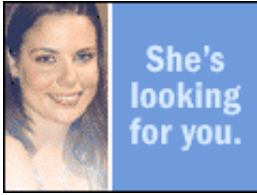


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Message 1083 of 1118 | [Previous](#) | [Next](#) [[Up Thread](#)] [Message Index](#)

Msg #

- [Home](#)
- [Messages](#)
- [Pending](#)
- [Post](#)
- [Chat](#)
- [Files](#)
- [Photos](#)
- [Links](#)
- [Database](#)
- [Members](#)
- [Pending](#)
- [Calendar](#)

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From: "Lynne Eckardt" <midfarm@bestweb.net>
Date: Sun Feb 20, 2005 1:08 pm
Subject: SE Town Board Recap 2/17/05

Hi All,

Below please find my recap of the Town Board Regular Meeting for Thursday February 17th. This really was a barn burner as we covered everything from a tie-vote (a first in the two and a half years I've been attending), a missing historic site, an impromptu and unprecedented 'public discussion' on Westchester Tractor and, in a stunning denouement, a possible 'Defamation of Character' lawsuit to be filed against me. Ei yi yi- this may even be worth watching on Channel 8.

I've edited the agenda as to what I think may be of interest to readers. Still, these notes are extremely long. And for that I apologize- but that's what your delete key is for...

As always these notes are unofficial and the comments are solely my own lighthearted but somewhat sardonic take on life in Southeast.

And FYI Councilman Johnson was not in attendance until he rushed in for Executive Session. Because, let's face it, no one wanted to miss the thrilling conclusion of this meeting.

REGULAR MEETING:

Public Hearing:

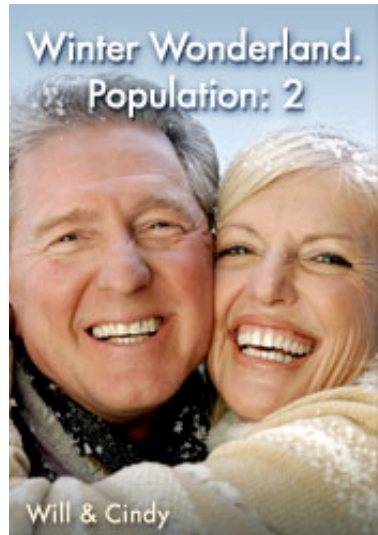
7:30: Release of Performance Bond/Prospect Hill Office Park

There were no comments from the Board or audience.

7:31: Commercial Moratorium- Route 22 North

This was re. an extension to the Moratorium now in effect. An Adam Wexstein (Forgive my spelling here- I'm not sure that I got this name right) representing Harold Lepler got up to speak and was told by the Board that it is actually the proposed expanded Moratorium (to be held on March 17th) that Mr. Wexstein will want to address. Rick O'Rourke asked if there was a draft of the existing Moratorium (as well as the expanded version) to look through as did Donald Rossi (also

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representing Mr. Lepler). Town Clerk Mazzei said that there was one that they could FOIL and pay .25 a page for at Town Hall.

5. Resolution- Local Law #2/2005- Commercial Moratorium/ Route 22 North

Passed: 4-0

6. Motion Setting Public Hearings:

March 17, 2005:

7:31 PM: Proposed Local Law to amend local law 1 of 2002 to expand Moratorium to include Doansburg Road and Route 22 north to the Patterson Town Line.

7:32 PM: Proposed Local Law to impose a Moratorium on any development which would include 'Adult Use' projects pending review and adoption to the town code pertaining to such uses.

7. Resolution: Special Permit: Palazetti Warehouse, Hardscrabble Heights:

The Board voted 2-2 resulting in no action. Palazetti is in the OP 1 area of Fields Lane. It has already received a wetlands permit and is seeking to be 80% warehouse/20% office in an Office Park zone.

8. Resolution- Moratorium Variance- Garden Homes Management (Route 22)

The variance was denied by a vote of 4-0.

10. Establishment of Performance Bond: The Meadows at Deans Corner

A \$6.428 million bond was set. by a vote of 4-0.

11. Resolution- Authorizing acceptance of deed to former Landfill Property

With no financial consideration due the Board authorized this acceptance by a vote of 4-0.

12. Resolution- Wetlands Permit- Ellis Tarleton, 140 Joes Hill Road

With reduced incursion on a resubmitted plan the Board granted this permit by a vote of 4-0.

13. Motion- Authorizing Supervisor to sign Stormwater Phase II Grant Application

Passed by a vote of 4-0.

NEW BUSINESS:

Westchester Tractor:

Councilwoman Mitts asked the Board to refer the 'Westchester Tractor' application to the Zoning Board of Appeals as she has questions with the 'Light Manufacturing' that will be done on site.

Mr. O'Rourke (attorney representing the owner of Westchester Tractor) asked to speak. He pointed out that it was not manufacturing but rather 'assembly' that would take place on site. Councilman Bonanno was concerned with retail sales and I pointed out that retail sales, leasing and renting take place at their current location which can also be found on their website. Mr. O'Rourke did not feel that Westchester Tractor fell into the 'retail category'. The Board voted 4-0 to refer Westchester Tractor to the ZBA.

FOILING:

Cathy Croft asked about the possibility of FOILING for and receiving electronic copies of minutes and other town documents. Town Clerk Mazzei said the Bob Freeman (Committee on Open Government) had assured her that she is not required to provide documents in electronic form. Ms. Croft disagreed. Mrs. Mazzei said that she would be seeing Bob this week and would ask him again. Councilwoman Mitts said she didn't understand why Ms. Croft would want electronic versions of the minutes as they are on the Town Website. Ms. Croft replied that she would like them as it is 'within her rights' to obtain them. Ms. Croft asked that she be called when her FOIL request is available. Mrs. Mazzei stated that there are far too many FOIL requests in the Town of Southeast to accommodate calling the FOILER.

Historic Sites:

Cherie Ingraham asked the Board why certain sites had been removed from the Town Historic Sites list. Supervisor Dunford said that this had been brought to his attention and the Board was looking into it.

2005 Budget:

I asked if the Board could put the 2005 Budget on the Town Website. Councilwoman Mitts said that it would probably be too unwieldy for most users to access.

RailTrail:

I asked about the status of the Railtrail. Councilman Honeck said that there were a few snags at the county level. Some involving property access.

Gateway Summit:

I asked about the Town's involvement (the Town of Southeast is listed as an involved agency) with the proposed Gateway Summit/Fairways development in Carmel as our roads in Southeast will be greatly affected. Particularly Maple as the town is considering paving the north end and this will become a major cut-through.

The Town will be sending two letters regarding this project.

Possible Defamation Lawsuit:

Councilman Bonanno then announced that serious allegations that had been made by an area resident concerning the Town Clerk and he wanted the Town Board to consider legal action regarding a possible 'Defamation of Character' lawsuit. He asked to go into Executive Session. The Board voted 4-0 to enter into Executive Session and retired into the back office. Midway through the session Councilman Paul Johnson came rushing in.

The Board reconvened. And voted 5-0 to turn the consideration of a 'Defamation of Character' lawsuit over to Town Counsel. Town Clerk Mazzei then asked the Board that if the Board didn't vote in her favor (a Board member corrected her on this) could she personally sue Ms. Eckardt . The Board replied 'yes'.

COMMENTS:

Whew- where to begin...

Route 22 Moratorium:

Or- Trouble in Paradise:

Mr. Lepler and his posse were in full force and had even brought a new gun along for this ride. Apparently Mr. Lepler is less than thrilled with the new, proposed Moratorium as his latest in 'Senior Housing' (168 unit) will be affected. I can't wait until this Public Hearing on March 17th- someone should sell popcorn.

Palazetti Warehouse:

I had thought that this baby would finally be laid to rest... but like toilet paper on a wet shoe this just won't go away. I was fascinated to see a split vote and found it curious that Councilman Honeck, who doesn't have a particularly great track record on 'Special' and 'Wetland' Permits voted to deny. Completely co-incidentally he is up for re-election this year.

LANDFILL:

It is truly exciting to see this project moving forward after over 15 years of some ownership issues and much obfuscation. Heavens, I wonder how much this has cost the Town in legal fees.

WESTCHESTER TRACTOR:

or 'More Trouble in Paradise'...

This is one of my favorites ands kudos to Councilwoman Mitts for not letting this one slide by. Kudos also to Supervisor Dunford for allowing a dialogue with the audience to ensue.

However; methinks the ZBA will be running interference for the Town Board. This project is so **not** within allowable use (OP-2) at Terravest it's not even funny. Well, actually it is- funny, that is.

If this plays the way I think the ZBA gets to be 'Bad Cop' turning down a Lepler project while the Town Board can wash their hands of the entire mess. Remember unlike Planning and Conservation (advisory) the ZBA decision stands.

Oh, and let's not forget that if Westchester Tractor goes through, like Ace Endico, the sewage treatment plant may not be up and running. But Mr. Lepler has e-mailed me that both Westchester Tractor and the Wastewater Treatment Plant will begin construction in the spring. At the last meeting he mentioned that they will be finished simultaneously. By the way, I have a bridge for sale if anyone is interested-

NEW BUSINESS:

FOILing:

Kudos to Cathy Croft who was a dog with a bone and would not take 'no' for an answer. She was polite, informed, tough and asked all the right questions. Explain to me again why no one is able to get electronic records? Putting certain documents on the Town Website is NOT a mitigating factor and further it doesn't matter why someone wants records. The bottom line is simply this: they're entitled to them.

By the way, my FOILing experience in neighboring towns has actually been a pleasant one. Carmel's Town Clerk, Connie Munday and her Deputy couldn't be more professional or courteous. The Town of Somers actually faxed me my request with never a query as to why I wanted said information. Oh, and neither Town charged for a copy of my submitted FOIL form.

HISTORIC SITES:

It seems that 'Drewscliff' has gone missing from the historic sites list with no explanation of why or how this happened. Again, completely co-incidentally 'Drewscliff' is on the same property as 'The Meadows' (104 lot approved subdivision) and would be protected to some degree if it remains on this list. Yet another mystery in our town...

Thanks to Cherie Ingraham for staying on top of this.

GATEWAY SUMMIT/FAIRWAYS:

Route 6- east of Putnam Plaza

I was thrilled to see that our Town will be taking some interest in this rather large project. With over 300 units of 'Senior Housing', a 150 room Hotel/Conference center, a YMCA and retail space you can bet on additional traffic passing through Southeast- a lot of traffic. As I've been saying all regional growth is every town's concern. Naturally there should be concern shown for the already impaired Middle Branch as many families in Southeast draw their water from this reservoir.

Anyhow I look forward to FOILing these letters. Well, maybe not the FOILing part- but I do look forward to reading the Town Planner's comments and questions.

POSSIBLE DEFAMATION LAWSUIT:

I haven't had a chance to speak with an attorney yet (I've been really busy) so I probably should say nothing- however I kinda, sorta think that the point of this suit may be to shut me down so I'm throwing all caution to the wind.

I have to say that this exercise in Public Humiliation drew a pretty big crowd. I mean, normally the audience disperses once the Board goes into Executive Session. Not Thursday night. It seems everyone wanted to stick around to see Ms. Eckardt thrown under the bus.

Mr. Lepler, Mr. O'Rourke, Mr. Rossi, the Suscom camera guy- well the list goes on. And I can't say as I blame them- this was public skewering at it's finest. Even Councilman Johnson couldn't let

this opportunity pass-and in the eleventh hour rushed in like a whirling dervish. There was some speculation that he might have been sitting in his car until he received a call that the 'fun part' of the meeting was about to take place.

Now, I'm not an attorney (obviously- or I wouldn't be in this mess) but my question is: How can the Town Board institute a defamation suit on behalf of another independent elected official? I mean, even if Town Clerk Mazzei feels that her character was 'defamed' how can the Board take any legal action on her behalf? I've heard tell that it's very difficult for any public official to win a libel, slander or defamation case. Considering the fact that two attorneys sit on the Board and Town Attorney Willis Stephens was there to advise what were they thinking? Gosh, this seems like Law 101 to me. And please, correct me if I'm wrong- Hey, always looking for free legal advice.

By the way I hate to think of Town funds being used for a frivolous lawsuit- but, again, maybe I'm just annoyed that I'll be spending money on both sides of this case. Sigh.

That's it from my desk. I hope everyone has an enjoyable Sunday. As always please feel free to e-mail me with any questions or comments you may have.

With Best Regards,
Lynne Eckardt

Message 1083 of 1118 | [Previous](#) | [Next](#) [[Up Thread](#)] [Message Index](#)

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