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TOWN BOARD COUNTY OF ALBANY

TOWN OF COLONIE

AGENDA SESSION

THE STENOGRAPHIC MINUTES of the above entitled matter by NANCY L. STRANG, a Shorthand Reporter, on June 23, 2016 6:11 p.m. at Memorial Town Hall 534 Loudon Road, Newtonville, New York 12128

BOARD MEMBERS:

- PAULA A. MAHAN, SUPERVISOR
- DAVID ROWLEY, DEPUTY SUPERVISOR
- PAUL ROSANO
- LINDA MURPHY
- DAVID GREEN
- CHRISTOPHER CAREY
- JENNIFER WHALEN

ALSO PRESENT:

- Michael C. Magguilli, Esq. Town Attorney
- Elizabeth DelTorto, Town Clerk
- Christopher Kelsey, Comptroller's Office
- Michael Burick, Civil Service
- Crystal Peck, Esq., Bailey Kelleher and Johnson
- John Cunningham, Commissioner, DPW
- Rosemary Newton, Director, Human Resources
- Nia Cholakis, Esq., Rosewood Builders

1 MR. MAGGUILLI: Okay, we have a deal and the
2 RFP. They are going to rebid the RFP with an
3 additional \$100,000.00 and the September 2017 cut off
4 date on the leases and I'll do a Resolution authorizing
5 the RFP for the July 7th meeting.

6 SUPERVISOR MAHAN: Before we do any Resolution, we
7 need to have a formal letter to everyone that leases
8 there. Many of them - their leases are up a lot
9 sooner. The latest lease, as we said before -- CYC
10 will be out August of 2017 - after that season. This
11 gives Head Start a year and a half to find someplace.

12 MR. MAGGUILLI: We have a fairly light schedule on
13 tonight. There are a number of personnel matters,
14 primarily.

15 MS. MURPHY: Can I just ask Paula a question?

16 Evelyn just called me before I left - Evelyn Neil.
17 The two ladies that are going on the Library Board --
18 she set for the July 7th meeting and now it's on
19 tonight's meeting.

20 MR. MAGGUILLI: She had sent them in for tonight.

21 MS. MURPHY: No, she said that it was 7/7. That's
22 what she told me.

23 MR. MAGGUILLI: She had sent them in initially
24 under Allegra's name. So, I told her that no, they had
25 to come in under your name. When they came in under

1 Allegra's name they were for the 23rd.

2 MS. MURPHY: Why would she do that?

3 MR. MAGGUILLI: I don't think that she's ever done
4 one before. Allegra had sent her an example. It had
5 Allegra's name on it.

6 MS. MURPHY: Oh, I see. Anyway, she spoke to both
7 of them and they are both going to be at the meeting
8 this evening instead of 7/7.

9 SUPERVISOR MAHAN: I don't know either one of
10 them.

11 MS. MURPHY: I don't know them either.

12 MS. WHALEN: I am going to move to table because I
13 have already said that I want to make sure that I know
14 what their credentials are before I appoint anyone to
15 anything.

16 MR. MAGGUILLI: Jennifer, let me just say this:
17 While this Board does the formal appointing, these
18 people -- like we're doing now with the Resolutions for
19 the paramedics -- they've already been interviewed and
20 screened by the department heads and the like.

21 On the Library Board which is separate and
22 independent, the Library Board members typically
23 interview and screen potential -

24 MS. MURPHY: The Library Board decided who was
25 going to be the new Library Director. The Town had

1 nothing to do with it.

2 MS. WHALEN: Why do we even appoint these people?

3 MR. MAGGUILLI: By Statute, we have to.

4 MS. MURPHY: Right, just to make it formal. Just
5 because they are coming, I don't know if we can perhaps
6 do those Resolutions when we do personnel so that they
7 don't have to sit through the entire meeting.

8 SUPERVISOR MAHAN: They always end up in another
9 part because we don't do them; the Library Board does
10 it. Whatever they are, they can go in as personnel.

11 MS. MURPHY: Just as I was leaving the house, they
12 called me.

13 MS. WHALEN: Can you give us some background on
14 them?

15 MS. MURPHY: I have not met either one of them.

16 SUPERVISOR MAHAN: Evelyn did send background on
17 them a while back.

18 MS. MURPHY: One is a retired attorney.

19 SUPERVISOR MAHAN: They were very well qualified.

20 MS. WHALEN: First of all I want to say that when
21 we talk about paramedics, those are employees that have
22 licenses and that process I understand. This is an
23 appointment though, and I think that it's important for
24 us to know who they are, what their qualifications are,
25 whether they are credentialed and if we don't have that

1 information, I can't with good conscious -

2 MR. ROSANO: Jennifer, what credentials would you
3 need to sit on a Library Board?

4 MS. WHALEN: A lot of them. There is a huge
5 budget, first of all. Like, make sure that they
6 understand that they are -- what are their duties?

7 MS. MURPHY: They have nothing to do with the
8 budget. The budget is done by the Town.

9 MS. WHALEN: Well then ask Linda to explain to us
10 what their duties are.

11 MR. ROSANO: No, I'm asking you what credentials
12 you need to sit on a Library Board?

13 MS. WHALEN: When you are on a Board, you have
14 fiduciary duties of some kind. Are you saying that
15 they are just place holders?

16 MR. ROSANO: It's like the Planning Board. When
17 they decide, we vote on their recommendations.

18 MS. WHALEN: But we should make sure that they are
19 qualified and that they understand the nature of the
20 job.

21 MR. ROSANO: What qualification would they need?
22 It's a non-paying position.

23 MS. WHALEN: Can they read?

24 MR. ROWLEY: Which one of them is an attorney?

25 MS. MURPHY: To be honest Dave, I'm not sure. One

1 works for CYC and one is an attorney.

2 SUPERVISOR MAHAN: I can tell you that there were
3 three that they put into the Library Board - that they
4 were interested. All three came with excellent
5 credentials. I can get it out for you later.

6 MS. WHALEN: Okay, someone is interested. Like,
7 how did anyone become aware that there was someone --
8 an opening on the Library Board. Perhaps there were a
9 lot of residents that might be interested in this
10 position.

11 MS. MURPHY: Let me just say this: I have been the
12 liaison to the Library since I've been on the Town
13 Board. I was the president of the Library Board before
14 I went onto the Town Board. There have been a couple
15 of people that came to Paula and said, I would like to
16 be on the Library Board. They were put on the Library
17 Board and there was nothing to do with Paula. They
18 didn't show up at the meetings. One of them just
19 recently resigned because she has health issues but she
20 missed more meetings than she came to.

21 Evelyn, who has done a phenomenal job since she has
22 taken over the library, personally has worked with these
23 people and she feels like they would be very big assets
24 to the Library Board. Now, she is the one who has to
25 work on a daily, weekly and monthly basis with these

1 people and like I said, they have nothing to do with the⁷
2 Town. The Library Board functions as a separate entity.
3 The budget for the Library Board, which is what we would
4 be concerned with -

5 MS. WHALEN: I understand what you are saying,
6 but I have a fiduciary duty as a Town Board member to
7 make sure that I at least know what their
8 qualifications are. I'm not asking for their -- you
9 know, their background checks or their tax returns but
10 I would like to know who they are and a little bit
11 about them.

12 MS. MURPHY: Well, you can meet them tonight.

13 MR. GREEN: Two weeks ago we had a meeting and
14 Mike you said that there were no late starters, unless
15 it was an emergency.

16 MR. CAREY: There sounds like there was a mix-up
17 on the date with this. Evelyn thought that this was a
18 July thing. I think that probably Tuesday if Evelyn
19 thought that this was on the agenda for tonight, she
20 would have spoke up and she would have probably
21 explained who these two employees are.

22 MS. MURPHY: Well, she wouldn't have made the
23 meeting because her daughter graduated.

24 MS. WHALEN: Who is Evelyn? Is she the Executive
25 Director of the Library?

1 MS. MURPHY: Yes.

2 MS. WHALEN: So, she actually works for the Board,
3 right?

4 MS. MURPHY: She works for the Town.

5 MS. WHALEN: And she also works for the Board.

6 SUPERVISOR MAHAN: Mike, why don't we continue
7 with the agenda and I'll look in the computer. She
8 sent in something a while back. Let me just get
9 something that Evelyn sent that gave backgrounds.

10 MS. MURPHY: I know that she spoke very highly of
11 all three people.

12 MR. CAREY: I think that it's important that the
13 department head meetings -- when these appointments
14 come up, for the department head to speak to the group
15 and explain to the group who this person is, give us a
16 little background.

17 MS. WHALEN: Let me just tell you this. I take
18 fiduciary duties of Board Members and their
19 qualifications and their credentials very seriously.
20 That starts with me even sitting here. I can't blindly
21 appoint people who I know absolutely nothing about and
22 I'm not asking to get into their work ethic or whether
23 or not -- well, Evelyn isn't interviewing them because
24 they are not her employees; they're Board Members.
25 They have a different relationship. I just would like

1 to know who they are before I say that I'm appointing
2 them. I would be remiss if I did that.

3 MS. MURPHY: That's entirely up to you. That's
4 your prerogative.

5 MR. CAREY: If they are downstairs, could they
6 come up before we do the meeting and maybe introduce
7 themselves to us?

8 MS. MURPHY: I suggested a couple of years ago
9 that every single person that we go downstairs and vote
10 for -- it would be nice if they came to the meeting
11 upstairs so that we can meet them and recognize them.

12 MR. CAREY: The only thing that I don't like is
13 that they are here tonight and they're expecting to be
14 approved by the Town Board and now we're going to table
15 that? I don't think that it's fair to them. I
16 wouldn't mind if they're here. We're up here until
17 7:00. If we have to run a few minutes late, let's have
18 them come up and they can introduce themselves and we
19 will get a better feel for who they are.

20 MR. ROSANO: Chris, we did that with the
21 Conservation Advisory Committee -- illegally at that
22 meeting when they got appointed, we sent those people
23 upstairs and never even voted. There was no motion to
24 table it. We just pulled it.

25 MS. WHALEN: Let me tell you something. We

1 appointed someone to a Board position recently and once¹⁰
2 again like -- I didn't vet it out or I didn't really
3 pay that close attention and couldn't even come to the
4 first meeting. It had to be cancelled because there
5 wasn't a quorum.

6 MR. MAGGUILLI: These people have been recommended
7 by the Library Director that you appointed. She is the
8 department head. You have put your trust in her by
9 that appointment, the same way that you put your trust
10 in me as a department head. Speaking as a department
11 head, if I made a recommendation to the Town Board for
12 an Assistant Town Attorney -

13 MS. WHALEN: There is a difference, Mike, between
14 an employee and -

15 MR. MAGGUILLI: They've always accepted my
16 judgment and we have had great Assistant Town Attorneys
17 here in Colonie.

18 MS. WHALEN: There is a different relationship
19 between a department head and an employee versus an
20 Executive Director and a Board.

21 MS. MURPHY: Whatever is comfortable for you, you
22 should do.

23 MR. MAGGUILLI: All these Board Members serve at
24 will. This is a volunteer Board. These people are not
25 getting paid. They are doing this as a volunteer

1 service to the community. They get no benefits.

2 MS. WHALEN: I understand that, but there might be
3 12 other people that are interested in serving on the
4 Board. How are they made aware of these vacancies?

5 MR. MAGGUILLI: Let's move on. Paula is getting
6 the credentials.

7 After the cluster meeting on Tuesday, we got back
8 and we had the Resolution request form for the Library
9 Boards. They came in just a little late, so I couldn't
10 talk about them on Tuesday. They had Allegra's name on
11 them and they were for tonight's meeting. I told them
12 that they can't have Allegra's name on it. If it's
13 coming from Evelyn, it's got to have Evelyn's name on
14 it. They sent it back. She switched the names. I just
15 looked and she did type in July 7th, but that was
16 crossed out and June 23rd was put on it. I don't know
17 who did that, but when it came in late I told Jan to go
18 ahead and put it on the Town Board because it was a
19 Library Board appointment. They have never raised any
20 kind of controversy in the eight years that I've been
21 here.

22 MR. GREEN: It's only that it's following the week
23 where Jennifer had requested -

24 MR. MAGGUILLI: She made that request June 1st in
25 writing and in email. I certainly acknowledge that, but

1 this is a Library Board. To me, this is a totally
2 different type of appointment. This is a Library Board
3 where we are just confirming -

4 MS. WHALEN: How did we find these people? Do we
5 know?

6 MR. MAGGUILLI: No, Evelyn Neil has worked with
7 these people and knows them.

8 Resolution 305A, Sean Carmody is filling the
9 vacancy of Erica D'Errico. He is going to be a part-time
10 EMS person - paramedic. He's going to make \$27.96 an
11 hour and he's starting June 27th.

12 Resolution 305B is Erica D'Errico. She is becoming
13 a full-time paramedic; \$52,030.00 a year. She is
14 filling the vacancy of John Errons.

15 Resolution 305C is Kimberly Blair, part-time
16 paramedic; \$25.01 an hour.

17 They are both part-time. Why are they making
18 different pay?

19 MR. KELSEY: One is a paramedic and one is an EMT.

20 SUPERVISOR MAHAN: There is a difference.
21 Paramedics make more money than an EMT.

22 MR. MAGGUILLI: No, they're both part-time
23 paramedics.

24 SUPERVISOR MAHAN: It's very possible that one was
25 here longer than the other.

1 MR. BURICK: If Carmody has been around longer,
2 he's going to end up with a higher rate of pay. It's
3 all longevity.

4 MR. MAGGUILLI: Okay. That's the difference.

5 Resolution 305D - we're appointing Daniel
6 McAllister as an EMT; \$18,66 an hour. He's replacing
7 Matt Stott, subject to the pre-employment physical.

8 Samantha Sullivan is also a part-time EMT, subject
9 to pre-employment physical. She is filling the vacancy
10 of Sean Carmody; \$18.66 an hour.

11 Next we are permanently appointing Suzanne Mauger
12 to the position of Purchasing Clerk, Grade 8 in Latham
13 Water effective July 5,th.

14 SUPERVISOR MAHAN: She is in Latham Water right
15 now.

16 MR. MAGGUILLI: This is pending the retirement of
17 Vicki McClee.

18 Resolution 306 - we have Crystal here and what we
19 are doing is establishing an escrow agreement and an
20 account for Meadowdale Estate Residential Development.
21 This is for sanitary service sewer improvements. It's
22 for 98 townhouses, 38 cottage homes, two executive
23 units, a community center and pool at 297 Old Niskayuna
24 Road; \$661,777.00 paid for entirely by the developer.

25 MR. GREEN: Mike, remind me on these. They can

1 get a line of credit for this so that they can draw it
2 at any time. Is there a completion time for the
3 various work that they have to do? Is there a penalty
4 if they don't finish it? That's what the escrow is
5 for, I imagine, so that we can go in and finish it.

6 MR. MAGGUILLI: There is no time limit, per se,
7 put in the approval. Unless for some unknown reason,
8 the Planning Board, when it approves it sets a time
9 limit. I've never known them to do that. The only
10 thing that we do have is the one section in our Land
11 Use Law that says in the discretion of the Town Board,
12 if the project seems to have stalled or doesn't seem to
13 have moved along fast enough you can revoke the
14 approvals on that basis.

15 MR. GREEN: Was this a PDD?

16 MR. MAGGUILLI: I'm not sure what this is.

17 MR. GREEN: Paul, do you remember?

18 MR. ROSANO: No, it's not.

19 SUPERVISOR MAHAN: This has been in the works for
20 awhile. You know that strip of Old Niskayuna where if
21 you look at Watervliet Shaker as you're going towards
22 the church, the back of that -- that's been there -

23 MR. GREEN: So, that's a real good spot for this.

24 SUPERVISOR MAHAN: There is a lot of space back
25 there.

1 MR. ROSANO: It's off of Hastings. Hastings is
2 off of Wade Road. It has 155 on the other side. It's
3 where the bus garage is.

4 SUPERVISOR MAHAN: There are some other things
5 like offices back in there around that area. It's that
6 stretch of Old Niskayuna.

7 MR. GREEN: So, the escrow agreement allows us to
8 do -

9 MR. MAGGUILLI: We have to do an escrow agreement
10 by law.

11 MR. GREEN: A bond or a letter of credit, right?

12 MR. MAGGUILLI: Cash or a letter of credit. I
13 don't think that you can bond this.

14 SUPERVISOR MAHAN: Crystal, did you want to add
15 anything?

16 MS. PECK: I just wanted to say that the escrow
17 agreement does have a completion date in it. We put it
18 out the following December so if it gets executed now
19 it would be December 2017. If it's not completed by
20 then, the agreement allows for them, upon mutual
21 consent, for it to be extended for another year. There
22 is some time frames put into that agreement.

23 MR. MAGGUILLI: But that's not part of the
24 approval process.

25 MS. PECK: It is not part of the approval process.

1 MR. GREEN: When they complete the work, the
2 escrow agreement is terminated.

3 MR. MAGGUILLI: Correct. If you look at the
4 letter of credit, that has the same provision.

5 MS. PECK: It does. It goes for a year with the
6 ability to renew it for another year.

7 MR. MAGGUILLI: Letters of credit are as good as
8 cash.

9 From the SIA number on this, 2013-06, I think that
10 this is probably a project that started in 2013.

11 SUPERVISOR MAHAN: Yes, it's been around for quite
12 awhile.

13 MR. MAGGUILLI: We have the same thing. This is
14 for the Isabelle Court subdivision. Again, this one is
15 a straight-up subdivision and it's for 16 lots, 13 new
16 residential lots, two stormwater lots and an open area
17 lot on the north side of Sand Creek at \$76,151.80.
18 That's the cost of the sanitary sewer improvements.
19 They are paid for by the developer.

20 Then we have Resolution 308. These are the
21 companion Resolutions. This is a public hearing that's
22 required to approve the proposed construction and the
23 cost of the sanitary sewer system. That public hearing
24 will be July 21, 2016.

25 Then we have 309 which is the one for Isabel Court.

1 That public hearing is at the same date and time for the
2 same purpose.

3 Resolution 310 - we are authorizing Doug to
4 advertise for bids for the pool filter replacement
5 project. That will be paid for through capital plan
6 funding.

7 MR. GREEN: How much can that be, Jack?

8 MR. CUNNINGHAM: We just got the two estimates in,
9 one is \$665,000.00 and the other one is \$550,000.00.

10 MR. GREEN: For pool filters?

11 MR. CUNNINGHAM: We just got this in today and
12 we're just looking at it. These are not proposals.
13 These are the engineer's estimates of the cost.

14 MS. MURPHY: Just for the pool.

15 MR. CUNNINGHAM: Yes. These are not the bid
16 results. These are just estimates that the engineers
17 gave us. These are just the preliminary stages of
18 looking at this. They both have to be bid out by the
19 end of the summer.

20 MR. MAGGUILLI: Resolution 311 is reimbursing
21 overpayment of water usage charges to various Town
22 residents.

23 Resolution 312 is reimbursing the owner of 800
24 Loudon Road which is the Walmart, \$14,628.07. When
25 Latham Water read the meter and did the calculations,

1 they moved a decimal one point too far. We have to
2 repay Walmart \$14,628.07.

3 Resolution 313 is authorizing Doug to award the bid
4 to Amstar of Western New York. This is for the Osborne
5 Road half million dollar water tank 2.2 million gallon
6 stand pipe rehab project. They were the lowest bidder
7 with alternate 1 and alternate 2, meeting the
8 specifications and requirements.

9 MR. ROWLEY: What was wrong with Worldwide
10 Industries?

11 MR. MAGGUILLI: They did not have the requisite
12 apprentice training program.

13 Resolution 314 is executing an engineering service
14 agreement with CT Male. That's a connection up to Stony
15 Creek Reservoir Dam. We received the one quote from CT
16 Male. They have been doing it for past four years;
17 \$42,400.00. What they are going to do is in the first,
18 second and third whereas clause.

19 Resolution 315 is authorizing Doug to award the bid
20 to Jet Industries and LaCorte Companies. This is for
21 the River Road High Lift Pumping Station and VFD/pump
22 replacement project. Again, these are going to the low
23 bidders, including the additive bid.

24 Resolution 316 is authorizing Doug to advertise for
25 a request for proposal for our Townwide photocopier

1 lease and maintenance program. Our current leasing
2 program expires at the end of September.

3 MR. GREEN: Mike, back up for a second. On 314 on
4 the Stony Creek Reservoir Dam. They have done this for
5 us each year, right?

6 MR. MAGGUILLI: Yes.

7 MR. GREEN: Has their price been pretty much the
8 same?

9 MR. CUNNINGHAM: Yes, and in fact I think that
10 it's the same price.

11 MR. GREEN: We haven't had any issues with them?

12 MR. CUNNINGHAM: No, we are required by DEC to
13 have these inspections.

14 MR. GREEN: I remember that. Has anyone ever bid
15 differently on this or anyone show any interest in
16 doing this or is it just one of those things?

17 MR. CUNNINGHAM: It's a professional service so we
18 just kept it.

19 SUPERVISOR MAHAN: David, just to refresh your
20 memory if you don't remember -- the grant that we're
21 hoping that the city get -- where the Loudonville tanks
22 are. That would be a back-up system so all we have to
23 do is just turn the valve. As time goes on, the dam
24 itself -- the repairs and the costs are just always
25 going to be there. It's going to get worse.

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John Frazer said that -- I don't know if they're in the engineering stages of that grant, but they are moving on it slowly. Like he said, we don't use it now, but we won't need that system if this other grant comes through and that other system is put in. For now, we have to pay the price.

MR. MAGGUILLI: Resolution 317 is authorizing Doug to advertise for bids for various sanitary sewer repairs for 2016. We have reached the maximum threshold set by our Town purchasing policy, which is \$35,000.00 for which we can obtain quotes for these types of services. Now we have to bid them to comply with General Municipal Law Section 103.

Resolution 318 is authorizing the Supervisor to execute a settlement and lease agreement with Gallo Construction. This goes way back. This is in connection with contract 1 of the Mohawk View Water Pollution Control Plant. Way back on March 28th of 2013 we contracted with Gallo to perform general improvements at our water pollution control plant. There were issues concerning Gallo's performance and during the dispute we withheld payment. At the same time, Gallo incurred some additional costs for unforeseen equipment issues. In October of 2014 Gallo submitted the matter to mediation and the Town of Colonie was represented by Bailey and

1 Kelleher through the mediation process. It's taken from
 2 October 2014 to now to reach a settlement that is
 3 agreeable to both parties. With the proposed settlement
 4 we are still \$34,387.06 below the original contract
 5 amount and so my recommendation and Bailey's is that the
 6 Town Board accept a settlement in mediation and close
 7 this matter out.

8 MR. GREEN: Michael, what is the \$25,000.00 extra
 9 for?

10 MR. MAGGUILLI: Crystal?

11 MS. PECK: The \$25,000.00 extra was -- technically
 12 there was a delay in work that extended for 30 days
 13 past the substantial completion date. That was valid.
 14 They claimed that there was four or six months where
 15 they were really past the substantial completion date.
 16 They're saying that was all valid. We're saying no.
 17 There were only 30 days that were valid. That
 18 \$25,000.00 represents payment for the 30 days that it
 19 was past the substantial completion date.

20 MR. GREEN: So, we did well in negotiating that
 21 portion of that.

22 MS. PECK: I think that we did, yes.

23 MR. GREEN: We're done with them now and all the
 24 work is completed.

25 MS. PECK: This covers not only settling the

1 claims that were in mediation, but it closes out the
2 entire project.

3 MR. GREEN: So, we're paying them \$34,000.00.

4 MR. MAGGUILLI: Resolution 319 is entering into an
5 annual maintenance agreement with Hewlett Packard for
6 the CAD servers at the Police Department; \$2,880.00.
7 This is a hardware and software on-site support service
8 contract.

9 Resolution 320 is accepting a proposal from Arthur
10 J. Gallagher Risk Management. This is for our camp
11 accident and sickness policy; \$3,941.00 is the premium
12 which is the same as last year. This is a renewal. This
13 covers us for kids getting injured at the playgrounds or
14 during the summer programs and the like.

15 Resolution 321 is requiring the Planning Board to
16 review and consider an open development area at 3
17 Timothy Drive.

18 The landowners, Kevin and Samantha Dorin are
19 requesting the open development area. The proposed
20 project is they want to build a single family house that
21 meets all zoning requirements except for the road
22 frontage. The lot is 175 feet north of Fonda Road and
23 has access to a private road called Timothy Drive. It
24 also has access to all the infrastructure necessary.

25 When I took a look at the survey on this, I noticed

1 that all the surrounding land is owned by relatives.

2 It's all the same family. I doubt that there will be any

3 -- at least I assumed that it was the same family.

4 There probably won't be any controversy about this.

5 They only need this because they don't have that

6 required 15 feet of frontage under New York State Town

7 Law.

8 MS. WHALEN: What is the frontage again under the

9 law?

10 MR. MAGGUILLI: New York State Town Law requires

11 that any parcel have at least 15 feet of frontage on a

12 public road or that it be designated an open

13 development area where the Town approves the means of

14 access and that the means of access would meet all the

15 safety requirements; emergency personnel and trucks

16 could get in there and out and the like.

17 This is just referring it. It's not approving the

18 open development area. We'll get a report back from

19 Planning sometime in the future where they vet out all

20 the issues as far as the width of the road and how the

21 road is constructed and then you can decide whether you

22 want to do it or not. The final decision is always the

23 Town Board.

24 Resolution 322 is authorizing Paula to sign an

25 engineering agreement with Advanced Engineering and

1 Surveying. This is for construction inspection of new
2 Town Roads for 2016. This program is administered by
3 DPW, Department of Engineering and the agreement is
4 funded via the developers through provided escrow funds
5 and so this is no cost to the Town. It's done on an
6 hourly rate and at .50 a mile plus print planned
7 expenses. Again, it's not cost to us.

8 MR. GREEN: How can it be no cost to us? Who is
9 paying for it?

10 MR. MAGGUILLI: The developers pay it.

11 MR. CUNNINGHAM: The developers pay us, we have
12 inspectors to go down and watch that the infrastructure
13 is being built. We have engineers stamp off that it's
14 built to our specifications and then we decide whether
15 we are going to accept it.

16 MS. WHALEN: Do we do this every year?

17 MR. CUNNINGHAM: No.

18 MS. WHALEN: How often do we do it?

19 MR. CUNNINGHAM: We're using Barton and Loguidice
20 because the person that we use is leaving and going to
21 another engineering firm. We want to be able to use
22 him for inspections.

23 MR. MAGGUILLI: Resolution 323 is amending our
24 Town Resident recycling fee schedule. We're just
25 changing the CRT computer monitor fee. It's going from

1 \$8.00 to \$10.00 per monitor.

2 Resolution 324 is awarding the bid to Northeastern
3 Rescue Vehicles. This is for our emergency vehicles and
4 there will be no award for options 3A, 3B and 4 which
5 were the Stryker load stretcher, an inductive charging
6 option and a decal for each vehicle. The total amount
7 with the trade-ins is \$261,710,00. We are also
8 declaring the two vehicle trade-ins to be surplus so we
9 can use them as trade-ins.

10 MR. CUNNINGHAM: The Resolution that we were just
11 talking about, 322 -- it should include the word
12 infrastructure.

13 SUPERVISOR MAHAN: Mine says "and public works
14 infrastructure".

15 MR. ROWLEY: Mine does too.

16 MS. DELTORTO: Mine does not.

17 MR. GREEN: Mine does not.

18 MR. CAREY: Mine does.

19 MR. MAGGUILLI: Mine says "public works
20 infrastructure".

21 "Whereas Advance Engineering and Surveying, PLLC
22 will inspect Town roads and public works infrastructure"
23 -- it's in the Resolution.

24 Resolution 325 is accepting a portion of 34 Denison
25 Road to be merged with 274 Vly Road.

1 MR. GREEN: We should amend that to include that
2 in the therefore clause.

3 SUPERVISOR MAHAN: It didn't go into that second
4 one.

5 MR. GREEN: So, let me make a motion on Resolution
6 322 that it in the therefore clause we amend it to say
7 on Town roads and public works infrastructure.

8 SUPERVISOR MAHAN: It makes it clear.

9 MS. DELTORTO: Is there a second?

10 MS. MURPHY: Second.

11 MS. DELTORTO: All those in favor?

12 (Ayes were recited.)

13 Opposed?

14 (There were none opposed.)

15 The ayes have it, Madam Supervisor.

16 MR. MAGGUILLI: Resolution 325 -- this is 9.61
17 acres to be merged with the Latham Water Tank parcel,
18 the 400,000 gallon elevated water tank that's at 274
19 Vly Road.

20 Jack, do you want to add anything to that one?

21 MR. CUNNINGHAM: No, we're good on that one.

22 MR. MAGGUILLI: Resolution 327 is amending
23 Resolution 374 for 2014 establishing a standard work
24 day for Norm Massry for 7 hours.

25 MR. ROWLEY: Rosemary I have a question on that.

1 It says 29.5. What does that mean?

2 MS. NEWTON: That means that the way that it
3 figures out, that would be the number of days that
4 would be credited for the retirement system, however,
5 there is a maximum of 20 days. That's per month.

6 MR. ROWLEY: So, per month, he's working
7 full-time?

8 MS. NEWTON: Included in there - after a
9 discussion with Jim Roemer, prep time, looking at court
10 decisions, redoing things and keeping up to date on
11 what is happening.

12 MS. WHALEN: They are on-call at night, too,
13 aren't they?

14 MR. ROWLEY: Yes.

15 MR. MAGGUILLI: I don't think that they are
16 anymore. They stopped doing overnight arrangements.

17 MR. ROWLEY: They certify to these numbers so we
18 are basically agreeing -- they are certifying so we
19 have to -

20 MR. MAGGUILLI: Are we certifying it or is Norm
21 certifying it?

22 MR. GREEN: We're accepting certification.

23 MR. MAGGUILLI: When Norm signs that retirement
24 form, he's certifying that these numbers are correct.
25 All we are doing is accepting his certification.

1 MS. NEWTON: We look at them but the official
2 keeper is the Town Clerk. So, they are filed there.

3 MR. ROSANO: Is there any reason why we can't see
4 those?

5 MS. DELTORTO: I submit them to retirement.

6 SUPERVISOR MAHAN: Go down to the Town Clerk's
7 office and you can see them.

8 MS. DELTORTO: All I do is certify that they, in
9 fact, have been handed in. I'm not certifying that
10 they are correct.

11 MR. GREEN: So, Rosemary, what do Peter and Andy
12 have for theirs?

13 MS. NEWTON: This is broken down by pay period
14 because there is a monthly figure on there but we have
15 to go through some changes to be able to calculate it
16 over 26 pay periods.

17 Before, Peter was getting 8.83 days -- and the
18 maximum they could get would be 10 days per pay period.
19 Norm was getting 8.52 and Andy was 6.32. Now, Peter
20 will be 10, Norm will be 10 and Andy will be 7.7.

21 MR. ROWLEY: Why is there such a difference
22 between Andy and the other two.

23 MS. NEWTON: It's how they keep their records.

24 MR. MAGGUILLI: Resolution 327 is insurance
25 reserve fund expenditures. The one that you may have a

1 question about - Dawn Smith for \$520.56 -- this is a
2 settlement. One of our Town vehicles backed right into
3 her car while it was parked. We are absolutely liable.
4 She is just looking for the damages to her vehicle.
5 For the \$520.56, we'll be sure to get a release,
6 releasing everything from the beginning of the world to
7 the date of the accident.

8 That's how releases read.

9 I don't think that she was even in the vehicle, but
10 I'm not sure. We'll get a full release for the \$520.86.
11 We were 100% liable on this. Our guy just backed right
12 into her.

13 Then we have the two library Resolutions -

14 MS. WHALEN: I would just like to enlighten my
15 fellow Board Members. I know Paul said, what do they
16 do or what do Library Trustees do. Right off the
17 website of the New York State Library Trustee site --
18 it says: Library Trustees actually make policies,
19 personnel and fiscal decisions -- or they should be, at
20 least, doing that. They play a very special role in
21 shepherding the dedicated and prudent use of library
22 resources. Their decisions impact the lives of people
23 and the future of our community. And while they do
24 delegate day to day duties to staff, they still do an
25 awful lot with respect to policy, personnel and fiscal

1 decisions.

2 So, it would be nice to know what the background of
3 these folks are before we appoint them.

4 I'm kind of curious to know how these people were
5 chosen because Evelyn, the Library Director, is staff.
6 Staff should not be looking for Board Members. That
7 would be like saying Jack Cunningham should hire all of
8 us. There is a reason why Jack -- Paula is not hand
9 picking her Town Board members. Mike hires their
10 employees but Evelyn -- I don't have an issue with
11 Evelyn, the Library Director, hiring employees that work
12 for her. These folks do not work for her. They actually
13 oversee her. I would like to know who these people are
14 and how they even got to this point of appointment. I
15 have to know that because that's my job.

16 SUPERVISOR MAHAN: Correct me if I'm wrong, Linda,
17 but I think that the President of the Board, Lisa Armeo
18 and that group went through these, as they would
19 normally do.

20 MS. MURPHY: Right.

21 SUPERVISOR MAHAN: There were three people that I
22 believe the Library Board felt were good candidates;
23 Donna Cramer-Sharer, Lawrence Abrams and someone named
24 Pamela Tobin. The two that were chosen by the Library
25 Board were Donna Cramer-Sharer and Florence Abrams.

1 Donna Cramer-Sharer, a life-long resident of
2 Colonie, raised in the Village and attended public
3 schools and local colleges. She and her husband of 27
4 years has a home near the Crossings. She went to
5 Colonie High School. They have a 15-year old daughter.
6 She has been employed with the Colonie Youth Center for
7 more than nine years. She currently is serving as a
8 financial aid and project manager. Her duties include
9 working with parents needing financial assistance with
10 child care, taking the lead role in the annual 5K
11 fundraiser and heading special projects assigned by the
12 Executive Director.

13 Donna was an active member of the parent/teacher
14 association for several years. She held various
15 executive board positions and served as president for
16 two years. The following year she became the area
17 director for the northeastern region PTA. Her greatest
18 personal accomplishment during her tenure of the PTA was
19 to ensure the charter of special education of PTA in the
20 South Colonie School District and works with parents of
21 special needs and gifted children. Donna worked closely
22 with a parent advocate for South Colonie PTA as council
23 president and South Colonie School District
24 Superintendent and she enjoys reading and traveling.

25 A lot of times they do look for background in the

1 community but also background in education. That seems
2 to be where she has focused a lot of her interest.

3 The other one that they picked was Florence Abrams.
4 She has been an attorney for over 35 years and a library
5 user for much longer. Most of her legal career has been
6 spent in public service including five years as an
7 Assistant Attorney General and over 25 years as an
8 Associate Attorney for the New York State Department of
9 Health. Having retired from DOH in April of 2015, Ms.
10 Abrams has spent the last year volunteering for a number
11 of organizations including Mediation Matters and court
12 appointed special advocates for children of the capital
13 District and has recently joined the RSVP program
14 operated by Colonie Senior Services.

15 In her spare time, in addition to volunteering, she
16 enjoys reading, her book club, theater, traveling. Her
17 two daughters attended Colonie schools and she is
18 recently an empty-nester. She has been going to the
19 library ever since she learned how to read starting out
20 in Storytime, summer book clubs and reading every color
21 of volume of fairy tales that the library had. During
22 her many years of education she used the library for
23 both doing research and for studying where she could
24 have quiet and at the same time be surrounded by others.
25 The library feels like a second home. The Colonie

1 Library is a great library and offers programs for
2 children, seniors and everyone in between, even great
3 facilities. However, they could benefit from new ideas
4 and energy and need to adapt to changes in the community
5 and society in general. For someone like me, who is not
6 technology oriented in the library, the helpers program
7 is a terrific service. I think that adolescents,
8 particularly those who may not have a computer and
9 printer home benefit from expanded academic and career
10 exploration help that could be provided to people who
11 have or have had successful careers.

12 There are seniors who would like to attend programs
13 and discussions held during daylight hours and there are
14 people whose primary language is not English and could
15 benefit from various services that could be provided at
16 the library.

17 When I traveled in Ireland last October I was
18 struck by the fact that in every town there was a
19 library prominently located in the Town. The library
20 seemed to be the center of every community. I would like
21 the Colonie library become the center of this community
22 because it can offer so much enrichment to all of our
23 Town residents.

24 Those are the two that they chose.

25 MS. WHALEN: I feel much better about it and can,

1 in good conscious, more than likely say yes.

2 MR. MAGGUILLI: We got the Resolution request form
3 from Evelyn. Did these recommendations come from the
4 Library Board itself?

5 SUPERVISOR MAHAN: Evelyn works with the Library
6 Board on these types of choices. Two or three years
7 ago people would say, if there is anything that I can
8 do for the Town or particularly -- what are your
9 interests? I'm particularly interested in the library
10 or I'm interested in conservation or whatever. Anybody
11 would explain to them that if we have those.

12 The Library Board is not paid. It's volunteer. But
13 they have a lot of powers and they are governed very
14 differently. There are different types of libraries.
15 The Town does the budgeting and purchasing and
16 everything. There are libraries that are districts that
17 they pay a special tax for the library. They can raise
18 that tax or they can propose to raise that tax.

19 The library has access to our budget after it's
20 prepared. They could disagree with it and that's where
21 that fiduciary part comes in.

22 MR. KELSEY: They have no control over the budget
23 nor spending.

24 MS. WHALEN: But they look at it, I'm sure. When
25 Evelyn recommended that she give \$10,000.00 back out of

1 her budget to us, we were all like, wow, that's
2 interesting. The Board must have knowledge of those
3 kinds of things.

4 SUPERVISOR MAHAN: The Director is directly
5 involved with the Library Board as far as running ideas
6 back and forth, keeping up with what the Library Board
7 is interested in. That's how that happens. That
8 doesn't mean to say that you run across somebody that
9 is interested in something. If you talk to them you
10 can just say, can you send a resume and we'll keep it
11 on file? There are some people that have more
12 expertise in other areas.

13 MS. WHALEN: It's a big responsibility and we
14 should make sure who these people are.

15 MS. MURPHY: I know that Evelyn was very
16 enthusiastic about all three of them.

17 SUPERVISOR MAHAN: They take it serious. They
18 really do. The President of the Board is very
19 educated. I think that she is a professor or
20 something.

21 MS. WHALEN: Who chose Evelyn? Did we choose her
22 or did the Trustees interview her and choose her?

23 SUPERVISOR MAHAN: As a courtesy, they included us
24 and we did it together.

25 MS. WHALEN: They still have a very big job.

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SUPERVISOR MAHAN: Rosemary -- I know that Richard
was here too.

MS. MURPHY: Mike Burick was on the committee.

SUPERVISOR MAHAN: They work with us in
collaboration. They don't have to do as much as they
do, but they do it as a courtesy and the collaboration
makes it more effective.

MS. WHALEN: Whoever we appoint, it's good to make
sure that they are well qualified and clearly I'm
satisfied that they are. It's my job to not blindly
appoint people.

MR. CAREY: So, we're good on that?

MS. WHALEN: I'm good with them. Thank you, Paula,
for doing that. That's why Paula is the Supervisor,
because she's awesome.

MR. MAGGUILLI: Nia Cholokis came in to speak with
you.

MR. GREEN: Nia and I were talking this week on a
completely unrelated matter and we got to revisiting
the CO issue. She forwarded me some documents. My big
hang-up before was whether or not it was a specific
condition in the PDD that it be condominium and we
researched the law. In re-reading the findings of the
Planning Board, I don't see where that is black and
white and I'm wondering if we can revisit this briefly

1 on the basis that Donald Zee has 100 of these -- not
2 that Donald Zee is not competent to do it, but she went
3 to him as a mentor. I know Donald Zee well and have
4 done a lot of work with him. I'm wondering if perhaps
5 we can get some sort of ruling out of our Planning
6 Board that this is an administrative matter at this
7 point in time.

8 MR. MAGGUILLI: I don't think that I understand
9 your point.

10 MR. GREEN: I want to reconsider it.

11 MS. WHALEN: What does Donald Zee have to do with
12 this?

13 MR. GREEN: He's done a lot of this work in this
14 area.

15 MS. WHALEN: How many attorneys are in this?

16 MS. CHOLAKIS: Just me. My role is I am the
17 attorney for the Northern Pass project. I submitted
18 the condominium offering plan when there were some
19 discussions back and forth about our ability to get
20 certificates of occupancy issued.

21 I spoke with Donald Zee because I had been working
22 with him on other projects anyway. I spoke with him
23 because he does a lot of these. I asked him a question
24 about have you ever seen this - where the certificates
25 of occupancy have been tied to the acceptance by the

1 AG's office and he says that he hasn't. He issued to me
2 a letter, which I did share with David.

3 MR. MAGGUILLI: This letter is dated May 23, 2016.

4 MS. CHOLAKIS: Yes.

5 MR. MAGGUILLI: And you're giving it to me now for
6 the first time?

7 MS. CHOLAKIS: Well, I wasn't going to give it to
8 anybody at all. It was just something for
9 consideration for me. I was talking to David earlier
10 this week and he asked that I come in and speak to the
11 Board and I appreciate the opportunity to do that. My
12 difficulty with the inability to obtain certificates of
13 occupancy is that I don't see -

14 MR. MAGGUILLI: Bethlehem requires it?

15 MS. CHOLAKIS: No. Bethlehem requires that the
16 plan be physically filed, submitted -

17 MR. MAGGUILLI: But not approved?

18 MS. CHOLAKIS: Not approved.

19 MR. MAGGUILLI: Does it say that in this May 23rd
20 letter?

21 MS. CHOLAKIS: It says that filed with -

22 MR. MAGGUILLI: It says file may require proof of
23 filing prior to issuing a building permit; building
24 permit and not certificates of occupancy.

25 MS. CHOLAKIS: I understand that.

1 MR. MAGGUILLI: I object to this. You've had this
2 since May 23rd, you're springing this on me now after
3 talking to a Town Board Member. The deal is this: These
4 places were approved as condominiums. There is no
5 question about that. If we give certificates of
6 occupancy before an offering plan is accepted -- and if
7 you want to talk about Donald Zee and New York State
8 Condominium Law -- what the law really says is with the
9 declaration of condominium is on file with the Attorney
10 General's office, do they become condominiums? A very
11 broad reading says -- a reading favorable to Northern
12 Pass is when an offering plan is filed and accepted.
13 But the black letter law says - and you cannot deny
14 this - when the declaration of condominium is filed and
15 accepted, but to do that you've got to have not only
16 your homeowners association in place, you have to have
17 it funded and filed that they take over. That's years
18 down the road. Let's not play games.

19 MS. CHOLAKIS: I'm not trying to blindside
20 anybody.

21 MR. MAGGUILLI: Well, I feel blindsided.

22 MS. CHOLAKIS: I apologize for that. I'm not
23 looking to blindside anybody. With all due respect, I
24 think that you're mixing apples with oranges. The
25 issue is: Can they be marketed for lease or for sale?

1 I agree with you. To market it for lease, the
2 declaration does not have to be a record. It has to be
3 accepted for the Attorney General's office for us to
4 market for lease. This project, as it has evolved over
5 the course of 12 years -- we have decided to lease them
6 with the ability to sell them at a later date if we so
7 choose. The offering plan that was submitted in
8 February clearly indicates that we are reserving that
9 right to unconditionally lease them. So, we are trying
10 to lease them. We are not trying to sell them at this
11 juncture. My reading of the statute indicates that I
12 don't need this accepted by the Attorney General's
13 office for the purposes of leasing.

14 As an example -- and it's an example that I think
15 that I made with David -

16 MR. MAGGUILLI: Mine is different.

17 MS. CHOLAKIS: For leasing purposes?

18 MR. MAGGUILLI: You cannot get a certificate of
19 occupancy for an apartment when you had an approval for
20 a condominium. I have explained this to the Board. If
21 the Board wants to revisit it, that's fine.

22 MS. WHALEN: I think that you're right, Mike.
23 This was approved as a condo and now you're trying to
24 circumvent it and make it an apartment.

25 MS. CHOLAKIS: No, I'm not trying to do that.

1 First of all, the Town has already assessed these as
2 condos. So, we are being charged tax assessments as if
3 they are condos and the declaration hasn't been
4 recorded.

5 MR. MAGGUILLI: Condos get favorable tax
6 treatment.

7 MS. CHOLAKIS: I understand that, but at the time
8 of the taxable status date, there was very few of the
9 buildings -

10 MR. MAGGUILLI: You want us to tax them as regular
11 apartments?

12 MS. CHOLAKIS: No, but as vacant land --

13 MR. MAGGUILLI: It's not vacant land, is it?

14 MS. CHOLAKIS: Currently not, but as of the
15 taxable status date, it was a lot less progressed than
16 it is, certainly, now.

17 MR. MAGGUILLI: I think that you're right. Maybe
18 we should have Ron revisit the way that they have
19 assessed those parcels. You're telling me that he
20 assessed those as condos?

21 MS. CHOLAKIS: He has.

22 MS. WHALEN: Were these approved as condos or
23 apartments? There is a difference.

24 MS. CHOLAKIS: There is.

25 MS. WHALEN: Some people want condos. Some people

1 speak out against apartments but not speak out against
2 condos.

3 MS. CHOLAKIS: The PDD was approved for 72 condos
4 and 369 apartments. What the Town is trying to do is
5 connect the legality of a condominium with the
6 completion of a unit.

7 For instance: If I came in with a building permit
8 to put in a liquor store at the Plaza 7 Commons, I would
9 get an application for a building permit, I would get
10 that building permit and I would build-out the space as
11 a liquor store. Once the liquor store was completed, I
12 would go back to the Building Department and I would get
13 a certificate of occupancy. That doesn't mean that the
14 liquor store can open and operate because that liquor
15 store operator is then responsible to make sure that he
16 has SLA approval.

17 So, the fact that these units, to the extent that
18 they are completed - that's really the only thing that
19 the Building Department has the purview over - to the
20 extent that they are completed. If I have done
21 something in contravention of the Martin Act, then I am
22 liable to the Attorney General's office; not the Town of
23 Colonie. I am liable to the Attorney General's office.
24 Because I have selected at this moment to lease them as
25 opposed to selling them, then I have the ability to do

1 that once I get a certificate of occupancy.

2 MR. MAGGUILLI: Let me ask you a question. Has
3 this offering plan been accepted by New York State as
4 of today?

5 MS. CHOLAKIS: It has not.

6 MR. MAGGUILLI: Now, back in February - February
7 8, 2016 you tried to advise me that the offering plan
8 had been filed with the Secretary of State.

9 MS. CHOLAKIS: That's true.

10 MR. MAGGUILLI: And at the time when we discussed
11 it on February 24th, you knew that they had rejected
12 the offering plan, but you failed to tell me.

13 MS. CHOLAKIS: I did not.

14 MR. MAGGUILLI: When this issue came up again, you
15 told us again that the offering plan was filed and have
16 you gotten a letter? The Attorney General's office by
17 statute, must act within 30 days to accept or reject
18 the offering plan. Have they done that?

19 MS. CHOLAKIS: Yes, they have.

20 MR. MAGGUILLI: And have they rejected it again?

21 MS. CHOLAKIS: Yes, they issue a deficiency
22 letter. That's what they do.

23 MR. MAGGUILLI: So, you got a second deficiency
24 letter?

25 MS. CHOLAKIS: No, I got one deficiency letter.

1 This is a timeline. This is a one and a half page time
2 line of exactly what the procedure was.

3 MR. MAGGUILLI: Look, we have to get downstairs.

4 What is the purpose of this, Dave? Why did you do
5 this?

6 MR. GREEN: In reading the findings of the law we
7 have for a PDD, I don't see -- I asked for this from
8 your office before we voted last time and I still
9 haven't gotten it and now that I'm reading it, I don't
10 see where there is a condition that the Attorney
11 General's office has to accept that before they receive
12 a certificate of occupancy.

13 MR. MAGGUILLI: You don't see it conditioned in
14 what, Dave?

15 SUPERVISOR MAHAN: Let me just say something here.
16 This pertains to the deficiency letter.

17 The deficiency letter - you received one 5/26,
18 correct?

19 MS. CHOLAKIS: Correct, yes. We resubmitted on
20 6/14; two weeks later.

21 SUPERVISOR MAHAN: On 6/1 through 6/9 you
22 addressed the deficiency items. Then on 6/14 you made
23 further revisions to it. Then on 6/14 you actually
24 emailed and Federal Expressed it to this Carol Stevens.

25 MS. CHOLAKIS: Right, the Assistant AG.

1 SUPERVISOR MAHAN: They expect the review to be
2 completed which would fit into that 30-day or
3 whenever -

4 MS. CHOLAKIS: Well, the initial 30 days, they
5 were late. The initial 30 days - they sent the
6 deficiency letter on May 26th.

7 SUPERVISOR MAHAN: That's the second one, right?

8 MS. CHOLAKIS: No. On February 24th, they claim
9 to have sent an email to me that I never got. So, when
10 we checked with them - admittedly, I should have
11 checked with them in March and I didn't. When I
12 checked with them in April, they said -- so, this went
13 into them on February 2nd. We submitted a disk to them
14 a few days later. They rejected the digital copy. They
15 didn't reject this (Indicating). They rejected the
16 disk. We reformatted the disk and we sent the disk
17 back in. Once we sent the disk back in, then they had
18 the 30 days because now it was deemed complete in their
19 mind, which is fine.

20 SUPERVISOR MAHAN: The actual receipt of it was
21 5/26. The actual corrections went in on 6/14.

22 MS. CHOLAKIS: Correct.

23 MR. GREEN: So, they have another 30 days to issue
24 another deficiency letter?

25 MS. CHOLAKIS: Yes, and that's what they do.

1 That's the normal course of the process. As Don Zee
2 indicates - and you can agree with him or not agree
3 with him -

4 MS. WHALEN: Why can't we wait until 6/24.

5 MS. CHOLAKIS: Well, because we have probably 30
6 units that are ready for occupancy at \$2,200.00 to
7 \$2,400,00. a month.

8 MS. WHALEN: The condos or the apartments?

9 MR. MAGGUILLI: This has been a nightmare from the
10 beginning. We didn't even want to let them market it
11 as condominiums. We had a huge battle. When we found
12 out that you went behind my back and we found out
13 through our assessor that you guys were advertising
14 this for lease and you came in, hat in hand -- I didn't
15 tell this Board before but now I'm going to do it
16 because I can get pushed only so damned far.

17 MS. WHALEN: The 36 apartments - what is the
18 status of those?

19 MS. CHOLAKIS: We have approximately 30 that are
20 ready for CO.

21 MS. WHALEN: The apartments that were approve as
22 real apartments - what are you doing with those right
23 now?

24 MS. CHOLAKIS: There are two buildings, I believe,
25 under construction, out of the three buildings.

1 MR. MAGGUILLI: This is what they do. They keep
2 pushing and pushing.

3 MS. WHALEN: What about the condos; are they
4 finished?

5 MS. CHOLAKIS: There are approximately 30 out of
6 the 72 that are finished.

7 MS. MURPHY: Are people living in them now?

8 MS. WHALEN: No, because there is no CO.

9 MS. CHOLAKIS: That's the problem.

10 MS. WHALEN: So, let's say you had this document
11 that you need - would you be selling them or renting
12 them?

13 MS. CHOLAKIS: Renting them.

14 SUPERVISOR MAHAN: They're not looking to sell
15 now. They're looking to rent them; correct?

16 MS. CHOLAKIS: Correct.

17 MS. WHALEN: Is that even allowed with condos if
18 you're the developer?

19 MS. CHOLAKIS: Yes.

20 MR. ROSANO: The developer is the owner.

21 MS. WHALEN: I understand that, but I also know
22 that if the developer sells the condos to -- say David
23 buys one and Liz buys one, they definitely have the
24 right to rent it out. Does the developer have the
25 right ot rent that condo?

1 MS. CHOLAKIS: Yes, you have to specify right in
2 the special risk section of the offering plan.

3 The sponsor reserves the unconditional right to
4 rent rather than sell units. As owner occupied and
5 non-resident owners including the sponsor may have
6 inherent conflicts on how the condo should be managed
7 because of their different reasons for purchasing.

8 There are specific ways of making sure that's
9 disclosed in the offering plan. You do have the right,
10 just like any other owner.

11 MS. WHALEN: So, why can't you just wait until the
12 document comes?

13 MS. CHOLAKIS: We have very significant loss of
14 rent - \$60,000.00 or \$70,000.00 a month potentially in
15 loss of rents because --

16 MS. WHALEN: Isn't that part of being a real
17 estate developer? Sometimes that just happens.

18 MR. MAGGUILLI: I have to apologize because I
19 wasn't prepared to discuss this. I wasn't able to
20 review my file and get all the specific facts. I would
21 like that opportunity because this is all nonsense.
22 This place was approved as a condo. My only concern
23 throughout this has been to protect this Town Board. I
24 was afraid that if the Building Department issued
25 certificates of occupancy as apartments and let those

1 be used as apartments, then this Board would be
2 criticized because you unilaterally changed the use
3 from condos to apartments. That's how it could be
4 seen.

5 SUPERVISOR MAHAN: Let me ask a question. You say
6 to grant them as apartments. What you're saying is
7 that without this certificate of occupancy confirmed by
8 the Attorney General and the homeowners association put
9 in place and all this other stuff - you're calling them
10 apartments. Until the offering plan is given, even
11 though they were approved as condos before the offering
12 plan is accepted, it automatically changes to
13 apartments?

14 MR. MAGGUILLI: Right. If we let them lease those
15 right now without an offering plan in place, they're
16 leasing them as apartments or townhouses or whatever
17 you want to call them. Until that offering plan --
18 again, it's a broad interpretation -- but until that
19 offering plan is accepted and filed, these are not
20 considered condominiums. They are considered
21 apartments. That was my concern. This project was
22 approved as a condominium and now they're leasing them
23 out. Look at the problems that we had with the Loudon
24 House when they came to us and wanted to change the
25 Loudon House from a condo to apartments. Look what

1 they neighbors did. They were up in arms. That's
2 what I was trying to avoid.

3 SUPERVISOR MAHAN: What we have to do is first,
4 get downstairs.

5 Second, you're upset because you didn't know that
6 this was coming tonight; no one did. This is not a good
7 time without going through facts and looking at it in a
8 better state of mind, we're not going to get anywhere
9 tonight. I think that we have to give Mike the
10 opportunity to go through his notes.

11 In the meantime, David, maybe tomorrow or Monday
12 you can explain what your concern is so that we can see
13 how we can revisit this. We can't do anything different
14 tonight until he has a chance to go through his notes
15 and that.

16 MS. WHALEN: I have decided on two occasions
17 that -- why should we be bending the rules for one
18 developer? Then, we'll have to do it for others. I
19 raise the same concern about the Loudon House where
20 Mike Benson is sitting on empty condos for years
21 because he can't sell them. He's not renting them out
22 The neighbors didn't want it. I raised these issues
23 before.

24 MS. CHOLAKIS: He didn't reserve that right in his
25 condo offering plan, apparently. I don't know what his

1 says. We're not asking for a special accommodation.
2 What I'm saying is that once the building has been
3 completed, the CO should be issued. There is no
4 condition that says that it shouldn't be issued.

5 MS. WHALEN: You're asking that we change our laws
6 or our procedures.

7 MS. CHOLAKIS: I'm not at all. I'm saying that
8 the building has been completed and therefore it can be
9 inspected and a CO should be issued. It's incumbent
10 upon me to comply with the Martin Act which is what the
11 AG regulates.

12 MR. MAGGUILLI: The Martin Act has nothing to do
13 with this issue.

14 MS. CHOLAKIS: The Martin Act has nothing to do
15 with the Town. That's what I'm trying to say. The
16 Martin Act is the Attorney General's office. It's not
17 the Town. You're trying to interpose yourself and the
18 Town as part of the process.

19 MR. MAGGUILLI: No.

20 MS. CHOLAKIS: And I have a process that I have to
21 comply with independently.

22 MR. MAGGUILLI: Don't try to confuse the issue,
23 Nia. We don't have anything new to add.

24 MS. WHALEN: Is the end of June, right? It's
25 coming soon.

1 SUPERVISOR MAHAN: Mike will go through his notes
2 and David will clarify his questions. We can't do it
3 now, though. He doesn't have his materials and there
4 is nothing that we can do tonight.

5 MS. CHOLAKIS: I appreciate the time.
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8 (Whereas the above entitled proceeding was
9 concluded at 7:15 p.m.)
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CERTIFICATION

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I, NANCY L. STRANG, Shorthand Reporter and Notary Public in and for the State of New York, hereby CERTIFY that the record taken by me at the time and place noted in the heading hereof is a true and accurate transcript of same, to the best of my ability and belief.

NANCY L. STRANG

Dated _____