

Wawayanda Town Board Meeting 11/05/2009

A Regular monthly business meeting of the Town Board of the Town of Wawayanda was called to order at 7:00 P.M., on Thursday, November 5, 2009, at the Town Hall, Ridgebury Hill Road, Slate Hill, New York.

Those present were:	John R. Razzano	Supervisor
	Edward Krajewski	Councilman
	Richard Penaluna III	Councilman
	Denise Quinn	Councilwoman
	Teresa Pierce	Town Clerk
	Richard Guertin	Attorney for the Town
Absent:	David S. Cole	Councilman

Also Present: Michael Green - Highway Superintendent; Barbara Parsons & Mary Markiewicz - Planning Board Members; Gladys Hall - Historian; Penny Tuohey - Deputy Highway Superintendent; Howard Goldstein - Bookkeeper for the Town; Laura Slowik & Susan Hutchings - Assistant Budget Officers; Patricia Green - Tax Collector Elect, and approximately 20 other individuals.

PLEDGE TO THE FLAG

Supervisor Razzano acknowledged the recent passing of David L. Cole Sr., and said that he was a great man and will be sorely missed. He then stated, "Our condolences go out to Councilman Dave Cole and his family".

PUBLIC HEARING ON THE ASSESSMENT ROLLS FOR THE ARLUCK WATER DISTRICT; DENTON HILLS WATER DISTRICT; RIDGEBURY LAKE WATER AND SEWER DISTRICTS; ROBINN MEADOWS WATER AND SEWER DISTRICTS; TOWN OF WAWAYANDA WATER AND SEWER DISTRICTS #1; LAKERIDGE LIGHTING, LANDSCAPING, AND DRAINAGE DISTRICTS, AND RIDGEBURY HILLS DRAINAGE DISTRICT:

Supervisor Razzano read the Notice of Public Hearing as it appeared in the Times Herald Record on October 28, 2009.

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to open the hearing.
ALL IN FAVOR - CARRIED

Public Comments/Questions:

Attorney Jim Sweeney, stated that he is appearing on behalf of Cloverleaf Realty and Sunrise Park Realty, property owners in the Wawayanda Water & Sewer Districts #1. He referred to the method of assessment which he believes to be a problem, and stated that this was his complaint for the last several of years. As done in the past, he submitted a letter to the Supervisor's office which addressed his objections.

Alan Wolpert, Developer of the Lakeridge Development, said that at the time the districts were created he provided the town with two checks for the amounts of \$8,500.00 and \$5,000.00 to cover the maintenance costs for both the Landscaping and Drainage Districts. He questioned how they would be applied to cover the tax levy.

Supervisor Razzano informed him that he did not have an answer to his question at this time but will investigate the matter and get back to him.

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No other questions/comments. Everyone who wished to speak was given an opportunity to do so.

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to close the Public Hearing.

ALL IN FAVOR - CARRIED

**** Supervisor Razzano** noted that, with the exception of Wawayanda Water and Sewer Districts #1, the capital fees for all of the Water & Sewer Districts will be going down slightly for 2010.

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to accept the Assessment Rolls for the Special Benefit Districts, as presented.

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to adopt a resolution authorizing an amended rate schedule for the Special Benefit Districts in the Town of Wawayanda, as follows:

**Resolution # 15-2009
TOWN OF WAWAYANDA
WATER AND SEWER RATES FOR 2010**

**ARLUCK WATER DISTRICT
RIDGEBURY WATER DISTRICT
DENTON HILLS WATER DISTRICT
ROBINN MEADOWS WATER DISTRICT
ROBINN MEADOWS SEWER DISTRICT
RIDGEBURY LAKE SEWER DISTRICT**

BE IT RESOLVED, by the Town Board of the Town of Wawayanda, sitting as Water District Commissioners, hereby amends the rate schedules for the said districts pursuant to Town Law section 198 as follows:

A. For the Arluck Water District:

1. The flat fee charge for usage shall be \$255.96 quarterly per individual lot that is connected to the system:
2. Charge for **Capital Cost** shall be \$293.05 billed annually per individual lot in the district.
This amount will be placed on the Property Tax bill for the year 2010;

B. For the Ridgebury Water District:

1. Minimum charge for each lot in the district that is connected to the system shall be \$80.00 per quarter up to 10,000 gallons; plus \$6.00 per thousand for the next 5,000 gallons up to 15,000 gallons; \$8.00 per thousand gallons for the next 5,000 gallons up to 20,000 gallons; and \$14.00 per thousand gallons for additional usage exceeding 20,000 gallons;
2. Charge for **Capital Costs** shall be \$233.77 billed annually per individual lot in the district.
This amount will be placed on the Property Tax bill for the year 2010;

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C. For the Denton Hills Water District:

1. Minimum charge for usage for each lot in the district that is connected to the systems shall be \$110.00 per quarter up to 10,000 gallons; plus \$12.00 per thousand for the next 5,000 gallons up to 15,000 gallons; \$18.00 per thousand for for additional usage exceeding 15,000 gallons;
2. Charge for **Capital Costs** shall be \$210.14 billed annually per individual lot in the district. **This amount will be placed on the Property Tax bill for the year 2010;**

D. For the Robinn Meadows Water District:

1. Minimum charge for each lot in the district that is connected to the system shall be \$110.00 per quarter up to 10,000 gallons; plus \$6.00 per thousand for the next 5,000 gallons up to 15,000 gallons; \$8.00 per thousand gallons for the next 5,000 gallons up to 20,000 gallons; and \$14.00 per thousand gallons for additional usage exceeding 20,000 gallons;
2. Charge for **Capital Cost** shall be \$202.94 billed annually per individual lot in the district. **This amount will be placed on the Property Tax bill for the year 2010;**

E. For the Robinn Meadows Sewer District:

1. **\$657.40 billed annually per individual lot connected to the system. This amount will be placed on the Property Tax bill for the year 2010;**
2. Charge for **Capital Costs** shall be \$285.29 billed annually per individual vacant or non-connected lot within the district. **This amount will be placed on the Property Tax bill for the year 2010;**

F. For the Ridgebury Lake Sewer District:

\$1,668.14 billed annually for each lot in the district. This amount will be placed on the Property Tax bill for the year 2010.

VOTE

Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Quinn	-	Aye
Councilman Penaluna	-	Aye

MOTION CARRIED

PUBLIC HEARING ON THE PRELIMINARY BUDGET FOR THE TOWN OF WAWAYANDA FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2010:

Supervisor Razzano read the Notice of Public Hearing as it appeared in the Times Herald Record on October 28, 2009.

MOTION by **Supervisor Razzano**, seconded by **Councilwoman Quinn**, to open the Public Hearing.

ALL IN FAVOR - CARRIED

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Susan Hutchings, Assistant Budget Officer, referred to Page 14, and stated that the line item identified as 'Unexpended Balance' is currently listed as \$185,000.00. That was an oversight and is an incorrect figure. The numbers should have been changed to \$216,000, which is the correct amount that appears on the first page of the budget.

Public Comments & Questions:

Barbara Parsons questioned the amount to be used out of the surplus account, and asked if the tax warrant was going to remain the same.

Supervisor Razzano responded that \$216,000.00 is the amount that will be taken out of the surplus account. At this time he is unable to tell what the warrant is going to be. He continued to explain that the gray area is going to be the total taxable assessment for all the properties in town. Added that we do have a number from the County, but considering that there are always pending certiorari cases that number could possibly change. At this point in time, the amount to be raised by taxes equates to a zero percent increase.

Councilwoman Quinn referred to the Mortgage Tax line item on page 14, and said that she felt the amount of \$180,000.00 was too high of a figure.

It was noted that the town has collected \$86,000.00 in mortgage tax so far this year. Based upon that figure, Supervisor Razzano, Councilman Krajewski and Councilman Penaluna agreed that this was a reasonable amount.

Barbara Parson asked what the balance of the surplus account will be once the \$216,000.00 is deducted.

Supervisor Razzano responded that the balance will be \$1.8 million dollars left in the General Fund surplus account.

Councilman Penaluna spoke of a conversation that he had with **Shanna Bosch**, Building Department Secretary, about having her hours increased back to where they were at the beginning of this year.

Supervisor Razzano responded that he had met with both Jack Grifo and Shanna Bosch, and it was agreed that if there was a need for additional hours, due to an increase in the work load, she would be permitted to put in the time. He added that there are a couple of places where money could be taken from to cover the extra hours.

Vincent Soukoup of Birchwood Lane in Robinn Meadows, did not understand why there was a decrease in income for the Robinn Meadows Water district, considering the recent addition of homes to the district.

Supervisor Razzano explained that the budget was arrived at by comparing other districts, as well as utilizing the information provided to the town at the time of the acquisition by Roy Meyers, the prior owner of the Water Company. Added that the district is also in very good shape financially.

Attorney Guertin stated that notice of the proposed assessments in each of the special districts had been mailed to each and every property owner in the district.

Susan Hutchings stated that three letters had come back undelivered. They have been placed in the appropriate district folder, in the event an individual claimed that they had not received notification. In addition, the Town Clerk is in receipt of a notarized statement from Susan Hutchings which states that each and every property owner in the Benefit Districts was mailed notification.

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No other questions/comments. Everyone who wished to speak was given an opportunity to do so.

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to close the Public Hearing.

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to adopt the Preliminary Budget as the Final Town of Wawayanda Budget for 2010, with a minor modification to Page 14, (Line Item: Unexpended Balance), as discussed and revised.

ALL IN FAVOR - CARRIED

*** A complete copy of the 2010 Town Budget will appear in the official Town Board Minute Book, following these minutes.**

ELECTION RESULTS: Supervisor Razzano acknowledged the **newly elected** Town Officials who will take office on January 1, 2010, as follows:

Kathryn Sherlock - Town Clerk
Shawn O'Connor - Town Justice
Patricia Green - Tax Collector

He also congratulated Richard Penaluna & David Cole on their re-election as Town Councilman, and Michael Green on his re-election as Highway Superintendent.

Although he did not mention this, he himself, John Razzano was re-elected as Town Supervisor.

He thanked Cathy Cole for her eight years of dedicated service as Tax Collector, and wished her all the best in her new endeavors.

LOCAL LAW - ALL TERRAIN VEHICLES:

Supervisor Razzano read the Notice of Public Hearing as it appeared in the Times Herald Record on October 28, 2009.

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to open the hearing.

ALL IN FAVOR - CARRIED

Public Comments & Questions:

James Bergen voiced his concerns with the rail lines that run through his property. He said that it is his understanding that the County is looking to purchase the line and turn it into a walking trail. He believes that once the tracks are removed, it will become a speedway for ATV's.

Mr. Bergen also spoke of his concerns with the potential for garbage being thrown on his property by the individuals walking the path, and said that if someone were to throw a glass item into one of his fields and he were to run over it with his farm equipment and pop a tire, it could cost him about \$1,500 to repair.

Supervisor Razzano explained that as of today, what is on the table is the County purchasing the rail line for a walking trail. He informed Mr. Bergen that a public hearing will be held by the Orange County Legislature within the next couple of months, whereby the public will be given an opportunity to discuss the purchase of the property.

Supervisor Razzano referred back to the proposed ATV Law and said that it does address certain issues, but it is not going to address all concerns. Considering we have nothing on the books at this time, he believed that our proposed local law is a step in the right direction. He then

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explained that the Board took action on this matter in response to a complaint received from a town resident about his neighbors riding from sun up to sun down, and said that since this was a repetitive annoyance, the Board was sensitive to this complaint.

Mr. Bergen asked if there was anything in the law that address the impoundment of the vehicles. **Supervisor Razzano** responded that section had been removed because it would be difficult to enforce since we do not have our own law enforcement agency.

Barbara Parsons commented that perhaps the County would implement regulations for the portion that they are looking to acquire.

Supervisor Razzano noted that the portion of the rail line that the County is looking to acquire will not run through Mr. Bergen's property, and said that the section that does is currently owned by Chartwell.

In a discussion that followed, minor changes, and corrections to spelling mistakes, were made.

Everyone who wished to speak was given an opportunity to do so.

Attorney Guertin reviewed the changes that had been agreed upon, and determined that they were minor in nature.

MOTION by **Supervisor Razzano**, seconded by **Councilwoman Quinn**, to close the Public Hearing and to adopt the proposed Local Law, with the minor changes that had been discussed and agreed upon, as follows:

Local Law 6-2009 A Local Law Entitled "All Terrain Vehicles"

Section 1. The Code of the Town of Wawayanda is amended by adding a new **Chapter 44**, titled "All-Terrain Vehicles," which shall read as follows:

1. Legislative intent.

The Town Board of the Town of Wawayanda hereby finds that the use of ATVs throughout the Town without regard for the rights of the property owners whose property is used for the operation of ATVs, without the permission of said property owners, without regard for the noise, dirt and dust caused by the operation of ATVs, and in violation of this Chapter creates a hazard and detriment to the health, safety and welfare of the residents of the Town and its property owners. Regulation of the use of ATVs within the Town will help protect residents and property owner. This chapter is intended to serve the foregoing purpose by prohibiting or regulating the use of ATVs in the Town of Wawayanda except in conformity with the provisions of this Chapter and any rules and regulations promulgated hereunder.

2. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

ATV – Any all-terrain vehicle that is motor-propelled or contains a motor to assist in the operation of said vehicle, and which vehicles are commonly referred to as "dirt bikes", "minibikes", "trail bikes", "motorized sports bikes", "Go-Karts", all-terrain vehicles, "trikes",

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“quads”, “snow mobiles”, “dune buggies” and “golf carts”, or similar name, which vehicles, by their nature and design or by law, are not intended to be used and operated along paved public roads and highways, but are intended to be operated in dirt, sand, grass, up and down hills, along trails and in similar type areas. ATV does not include lawn tractors, lawn mowers, farm machinery and battery-operated vehicles.

PRIVATE PROPERTY – All land and buildings in the Town of Wawayanda not included in the definition of “public property”.

PUBLIC PROPERTY – Lands and buildings, including but not limited to lands held in fee ownership, easement ownership or lease, and including but not limited to parts owned or leased by the Town of Wawayanda, any school district, the County of Orange, the State of New York or any other governmental entity.

3. It is Unlawful to operate an ATV within (200) two hundred feet of any residence, in the following manner:

- A. In a careless, reckless, defiant, or negligent manner so as to endanger the safety of any person or the property of any person.
- B. In a repetitive or continuous manner that is disturbing and bothersome to nearby property owners, by reason of resulting noise, dust, or other conditions arising from the operation of such vehicles.
- A. In a manner which causes or other results in the propulsion of sand, dirt, dust, rocks, gravel or other similar materials beyond a property boundary line.
- B. Without an operable muffler to reduce the sound emitted from the vehicle at a noise level of 65 decibels or below at a property or street boundary line.
- C. Between the hours of sunset and 7:00 AM, prevailing time, except the residence of the operator or operator’s immediate family.

4. Additional Prohibited Acts.

It shall be unlawful to operate an ATV;

- A. Upon private property, other than that private property owned by the immediate family of the operator, without the written consent of all of the owners of such private property.
- B. Upon public or private property in such a way as to harass, worry or disturb farm animals, domestic livestock or wildlife, or to destroy or damage crops or farm produce.

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- C. On or near any public roadway so as to cause operators of other motor vehicles to take evasive or irregular action to avoid danger of collision with an ATV.
- D. Upon any property that is posted with a sign(s) prohibiting trespassing or ATV use.

5. Enforcement

- A. This Chapter shall be enforced by the Town of Wawayanda Code Enforcement Officer / Building Inspector and or any other policy agency with jurisdiction. The Town of Wawayanda Code Enforcement Officer / Building Inspector and or any other police agency with jurisdiction shall have the authority to issue an appearance ticket.
- B. A declaration signed by an owner of private property and filed with the Town Clerk or police department, stating that operation of ATV's on property is not permitted or that such operation is a trespass, shall be prima-facie evidence of a violation of this chapter by any person operating an ATV on such property.

6. Penalties for offenses.

- A. A violation of this Chapter shall be an offense. Upon conviction of an offense, the offender shall be subject to a fine not to exceed \$250.00 for a first offense and \$500.00 for a second offense and each subsequent offense committed within a twelve-month period measured from the date of the first offense. Each violation of any provision of this Chapter shall be deemed a separate and distinct offense. A person may be charged with more than one offense and shall be subject to imposition of a fine for each such use.

B. Aggravated offense.

It shall be an aggravated offense if the use of an ATV in violation of this Chapter results in injury to any person, damage to crops or nursery stock and/or otherwise involves damage to agricultural business stock. The person found to have committed an aggravated offense shall be subject to doubling the fines set forth in this Chapter.

C. Civil Compromise.

The Town Justice is empowered to approve and enter an order on consent as civil compromise between the Town and any person consenting to the imposition of a civil penalty in an amount not exceeding \$500.00 per offense, and suspending prosecution until all conditions imposed in the civil compromise are completed by the defendant within the time frames established in the order.

7. Exclusions.

This chapter shall not apply to the operation of ATVs in the regular course of

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a lawful business or to the operation of ATVs under circumstances regulated by any agency of the State of New York, or to any ATV operated by a public official or public employee in his official capacity for a public purpose, including emergency service, police protection, fire protection and public works activity.

8. Rules and Regulations.

The Town Board is authorized to adopt rules and regulations, by resolution, to further implement the provisions of this Chapter.

9. Authority.

This Chapter is enacted pursuant to the Municipal Home Rule Law. This chapter shall supersede any special law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other applicable statute. This Chapter shall supercede any inconsistent Town Local law.

Section 2. This local law shall take effect immediately upon filing in the office of the Secretary of State.

REGULAR BUSINESS:

PRESENTATION OF BILLS AND DEPARTMENT REPORTS:

Monthly reports from the Supervisor, Town Clerk, Planning Board and Building & Fire Inspector/Code Enforcement Officer, and bills from the General Fund, Highway Fund, and Water & Sewer Districts were presented to the Board for review.

PAYMENT OF BILLS:

MOTION by **Supervisor Razzano**, seconded by **Councilwoman Quinn**, to authorize the payment of bills in the amount of \$7,865.15 from the General Disbursement Account, representing bills that were payable upon receipt. Breakdown as follows:

PPG 09-01662 & PPG 09-01664	\$3,022.91
PPG 09-01670 - PPG 09-01671	
PPWS 09-01663 & PPWS 09-01672	4,842.24

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilwoman Quinn**, to authorize payment of bills from the General Disbursement Account in the amount of \$298,097.76 Breakdown as follows:

General Fund	G09-01722 thru 01785 G09-01836	\$94,150.87
Highway Fund	H09-01673 thru 01721	175,819.58
Water/Sewer Districts	WS09-01786 thru 01835	28,084.58

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Robinn Meadows Capital Project	RMC09 -01837	18.94
Lakeridge Lighting, Drainage & Landscaping District	LSD 09-01836	23.79

WATER/SEWER BREAKDOWN:

Robinn Meadows Sewer District	2,142.28
Robinn Meadows Water District	8,309.64
Ridgebury Lake Acres Sewer District	4,413.23
Ridgebury Lake Acres Water District	1,939.48
Denton Hills Water District	2,237.17
Arluck Water District	2,882.55
Water/Sewer Districts #1	6,160.23
Water/Sewer Total =	\$28,084.58

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilwoman Quinn**, to reimburse the Planning Board (Account 8020.4A) for invoices or expenses in reference to the following escrow accounts:

- Sita / Carretero - \$772.80

Payment will be made through the Special Trust and Agency account and charged to the individual escrow account listed above.

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to pay **George M. Janes & Associates** for services rendered in reference to the following:

- CPV Valley - \$5,990.08

Payment will be made through the Special Trust and Agency and charged to the individual escrow account listed above.

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to pay **C.T. Male Associates, P.C.** for services rendered in reference to the following:

- Brookfield - \$4,985.98
- CPV Valley - \$1,641.00

Payment will be made through the Special Trust and Agency and charged to the individual escrow accounts listed above.

ALL IN FAVOR - CARRIED

MOTION by **Supervisor Razzano**, seconded by **Councilwoman Quinn**, to pay **McGoey, Hauser and Edsall** for services rendered in reference to the following:

- Grandview Estates - \$258.00
- Catlin Creek - \$350.00
- Dworetzky - \$261.60
- Javeline Mine - \$703.80
- AB Caulking / Tirelli - \$81.00
- Sita / Carretero - \$403.50

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- Scafuro - \$302.60
- Bottoms Up / May - \$149.10
- Surviving - \$145.50
- CPV - \$1,290.00
- Robinn Meadows - \$25.80
- Robinn Meadows - \$211.74
- Panattoni - Onsite Inspections - \$1,746.32
- Panattoni - Offsite Env. Rewiew - \$15.80

Payment will be made through the Special Trust and Agency and charged to the individual escrow account listed above.

ALL IN FAVOR - CARRIED

APPROVAL OF DEPARTMENT REPORTS:

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to accept the departmental reports from the Supervisor, Town Clerk, Planning Board and Building & Fire Inspector/Code Enforcement Officer, as submitted.

ALL IN FAVOR - CARRIED

SLATE HILL ASSOCIATES/GARDENS ON CATLIN CREEK: John Stack, of Slate Hill Associates, submitted a request to extend the 35 miles per hour speed limit through Slate Hill going east on Route 6 by an additional 2,300 feet. In his letter, he indicated that accidents occur too frequently along this stretch of roadway, and taking into consideration the increase in daily traffic through the Slate Hill area, he believes that the current speed limit in the area of his business creates a safety issue for his guests entering and existing the property.

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to adopt a resolution to authorize the Town Clerk to submit a TE-9 Form to request that the existing 35 mph speed limit on State Route 6 in Slate Hill, NY, be extended for another 2,300 feet in an easterly direction.

VOTE

- Supervisor Razzano - Aye
- Councilman Cole - Aye
- Councilman Krajewski - Aye
- Councilwoman Quinn - Aye
- Councilman Penaluna - Aye

MOTION CARRIED

BOARD OF ASSESSMENT REVIEW APPOINTMENT/FRANK WARD: Teresa Pierce, Town Clerk, submitted a memo to the Board regarding the re-appointment of **Frank Ward** to the Board of Assessment review.

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to appoint **Frank Ward** as a member of the Board of Assessment Review, with his term of appointment being retroactive to begin October 1st, 2009, and end on September 30, 2014.

ALL IN FAVOR - CARRIED

No other comments or questions.

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MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to adjourn the meeting.
ALL IN FAVOR - CARRIED

MEETING ADJOURNED: 8:18 P.M.

PREPARED BY KATHRYN SHERLOCK
RESPECTFULLY SUBMITTED,

Teresa E. Pierce, RMC
Town Clerk