to adopt Local Law #1 of 2010, amending the Vehicles and Traffic Code of the Town of Warrensburg, §198-42, titled Section IX, to add a stop sign at the corner of Dinu Drive and Lake Avenue.

### **DISCUSSION – ROCKY RIDGE NUMBERING**

Supervisor Geraghty opened discussion explaining they have not met with the Fire Department yet; any action was tabled until the July 14<sup>th</sup> regular meeting for discussion on renaming, renumbering Rocky Ridge Road.

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**RESOLUTION #120-10**

**NAME PRIVATE ROAD HORSE SHOE LANE**

On motion of Councilman Ackley, seconded by Councilman Markey, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

**IT IS RESOLVED**, to name the private road located off from Smith Street that is owned by Lewis and Rosemary Gallup Horse Shoe Lane under the 911 Private Road System and directing the Highway Superintendent to purchase a road sign for Horse Shoe Lane.

**RESOLUTION #121-10**

**TERMINATE TOWN'S SEWER EASEMENT**

On motion of Councilman Alexander, seconded by Councilman Ackley, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

**IT IS RESOLVED**, to terminate the current Sewer Easement which runs across the property owned by Hudson Headwaters Health Network to Stewart Farrar Street.

**RESOLUTION #122-10**

**ESTABLISHING STANDARD WORK DAYS AND REPORTING RESOLUTION FOR ELECTED AND APPOINTED TOWN OFFICIALS**

On motion of Councilman Alexander, seconded by Councilman Rounds, the attached resolution was ADOPTED – VOTES- AYES 5 NAYS 0

**RESOLUTION #123-10**

**AUTHORIZE FIRE COMPANY TO USE THE REC. FIELD FOR JAMBOREE AND GIVING A DONATION OF \$500.00**

On motion of Councilman Markey, seconded by Councilman Alexander, the following resolution was ADOPTED – VOTE – AYES 4 NAYS 0 ABSTENTION 1 (Supervisor Geraghty abstained)

**IT IS RESOLVED**, to give permission to the Warrensburg Volunteer Fire Company to use the Warrensburg Recreation Field for their annual Smoke Eaters Jamboree from July 19<sup>th</sup> through July 27<sup>th</sup>, 2010 with special recognition of this being the 47<sup>th</sup> continuous year of the Jamboree, and authorizing a donation of \$500.00 for fireworks to be paid from A7510.400.

**DISCUSSION – POSSIBLE LOCAL LAW REGARDING SEX OFFENDERS**

Councilman Markey opened discussion explaining he has read several articles about other communities in the county who are enacting local laws prohibiting or controlling the access of sex offenders to rental properties, motels, bed and breakfasts, boarding houses and etc. Councilman Markey said he contacted one that was fairly local, the Town of Luzerne, and asked them to send a copy of their code. Councilman Markey said it was his belief their Code was adopted by the Town of Cohoes and has been passed on to the Town of Lake George as well as Queensbury; he has given a copy of this Code to

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the Town's enforcement officer to review and scope for the Town of Warrensburg, it basically states that if you are a hotel, motel, bed and breakfast, boarding house, etc. and you rent to a sex offender that you will have to be registered and have to obtain a permit as well as put out signage on your property stating that you house sex offenders.

### **RESOLUTION #124-10 SCHEDULE PUBLIC HEARING**

On motion of Councilman Markey, seconded by Councilman Alexander, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

**IT IS RESOLVED**, to have a public hearing for the next regular town board meeting at 6:45 p.m.

### **RESOLUTION #125-10 AUTHORIZE SALE OF HIGHWAY TRACTOR**

On motion of Councilman Markey, seconded by Councilman Rounds, the following resolution was ADOPTED – VOTE - AYES 5 NAYS 0

**IT IS RESOLVED**, to authorize the Highway Department's 755 John Deere Highway Tractor with the snow blower to be declared surplus equipment and sold at the Smoke Eaters Jamboree.

### **DISCUSSION – SEQRA REVIEW QUESTION #5 CLARIFICATION**

Supervisor Geraghty opened discussion explaining the Town Board's next action would be clarification on the SEQRA review question #5 and read the following question into the record: Will proposed action affect surface or groundwater quality or quantity. Supervisor Geraghty said the reason why the Board was revisiting this question would be explained by the Town Attorney, Mark Schachner.

Mark Schachner, Town Attorney: talked about questions and concerns that have come up at public meetings at both the Town Board and the Planning Board in relation to the SEQRA or State Environmental Quality Review Act review of the Hudson Headwaters/Stewarts project. Mr. Schachner told the Town Board the process has played out exactly as the SEQRA regulations contemplate, some agree with how the process has played out and some disagree with how the process has played out but it has played out exactly as the New York State SEQRA regulations contemplate. Mr. Schachner said more specifically, this action, meaning the Hudson Headwaters Stewarts application was subject to what is called coordinated review and what that means under SEQRA law is instead of each agency, which in this case would be this Board and the Planning Board separately conducting environmental impact review, there is designation of one, as what is called the lead agency; that designation occurred by law and the Town Board was designated the lead agency. Mr. Schachner said using the process called coordinated review was not optional for this project, it was mandatory and required and the reason it was mandatory and required is because the action, the rezoning and the building and

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operation of a convenience store falls within the SEQRA definition of what is called a type one action. Mr. Schachner said the applicant was remiss in not pointing that out to the Town, the reason it is a SEQRA Type I action is because of the proximity of the Historic District and that was not brought to the Town's attention by the applicant, in fact that was very helpfully brought to the Town's attention by members of the public but the fact is, that is correct, it is approximate to the Historic District and as a result by operation of law it is called a Type I action, that means you have to do coordinated review not may, not permissible, not it is up to us, not it is up to the Planning Board, it must be done. Mr. Schachner explained once we are in the coordinated review mode and a lead agency is designated, that means that agency and only that agency conducts the SEQRA review. Mr. Schachner said one of the comments and concerns and criticisms that have been raised is that the Planning Board should conduct its own SEQRA review of the Site Plan application brought forward by Hudson Headwaters Stewarts. Mr. Schachner said no can do, not legal, under the SEQRA law coordinator review requires that one lead agency conduct the review but all of the other agencies which are called involved agencies are bound by the determination of the lead agency, in this case the Town Board's determination. Mr. Schachner said the Town Board all did the SEQRA Review and issued what is called a SEQRA Negative Declaration which means a determination that they are no potentially significant adverse environmental impact requiring preparation of an environmental impact statement; the Town Board did this on March 16<sup>th</sup>. Mr. Schachner said another question and concern that has come up is how the project or action was defined, what you were studying when they went through the SEQRA Review process; he thinks it has not been made as clear as he had hoped but it has been made reasonably clear that the Town Board's SEQRA review is conducted on the entire action and all of the component steps of it which means the rezoning of a portion of the property and the construction, operation of a convenience store. Mr. Schachner said he thought he said something on March 16<sup>th</sup> to the affect of we are not here about Stewarts specifically and what he meant by that was the review they did was not necessarily specific to Stewarts as opposed to Cumberland Farms, Joe Blows convenience store or Mary Smith's convenience store but the environmental assessment form clearly indicates in at least a half a dozen places, and appropriately so, that what you were studying the environmental impacts of was not just the rezoning which after all is a paper exercise, you can rezone anything any which way and change the label, changing the label in itself has no environmental impact but in a bunch of places and he is going to just mention four, the action is properly described although in different ways as both the rezoning and the convenience store. Mr. Schachner said on the first page of the environmental assessment form, when it says name of action it says Hudson Headwaters rezoning request and construction of Stewarts Shop #125. Mr. Schachner said it does not need to be that specific but it was; more importantly on page 2 of the environmental assessment form where it says description of action it says construct a 2968 square foot convenience store and install canopy with four dispensers for self serve gas, existing building to remain, applicant is requesting a rezoning of the western end of the property so that the entire parcel is Hamlet Commercial; with this rezoning the applicant is also requesting Site Plan Review. Mr. Schachner explained there is a full detailed description

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with that the Town Board is studying the whole bowl of wax, not just the rezoning and certainly not just the convenience store but the whole bowl of wax. Mr. Schachner told the Town Board the other two places, a bunch of more places that is described, the most obvious one is the answer to the very first question on the environmental assessment form; the Town Board answered that there would be a physical change to the project site and described that as construction of a convenience store with gas pumps; if anyone is confused about the extent to which the Town Board was looking at beyond the rezoning to the actual construction and operation of a convenience store, he thinks it is very clear that they were doing so and that is exactly what they were supposed to be doing under the law. Mr. Schachner told the Town Board in turning to why they are here to clarify one small piece of that SEQRA Review exercise this evening, it was brought to the Town Board's attention that the convenience store proposed would store a bunch of gasoline, by a bunch he had in mind some number in the neighborhood of twenty one thousand gallons, one of the SEQRA Review that the Town Board looked at back in March was question five of the environmental assessment form, just like 19 of the other 20 questions on the environmental assessment form has some of what he called back then the bullet item examples. Mr. Schachner told the Town Board one of the bullet item examples says proposed action will require the storage of petroleum or chemical products greater than 1100 gallons; the applicant had representatives here when the Town Board went through the exercise, the applicant did not tell the Town that night or any time before tonight or perhaps it was yesterday at the Planning Board meeting that the project in fact will involve storage of substantially more than 1100 gallons so he thinks that it is appropriate for the Town Board to revisit just question #5 on the environmental assessment form. Mr. Schachner said question #5 on the environmental assessment form is will the proposed action affect surface or ground water quality or quantity. Mr. Schachner told the Town Board that back in March they answered that question no without identifying any of the potential bullet items as potential impacts, if the Board remembered the discuss back in March about some of the other bullet items it is his suggestion that the Board revisit that question, see if they agree if one of the bullet items seems to be triggered, lots of SEQRA determinations are very, very subjective, this one as far as a bullet item does not seem so difficult to him now that we know that there is going to be storage of more than 1100 gallons, if the Board does agree therefore that trips one of the bullet items then it thinks it would be appropriate to reconsider the no answer in question #5. Mr. Schachner told the Town Board if they consider the no answer in question #5 and reach a different answer then of course it would be encumbering upon them to characterize the magnitude of any potential impact in reference to the proposed action required of the storage of more than 1100 gallons of petroleum. Mr. Schachner apologized for "rambling on" but said he thought some of that might be helpful edification for the Board, for members of public and especially for people that are finding this process somewhat confusing in front of the Planning Board, he would respectfully suggest that it is a fairly confusing process before Planning Boards, that has been his experience.

Councilman Markey said that after the review and looking at the plans that came in February he had noticed they did show the tanks and it showed the sizes of sixteen

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thousand and five thousand, the information that he gathered and he did know the size of this lot in comparison to the existing lot, and the existing lot is much smaller, they currently have two eight thousand gallon tanks, which is sixteen thousand from what he can garner so if the Town Board were to revisit he would like to make a motion to change #5 to the proposed action affect surface and ground water to yes and under the bullet: proposed action will require the storage of chemical products greater than 1100 gallons in conjunction with what the site plan provides to us at 21000. Councilman Markey said he would like to check that off as a small to moderate impact in comparison to what we have currently at sixteen thousand gallons.

Supervisor Geraghty said he would concur on that based on the environmental laws and if looking over the reviews on how they have to install these tanks they certainly would follow secondary containment.

Mr. Schachner told the Town Board if they were going to do that the other suggestion he would make, and there is a draft resolution along these lines, the negative declaration document itself, although it discusses at some length all of the aspects of the determination they made, at the very top of the actual Negative Declaration where it says name of action, the previously found Negative Declaration where it says name of action just says amendment of zoning map and he would suggest that the Board include as part of this motion modifying that document to add construction and operation of convenience store, that is clearly what they studied and all of the documentation they have supplied previously so indicates and it is his thought that title could use some elaboration and again, if that is the direction they are going than he would suggest they include that in the resolution.

Councilman Markey asked if Mr. Schachner was saying all in one resolution, the amendment as well as the Negative Declaration. Mr. Schachner said it could be either way, it did not matter. Supervisor Geraghty asked if the Town Board needed to state the other impacts. Mr. Schachner told him yes, he would not let them go on without stating reasoning behind the small to moderate impacts. Mr. Schachner said he heard one of the Councilman mention a couple of reasons, but, just like they did back in March, they needed to come up with a short phrase of reasoning to put somewhere on the form under question #5 as to why it is a small to moderate impact.

Supervisor Geraghty said he thought the reasoning was compliance with environmental laws and installation of tanks and meeting all of the regulations that are involved with this, whether it is Fire and Building Codes or DEC regulations for oil tank storage.

Councilman Markey pointed out that the type and quantity is all listed on the Site Plan.

Paul Weick, 22 Library Avenue – told the Town Board he was the one who raised the gorgeous baffling question. Mr. Weick said he was very glad Mr. Schachner was here tonight to clarify because he is one of the confused citizens. Mr. Weick went on to ask a

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question about part two of the SEQRA application, asking Mr. Schachner if he was familiar with the process and asking Mr. Schachner to explain it to him so that he would feel good about this. Mr. Schachner told Mr. Weick he knew exactly what he was going to say and exactly what he was going to respond but that he was not going to feel good about it. Mr. Weick read from the application regarding the potential size of the impact threshold equaling or exceeding the example provided to check the column two, which would be the potential large impact. Mr. Weick said he heard the Board discuss to check small to moderate impact and he was hoping Mr. Schachner would clarify and help him, as a citizen, understand that part.

Mr. Schachner told Mr. Weick he would be happy to do that if the Town Board wished him to. Supervisor Geraghty told Mr. Schachner to feel free to proceed. Mr. Schachner explained that Mr. Weick was 100 percent correct as to what that portion of the instructions say and this causes huge confusion throughout the state, other portions of the instructions say in completing the form the reviewer should be guided by the question have my responses and determinations be reasonable, the examples are illustrative and have been offered as guidance and there is one other relative instruction which says the form provides guidance as to whether an impact is likely to be considered small to moderate or whether it is considered likely to be potentially large. Mr. Schachner said the long and short of the answer is it is a very poorly designed form in the following way: if every single time one of the bullet items was triggered you had to check potentially large as that one piece you read seems to indicate, there would be no reason to have column one on the form where it says small to moderate next to each of those items, so this comes up through out the State hundreds of times a year and it has been confirmed many, many times including in a bunch of court cases that despite that instruction what Boards are supposed to do is identify and impact, if it trips a bullet item or even if it doesn't, remember under other impacts they have identified ones that do not trip a bullet item, and then characterize the magnitude of the impact as either small to moderate or potentially large. Mr. Schachner said it is a lousy worded instruction and it causes huge confusion throughout the State.

Teresa Whalen – said she wished to ask the Town Attorney if either the Town as the lead agency or Stewarts as the Applicant has submitted a permit request to DEC.

Mr. Schachner said he could answer that question easily; he did not have the faintest idea.

### **RESOLUTION #126-10**

#### **CLARIFYING, AMENDING, AND CONFIRMING SEQRA NEGATIVE DECLARATION FOR HUDSON HEADWATERS/STEWARTS PROJECT**

On motion of Councilman Markey, seconded by Councilman Ackley, the attached resolution was ADOPTED – VOTE – AYES 5 NAYS 0

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### **RESOLUTION #127-10**

#### **PAY BILLS**

On motion of Councilman Markey, seconded by Councilman Alexander, the following resolution was ADOPTED – VOTE – AYES 5 NAYS 0

**IT IS RESOLVED**, to pay the bills as outlined on Abstract #6 of 2010.

#### **PRIVILEGE OF THE FLOOR – PUBLIC COMMENTS**

Jerry Reed, 9 Lake Avenue – read a prepared statement regarding venues that occurred at Ashes Hotel, loud music from bands, on June 5<sup>th</sup>, 2010 and June 6<sup>th</sup>, 2010 and asked the Town Board to address issues regarding noise, zoning, garbage storage and disposal, public nuisance, open containers, fireworks, open pit fires, and the elimination of loopholes for special events into the record. Mr. Reed then read a letter from Laura Lane and Michael Butler into the record expressing concern over the increased sound level at Ashes Hotel & Bar in the evening.

Marilyn Patterson – told the Town Board she lived on Ashes property right next to the Hotel which she said she purchased in 1979. Mrs. Patterson said she is a widow and feels secure and safe living next door, Mr. Abble has been a wonderful neighbor and the reason she feels so safe is there are a lot of people right next door; if she were to have an emergency, they are right there. Mrs. Patterson said she has enjoyed the improvements that have been made; she felt some of the reason all of this was going on was a fence problem.

Keith Smith, 27 Third Avenue-said he enjoyed every second of Ashes Hotels' entertainment, they sit on the front porch and enjoy every second of the entertainment, they have no problem going to bed and no problem sleeping, the noise is not that bad, the entertainment is enjoyable.

Janet Smith, 27 Third Avenue – spoke in opposition to a remark that was written in the letter submitted by Jerry Reed, saying she did not consider herself riff raff, she was at the fund raiser for the VFW for the children of the people who are serving our Country at Ashes on Sunday, she has a son in the Army.

John Abbale, owner of Ashes – said he fully understands that there are x amount of people who fully enjoy this type of venue and a certain percent who do not, like Garage Sale, like Bike Week, like so many things. Mr. Abble told the Town Board he was working hard to keep his pledge of understanding from both sides; he respects his neighbors. Mr. Abbale said they have toned it down, he has spoken to every band that is going to perform outside, they all understand there is to be no profanity; he too is resentful about the riff raff comment. Mr. Abbale said he has wonderful patrons and he has cultivated the effort that goes into doing that, cultivated the kind of clientele that makes it a nice place and a safe place for people to come to, it is not an easy thing to do

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and takes time and effort. Mr. Abbale said he does respect his neighbors and will continue to do so, at the same time he has a business to run and if the folks that are all around him do not understand if they do not operate at a certain level and can't crack the nut, the property will deteriorate; maybe it will fall into somebody else's hands that will do a much better job or maybe let it fall apart and turn to trash like it was when he bought it. Mr. Abbale said he thought maybe the property values would be better then; it is his thought maybe people should be a little more open minded.

Ruth Fruda said she lived across the street from Ashes Hotel in 1969 when Mr. Ashe was still alive, then the next owner that had it let it run down and it was terrible, with the music and the vulgarity, drag racing at 4:00 o'clock in the morning and she feels bad for the public, she does not hear it, she now lives on Ashe Drive now. Mrs. Fruda said Mr. Abbale has done great improvements to Ashes.

Carol Mosher, 14 Ashe Drive - said she would like all of the Town Board to come and listen to what she listened to on Saturday and Sunday. Mrs. Mosher said she talked to Hal, John's partner, and he told her that groups like this cannot turn down their base, it is built into system and that is just the way it is. Mrs. Mosher said she asked if they could compromise, this has never ever been like this, it was a constant banging for sixteen hours, this is a real problem.

Phil Mosher, 14 Ashe Drive – told the Town Board he had been a member of the New York State Police for 24 years and he was sent to cases where there were loud noises. Mr. Mosher told Mr. Abbale he would like nothing more than to see his restaurant be a restaurant and be successful, he loves music. Mr. Mosher told Mr. Abbale the night that occurred, Saturday, he had never in his entire career, 24 years in the State Police ever heard anything like that and the problem being that none of them who were so glad that was happening ever advised anyone it was going to be so loud, no one came to them, they heard in the Post Office that there was going to be a loud party there. Mr. Mosher said he talked to the people that were the head band and they never even listened, he loves music to and he likes to sleep at night, as well as people who are sick or have to work want to sleep at night, that night it was impossible because that band was playing too loud and they played louder from when the first complaint was made to them.

Mr. Mosher continued to address Mr. Abbale regarding time and noise. Supervisor Geraghty asked everyone to address the Town Board with their comments. Mr. Mosher said there have to be notices when they are going to play that loud in that neighborhood, he has no problem with them having a band outside and they have never been bothered but Saturday it was unbelievable. Mr. Mosher said if he had been in the State Police he probably would have tried to arrest someone for disturbing the peace.

Paul Weick thanked Councilman Markey and Councilman Rounds for attending the Planning Board meeting and told the Town Board he does appreciate everything the Town Board and Supervisor Geraghty have done for the Town. Mr. Weick said no one

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was happier than he was when Supervisor Geraghty was re-elected, the difference in the town between now and twenty years ago is tremendous, it is a beautiful place now.

Mr. Weick continued his discussion on property assessments, the importance for Stewarts for the Town and his intention and concerns that the Town follows the laws of the State of New York, and his concerns with this process. Mr. Weick told the Town Board he had a couple of other issues he wished to have Mr. Schachner address and said there might be more to reconsider before a modified or amended filing is made. Mr. Weick told the Town Board he had done a blown up board of the Negative Declaration and the Board last night would not let him use it, Supervisor Geraghty told him he could use it now. Mr. Weick continued with his discussion on the description of actions that were submitted by Stewarts, asking if that could be amended to include the construction of the gas station, not just operation of a gas station, it is his thought that is what they are talking about here. Mr. Weick said another question on the full EAS would be the one on the Historical which would be perhaps the same answer from Mr. Schachner, which would state if the impacts were equal to or greater to check column two; the Board checked column one for the Historic District and this property is wholly within the Historic District so that seemed to him that should be column two, potential large impact. Mr. Weick said the only other thing he would ask would be if Mr. Schachner could explain the concept of segmentation as it is described in the New York State SEQRA law and the interpretation by the Courts because when he is looking back at a lot of things that were done, it seemed like a lot of resolutions and discussions by the Town Board and the Planning Board was talking about re-zoning only. Mr. Weick said he would like to give each of the Town Board and Mr. Schachner a copy of a paper he handed out, for their review.

Mark Schachner, Town Attorney-said he would take the first two questions and address them and not take the test on item three, he was quite sure he could pass the test but he was sure the Town Board and the citizens had better things to do then listen to him try to pass the test. Mr. Schachner asked if that was reasonable from the Town Board's perspective. Mr. Schachner explained that on the Negative Declaration, the Town had already discussed amending the name of the action to include the words and construction, construction and operation of convenience store. Mr. Schachner told the Town Board by the resolution they had just adopted that language would appear in the amended Negative Declaration that is filed and actually the language and construction and operation of convenience store will appear in twenty places in the amended declaration. Mr. Schachner explained that on the second question the gentleman was absolutely correct, the answer is exactly the same as his comment about the answer to question 5 about ground water and quantity, if you take only that one sentence in the direction you can reach the conclusion that anything that trips a bullet item must be labeled potentially large but if you put it in the context of SEQRA review and the now 44 years of SEQRA review in New York State it is pretty clear that is not the case, he said himself it might be the same answer as earlier and that is exactly correct. Mr. Schachner told the Town Board that as far as sedimentation, he was being very serious in that he did not feel it was appropriate to waste the Town Board or the public's time just testing his knowledge off

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the sedimentation doctorate, but, he would say that he has no concern, none, that the Town has inappropriately engaged in what is called sedimentation.

Teresa Whalen – wished to talk about the Senior Center. Ms. Whalen told the Town Board there is a new project coordinator for Youth Works this year, his name is Adam Snyder, the Youth Works will be starting on June 21<sup>st</sup> and what she would like to have them do is continue the projects at the Farmers Pocket Park for the rustic outhouse and clear trails down to the river and to have them work with Beautification at the Senior Center. Ms. Whalen said she suggested they contact the Supervisor regarding the building and then Beautification would use them for the work on the landscape. Ms. Whalen said she wished to ask the Board on behalf of the Beautification Committee if Joe Santolin could paint them a sign to be hung where the old Soil and Water sign was on the Elm Street sign of the Senior Center.

Supervisor Geraghty said they would ask Rick to do that.

On motion of Councilman Ackley, seconded by Councilman Markey, the meeting was adjourned at 8:12 p.m.

Respectfully submitted,

Donna A. Combs, Town Clerk