Town Board Work Session Agenda
August 14, 2013
7:00 PM

I. Call to Order

II. Approval of Minutes – July 24, 2013

III. Monthly Reports - July

IV. Public Hearing – None

V. Guests – 7:00 PM – Mark Welker, Villas of East Hampton - Benway
7:30 PM – John Caruso, Homearama 2014 – Water Song Subdivision - Valentine

VI. ACTION ITEMS

Law and Finance
1. 1307 Shoecraft Road – Discussion regarding further subdivision of the Galvin Property (Previous Incentive Zoning Project) – Valentine
2. Expansion at Southpoint Marina, 1384 and 1420 Empire Blvd. – Costello
3. 1865 Penfield Road, Gourmet and Chocolate Shop – Costello

Public Works - None

Public Safety - None

Community Services - None

VII. INFORMATIONAL ITEMS

Law and Finance
1. Abbington Place – Submission for Phase 1D – Costello
2. Reschedule Public Hearing, 1794 Penfield Road addition for Ice Cream Service and Deck Addition – Costello

Public Works
1. Maintenance of Trails – Benway

Public Safety - None

Community Services - None

VIII. HELD ITEMS
1. Special Improvement District/Pond Ownership – Benway
2. Mavis Tire – 2146 Fairport Nine Mile Point Road - Costello

IX. Old Business - None

X. New Business - None

XI. Executive Session – Real Estate, Litigation and Human Resource Matters

XII. Adjournment
I. Call to Order

Present:
Supervisor LaFountain
Councilwoman Kohl
Councilwoman Metzler
Councilman Quinn

Also Present:
Geoff Benway
Jim Costello
Lisa Grosser
Mark Valentine

Absent
Councilman Moore

II. Approval of Minutes – 7/24/13
CM Quinn moved for the approval of the Minutes of July 24, 2013, CW Kohl seconded the motion.

III. Monthly Reports – Reports for July have been submitted.

IV. Public Hearing – None

V. Guests – 7:00 PM – Mark Welker, Villas of East Hampton – Benway
Geoff Benway introduced Mark Welker and reviewed this request had been before the Board last year. Mr. Welker feels there is more rationalization for his request now as we have had a very wet spring and they have been monitoring the area. Mr. Welker met recently with Benway and Supervisor LaFountain and would like to review the next steps to be sure the basements drain and are waterproofed.

Mark Welker reviewed that he was new to the site last year. He has spent the last year observing and monitoring the ponds and creeks in the area. We had a heavy winter and a wet spring and did not see a large rise in the water tables. Welker continued to say he had lost five (5) sales because he is unable to offer basements. Two (2) deposits had to be given back and a third potential customer couldn’t wait any longer for a decision regarding basements. Mr. Welker introduced Darryl True, Builder and Bob Winans, LaDue Associates to answer questions from the Board.

Supervisor LaFountain asked how many units remain?
Welker said approval was given for 124 units, 72 have been built, of those remaining units approximately 50% would require basements. Last year we requested basements in two (2) buildings of Phase 3.

Benway said last year’s request for only two (2) buildings was based on the rock depth in the area.

Councilman Quinn asked if these units are north of the pond?

Benway responded yes.

Quinn asked why are basements not permitted in the development?

Benway stated that the original concept for the development did not include basements; they are permitted but were not requested with the original design.

LaFountain asked if the Design Criteria would include specifics regarding drainage and waterproofing of basements?

Benway said the Design Criteria would not allow basements to be set in rock.

Councilwoman Metzler asked if this request meets Town and State standards, this would then become a case of buyer beware? During the discussion last year Benway mentioned the possibility of water in the basements. She does not want potential residents to have a problem and then come to the Town because they feel we should be liable.

Benway said the Mill Creek Watershed runs through the site. This past year has been a good indication of water levels during storms. The builder has also agreed to add battery backup for sump pumps in the development, this is extra protection beyond the code.

Metzler asked if we would request a Letter of Credit from the developer to be held on file in the event something does happen?

Benway stated that a Letter of Credit would not be for the building itself, it is for site improvements. C of O’s would not be issued until the Building Department was satisfied with the construction.

Quinn said he appreciates the developer’s patience. He feels this is a buyer beware situation and he is okay with allowing basements.

LaFountain asked Welker to clarify the number of basements required, if there are 52 units remaining and 50% require basements, then you are asking for 26 units to have basements?
Welker stated that he would prefer to have the number of basements required to be market generated. He hasn’t started testing for Phase 4 yet and would like to leave that open for discussion as well.

Councilwoman Metzler said future phases would require approval for basements.

Welker said he doesn’t want to have problems with basements either, he has a reputation to uphold.

The Board discussed and agreed they would allow basements for this current phase only. Any future phases would require testing and approval. The developer is to follow the Town’s Design Criteria and cannot put basements in rock.

Benway asked if a Resolution would be required?

LaFountain asked Benway to follow up with a letter to the developer allowing basements. He asked Benway to submit the letter to the Board for review referencing the original approval Resolution stating that there has been a discussion regarding basements at the Work Session. Include that the original plans did not request basements.

Metzler asked Benway to include a statement that the Board had received additional data to reach this decision.

LaFountain said the Board will review the letter and return it to Benway to give to the applicant.

7:30 PM – John Caruso, Homearama 2014 – Watersong Subdivision – Valentine

Supervisor LaFountain introduced John Caruso who submitted a map of Watersong Phase IV to the Board for review.

Rick Herman said he is glad to be back in Penfield. Homearama has had issues for the past three (3) years. Issues have included developer issues, DEC issues and other restrictions. Not a lot of developers can get financing for the infrastructure. We have been looking at several sites this year. Homearama is about pricing and community; we want to build where realtors and consumers want to be. We would like to show off Homearama, a variety of builders and designs, and the Town of Penfield. They would partner with Not-For-Profits in the community for parking, concessions and ticket takers as we have in the past. If preliminary approval is received tonight, they will come back with a full presentation to obtain the Special Use Permit. He understands the Town has a new Sign Ordinance. Homearama operates off a NYSDOT permit and would work with the State and the Town to obtain permits for signage.

Councilwoman Metzler asked if there will be 17 homes in Phase IV?
Herman said they are looking at six (6) or seven (7) homes for Homearama. There are a total of 10 lots in the first Phase, he deferred to Mr. Caruso.

John Caruso stated Phase IV has both an A and B section. He has had discussions with Mr. Antetomaso and they have decided to have 10 lots in Phase 4A. We are reviewing the logistics of how to get this done. Caruso suggests doing the underground work first before November and completing the final paving after. We are proposing a substitute for the roadway, similar to Town Standards. We would utilize a standard road section, lay down a Mirafi geotechnical fabric and use the millings on site. After meeting with PRC we have decided to pave the full 26 foot width to distribute the weight of the trucks. In the spring we would pull off the temporary road and replace it to meet Town Standards.

Herman stated that Homearama is a unique situation. A developer wouldn’t ask for this type relief. We have several builders that all must start at the same time and open at the same time.

Geoff Benway added that during the PRC meeting this morning, the developer agreed to plow the road during the construction. He has spoken with Ronnie Williams, Director of Public Works and he agreed that this would be acceptable. It is an isolated road and does not impact any existing residents.

Councilwoman Metzler referenced the August 14, 2013 memo from PRC supporting the temporary road. The staff is satisfied with the proposal and Metzler agrees that this would be acceptable.

Supervisor LaFountain stated he had also spoken with Ronnie Williams and he agreed that this will provide a road temporarily to meet the criteria of getting emergency vehicles in. The temporary road will be removed and replaced to meet current Town Standards. No C of O’s will be issued until the permanent road is completed, which will be prior to the start of Homearama.

Caruso stated they cannot put the final binder down until April 1, 2014. The water will also be turned on to satisfy the Fire Marshal.

Mark Valentine added that the developer will plow the road and the Town will not maintain the road in the temporary condition.

LaFountain instructed Benway and/or Valentine to draft a letter back to the developer, include that C of O’s will not be issued until the permanent road is complete.
VI. ACTION ITEMS

Law and Finance
1. 1307 Shoecraft Road - Discussion regarding further subdivision of the Galvin Property (Previous Incentive Zoning Project) - Valentine

Mark Valentine submitted an August 14, 2013 PRC memo to the Board for its review and also included the original approval Resolution, a letter of intent and the original Plat map. A request has been received from property owner Lillian Galvin and her attorney Paul Rubery. They are requesting to resubdivide the remaining five (5) acre parcel. This parcel was the parent parcel for the original Meadowbrook Subdivision. The original approval was for 73 townhouses, 25 single family homes and a deed restricted 5 acre farmstead.

Valentine stated that this was the first residential Incentive Zoning project in the Town. Based on concerns raised at the Public Hearing both the Planning and Town Board were supportive of the application given the fact that the applicant was willing to keep the frontage along Shoecraft Road rural in character and focus the development away from the outer limits of the property. The applicants offered as one of the benefits of the project, the preservation of the view shed along the Shoecraft Road and State Road frontages. This 5 acre parcel was therefore deed restricted from any future subdivision as referenced on the letter of intent, approval Resolution and the Plat map note #5.

Valentine continued and showed the Board a proposed sketch from the homeowner of the five (5) acre parcel showing how it could potentially be subdivided into four (4) lots. The barns would have to be removed as the minimum requirement is five (5) acres. PRC was not supportive of this application based on the original approval from the Town and Planning Boards. This would set a precedent by changing a previously approved incentive zoning project.

Councilwoman Metzler said the policy behind deed restrictions is reliance on upholding a previous Board’s decision.

Valentine stated that he has received an email from Councilman Moore stating that he was not in favor.

Councilwomen Kohl and Metzler agreed they are also not in favor.

Councilman Quinn verified Pride Mark Homes made the original request for incentive zoning and now it is the homeowner making the request.

Valentine said the Public Hearing was very specific and the homeowner was present at the meeting.

Metzler stated that the current owner had full information at the time a decision was made.
Valentine stated that Pride Mark Homes was clear and upfront with their original application.

Metzler asked if there has been a change in circumstances?

Valentine stated no, we have not heard anything from Pride Mark Homes, the request is only from the homeowner.

Paul Rubery stated that Mrs. Galvin didn’t understand they were using her five (5) acres in the actual computation, she thought it was only the acreage they purchased from her.

Metzler stated her cause of action would be against Pride Mark Homes.

Rubery said there was a six (6) year contract and we are beyond the statue of limitations.

Quinn asked if there was an agreement in the incentive zoning as to how much acreage remained undeveloped?

Valentine stated it was listed on the original plat to remain as five (5) acres.

Metzler said it is our duty to uphold the original decision from 2003.

Quinn inquired if the Board was looking for relief would this go to a Public Hearing?

LaFountain stated yes.

Quinn said if the original Resolution stated there was a deed restriction the Town Board could change that based on circumstance.

Metzler stated a precedent has been set, the current Board has to uphold the previous Board’s decision; there is no legal basis to change it.

Jim Costello stated that this is not a new issue. This has been ongoing for several years; it comes up annually with Mrs. Galvin, her daughter and Town staff.

2. Expansion at Southpoint Marina, 1384 and 1420 Empire Blvd. – Costello

Supervisor LaFountain reviewed that the Public Hearing was held August 7, 2013. There has been a tremendous amount of material for the Board to review. We have received letters both in support and raising concerns about the project. We need to make sure we are looking at all aspects of the project.
LaFountain continued to say at the July 17th Legislative Session this Board classified this as a Type 1 project. In May 2013 the EAF was submitted to the Town. Involved agencies were identified as the DEC, DOT, Monroe County Water Authority and the Town. In July 2013 it was determined that the Town Board would be the Lead Agency. The comment period remains open and material continues to come in.

LaFountain recommended to the Board to have staff to prepare parts two (2) and three (3) of the EAF for the Board’s review at the next Work Session on August 28th.

Costello agreed to prepare parts two (2) and three (3) of the EAF for the Board’s review and comment as it is acting as Lead Agency, it is the Board’s responsibility to see that it is prepared with its approval. The Supervisor will sign the EAF once the Board deems it complete to its satisfaction.

LaFountain then said the Board could make a determination of significance, or non significance.

The Board agreed and the comment period will remain open.

LaFountain added as discussed at the Public Hearing, we are still waiting for a response from the DEC with regards to noise testing that is performed to determine impacts to the eagles.

3. 1865 Penfield Road, Gourmet and Chocolate Shop – Costello Supervisor LaFountain reviewed that the Public Hearing was held August 7, 2013.

Councilwoman Kohl stated that this is a low impact application and there is sufficient parking; she is okay with it.

Councilwoman Metzler stated she has had residents ask when the vacancy would be filled. There is no legal impediment to deny this application.

The Board agreed and Costello will prepare a Draft Resolution for the Board to review. He will include the Sign Ordinance, Parking and an inspection from the Fire Marshal. A Conditional Use Permit would have to be obtained for anything additional. The Resolution will be submitted at the next Legislative Session on August 20, 2013.

Public Works - None

Public Safety - None

Community Services - None
VII. INFORMATIONAL ITEMS

Law and Finance
1. Abbington Place – Submission for Phase 1D – Costello
Jim Costello said he has received an application from Crosstown Construction to request approval for Phase 1D. This is the cul-de-sac portion of Whitespire Lane.

The Board approved and Costello will prepare a Resolution for the August 21, 2013 Legislative Session setting a Public Hearing on September 18, 2013.

Geoff Benway added that this will complete the cul-de-sac on Whitespire Lane.

2. Reschedule Public Hearing, 1794 Penfield Road addition for Ice Cream Service and Deck Addition – Costello
Jim Costello stated that the Public Hearing was originally scheduled for September 4th in error. A Resolution will be submitted August 21, 2013 rescheduling the Public Hearing on September 18, 2013.

Public Works
1. Maintenance of Trails – Benway
Geoff Benway stated that there have been a number of approved projects that include stone dust trails as part of development. He has received complaints from the neighbors that grass is coming through the stones on the trail at the Meadowbrook Subdivision. Most of the trails in Town are maintained by the Trails Committee. There is no current plan for trails in developments and this could become a liability if it is unmaintained. We have to decide if the Town should maintain it or if it should become the responsibility of the Homeowner’s Association? This would also include trails in Rothfuss Park and Sherwood Trail, both stone dust and wood chip trails.

Councilwoman Metzler asked how many linear feet of trails are there?

Benway said Meadowbrook is 1,500 linear feet, Montgomery Glen is 500 linear feet and Timber Glen is 300-400 linear feet. Benway said he spoke with Ronnie Williams and he will do whatever the Board would like.

Metzler stated that we want to be consistent and asked Benway to prepare an estimate of the cost, including labor.

Councilman Quinn asked if these additional trails should be established as Town trails, are they Town owned land?

Benway said they are Town trails.

Quinn added he would also like to review a cost estimate.
Benway said he would have Williams put together an estimate.

Supervisor LaFountain stated that Rothfuss Park and Sherwood Park both have more foot traffic and should not have to be addressed as frequently. Park trails may only need to be maintained every 8 to 10 years, while residential trails may need to be maintained every 4 to 5 years.

Metzler clarified that long term maintenance would include filling with stones and short term maintenance would include weed control.

Quinn asked Benway to include in his estimate the trails that are maintained by the Trails Committee. We should have the total list for future reference.

LaFountain directed Benway to have Bob Garbeck gather the information.

Public Safety - None

Community Services - None

VIII. HELD ITEMS
1. Special Improvement District/Pond Ownership - Benway
2. Mavis Tire - 2146 Fairport Nine Mile Point Road - Costello

IX. Old Business - None

X. New Business - None

XI. Executive Session - Real Estate, Litigation and Human Resource Matters - No Session tonight

XII. Adjournment - Supervisor LaFountain adjourned the Work Session at 8:09 PM.