

A meeting of the Zoning Board of Review of the Town of South Kingstown, County of Washington, in the State of Rhode Island was held at the Town Hall, 180 High Street, Wakefield on May 19, 2010.

Members Present: Ernest D. George, Jr.
Robert Toth
Stephanie A. Osborn
Igor Runge
Douglas W. Bates, Alt. #1
Robert J. Cagnetta, Alt. #2

Also present were Nancy Letendre, Special Legal Counsel and Jeffrey T. O'Hara, Building Inspector and Clerk.

Mr. George explained the burden of proof of an applicant seeking a Special Use Permit or Variance.

First the Board would continue the following petitions scheduled for this evening to a meeting tomorrow, Thursday, May 20, 2010.

Petition of Paul & Ruth Riemer, 52 Whippoorwill Road, Armonk, NY for a **Variance** to construct a 4'-6" x 7'-6" addition to a dwelling closer to a front line than permitted in an R-80 Zone (25' required – 18'-9" requested). Premises located at 89 Old Succotash Road, South Kingstown, RI, Assessor's Plat 81-3, Lot 118, Section 207 & 907.

Petition of John Melling, 73 South Mill Street, Hopkinton, MA for a **Special Use Permit & Variance** to construct a 24' x 24' roof top open deck and stairs to grade closer to a front line (40' required – 13' requested) and closer to a side line (15' required – 13' requested) than permitted in an R-80/HFD Zone. Premises located at 184 Green Hill Ocean Drive, South Kingstown, RI, Assessor's Map 96-1, Lot 4, Sections 207, 601 & 907.

Petition of Richard & Lori Kollmeyer, 16 Goodwin Circle, Hartford, CT for a **Variance** to construct a 4' x 8' open deck with 4' wide stairs closer to a front line than permitted (35' required – 16' requested) in an R-20 Zone. Premises located at 61 Ocean Avenue, South Kingstown, RI, Assessor's Plat 93-1, Lot 171, Sections 207 and 907.

Petition of Clifton A. Moore, 24 Fern Drive, Rumford, RI for a **Variance** to construct an 8' x 10' storage shed closer to a side line than permitted (6' required – 3' requested) in an R-80 Zone. Premises located at 3 Tupelo Road, South Kingstown, RI, Assessor's Plat 83-3, Lot 1, Section 208 and 907.

Petition of Patrick & Bethany Fay, for a **Dimensional Variance** to construct an attached garage on Ministerial Road scenic highway with the doors facing Ministerial Road in an R-80 Zone. Premises located at 2143 Ministerial Road, South Kingstown, Rhode Island, Assessor's Map 46, Lot 61, Section 505-6-F and 907.

Petition of Thomas Brophy, for a **Special Use Permit** to modify the footprint granted in a special use permit granted by the Zoning Board of Review on February 18, 2009 from 36.44' x 39' to 30' x 55' in an R-80/HFD Zone. Premises located at Pole #63 Charlestown Beach Road, South Kingstown, RI, Assessor's Map 95-4, Lot 25, Section 907C.

The Chair made a separate motion for each of the above referenced petitions to continue until May 20, 2010.

WHEREUPON A VOICE VOTE WAS TAKEN/MOTION PASSES TO CONTINUE UNTIL MAY 20, 2010.

Mr. George read the first petition.

Petition of 333 Main Street, 333 Main Street, Wakefield, RI for a **Special Use Permit** to be relieved from the stipulation in the Zoning Board's decision of October 6, 1994 that states that there will be no bar and that alcohol will be served only at tables with food only in a CD Zone. Premises located at 333 Main Street, South Kingstown, Rhode Island, Map 57-4, Lot 210, Section 301 and 907A and 907C.

Attorney Matthew Callaghan was present on behalf of the applicant.

They are here for property at 333 Main Street which is currently being used as restaurant and has been a restaurant for a couple of decades. One of the restrictions imposed upon utilization of the restaurant was that there just be service of alcohol at tables. They are applying for an amendment/modification to that special use permit to allow a bar in the dining room as well as serving alcohol at tables.

Scott Parker, owner/manager Fat Belly's Pub, was sworn.

Mr. Parker lives at 50 Faramont Drive in Warwick, RI. He has made arrangements to purchase property in South County in Narragansett.

Mr. Parker explained his educational and professional background to Board members.

Then he explained his experience in the food service business.

He explained the operation of Fat Belly's Pub in East Greenwich and Warwick.

They have won several awards. He identified a plaque for the best award they won from Yankee Magazine for the best of New England.

Mr. Callaghan submitted the letters received in favor of the restaurants.

Applicant's Exhibit #1, Letter dated May 6, 2010 from the City of Warwick Police Department, was submitted.

Mr. Parker explained how they are a neighborhood restaurant.

Applicant's Exhibit #2, Letter dated May 17, 2010 from Captain Michael Higgins of the Warwick Police Department, was submitted.

He has been opened on Main Street in East Greenwich for one year.

Applicant's Exhibit #3, Letter dated May 11, 2010 from the East Greenwich Soccer Association, was submitted.

They encourage families to use the restaurant.

Applicant's Exhibit #4, Letter dated May 17, 2010 from the East Greenwich Town Council, was submitted.

Applicant's Exhibit #5, Letter dated May 5, 2010 from the Chief of Police of East Greenwich, was submitted.

Mr. Parker identified a rendering/sketch of the proposed restaurant at 333 Main Street which was submitted with the application.

He is not changing the exterior of the building but to paint the outside. Inside the dining room it currently has 62 seats. He is looking to add 11 seats and a bar.

Mr. Parker explained how times have changed over the years. The dining room would be on one side and the bar on the other side. Now they are messed together. A proper dining room and proper bar service together.

There are so many certificates that you need to even serve at a restaurant right now in the State of Rhode Island. Things are a lot stricter. They won't hire

anybody unless they have been through the training for proper serving of food or alcohol. They are looking for professional people that believe in food quality.

He explained how the bar business has changed over the years.

They don't open a place for drinkers. They open a place for a dining experience.

The bar that they are here tonight for is the show piece of Fat Belly's.

He felt this restaurant would be the renaissance of Main Street.

Applicant's Exhibit #6, Letter from the South Kingstown Chamber of Commerce, was submitted.

Questions ensued from Board members.

Mrs. Osborn questioned the hours of operation. They will be open for lunch and dinner 7 days a week 11:30 to 1:00.

Mr. Cagnetta questioned the reason for 11 seats. Mr. Parker explained that the front will be done over and they will use that for seats. The bar isn't to attract a whole bunch of people it is a show piece.

There was no one in opposition present.

Mr. Runge made a motion to approve the petition of 333 Main Street in Wakefield for a special use permit to be relieved from the stipulation in the Zoning Board's decision of October 6th 1994 that says that there will be no bar and that alcohol will be served only at tables with food only in a CD Zone. And these premises are located at 333 Main Street, South Kingstown, Rhode Island, Map 57-4, Lot 210, and our Section 301 and 907A and 907C of the Ordinance apply. The applicant is here, represented by his attorney, as well. I believe he's demonstrated he's competent in running a business, restaurant with a bar, integral to that facility. I think it's just what we need for Main Street. There have been several restaurants before then and, unfortunately, they haven't had a lot of luck. This sounds like it may really change the area, and I think it sounds like a very good asset for that area. And with that said, the special use permit, the granting of this special use permit will not alter the general character of the surrounding area or impair the intent or purpose of the Ordinance or the Comprehensive Plan. I think it will only make things better on Main Street. With that said, again, I'd like to make the motion we approve the petition.

Mrs. Osborn seconded the motion.

VOTE: Runge, Aye; Osborn, Aye; Bates, Aye; Toth, Aye; George, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the second petition.

Petition of Michael Cullinane, PO Box 433, West Kingston, RI for a **Variance** to construct a single family dwelling in an R-80 Zone closer to a front line than permitted (40' required – 25' requested). Also, to construct a dwelling higher than allowed (35' permitted – 37.5' requested). Premises located at 25 Kardway Street, South Kingstown, Rhode Island, Assessor's Map 80-1, Lot 12, Section 207, 401 and 907.

Douglas Bates recused himself as he works with Mr. Cullinane at the Naval Undersea Warfare Division Newport and he often assisted in completing my projects.

Michael Cullinane was sworn.

He is trying to incorporate part of the foundation of the existing house.

The Chair questioned if there was a lot of traffic on Kardway. Mr. Cullinane responded no. It is a private road a dead end.

Need the height to make it a farm house style.

There was no one in opposition present.

Mr. Toth made the motion to move the petition of Michael Cullinane for a variance to construct a single-family dwelling in an R-80 Zone closer to a front line than permitted, 40 feet required, 25 feet requested; also, to construct a dwelling higher than allowed, 35 feet permitted, 37.5 feet requested. Premises located at 25 Kardway Street, South Kingstown. Mr. Cullinane testified before the Board, stated his needs for both variances, and I would move that we tie it to the applicant's site plan that he submitted to the Board. And, also, under Section 907, the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure. In this case, it's a nonconforming lot of record. He also stated there are trees he wishes to preserve on the property. He wishes to maintain a south exposure, and there are other needs, he wants to maintain an architectural harmony with the existing home and, also, the hardship is not the result of any prior action of the applicant. The granting of the requested variance will not alter the general characteristic of the surrounding area or impair the intent or purpose of this Ordinance or the Comprehensive Plan of the Town. It's the least relief necessary. The hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Runge seconded the motion.

VOTE: Toth, Aye; Runge, Aye; Osborn, Aye; Cagnetta, Aye; George, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the appeal.

Appeal of Mary Allbee, John & Linda Stedman, 55 Stoney Acres Way, Wakefield, RI **Appealing** the Zoning Enforcement Officer's Decision dated March 22, 2010. Premises located at 55 & 145 Stoney Acres Way, South Kingstown, RI, Assessor's Plat 25, Lot 30, in accordance with Section 909 of the South Kingstown Zoning Ordinance.

Jeffrey O'Hara, Zoning Enforcement Officer and Building Official for the Town of South Kingstown, was sworn.

Mr. O'Hara received an anonymous complaint about heavy equipment going through the Southwoods subdivision servicing the Stedman/Allbee property. He researched and from his own personal knowledge, he finds that they have a conforming farm which is permitted in an R-40 Zone which is permitted in every Zoning Ordinance since 1951. As far as the farming activity goes and Mr. Stedman's equipment, the tractors the trailers basically he has excavators, backhoes, bobcats etc. which he uses on the farm. Mr. Stedman has a gravel bank which preceded zoning. Mr. O'Hara had a 1948 aerial photograph that shows there was gravel extraction there which makes it a nonconforming use that is permitted to carry on. The excavating equipment is used in the gravel bank which would be considered nonconforming also. He does excavation offsite so the question is can he take his farm and gravel equipment offsite and dig a hole in Narragansett. I don't see why he can't. The only thing he couldn't put a handle on is the signage that Mr. Stedman installed on the open space lot with the right-of-way that Mr. Stedman has to his property off that sub-division. There are a couple of other uses there, the storage of concrete forms and trucks associated with that and the sewer truck, which he can't clearly state that is a pre-existing nonconforming use. The farm activity, Mr. Stedman raises cattle, pigs and animals. Mr. Stedman accepts compost, lawn clippings, other stuff from landscapers which he composts and turns into material he can use on his property. Mr. Stedman has a gravel extraction, a nonconforming use in which he can continue doing on his property. The only hang up Mr. O'Hara had are the signs and the 2 other uses, the sewer trucks and the form company. Mr. O'Hara would now leave it up to Mr. Capaldi to present his case.

Attorney Arthur Capaldi was present on behalf of the appellants.

Mr. Capaldi had a few questions for Mr. O'Hara.

Mr. Capaldi asked if they were operating businesses from this location or are they just leaving them there. Mr. O'Hara stated that was what he was uncertain of. Mr. Capaldi questioned how that fell under the code violation 47, storage of vehicles. Mr. O'Hara was looking for a use. He didn't know what you call a sewer business. He made a decision to put it under that use code. Mr. Capaldi asked if you are unable to put it under code 47, are you telling us this isn't a violation. Mr. O'Hara responded no, the Ordinance states that if it is not specifically addressed, which a sewage truck isn't, the official has to make a determination to the best of his ability which is what he attempted to do. Therefore, leave it up to the Board and the property owner to decide if he is right or wrong. If it is a nonconforming use and you can convince the Board of that, that's what it is.

Attorney Arthur Capaldi asked to have 5 minutes with his client.

The Board would take a short break.

After the break Mr. Capaldi addressed the Board briefly regarding the Building Official's decision and testimony.

Mr. O'Hara stated that the farm is a conforming use. It was previously and it is today under the current zoning.

Mr. Capaldi would ask the Board to consider in its decision, findings of fact, that these issues be addressed (farm and gravel bank). They would not put on testimony regarding these issues. He would concentrate on signs, forms, trucks and sewer trucks.

The Chair read a letter dated May 19, 2010 from Shane Feeney, resident on 41 Lawnacre Drive, in support of the appellant.

Attorney Capaldi called his 1st witness.

John Stedman was sworn.

Mr. Stedman described the uses on the property other than the farm. Since 1977 people have stored vehicles on the property. They do not have an office there. They leave it there, pick it up and return it.

Mr. Runge questioned how long ago he has been storing vehicles there. Mr. Stedman has been storing there since 1977 and it was done before that time as well.

Mr. George asked if Howard Allbee had other people storing trucks there when he owned the property. Mr. Stedman responded yes and named the different people who stored there over the years.

Mr. Stedman explained the use of signs for Stoney Acres Farm and Stedman Farm. There was always a Stoney Acres Farm sign there at the entrance of their right-of-way on Rose Hill Road. When he started his business he put a sign out there for the excavation business approximately 1976/1977. At the time the subdivision Southwoods went in, the Town told them to move the signs to the new entrance at the end of South Woods Drive.

Todd Dionne, he lives at the bottom of South Woods Drive, explained that when he purchased his property he was told that those signs would be coming down. One of the signs is right at the front of his driveway.

Kimberly D'Arpino, resident on 42 South Woods Drive, explained that she is home during the day and sees the trucks coming by her house. She questioned if these trucks are for the business of the farm and the trucks that are being stored there are they paying rent. Mr. Stedman is being compensated for storage and then explained the use of the trucks.

Mr. Bates asked how often he gets fertilizer deliveries. Mr. Stedman explained that it depends. There is no set time. It is controlled by Mother Nature and the weather.

Mr. Capaldi had Mr. Stedman identify the following two documents.

Appellant's Exhibit #1, Preliminary Approval for the South Woods Major Subdivision Dated March 23, 2000, was submitted.

Mr. Capaldi read #9 of the Conditions of Approval.

Appellant's Exhibit #2, Final Approval of the South Woods Major subdivision dated August 17, 2000, was submitted.

Mr. Capaldi referenced #1 of the approval.

Next Mr. Stedman identified and explained photographs taken on his property.

Appellant's Exhibit #3 A- D, Photographs taken by Linda Stedman in 1992 and 2006, were submitted.

Frank Postma, resident on 102 South Woods Drive, questioned how many vehicles come out of the driveway on a typical day. Mr. Stedman responded 10 to 15, it varies. Mr. Postma explained that between 6:30 a.m. and 9:00 a.m. there have been 20 vehicles.

Mr. Cagnetta questioned how he use to get to his property. Mr. Stedman responded through a right-of-way.

Mr. Runge asked if a number of trucks and activities along that road have changed over the years. Mr. Stedman stated no, stayed about the same.

Mr. Cagnetta stated that he was locked between access to the roads. Mr. Stedman stated if they had an alternate way in or out, they would not go through the subdivision. They have no other way in or out.

Mr. Capaldi called his 2nd witness.

Linda Stedman was sworn.

Her maiden name is Allbee and she is the wife of John Stedman.

Her grandfather bought the farm in 1946.

Mrs. Stedman then gave the history of the property.

She then elaborated on the use of the farm for the storage of vehicles.

The farm was always called Stoney Acres Farm.

Mr. Cagnetta questioned if the property was the same size. In response, Mrs. Stedman stated that they purchased 14 additional acres.

Mr. Capaldi called his 3rd witness.

Charles Wright was sworn.

Mr. Wright is very familiar with Stoney Acres Farm and then explained how.

Mr. Capaldi asked if he was familiar with storage of vehicles on Stoney Acres Farm. Mr. Wright stated that any farm in South County has equipment.

Mr. Capaldi called his 4th witness.

Sue Sosnowski was sworn.

Mrs. Sosnowski is a full-time farmer and a part-time senator. She has been farming since 1983.

Mrs. Sosnowski is the Committee Chair of the Senate Committee of the Department of Agricultural.

It is tough to be profitable in agriculture today.

Many farmers store vehicles, etc. for people. An 18 wheeler is not an unusual piece of equipment on a farm. Most turf growers use them.

Mrs. Sosnowski briefly explained the amendments to the right to farm law.

Frank Postma questioned if Mr. Stedman farms sod. Mrs. Sosnowski doesn't know. He does a lot of hay.

Mr. Cagnetta asked if it was easy to predict the frequency of vehicles. Mrs. Sosnowski stated that nothing is predictable. Everything is gauged by the weather and consumer demand.

Mr. Capaldi called his 5th witness.

Henry Meyer was sworn.

Mr. Meyer was the Chairman of the South Kingstown Planning Board.

Mr. Meyer was there regarding the testimony for the decision of the Planning Board for the preliminary and final (South Woods subdivision).

Mr. Capaldi asked if it was the intent of the Planning Board at that time to protect the use of that highway for heavy equipment and agricultural equipment coming out of the Stedman house. Mr. Meyer responded yes. This was the subject of a great deal of discussion by the Planning Board and the developer and then explained.

Mr. Cagnetta asked if consideration was made for the width of the street. Mr. Meyer responded yes there was and then explained.

Frank Postma submitted a copy of the restrictive covenants for South Woods. There is no mention of heavy equipment in their covenant.

Opposition Exhibit #1, Declaration of Restrictive and Protective Covenants and Easements; Creation of South Woods Homeowners' Association recorded August 17, 2000 in the Town of South Kingstown Land Evidence Records, was submitted.

Mrs. Letendre addressed Opposition Exhibit's #1. She read #1 N. on the third page to Board members.

There ensued discussion between Board members and Special Legal Counsel regarding Exhibit #1.

Mr. Capaldi called his 6th witness.

Ronald Smith was sworn.

Mr. Smith was employed by WFD Associates, the developer.

Mr. Capaldi asked if he was aware of the Planning Board's recommendation concerning the development on the heavy equipment and agricultural use.

Mr. Smith was not developer on the property. He was told by his boss. He was a sales manager and in 2001 and 2002 became a developer but was not a developer for this.

He was told to make sure that on the purchase and sales agreement that they reference the shooting range, the super fund site to the south and the Stedman farm with heavy equipment.

Questions ensued with Board members.

Frank Posma had a copy of the purchase and sales agreement.

Mrs. Letendre read part of the purchase and sales agreement to Board members.

Opposition #2, Sales Agreement and Deposit Receipt South Woods – Phase II, was submitted.

Mrs. Osborn questioned Mr. Smith regarding the sales agreement. Mr. Smith did not write the sales agreement. They were prepared by attorneys. He had to make sure that the customers knew that those disclosures were in there.

Mr. Capaldi asked if Mr. Smith was aware of the signs for the Stedman property. Mr. Smith stated that he was. The signs were placed from the front road down to where they are now when the developers started building down there. He was told that they were always supposed to be there. He believes they are in the same place as when the development was finished and believes that they are where they are supposed to be today.

Todd Dionne was told that those signs were to be removed. Mr. Smith did not tell him that.

Mr. Capaldi called his 6th witness.

Emery J. Reposa was sworn.

Mr. Reposa worked for the Town of South Kingstown. He worked as an equipment operator and driver. He would haul gravel out of Allbee's property. After he finished with the Town, he went to work for Harmon Houston Excavating. Mr. Houston hauled gravel out of Allbee's property and the equipment was left there, sometimes all week. Mr. Houston also used the equipment at other locations.

Mrs. Letendre asked when he worked for the Town and Harmon Houston. Mr. Reposa worked for the Town in the 60's and Harmon Houston in the 70's.

Mr. Runge made a comment. It sounds like these type of activities and the storage of these vehicles have been going on this property for many years. Way back as 46 and maybe even before 1946. It doesn't sound like there have been a lot of significant changes since then to the property. It sounds like the signs also were there for a number of years.

Attorney Capaldi had completed presenting testimony.

Steven DiMasi spoke. He was a member of the Planning Board when the South Woods subdivision came before the Board. He shot at the Peace Dale shooting range. He knew John Stedman, he had an excavating business. During the public hearing, he wanted to make it clear that when these homes were sold they were aware that there was an excavation business operated out of that farm. That there was a shooting range down the street and that they were going to have gun shot noises throughout the day. Also, the Town dump. It was clear in the Planning Board's mind to make all of the ongoing activities evident. They required the developer to acknowledge that to any purchases, which he assumed applied to the first sale of the home.

Mrs. Osborn made a motion to close the public hearing.

WHEREUPON A VOICE VOTE WAS TAKEN/MOTION TO CLOSE THE PUBLIC HEARING PASSES.

There ensued much discussion amongst Board members.

Mr. Toth began the discussion. He compiled a list of uses that he thought went on there which predate zoning based on some of the testimony. There is a variety of agricultural and farm uses. There is gravel extraction which includes the processing of materials including screening, crushing, sorting and stockpiling. All the various materials to and from the site. Storage and heavy equipment, construction equipment, farm equipment, excavation equipment, various trades equipment and vehicles.

Mr. Bates doesn't have any problems with the existing farming and gravel. He is a little uncertain about the storage of sewage trucks and concrete forms.

Mrs. Osborn agrees with what was said. She took a lot of weight with what Mrs. Sosnowski said. These farmers must have these extra activities on their farm to survive in the past and in the future. This is a lot of other equipment. She felt Stedman farm has a legal use and right to store this particular equipment there.

Mr. Runge has similar feelings. Definitely a variety of different material and equipment have been stored there. It appears there has always been a sign there. He felt the Building Official made the right choice. It's been very cloudy this area.

Mr. Cagnetta thought it was unfortunate on both ends and explained why. He felt the Stedman farm certainly has the right to use the property for everything legally obligated.

Mr. Runge added a few words. He felt really lousy for the homeowners that they weren't fully aware.

There ensued discussion between Board members and Special Legal Counsel.

Mr. George thought Ted Wright's testimony was significant. He was the only one besides Mrs. Stedman whose stories were passed on to her from her grandfather as to what happened there. Mr. Wright was the only one who really was there. He said there were other vehicles stored there.

Mr. George was thinking of complaints in the future to the Building Inspector about what really the nonconforming use is.

The Board began discussing the nonconforming use.

Mr. Toth went over his list again.

- various agricultural and farm uses
- gravel extraction
- processing of materials, screening, crushing, sorting, stockpiling
- hauling materials to and from the site
- storage of heavy equipment, excavation equipment, construction equipment, farm equipment, various trades equipment and vehicles

Discussion ensued regarding the nonconforming use.

The Chair asked John Stedman how much of the property was used for the storage of vehicles. Mr. Stedman stated that 25 to 35 percent of the property is used for that purpose.

There ensued discussion regarding the signs.

Mrs. Osborn would like to reopen the public hearing for the purpose of discussing the signage.

Mrs. Osborn made a motion to reopen the public hearing to discuss the signs.

Mr. Cagnetta seconded the motion.

Mrs. Letendre read Section 817 of the Zoning Ordinance regarding signs.

There ensued discussion.

VOTE: Osborn, Aye; Bates, Aye; Toth, Aye; Runge, Nay, George, Aye.

MOTION TO REOPEN THE PUBLIC HEARING PASSES WITH FOUR (4) CONCURRING VOTES AND ONE (1) DISSENTING VOTE.

Mr. Toth had a question for Mr. Dionne. Was that sign on the association land or your own property. Mr. Dionne stated it's on association land which he is part owner of. It is within 5 feet of his own property.

Todd Dionne submitted a photograph of the signs.

Opponent's Exhibit #3, Photograph by Todd Dionne, was submitted.

John Stedman clarified that these signs are not in open space land. These signs are in the 60 foot wide private drive section of South Woods Drive. They have to maintain them. They were informed to move them from their old entrance to their new entrance.

Mr. Stedman further stated that all their rights of the right-of-way were transferred to South Woods Drive upon the elimination of their right-of-way. Those rights predate 1946.

There ensued much discussion regarding the signs.

Mr. George made a motion to close the public hearing and to direct special legal counsel to prepare a draft motion for next month's meeting on June 16, 2010.

Mr. Runge seconded the motion,

WHEREUPON A VOICE VOTE WAS TAKEN/MOTION PASSES TO CLOSE THE PUBLIC HEARING AND DIRECT SPECIAL LEGAL COUNSEL TO PREPARE A DRAFT MOTION FOR THE JUNE 16, 2010 MEETING.

Adjournment

As there was no further business the meeting adjourned at 10:38 p.m.