

Board of Trustees - Regular Meeting - 2/3/2018

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Village of Dering Harbor

Board of Trustees

Regular Meeting

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February 3, 2018  
10:00 a.m.

23 Locust Point Road  
Dering Harbor, New York

UNOFFICIAL MINUTES

Donna L. Ritzmann  
Court Reporter

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2

A P P E A R A N C E S:

3

4

JOHN COLBY, Mayor

5

6 TRUSTEES:

7

ARI BENACERRAF  
PATRICK PARCELLS  
BETSY MORGAN  
KAREN KELSEY (Not present)

9

10 ELIZABETH GILPIN, Village Clerk  
(Not present)

11

WAYNE BRUYN, Village Attorney

12

RICH, Reporter

13

BRIDGFORD HUNT, Resident

14

BRAD GOLDFARB, Resident

15

ALFREDO PAREDES, Resident

16

STEPHANIE DEUTSCH, Resident

17

ERIC DEUTSCH, Resident

18

JONATHAN CARY

19

DANIEL BARKER, ESQ.

20

21

22

23

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25

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2 MAYOR COLBY: Good morning

3 all. I have the recorder up here.

4 I'm sorry. Lisa's out with the

5 flu today, so we're trying to do

6 an ad hoc recording session.

7 Slide button on left down. Okay.

8 I guess that's the power button.

9 And then press red record button

10 on front of device. I don't know

11 if that's working or not.

12 Is anyone else recording?

13 (Inaudible)

14 MAYOR COLBY: Thank you

15 very much for coming today, it's

16 10:00 o'clock (inaudible) bright,

17 sunny day.

18 Wayne's here; we have the

19 court reporter, Donna, is here

20 representing Mr. Barker

21 (Referring). Rich is the reporter

22 and we have Wayne Bruyn, counsel;

23 Patrick Parcels, Trustee; me,

24 Mayor; Betsy Morgan, Trustee; Ari

25 Benacerraf, Trustee. One Trustee

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2 is absent.

3 I want to just read a  
4 couple things to start and we can  
5 continue. I had a couple of  
6 comments to make. Actually I  
7 wrote them down this time, so it's  
8 only three pages, so bear with me.

9 "More than halfway through  
10 the fiscal year I want to discuss  
11 ethics, judgment, and financial  
12 stability. The Village should  
13 hold itself to a standard where  
14 board members and committee  
15 members work for the residents.  
16 The residents in turn work for  
17 each other and the Town making  
18 Dering Harbor an integral part of  
19 our island and the greater East  
20 End community.

21 As a Bull-Moose progressive  
22 - in case anyone was wondering; my  
23 middle name "Theodore," named for  
24 my father, born in the year of the  
25 great Theodore Roosevelt's

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2 untimely death - I am committed to  
3 the bond between employer and  
4 employee that serves not just  
5 employee but adds intrinsic value  
6 to the Village. This value is  
7 born from trust that only derives  
8 from the people. It can't be  
9 measured by time clocks, overtime  
10 wage reports or union agreements,  
11 but rather the fundamental truth  
12 of human nature. The human  
13 condition of trust has been on the  
14 run of late, but perhaps if we  
15 have the courage of conviction and  
16 remember good character taught us  
17 by our parents and grandparents we  
18 can work together to resolve open  
19 concerns.

20 I feel strongly that anyone  
21 serving in a public capacity must  
22 leave their personal animosity at  
23 home. How else can you represent  
24 the people? How else can you  
25 learn from this public service?

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2 How will you be able to benefit  
3 the Village? Remember the Village  
4 doesn't work for you...you work  
5 for the Village.

6 You as a public official  
7 bring value to the Village and  
8 must remain unbiased. If not, an  
9 ugly truth hiding in the  
10 underbelly of human nature may  
11 serve to add value to you at the  
12 expense of your neighbor. How  
13 then can an applicant making a  
14 good faith appearance before a  
15 board, remain confident that their  
16 concerns will be heard?

17 With that in mind and  
18 embracing a fundamental element of  
19 fairness I ask two residents to  
20 resign their board seats or drop  
21 their litigation. I also ask that  
22 one other resident who remains as  
23 a litigant against the Village  
24 remove the Village as a defendant.  
25 Remember, that bringing action

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2 against the Village serves to  
3 lower values for all residents and  
4 raises our litigation costs. It  
5 ties the board up in complex ways  
6 bearing unintended consequences,  
7 when the board requires  
8 deliberation on other matters. If  
9 you have a disagreement with a  
10 neighbor, I am certain there are  
11 other ways to work through any  
12 difficulty besides litigation.  
13 Also, that whether you win, loose  
14 or draw, your attorneys will  
15 benefit at your expense. Like a  
16 portfolio manager - whether the  
17 market rises or falls - a  
18 commission he doth make.

19 We must appreciate the  
20 value-added by living in the  
21 Village whether you agrees or  
22 disagree with board policy.  
23 Whether you agree or disagree with  
24 the efficacy of our water works,  
25 and whether you agree or disagree

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2 with Village Code. We are Village  
3 residents, residents of Shelter  
4 Island, and it is incumbent on  
5 everyone to participate in Village  
6 government. You always have a  
7 voice here.

8 Our forecasted running  
9 deficit from the approved budget  
10 largely centers on higher  
11 litigation expenses and water  
12 system repairs - water system  
13 repairs as a harbinger of capital  
14 improvement. Most of the road  
15 maintenance expenses will be  
16 recovered from CHIPS money, but  
17 one way to cover higher unplanned  
18 costs in a municipality is by  
19 deferring payment of expenses into  
20 the next fiscal year giving us  
21 time to plan tax receipts  
22 accordingly. We do not have an  
23 operating reserve or general  
24 credit line, but only by a board  
25 resolution may we allocate a



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2 portion of prepaid tax receipts to  
3 cover current year expenses. We  
4 must not let litigation expenses  
5 coupled with the cost of code  
6 modification undermine hard-earned  
7 tax payments.

8 We'll have options on the  
9 table at the first budget review  
10 planned for March and April  
11 meetings. There will be some  
12 revenue gains from newer  
13 assessments offset by litigation  
14 costs, loan interest, and  
15 maintenance costs. The Trustees  
16 as the legislative branch, will  
17 review, modify, and approve a  
18 budget for Fiscal 2019.

19 I should emphasize that we  
20 all need to embrace our employees  
21 and each other to settle  
22 differences while building value  
23 for ourselves and our children.  
24 Again, I appeal to commons sense  
25 and reason to carry the day.

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2 Yours most sincerely." Me.

3 Thank you.

4 I would like to review the  
5 minutes from the last meeting,  
6 which will be two minutes, which  
7 will be the December 2nd meeting  
8 and the January 20th meeting. The  
9 first group is from the December  
10 2nd meeting, and in that group of  
11 minutes we added the resolution  
12 that we passed granting the  
13 license for the holly hedges which  
14 you'll see under the ARB Section,  
15 Section 11. And there's an  
16 attachment with the resolution  
17 that this board passed during that  
18 meeting.

19 Does anyone have any  
20 questions on that?

21 MS. MORGAN: No questions.

22 MAYOR COLBY: No questions,  
23 then I'll make the motion to  
24 accept the minutes as granted from  
25 the 20 -- for the December 2

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2 meeting?

3 MR. PARCELLS: So moved.

4 MAYOR COLBY: Second?

5 MS. MORGAN: Second.

6 MAYOR COLBY: In favor?

7 MR. PARCELLS: Aye.

8 MAYOR COLBY: Aye.

9 MS. MORGAN: Aye.

10 MAYOR COLBY: Next is the  
11 minutes from the 20th of January  
12 meeting, which you'll see at the  
13 next block. Now Lisa, as you  
14 know, is out, out today with the  
15 flu. And she was in the middle of  
16 doing this when the flu got her,  
17 so she didn't quite finish, but  
18 there is the resolution that you  
19 must add to your copy under  
20 Section Five, which is the water  
21 works report. And that is the  
22 resolution authorizing the Mayor  
23 to enter into contract relations  
24 with H2M. And the exact language  
25 as recorded at the meeting -- and

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2 just this is just to add to your  
3 copy of the minutes -- if you  
4 didn't get a chance to put it in  
5 there on the last line, I'm sorry,  
6 but the language is "Resolution  
7 authorizing the Mayor to sign a  
8 contract with H2M \$495,000 to  
9 accept that contract authorizing  
10 John to execute on behalf of the  
11 Village. Patrick requested that  
12 John be allowed to sign up to  
13 \$738,000 because he has to be able  
14 to communicate with the electric  
15 people and the tank contractor.  
16 Authorizing the Mayor to return  
17 this agreement which is the  
18 replacement of water storage tank  
19 on Gilgo Road effecting  
20 construction. And we all voted in  
21 favor of that resolution. And  
22 that should be duly added to the  
23 minutes today.

24 MR. BRUYN: I would like to  
25 offer a correction because the

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2 contract is with Statewide.

3 MAYOR COLBY: Okay.

4 MR. BRUYN: H2M are the  
5 engineers.

6 MR. PARCELLS: (Inaudible).

7 MR. BRUYN: Statewide  
8 Acquastore Inc.

9 MR. PARCELLS: I think it's  
10 498, is it not?

11 MR. BRUYN: I don't know  
12 the exact number.

13 MR. PARCELLS: It is on the  
14 yellow paper.

15 MR. BRUYN: 498,820.

16 MAYOR COLBY: 498,820, so  
17 noted in the meeting minutes.

18 Any other corrections?

19 If there are no other  
20 corrections, I'll ask for a motion  
21 to accept the minutes?

22 MS. MORGAN: Motion.

23 MAYOR COLBY: Second?

24 MR. BENACERRAF: Second.

25 MAYOR COLBY: In favor?

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2 MR. PARCELLS: Aye.

3 MAYOR COLBY: Aye.

4 MS. MORGAN: Aye.

5 MR. BENACERRAF: Aye.

6 MAYOR COLBY: Motion

7 carries. The minutes are

8 accepted.

9 Thank you very much.

10 We have the old business,  
11 which is the language that Wayne  
12 prepared on the revised fence law,  
13 so that's old business. I'd like  
14 to open up old business, if we  
15 may? I need a motion to do that.

16 MS. MORGAN: So moved.

17 MAYOR COLBY: Second?

18 MR. PARCELLS: Second.

19 MAYOR COLBY: In favor?

20 MR. PARCELLS: Aye.

21 MR. BENACERRAF: Aye.

22 MS. MORGAN: Aye.

23 MAYOR COLBY: Okay. Old

24 business is now open.

25 The resolution to schedule

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2 a public hearing on local law  
3 amending fences of the zoning law  
4 to establish standards for  
5 structural fences and repeal  
6 duplicative review by the Board of  
7 Trustees and Architectural Review  
8 Board under Section 4-420 and  
9 10-106, see attached addendum.

10 This motion was adjourned at 2  
11 December and I want to -- I think  
12 we need to re-open the public  
13 hearing. We adjourned the public  
14 hearing. I'd like to re-open the  
15 public hearing and then adjourn  
16 that, Wayne, is that what you want  
17 to do?

18 MR. BRUYN: Well, you can  
19 take any comments from the public  
20 on that proposal, but as you  
21 announced at the last meeting, it  
22 was your intent to consider  
23 modifications to that law where  
24 you would actually have a  
25 provision defining what hedges are

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2 and a limited regulation of those  
3 hedges. And you do have that  
4 proposal on your table on the  
5 agenda for today as well, so in  
6 light of that if anybody wants to  
7 comment on the first proposal,  
8 they're allowed to do so, but --  
9 and in light of you -- I think  
10 your -- it's your intent to close  
11 that and table it for all purposes  
12 and then schedule the hearing on  
13 the alternate proposal?

14 MAYOR COLBY: Right. So  
15 we'll open that up for any  
16 comments, if anybody has any we'll  
17 hear them, if not we'll make a  
18 motion to adjourn that part of the  
19 public hearing?

20 MS. MORGAN: And if I have  
21 comments is that part of the  
22 public hearing or not?

23 MAYOR COLBY: That would be  
24 the next -- we have to open up the  
25 next one, two things on the



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2 agenda.

3 So nothing -- this is the  
4 old one that we adjourned, so  
5 nothing, nothing further we'll  
6 close that public hearing.

7 MR. PARCELLS: John, just  
8 to be sure, are we -- are we  
9 tabling the discussion in  
10 consideration of the previous  
11 draft for all purposes rather and  
12 then taking up the new draft?

13 MR. BRUYN: Well, it's your  
14 choice as a legislative body, you  
15 closed the hearing, if you want to  
16 consider the alternate proposal,  
17 whether you bring that other one  
18 back or re-open it or some time in  
19 the future you can always do that,  
20 but my understanding is the  
21 regulation of fences is included  
22 in this new proposal (Referring),  
23 if you chose not to regulate  
24 hedges and take that portion out,  
25 you would be back to your old

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2 proposal. So you can still do it  
3 either way.

4 MAYOR COLBY: And just  
5 adjourn it and open up the next  
6 one.

7 MR. BRUYN: You close it.

8 MAYOR COLBY: Close it,  
9 right.

10 MR. BRUYN: For all  
11 consideration, if you want to  
12 re-visit that, like I said, you  
13 could amend the new proposal to  
14 take out the part of the hedges.

15 MAYOR COLBY: Okay.

16 MR. BRUYN: (Continuing) Or  
17 you can go back and re-notice the  
18 old law.

19 MAYOR COLBY: All right.  
20 So I'll ask for a motion -- any  
21 discussion? If not, I'll ask for  
22 a motion to close that section of  
23 the public hearing?

24 Can I have a motion?

25 MS. MORGAN: So moved.

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2 MAYOR COLBY: Second?

3 Second? In favor?

4 MR. PARCELLS: Aye.

5 MR. BENACERRAF: Aye.

6 MAYOR COLBY: All right.

7 Old motion passes.

8 The next item is the new  
9 fence, fence-hedge law, Wayne  
10 drafted and we'd like to open that  
11 up for the board discussion. The  
12 plan is to schedule a public  
13 hearing at the next meeting, which  
14 will be March, for this proposal.

15 Does anyone have any  
16 comments?

17 MR. BRUYN: I can describe  
18 it, essentially it's the same  
19 regulation on fences that is  
20 currently on the table, but as the  
21 board directed, they wanted to  
22 have limited review of hedges.  
23 You have a definition of hedges.  
24 Your regulation would provide that  
25 there cannot be a hedge greater

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2 than four feet in the front or --  
3 front yard or along the street  
4 line and that it has to be  
5 setback, the stem or the trunk of  
6 the hedge has to be setback at  
7 least four feet from that street  
8 right-of-way and that you're  
9 required as a landowner if you  
10 plant that hedge in the front yard  
11 to maintain it at four feet,  
12 you're subject to the corner  
13 clearance requirements on any  
14 hedge, such hedge, and any hedges  
15 that are more than 20 feet from  
16 the street line or any vegetation  
17 thereafter is not regulated  
18 whatsoever and any hedges in the  
19 side or rear yards are not  
20 regulated at all as well. And we  
21 did provide just a documentation  
22 part so if one wanted to put a  
23 four-foot hedge in the front yard  
24 that they would be required just  
25 to send a letter for the record

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2 purposes and that's it, there's no  
3 review, no approval, no further  
4 ARB review.

5 MR. BENACERRAF: So just to  
6 be clear, existing nonconforming  
7 hedges are exempt, correct?

8 MR. BRUYN: They're  
9 preexisting.

10 MR. BENACERRAF: Yeah.

11 MAYOR COLBY: What happens  
12 to preexisting hedges that fall on  
13 the macadam, does the Village have  
14 the right to cut them down or not?

15 MR. BRUYN: Depends if it's  
16 in a street right-of-way or not.

17 MAYOR COLBY: So there's  
18 nothing in this to prevent the  
19 Village from doing that?

20 MR. BRUYN: No.

21 MAYOR COLBY: What happens  
22 if the hedges are planted on  
23 Village property, what happens to  
24 that preexisting hedges?

25 MR. BRUYN: On village

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2 property?

3 MAYOR COLBY: On village

4 property.

5 MR. BRUYN: That's up to

6 the Village to maintain that.

7 MAYOR COLBY: There's

8 nothing in this law that

9 precludes --

10 MS. MORGAN: If it

11 preexists, this doesn't speak to

12 anything preexisting?

13 MR. BRUYN: No.

14 MS. MORGAN: No.

15 MR. BRUYN: I had that one

16 proposal for you to look at and

17 try to deal with that in a certain

18 sense and I think the thought

19 process, comments I got were that

20 you wanted to take that out.

21 MAYOR COLBY: Well, it does

22 deal with preexisting, the fact

23 that preexisting are exempted from

24 this.

25 MR. BRUYN: Well, just like

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2 any zoning requirement, zoning  
3 code is prospective, so going  
4 forward it can only regulate new  
5 matters.

6 MAYOR COLBY: Right.

7 MR. BRUYN: Anything that's  
8 existing is preexisting.

9 MAYOR COLBY: I just want  
10 to be sure it didn't abrogate  
11 anything that's already planned on  
12 the Village, this doesn't --

13 MR. BENACERRAF:

14 Preexisting, nonconforming hedge  
15 damaged in a storm or at least can  
16 be replaced, what's the procedure  
17 to reconstitute that hedge?

18 MR. BRUYN: It's a good  
19 question. I would suspect the  
20 landowner would have the right to  
21 replace it.

22 MS. MORGAN: Don't you -- I  
23 think you speak to that in here  
24 (Indicating).

25 MR. PARCELLS: We took that

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2 out.

3 MS. MORGAN: Pardon?

4 MR. PARCELLS: We took that

5 out.

6 MS. MORGAN: Oh, you took  
7 that out?

8 MR. BRUYN: Yeah. There  
9 was a provision if you wanted to  
10 replace a nonconforming -- let's  
11 say you had an eight-foot hedge  
12 along the street and you wanted to  
13 replace it, we had a provision  
14 where that would go to the ARB for  
15 review. And it will be determined  
16 safety issues or other issues that  
17 might be important and then we'll  
18 have the ability to reduce it or  
19 push it back off the street. We  
20 can re-visit that at another date.  
21 I think the purpose of this is to  
22 get this out for discussion in  
23 public hearing and any and all  
24 comments going forward I think  
25 would be appropriate.



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2 MR. PARCELLS: There are a  
3 few comments that I have as I go  
4 through this that I'd like to  
5 bring up and maybe we'll discuss  
6 those and perhaps some changes  
7 should be made and then  
8 distributed to the public, what  
9 have you, to see either in this  
10 form or a revised form, should we  
11 kind of go through that?

12 MR. BRUYN: Well, you can.

13 MAYOR COLBY: You want to  
14 change --

15 MR. BRUYN: This is not the  
16 time for a hearing, but if you  
17 don't want to schedule this and  
18 you want to schedule a different  
19 law we'd have to draft that.

20 MR. PARCELLS: In March --  
21 well, these are just some of the  
22 changes and clarification.

23 MAYOR COLBY: That's fair  
24 enough. I also I had an email  
25 from one of the planning board

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2 members who live on Shore Road,  
3 I'm not certain if that planning  
4 board member who wants to apply on  
5 this legislation, too, as a member  
6 of planning board, I don't know  
7 what the planning board's doing,  
8 but we have to get their input.

9 Three of the planning board  
10 members live on Shore Road and  
11 only Ari lives on Shore Road on  
12 this board, I don't, and I don't  
13 have any interest in necessarily  
14 what everybody else wants, I will  
15 heal to the residents on Shore  
16 Road, and if at all possible, I'd  
17 like to have input from the  
18 planning board members.

19 MR. PARCELLS: I think that  
20 just as a, you know, business  
21 matter we should -- we should tidy  
22 this up as much as possible, get  
23 it out to the public and let them  
24 have time to digest it and think  
25 about it so that when we come back

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2 in March people have an  
3 opportunity -- will have an  
4 opportunity to think about this  
5 and consider it, you know, and,  
6 you know, in light of their own  
7 situations and I think that way  
8 we'll end up with a better product  
9 than just showing up next month  
10 and talking about it without  
11 having had the opportunity for  
12 people to --

13 MAYOR COLBY: That's fine,  
14 I agree. So what we are  
15 suggesting is go over these  
16 changes some more, review it again  
17 in March to make it ready for the  
18 public. By then maybe we'll have  
19 heard from some more folks that  
20 live on Shore Road via the  
21 planning board.

22 MR. PARCELLS: Hopefully, I  
23 mean ideally we have this ready in  
24 March, you know, we can take  
25 public comments, however they come

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2 in, by phone calls, email,  
3 whatever else, get them to Wayne  
4 and we'll have something on the  
5 table that we either can accept  
6 or --

7 MAYOR COLBY: Well, I think  
8 in April we have to put that for  
9 public hearing, we have to get it  
10 all tidied up, like buttoned down  
11 now, then schedule it in April.

12 MR. BRUYN: So there's two  
13 things you can do, you can do  
14 informal and get comments and try  
15 to legislate it, if you want to  
16 legislate you have to have a law  
17 that we have on the table, at  
18 least schedule it for a public  
19 hearing, it can be referred to the  
20 planning board, I recommend that  
21 you do so. It has to be referred  
22 to the Suffolk County Planning  
23 Commission, they all have to give  
24 their advice and recommendations,  
25 which were all incorporated into

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2 your public hearing process where  
3 you get the public comment,  
4 thereafter the question is what  
5 does the board do? You can modify  
6 the law, you can table it, you  
7 know, just close the hearing and  
8 do nothing or you can come up --  
9 if you make significant changes,  
10 it would have to be re-noticed at  
11 another date.

12 MR. PARCELLS: John, can we  
13 send any of our local laws to the  
14 Suffolk County Planning Commission  
15 for comment, that would be fine?

16 MAYOR COLBY: The one we  
17 have, the one we did, yes, we  
18 have.

19 MR. PARCELLS: Okay. All  
20 right. So just briefly, and in  
21 the legislative account section it  
22 says the Architectural Review  
23 Board will continue to review  
24 structural fences and walls.

25 MR. BRUYN: Correct.

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2 MR. PARCELLS: Should we  
3 not include in there and  
4 nonconforming hedges?

5 MR. BRUYN: Well, we took  
6 that section out in this proposal.

7 MR. PARCELLS: No, we do  
8 talk about the Architectural  
9 Review Board reviewing  
10 nonconforming hedges in here  
11 somewhere here.

12 MR. BRUYN: That was taken  
13 out.

14 MR. PARCELLS: For  
15 nonconforming hedges?

16 MR. BRUYN: Yes. Like I  
17 said, we had -- I had a draft and  
18 I got comments from various board  
19 members.

20 MR. BENACERRAF: I think  
21 that was probably multiple  
22 comments from each of us --

23 MR. BRUYN: Correct.

24 MR. BENACERRAF: -- right?

25 MR. BRUYN: So I simplified

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2 this proposal.

3 MR. BENACERRAF: I think  
4 our task is to reconcile this  
5 version and then submit that for  
6 people's consideration  
7 (inaudible).

8 MS. MORGAN: But I agree, I  
9 think it would be good to say the  
10 Architectural Review Board will  
11 continue to review structural  
12 fences and walls and any hedges  
13 that are nonconforming in respect  
14 to Section 4-420 so people know  
15 that if, going forward, if you  
16 want to do a hedge that is above  
17 and beyond the difference from  
18 what we're saying you don't a need  
19 approval for, you can appeal to  
20 the Architectural Review Board.

21 MR. BENACERRAF: Any  
22 Loopholes?

23 MR. BRUYN: No, I had that  
24 actually, that was the first  
25 draft, I mean that's in writing as

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2 well, you could put that up for a  
3 public hearing and that had that  
4 provision in it.

5 MR. PARCELLS: Why would we  
6 not just include it in this? I  
7 mean --

8 MR. BRUYN: I think there  
9 was recommendations that that was  
10 something you didn't want to get  
11 involved in, I mean not  
12 necessarily all of you, but I got  
13 those comments.

14 MR. PARCELLS: No, I think  
15 the architectural -- we can't just  
16 -- it seems to me that we have  
17 lots of different hedges and  
18 setbacks and sizes and so on, and  
19 I think that the idea, at least my  
20 idea was, and my understanding was  
21 that we should have some kind  
22 of -- establish some standard for  
23 what is a conforming hedge, which  
24 is four feet with a four-foot  
25 setback, and if you want to do



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2 that, you notify the village, you  
3 can do that, you're entitled to do  
4 that, if you want something other  
5 than that, that you should have  
6 the opportunity for that, but it  
7 should be the Architectural Review  
8 Board making that determination,  
9 not the trustees.

10 MR. BRUYN: Well, it  
11 certainly wasn't the trustees, so  
12 the question is if you take this  
13 proposal here (Referring) where we  
14 took out the provision where a  
15 nonconforming hedge or you wanted  
16 to do something different, the  
17 choice is under normal zoning  
18 requirements if you want to do  
19 something in variance to the  
20 standards, you would go to the  
21 Zoning Board of Appeals, but this  
22 proposal that is here, if you  
23 wanted to do a six-foot hedge in  
24 the front yard or you wanted to do  
25 something closer to the street

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2 than four feet, then you would  
3 have to go to the Zoning Board of  
4 Appeals, the first draft I wrote  
5 took it out of the Zoning Board of  
6 Appeals and gave you the ability  
7 to go to the Architectural Review  
8 Board on certain standards to  
9 consider and modify those  
10 standards.

11 MR. PARCELLS: Well, we had  
12 this discussion when Mark was  
13 here, it's my feeling that these,  
14 you know, hedge is, you know, is  
15 an architectural element and I  
16 would be more comfortable with the  
17 Architectural Review Board making  
18 determinations about heights and  
19 setbacks and materials and various  
20 things than the Zoning Board of  
21 Appeals, the Zoning Board of  
22 Appeals has a very clearly defined  
23 set of rules in the end that have  
24 to prove hardship and what have  
25 you, that's not, I think, the

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2 process that would be appropriate  
3 for someone who wants to have a  
4 hedge that's five feet instead of  
5 four feet, for example.

6 MS. MORGAN: And maybe we  
7 didn't understand when we gave you  
8 that feedback, but I think the  
9 intent is --

10 MR. BRUYN: Well, you guys  
11 have two drafts right now, one has  
12 that provision going to the ARB --

13 MS. MORGAN: Right.

14 MR. BRUYN: -- one doesn't.

15 MS. MORGAN: Right.

16 MR. BRUYN: So if you  
17 wanted to you can schedule the  
18 other one, which is more inclusive  
19 and if you later decide to take it  
20 out, that would not require  
21 re-noticing or otherwise, but it  
22 would be reducing what the scope  
23 of the law is.

24 MAYOR COLBY: I only have  
25 one -- one copy of this, there are

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2 two -- the old one we just tabled,  
3 right, and this one is revised?

4 MR. BRUYN: No, but I had  
5 emailed you all, I don't have a  
6 printed copy of that letter, you  
7 all have that and we have a letter  
8 of that and if we get that email  
9 and print it if you want and then  
10 schedule that for a public  
11 hearing.

12 MAYOR COLBY: Right, I  
13 agree that I've always said the  
14 ARB should be the person or the  
15 group that should make the  
16 determination, the ZBA may be a  
17 last resort, but it's always been  
18 the ARB doing this.

19 MR. BRUYN: No, I  
20 understand that, but I'm just  
21 saying without putting something  
22 in where someone could go to get  
23 relief on the standards then it  
24 automatically goes to the Zoning  
25 Board of Appeals, so unless you

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2 put something in expressly that  
3 you can go someplace different,  
4 such as the ARB, then --

5 MR. PARCELLS: Well,  
6 that's (inaudible) --

7 MS. MORGAN: Because I have  
8 here, I have the printout of what  
9 you said, what you did before and  
10 I think that's good, 'cause -- so  
11 it says the standards for  
12 Architectural Review Board action  
13 under 10-108 is being amended --  
14 I'm sorry, sorry. The  
15 Architectural Review Board will  
16 continue to review structural  
17 fences and walls and will review  
18 hedges that do not conform to the  
19 requirements of 4-420 including  
20 the replacement of a preexisting  
21 hedge to specifications other than  
22 those conforming to the  
23 requirements. So I think that's  
24 good.

25 MR. BRUYN: You can

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2 schedule that one.

3 MR. BENACERRAF: Are we  
4 trying to reconcile all of the  
5 different views on this side of  
6 the table (Referring) right now  
7 for purposes of what, this one  
8 proposal, I think that's what  
9 we're trying to do here? I'm  
10 struggling a little bit with how  
11 this is supposed to work.

12 MR. PARCELLS: I think we  
13 are.

14 MR. BENACERRAF: You know,  
15 I thought that, too.

16 MAYOR COLBY: I think the  
17 confusion is there are two  
18 different versions they're  
19 competing.

20 MR. BRUYN: Well, I think  
21 what Ari is saying is do you want  
22 to have a law at least that all  
23 five of you agree on in the first  
24 instance --

25 MR. BENACERRAF: We can

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2 have a different law

3 (inaudible) --

4 MR. BRUYN: I don't know if  
5 you can do that.

6 MR. PARCELLS: But in any  
7 case, I think what we should do  
8 here is we have the latest draft,  
9 which I think is good, we have a  
10 previous draft which also had  
11 plenty of good stuff in it, let's  
12 just try to come up with a draft  
13 or a law that includes, you know,  
14 the best elements of both of  
15 these. Can we do that? I mean I  
16 don't know.

17 MS. MORGAN: Now, can we do  
18 that now?

19 MR. BRUYN: You can do that  
20 now.

21 MR. BENACERRAF: I mean  
22 isn't that a collaborative effort,  
23 the best of each one, because how  
24 do you expect that to happen?

25 MR. PARCELLS: I expect the

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2 people and us we make comments and

3 we'll --

4 MR. BENACERRAF: The five  
5 of us.

6 MS. MORGAN: I have  
7 comments right now, so for me I  
8 think that piece should go back,  
9 so does Patrick, and then I have  
10 like two or three other comments  
11 and then I'm good. Should we just  
12 keep going through them?

13 MR. BRUYN: Well, again, it  
14 goes back to what Ari was saying  
15 was where does the goal you're  
16 trying to achieve? You can take  
17 the previous version and schedule  
18 that for a hearing in the interim  
19 before now and March where it's  
20 your comments, the public  
21 comments, the planning board, the  
22 Planning Commission comments, all  
23 can be incorporated, you can come  
24 back with another version in the  
25 middle of the hearing and it all



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2 comes down to a question of  
3 substance whether the changes you  
4 might undertake at that time, you  
5 may not have any changes.

6 MR. BENACERRAF: The  
7 point being --

8 MR. BRUYN: The question is  
9 how you get input?

10 MR. BENACERRAF: If we put  
11 something out there to get input  
12 we still have an opportunity to  
13 provide our own input and we can  
14 change it and that results in a  
15 final product, is that how it's  
16 supposed to work?

17 MAYOR COLBY: Ideally  
18 that's true, but functionally it's  
19 difficult for us to do right now.

20 MR. BRUYN: I understand  
21 that, and you know the question is  
22 is that no matter what, you have  
23 to go through the process of  
24 scheduling a public hearing,  
25 referring it until you get --

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2 MS. MORGAN: Right.

3 MR. BRUYN: -- public input  
4 formally.

5 MR. PARCELLS: We can have  
6 a public hearing based on  
7 something that's been drafted,  
8 right? So my suggestion is that  
9 we try to get the best draft that  
10 we can now.

11 MR. BRUYN: Based on the  
12 five of yours input?

13 MS. MORGAN: Yeah.

14 MR. BRUYN: I think that's  
15 what was achieved.

16 MS. MORGAN: I mean can we  
17 make corrections on this --

18 MR. BRUYN: Sure.  
19 Absolutely.

20 MS. MORGAN: -- I mean now  
21 and let's make a public hearing  
22 based on these corrected --

23 MR. BRUYN: Absolutely.

24 MS. MORGAN: Yeah, that's  
25 what we're trying to do.

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2 MAYOR COLBY: All right.

3 MS. MORGAN: So I think

4 Patrick and I both feel that we

5 should add back --

6 MAYOR COLBY: What section

7 is that specifically?

8 MS. MORGAN: So right here

9 (Referring).

10 MR. BRUYN: Well, you're

11 gonna go back to the previous

12 version which we don't have.

13 MAYOR COLBY: I have

14 Section 4-420, is that the one

15 you're talking about?

16 MR. BRUYN: No, the first

17 version I sent you a couple weeks

18 ago is what Betsy has right now.

19 MAYOR COLBY: All right,

20 but I thought --

21 MR. BRUYN: She is

22 marking --

23 MS. MORGAN: I have both

24 versions.

25 MAYOR COLBY: The one you

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2 sent me the other day I thought  
3 that was the revised version.

4 MR. BRUYN: That took out  
5 the whole ARB review.

6 MS. MORGAN: So I'm saying  
7 we add this back in to the most  
8 recent version (Referring).

9 MR. PARCELLS: I agree with  
10 that.

11 MS. MORGAN: Yeah. So  
12 we're good on that.

13 MAYOR COLBY: But she  
14 should have struck out -- and this  
15 is what's confused though -- it  
16 should have been struck out in my  
17 copy, I don't see it struck out,  
18 but you drafted two different  
19 versions?

20 MS. MORGAN: Yes.

21 MR. BRUYN: Mm-hmm.

22 MAYOR COLBY: Without  
23 seeing the sequence of events for  
24 the first modification, but it's  
25 still 4-420.

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2 MR. BRUYN: That was the  
3 version that you reviewed and  
4 nobody else.

5 MS. MORGAN: So let's stick  
6 with the --

7 MR. BRUYN: (Inaudible).

8 MS. MORGAN: So let's stick  
9 with the latest but just add back  
10 in that phrase about and we'll  
11 review hedges that do not conform  
12 to the requirements including  
13 replacement of preexisting hedges.  
14 So we're adding that from the last  
15 one.

16 MR. BENACERRAF: Well, I  
17 happen to disagree, but we can put  
18 it in the proposal and we can have  
19 public comment and decide what we  
20 want to do with that.

21 MS. MORGAN: Okay.

22 MAYOR COLBY: You disagree  
23 with the ARB?

24 MR. BENACERRAF: I don't  
25 understand why including review

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2 the hedges, I would strike that.

3 I think if you replace a

4 preexisting hedge --

5 MAYOR COLBY: Right.

6 MR. BENACERRAF: -- the

7 point being is that you want to

8 eliminate the chance of any monkey

9 business you had to bring

10 (inaudible) just in case who knows

11 whose here, and it's, you know,

12 toppled over by a storm, I think

13 you should put it back up.

14 MAYOR COLBY: Yeah.

15 MR. BENACERRAF: That's my

16 view. We can put it in the

17 draft --

18 MS. MORGAN: I'm fine with

19 that.

20 MR. BENACERRAF: -- if we

21 think (inaudible) term how you

22 want to handle it?

23 MAYOR COLBY: I kinda agree

24 with you on that, if it's a

25 preexisting hedge, if you want to

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2 replace it, it's ok.

3 MS. MORGAN: I agree with

4 that.

5 MR. BRUYN: If you take

6 four foot -- if you've got a

7 preexisting four-foot hedge and

8 you go an put a six foot hedge in.

9 MR. PARCELLS: Yeah, but

10 the six-foot hedge would require

11 ARB review.

12 MS. MORGAN: And it's not

13 preexisting.

14 MR. BRUYN: If you want to

15 put a six-foot hedge --

16 AUDIENCE MEMBER: Say you

17 put an eight-foot hedge in --

18 MAYOR COLBY: Comment from

19 Al, Al Paredes.

20 MR. PAREDES: I think a

21 four foot hedge or if it's a three

22 foot hedge, but it's a lengthy

23 hedge --

24 MAYOR COLBY: Right.

25 MR. PAREDES: -- all I hear

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2 about the hedges on Shore Road  
3 were always shorter to begin with,  
4 so --

5 MR. PARCELLS: Well, the  
6 new hedge is going to be required  
7 to be maintained at that level, so  
8 I think the hedges that were  
9 approved in the past and have  
10 grown up, the approval, I think  
11 generally includes the height  
12 limitation and people are just not  
13 maintaining that. So I suppose we  
14 can go back and force people to  
15 cut them down. So the next thing,  
16 in the new draft it says,  
17 "Fences," a fence or wall should  
18 not be erected on a berm or  
19 another fence or wall, I think  
20 that this should be changed, for  
21 example, on the berm part should  
22 remain, but if someone wants to  
23 build a two-foot brick wall and  
24 put a two-foot picket fence on top  
25 of it, as, you know, an example is



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2 Paul's fence next to your, Brad  
3 and Paredo's garage, I don't see  
4 why that won't be allowable.

5 MAYOR COLBY: It meets the  
6 ARB standard.

7 MR. BRUYN: What the intent  
8 there is is that you can't put a  
9 wall and then put a fence and now  
10 you have an eight-foot barrier.

11 MR. PARCELLS: That's  
12 right, as long as -- unless the  
13 combination, it complies with the,  
14 you know, the maximum standard,  
15 right? So if you wanted to put a  
16 four-foot fence and you wanted  
17 half of it to be brick and half of  
18 it to be some other material,  
19 picket or whatever, you're  
20 entitled to do that, but it just  
21 can't in combination exceed four  
22 feet, you can't make a four-foot  
23 wall and four-foot picket fence.

24 MR. BRUYN: Mm-hmm.

25 MS. MORGAN: I think

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2 that's -- I understand where  
3 you're going, Patrick, but I just  
4 think that's so unlikely and also  
5 would be so kind of weird looking  
6 to have.

7 MR. BRUYN: Well, the ARB  
8 would have to approve the fence.

9 AUDIENCE MEMBER: Yeah,  
10 they have to approve --

11 MR. BRUYN: I understand  
12 what you're saying.

13 MR. PARCELLS: So the other  
14 comment that I had, and this is,  
15 you know, after a question it  
16 says -- this is in Paragraph 3,  
17 the arch -- last sentence, "The  
18 Architectural Review Board shall  
19 have the authority to impose  
20 greater setbacks and reduce the  
21 height (inaudible) in  
22 consideration of public safety and  
23 public scenic views." I don't  
24 know what "public scenic view" is?  
25 Who owns it? Who made the rules

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2 for it? "Public scenic views?"

3 So I'm not sure that we want to

4 build the Architectural Review

5 Board for defining what that is

6 and making rules based on that.

7 And I think the same can be said

8 for public safety, if there's a

9 safety issue probably shouldn't be

10 the ARB who makes the decision

11 about that, it should probably be

12 the trustees I would think

13 because --

14 MR. BRUYN: Again, then

15 you're not reviewing the fence.

16 MR. PARCELLS: If the ARB

17 rejects the fence because they

18 have concerns for public issue and

19 refers it back to the --

20 MR. BRUYN: They wouldn't

21 refer it, their authority is to

22 approve or deny the fence.

23 MR. PARCELLS: Okay.

24 MR. BRUYN: If someone

25 doesn't like the decision, they

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2 sue the ARB.

3 MR. PARCELLS: Right.

4 MR. BRUYN: The whole point  
5 of trustees' review is you're  
6 taking yourself out of it.

7 MR. PARCELLS: All right.

8 I just think it's a burden on the  
9 ARB and I guess if that's the  
10 way -- if that's the process,  
11 fine, you know, we have to live  
12 with that, but I think the whole  
13 business about "Public scenic  
14 views," do you know what that is?

15 MR. BRUYN: In a larger  
16 sense I would assume that there's  
17 nothing in your statutes right now  
18 that define it, where in you're  
19 comprehensive planning documents  
20 that define it, but I think  
21 certainly it runs throughout some  
22 of the language, but has this  
23 board or village, to my knowledge,  
24 identified "public scenic views,"  
25 you can, you have the authority to

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2 do so, and that by zoning or  
3 regulations if you desire to  
4 protect.

5 MR. PARCELLS: Well, before  
6 they ask the ARB to make a  
7 determination --

8 MR. BRUYN: You can take it  
9 out.

10 MR. PARCELLS: -- on  
11 "public scenic views" --

12 MR. BRUYN: You can take it  
13 out, but I think that --

14 MR. PARCELLS: -- we have  
15 to define what they are, and  
16 that's the point. I don't think  
17 you can ask the ARB to make a  
18 decision about public --

19 MR. BRUYN: At this point  
20 in time I don't think you have the  
21 documentation, but you could in  
22 the future.

23 MR. PARCELLS: Yeah, okay.

24 MS. MORGAN: I would strike  
25 that sentence because I think it

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2 makes everything so arbitrary and  
3 that's what we are trying to get  
4 rid of any arbitrary -- anything  
5 that's arbitrary that could take  
6 away from the fairness. So I  
7 would just strike that whole last  
8 sentence.

9 MR. BRUYN: So you don't  
10 think they would have the  
11 authority to say we want this back  
12 because of the topography or  
13 something?

14 MS. MORGAN: Can you give  
15 me an example of how that would  
16 work?

17 MR. BRUYN: You have a  
18 steep slope on the face of the  
19 street and, you know, maybe  
20 because of traffic safety, views  
21 coming, the driveway entrances or  
22 otherwise you want the fence to be  
23 pushed back a little further.

24 MS. MORGAN: Well, why  
25 would -- why would that be a

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2 problem?

3 MAYOR COLBY: Well, we had  
4 the situation with the Lineak  
5 (phonetic) property where the  
6 ARB --

7 MR. BRUYN: This is just  
8 expressing they have that  
9 authority to do.

10 MAYOR COLBY: -- the ARB  
11 granted the Lineak application to  
12 put the fence on up on the shore  
13 property, what the ARB didn't know  
14 was that they erected a barn along  
15 the road on Shore Road that raised  
16 the level of the base of the  
17 hedge, so the ARB unknowingly  
18 granted approval for that and they  
19 shouldn't have done it, the  
20 shouldn't have granted approval  
21 because the berm created a water  
22 trap which was cascaded, literally  
23 cascaded into a dry well situation  
24 which cost us \$10,000, covered by  
25 CHIPS money, but that's an example

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2 of why the ARB should -- can say  
3 no.

4 MR. BRUYN: It's not so  
5 much no, but they have the  
6 authority to move the fence back.

7 MAYOR COLBY: Right.

8 MR. BRUYN: (Continuing)  
9 Reduce the height of the fence for  
10 whatever purpose, typically public  
11 safety.

12 MS. MORGAN: They approved  
13 all of fences anyway, so they  
14 would just not approve it. I  
15 don't understand how --

16 MR. BRUYN: Based on what  
17 standards?

18 MR. BENACERRAF: I think we  
19 struggle with, I think, what the  
20 scenic elements are the ones that  
21 I struggle with, and I think  
22 that's your key point.

23 MR. PARCELLS: I think  
24 until we take that out and define  
25 what that is how can they?



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2 MAYOR COLBY: Everybody has  
3 an opinion on what is scenic.

4 MS. MORGAN: Yeah.

5 MR. BENACERRAF:  
6 (Inaudible).

7 MR. PARCELLS: Clearly  
8 there's no standard for the board  
9 to make that.

10 MR. BENACERRAF: I think  
11 it's unfair to impose the ARB  
12 with, you know, making a decision  
13 with improperly false standard, I  
14 would (inaudible).

15 MR. BRUYN: The key there  
16 was is that there have been what I  
17 perceived people perceiving  
18 preservation of their view, which  
19 is not something in your code, but  
20 that becomes an important element.  
21 And so this was an attempt to at  
22 least say it has to be a public  
23 view as opposed to a private view,  
24 so if I'm the neighbor and I'm  
25 looking over and I don't want

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2 fences blocking my view, that's  
3 not an element that the ARB should  
4 be taking into account, that  
5 there's some public scenic view  
6 that has been documented or  
7 otherwise later on, that at this  
8 point I can't say that I've looked  
9 at every document in this village  
10 to see if there is something that  
11 says that, but they could take  
12 that into account, that's why I  
13 wrote it that way.

14 MR. BENACERRAF: I  
15 understand, and I think that that  
16 encapsulates a source of a lot of  
17 historical issues with the hedges,  
18 and so that --

19 MR. BRUYN: This is fences.

20 MR. BENACERRAF: Yeah.

21 MR. PARCELLS: Well, hedge  
22 or fence, if the hedge -- if a  
23 hedge or fence along Shore Road at  
24 four feet is not going to take  
25 away the view, it might take away

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2 the view of someone driving a car,  
3 but it's not going to take away  
4 the view of anyone walking around  
5 the shore, in any case, since we  
6 don't know what a "public scenic  
7 view" is, I don't think that we  
8 should ask the ARB to make a  
9 determination.

10 MR. BRUYN: You can strike  
11 that.

12 MR. PARCELLS: Okay. So  
13 there's that one. So I think that  
14 just from my perspective I just  
15 need a little clarification --

16 MAYOR COLBY: What section  
17 is that?

18 MR. PARCELLS: This is  
19 Paragraph E -- I mean Paragraph 4.

20 MAYOR COLBY: Section  
21 whatever.

22 MR. PARCELLS: Subsection E  
23 or whatever. Hedges in side yard  
24 or rear yard other than along the  
25 street lines and general

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2 landscaping beyond the 20 feet,  
3 beyond 20 feet of the street line  
4 are not regulated, so just to be  
5 clear, we're talking about trees  
6 and other plantings that are 20  
7 feet back from the street line but  
8 along the street.

9 MR. BRUYN: Along the  
10 street.

11 MR. PARCELLS: Only along  
12 the street. Okay. Nothing here  
13 (inaudible) planting of street  
14 trees, whatever they are, or  
15 groups of landscape features in  
16 the front yard or along the street  
17 (inaudible) provided that such  
18 plantings are spaced a minimum of  
19 30 feet apart. And the 30 feet  
20 apart part that I kinda scratched  
21 my head about, I mean you

22 obviously if you were planting  
23 Maple trees 30 feet apart is --

24 MR. BRUYN: Is a minimum  
25 for a tree.

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2 MR. PARCELLS: Yeah,  
3 minimum, right.

4 MR. BRUYN: That's where  
5 that standard came from.

6 MR. PARCELLS: But if  
7 you're planting a -- there's a  
8 formal definition of street trees?

9 MR. BRUYN: Oh, absolutely.

10 MR. PARCELLS: There is?

11 MR. BRUYN: In subdivision  
12 regulations you create  
13 subdivisions and (inaudible) right  
14 away you want street trees.

15 MR. PARCELLS: I promise  
16 you this, there is no mention of  
17 street trees in our subdivision  
18 regulation, but at least there's a  
19 definition of this somewhere that  
20 we might be able to adopt, but if  
21 you plant a Maple tree 30 feet  
22 apart it's probably, as you say,  
23 the minimum, but if you're  
24 planting -- what are those trees  
25 that we talked about yesterday,

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2 Betsy?

3 MRS. DEUTSCH: Crape

4 Myrtle.

5 MS. MORGAN: Crape Myrtle.

6 MR. PARCELLS: Betsy looked

7 it up and they're suggested to be

8 planted, what, eight feet or

9 eight to fourteen feet apart?

10 MS. MORGAN: Eight to ten

11 feet apart.

12 MR. PARCELLS: Eight to ten

13 feet apart.

14 MR. BRUYN: Yeah, but the

15 question here is when you're

16 trying to regulate a hedge, which

17 is a row barrier along the front

18 yard --

19 MR. PARCELLS: Mm-hmm.

20 MR. BRUYN: -- that's the

21 first thing you're regulating, so

22 what is the exception to the rule?

23 Well, if I had a tree and it's 30

24 feet apart, is that creating a row

25 or a barrier, screening or

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2 otherwise? It's trying to create  
3 an exception to where people can  
4 plant within that first 20 feet,  
5 but something that's not gonna be  
6 considered a hedge.

7 MS. MORGAN: Right. Right.

8 MR. PARCELLS: So this is  
9 planting trees within the first 20  
10 feet, if you do they've got to be  
11 30 feet apart?

12 MR. BRUYN: Correct.

13 MS. MORGAN: Or not a row  
14 of them, you can have like  
15 three -- say you wanted it on a  
16 corner of your property within the  
17 first 20 feet, you wanted like  
18 three trees --

19 MR. BRUYN: Or a little  
20 group.

21 MR. PARCELLS: Yeah, a  
22 group.

23 MR. BRUYN: Sometimes you  
24 do a little grouping but as long  
25 as that grouping doesn't become a

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2 line and a barrier --

3 MS. MORGAN: Yeah, yeah.

4 MR. BRUYN: -- which would  
5 then be defined as a hedge.

6 MS. MORGAN: Right.

7 MAYOR COLBY: How about a  
8 forest? My front yard is a  
9 forest, the trees are within five  
10 feet of each other.

11 MR. BRUYN: They were  
12 already there.

13 MAYOR COLBY: They were  
14 already there. But my  
15 (inaudible) --

16 MR. BRUYN: Is that a  
17 hedge?

18 MAYOR COLBY: I don't think  
19 so.

20 MR. BRUYN: It goes back to  
21 the question is it a hedge? It's  
22 not a hedge.

23 MAYOR COLBY: Yeah.

24 MR. BRUYN: And you didn't  
25 plant it.



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2 MS. MORGAN: This stuff is  
3 so complicated.

4 MR. BENACERRAF: And so if  
5 I collectively decided to plant a  
6 bunch of different things, not so  
7 different than Tim Hogue, would  
8 that be a barrier?

9 MAYOR COLBY: If it's back  
10 20 feet it doesn't make any  
11 difference.

12 MR. BENACERRAF: But no,  
13 the view will be blocked.

14 MR. PARCELLS: But that's a  
15 private view.

16 MRS. DEUTSCH: It's a  
17 private view.

18 MAYOR COLBY: The village  
19 doesn't want to regulate  
20 private --

21 MR. BENACERRAF: I'm with  
22 you, I am just asking the  
23 question.

24 MAYOR COLBY: That's a  
25 civil matter.

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2 MR. PARCELLS: So this  
3 sentence is repeated, this  
4 sentence that we talked about  
5 previously, the Architectural  
6 Review Board shall have the  
7 authority to impose greater  
8 setbacks in consideration of  
9 public safety, public views, that  
10 sentence is repeated in section  
11 four.

12 MR. BRUYN: The standard,  
13 right, we can take that out, the  
14 last one.

15 MS. MORGAN: Yeah.

16 MR. PARCELLS: So we should  
17 for consistency purposes take that  
18 out. Okay. So that's the sum  
19 total of my comments.

20 MS. MORGAN: That covers my  
21 comments, too.

22 MAYOR COLBY: So you want  
23 to redraft it, Wayne, is that what  
24 you want to do?

25 MR. BRUYN: Well, you do

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2 have the draft with the ARB on the  
3 nonconforming, and I don't know,  
4 you don't have, you know, hundred  
5 percent consensus on that draft.  
6 Ari has some issues with it. The  
7 question is whether you want to  
8 put something out formally for a  
9 public hearing? I mean these  
10 modifications I can make to that  
11 draft and email you immediately  
12 for the notice that we have to go  
13 out Monday.

14 MS. MORGAN: Yup.

15 MR. PARCELLS: Oh, so that  
16 draft you're talking about the  
17 latest draft?

18 MR. BRUYN: No.

19 MS. MORGAN: I think we  
20 should stick with the latest  
21 draft, strike those two sentences  
22 and add that one phrase back and  
23 then --

24 MR. BRUYN: Well, the  
25 phrase, the phrase that you were

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2 reading was in the intents, now  
3 the question is you have to put  
4 back the sections of the code that  
5 fulfill that intent.

6 MAYOR COLBY: Right.

7 MS. MORGAN: What --

8 MR. BRUYN: (Continuing)

9 And that's in that entire draft  
10 what you have there, which is the  
11 whole section of review for the  
12 ARB here.

13 MAYOR COLBY: It's not  
14 code.

15 MR. BRUYN: It's Section H  
16 and Section 10-108.

17 MS. MORGAN: So what -- but  
18 if we say including -- sorry. The  
19 Architectural Review Board will  
20 continue to review structural  
21 fences and walls, all I want to  
22 add back is and will review hedges  
23 that do not conform to the  
24 requirements of 4-420.

25 MR. BRUYN: Right, but

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2 you're reading the intent  
3 paragraph.

4 MS. MORGAN: I know.

5 MR. BRUYN: Now go down to  
6 the body of the amendments.

7 MS. MORGAN: Yes.

8 MR. BRUYN: First in  
9 section three you'll see  
10 amendments that relates to that  
11 authority, and then in section  
12 four you'll see a Subsection H  
13 which is the review of hedges and  
14 the standards for review of  
15 hedges, nonconforming and those  
16 that do not conform.

17 MS. MORGAN: You have to  
18 show this to me. So all I want to  
19 do --

20 MR. BENACERRAF: You have  
21 the setback being (inaudible).

22 MS. MORGAN: I don't see  
23 why because it's still all I'm  
24 adding is this one phrase and 420  
25 is still there.

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2 MR. BRUYN: So this

3 (Referring).

4 MS. MORGAN: Preexisting

5 hedges, no, we don't need to put

6 in preexisting hedges, hedges that

7 do not confirm to the requirement

8 of 4-420.

9 MR. BRUYN: So this is

10 coming out and you need this

11 amendment and review standards,

12 which is this whole paragraph

13 (Referring).

14 MR. BENACERRAF: So this

15 you have to put back in, this is

16 your original draft?

17 MR. BRUYN: Correct.

18 MR. BENACERRAF: Put that

19 back in.

20 MS. MORGAN: Review of

21 nonconforming hedges.

22 MR. BRUYN: Correct. And

23 there was all these other sections

24 were in there.

25 MS. MORGAN: Okay.

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2 MR. BENACERRAF: So put it  
3 back in.

4 MS. MORGAN: So we should  
5 just go back to this one then  
6 (Referring).

7 MR. BRUYN: That's what I  
8 was saying with the amendments.

9 MS. MORGAN: Okay. But  
10 strike these two, strike these two  
11 sentences here, the Architectural  
12 Review Board and this first one  
13 (Indicating).

14 MR. BRUYN: Mm-hmm.

15 MS. MORGAN: Were there any  
16 other changes -- were there any  
17 other changes in this originally?

18 MR. BRUYN: Other than what  
19 you just described, no.

20 MS. MORGAN: Okay. Great.  
21 All right. So you guys know what  
22 you're doing?

23 MR. BENACERRAF: You can  
24 redraft that language?

25 MR. BRUYN: Yes, I can. If

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2 you want to base it on what you  
3 have right there, we'll reschedule  
4 the hearing on that, I'll have  
5 that in the form for you to email  
6 and send to everybody, you know.

7 MAYOR COLBY: Okay.

8 MS. MORGAN: Okay. Great.

9 MAYOR COLBY: Fine. So  
10 then I'll ask for a motion to  
11 schedule a public hearing on the  
12 amended Local Law 2018 fences,  
13 hedges.

14 MS. MORGAN: So moved.

15 MAYOR COLBY: Second?

16 MR. PARCELLS: Second.

17 MAYOR COLBY: Favor?

18 MR. PARCELLS: Aye.

19 MAYOR COLBY: Favor, okay,  
20 motion carries.

21 Wayne will do the revision,  
22 send it to us this afternoon, the  
23 public and (inaudible) for the  
24 public hearing on Monday for the  
25 March meeting.



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2 MR. BRUYN: Betsy, you  
3 might send it around to everybody  
4 that you can do that as well, if  
5 you'd like?

6 MS. MORGAN: Okay. Great.

7 MR. PARCELLS: And put it  
8 on the website.

9 MAYOR COLBY: Ways and  
10 means, the audit committee, Jon,  
11 do you have an audited committee  
12 report that you want to make  
13 today?

14 MR. CARY: I'm happy to  
15 talk about it. I'm happy to hand  
16 out what I put together. I only  
17 have 12 copies if people want to  
18 look at it, but...

19 MAYOR COLBY: Okay.

20 MR. CARY: Maybe people can  
21 share. Anybody over here want  
22 one?

23 (Handing out copies.)

24 MR. CARY: I mean I guess I  
25 would say the following things.

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2 MAYOR COLBY: First, what  
3 did you attempt to do, Jonathan,  
4 you have P & L for twenty fiscal  
5 17 versus fiscal '18 budget, is  
6 that what you did?

7 MR. CARY: Yeah, let me  
8 tell you what I did. So I took  
9 the audits for '16 and '17 and '15  
10 as kind of a base document. I  
11 also took the Village of Dering  
12 Harbor statement of revenues,  
13 expenditures and changes in fonts  
14 to sort of one page sheet that  
15 looks like this (Indicating). And  
16 then I took the annual financial  
17 report, which I guess goes to the  
18 Suffolk County each year about our  
19 financial state (Indicating). And  
20 I tried really just to replicate,  
21 you know, 120 pages into one page  
22 so that people could digest the  
23 information. On the left-hand  
24 side of this one page is basically  
25 in a sense, you know, profit and

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2 loss statement reflecting the  
3 revenues and expenditures of the  
4 village '16, '17 and then, you  
5 know, a budget which might be out  
6 of date for May of '18  
7 (indicating). On the right-hand  
8 side of the page is a snapshot on  
9 the village's (Indicating), you  
10 know, current balance sheet where  
11 the assets and liabilities and the  
12 resulting kind of equity count  
13 within the village which, you  
14 know, obviously the assets  
15 represent, you know, roads,  
16 infrastructure and land, and  
17 that's kind of what it is. I  
18 think I would -- without  
19 necessarily, you know, making an  
20 opinion, um, I make the following  
21 like observations, which is -- and  
22 if you just look at the May '17  
23 column on the profit and loss  
24 accounting here (Indicating), so  
25 the revenue's the key thing, and

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2 you can see that a bulk of it  
3 comes from tax receipts. And they  
4 approximate, you know, 320,000 a  
5 year. Periodically the village  
6 seems to get either some operating  
7 grants or some capital grants, you  
8 know, from the state. And then  
9 they get a share of certain state  
10 aid, which amounts to about  
11 \$11,000. So the capital grants  
12 and operating grants are included  
13 in what would be the May '17  
14 column of 57,000 and the May '16  
15 column 83,000. At the end of the  
16 day the village spends all it  
17 receives. And if you ignore the  
18 operating and capital grants,  
19 because they're not necessarily  
20 recurring, although we have seemed  
21 to have gotten them consistently  
22 each year, the way I kind of look  
23 at this is we have 320,000 in  
24 receipts coming into the village.  
25 The wages are about \$165,000. And

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2 the legal expenses in 2017, this  
3 is May year end 2017, were 60,000,  
4 I suspect they'll be lower now,  
5 but they were 60,000. You have  
6 insurance of 30,000. And you have  
7 various other incidentals and  
8 operating expenses of about 84.

9 The reason I give you these  
10 totals, and those -- and that  
11 84,000 is like, um, you know, snow  
12 removal, um, you know, repair and  
13 maintenance on, you know,  
14 operating vehicles that are used  
15 to maintain the village, fuel,  
16 electricity, there's a small  
17 Worker's Comp. item in there. If  
18 you deduct all those items from  
19 the 320 in terms of our tax base,  
20 less the wages, less the legal,  
21 less the insurance, less this  
22 other category, it's negative  
23 20,000, that's what it is,  
24 negative 20,000 against the tax  
25 receipts for the expenses which we

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2 consistently spend each year. Now  
3 we've been able to kind of get  
4 through it because we've had these  
5 operating grants or capital  
6 grants, but every two years we're  
7 required to pay 35,000 to the fire  
8 department, I'm sure for the  
9 provision of fire safety to the  
10 village, so that 20 negative  
11 becomes negative 55, and in May of  
12 this year we have to repay a bond  
13 of about 21,000, so that negative,  
14 uh, you know, 55 becomes negative  
15 75, and then if you want to layer  
16 in the water tank, which will  
17 increase, you know, the annual  
18 expenditure of the village for the  
19 maintenance of that, that's  
20 another 24,000, so all of the  
21 sudden you're now negative  
22 100,000, so, you know, that's for  
23 2018, if you were to have more  
24 debt to drawn to fund the tank  
25 what the deficit would be my

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2 estimation for the village, so

3 I'll stop there.

4 AUDIENCE MEMBER: But you  
5 budgeted --

6 MR. CARY: This is not my  
7 budget, this is the -- yeah, but  
8 this doesn't have -- you know,  
9 this is the budget I received, all  
10 I've done is -- this is not my  
11 budget.

12 AUDIENCE MEMBER: I'm  
13 sorry.

14 MR. CARY: This is the  
15 budget I received and all I've  
16 done is represented, again, you  
17 know, 100 pages of financial  
18 statements into one page so people  
19 could digest it.

20 MR. PARCELLS: So just to  
21 be clear, Jonathan, in that list  
22 of expenses there is a \$60,000  
23 legal expense, did you pay that  
24 forward?

25 MR. CARY: All I did is try

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2 to reflect the facts I had. So  
3 last year we spent \$60,000 on  
4 legal expenses, I suspect we won't  
5 spend 60,000 on legal expenses.

6 MR. PARCELLS: Hopefully.

7 MR. CARY: But I know that  
8 the county is filing another  
9 lawsuit, so, you know, all I did  
10 is replicate the facts from last  
11 year to this year, so maybe it's  
12 half, you know, I don't know.

13 MR. PARCELLS: So that  
14 would mitigate that somewhat.  
15 Also we spent about \$50,000, I  
16 don't know how much, we spent a  
17 lot of money repairing the water  
18 tank this year, but it's a big  
19 number.

20 MR. CARY: Yeah.

21 MR. PARCELLS: And that  
22 repair number will go away when we  
23 replace that tank, so maybe  
24 there's a couple of spots that the  
25 shortfall will be mitigated just



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2 for the reason that we're not  
3 going to be engaged in lawsuits,  
4 hopefully we're not going to, and  
5 we're not, you know, going to have  
6 to maintain a failing water tank.

7 MR. CARY: Yeah.

8 MR. PARCELLS: Although we  
9 have to pay for doing it.

10 MR. CARY: Yes. The  
11 village is operating at a  
12 shortfall, you can debate whether  
13 the number's 50 or 100, but that's  
14 what it is.

15 MR. PARCELLS: There is a  
16 shortfall.

17 AUDIENCE MEMBER: So why  
18 doesn't the budget reflect some  
19 of --

20 MR. CARY: That's not my  
21 budget.

22 AUDIENCE MEMBER: No, I  
23 know it's not, I just want to know  
24 should we be concerned about the  
25 budget?

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2 MAYOR COLBY: Well, there  
3 are actual comparisons, you have  
4 to look at the actual versus the  
5 budget to make a determination.  
6 The legal expenses are over budget  
7 by \$23,000 year to date for  
8 January; the water repairs are  
9 over budget by \$30,000 through  
10 January, those are the two big  
11 nuts in our deficit for this year  
12 through year end in May, those are  
13 the -- so litigation's actually  
14 getting worse not better. The  
15 water department contractual  
16 expenses are really the harpentine  
17 (phonetic) of a capital  
18 improvement plan, which we didn't  
19 budget. The problem with  
20 municipalities is that we setup a  
21 budget the prior year to setup a  
22 tax base based on what we think  
23 we're going to spend the following  
24 year. When we have unexpected  
25 expenses, unanticipated expenses,

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2 we have no, no reserve to grab  
3 from, so --

4 AUDIENCE MEMBER: Right.

5 MAYOR COLBY: -- we don't  
6 have a general loan or a credit  
7 line, we don't have any general  
8 reserve. And the theory is much  
9 like cooperative apartments in New  
10 York City when they first started  
11 going co-op, there were no reserve  
12 for elevator repairs and stuff  
13 like that, and now co-ops have  
14 reserve accounts that's setup by  
15 taxes and what else, I'm sure,  
16 (inaudible) they have nice  
17 reserve. We did it in our  
18 building. But in the municipality  
19 everything's run by expected  
20 expenses. You tax everybody once  
21 before the fiscal year starts, and  
22 you just hope that you can balance  
23 the budget every year.

24 AUDIENCE MEMBER: Right.

25 MAYOR COLBY: That's a big

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2 problem. I think that we went  
3 into this year with a budget setup  
4 from last year which was setup in  
5 April of 2017 not realizing that  
6 we have these water problems. The  
7 theory was that the water tank  
8 would be replaced over the last  
9 summer and we wouldn't have a  
10 problem with the water issue. And  
11 we didn't anticipate certain legal  
12 expenses that are coming in. And  
13 every time we do legislation, we  
14 redraft local laws, we do all  
15 these things it costs money to do  
16 that. We're defending a couple of  
17 lawsuits and I think realistically  
18 we need to adjust the budget. We  
19 have some -- a new assessment  
20 coming into the capital, the  
21 revenue stream for next year, the  
22 Sunshine house, I think it's  
23 almost fully assessed now, that's  
24 more money that we have, revenue,  
25 tax revenue.

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2 MS. MORGAN: How much more  
3 money will that be?

4 MAYOR COLBY: I haven't  
5 calculated it yet, I have it on a  
6 spreadsheet, I just have to do the  
7 calculation. I just need to know  
8 the latest numbers from -- I want  
9 to be sure I get the latest  
10 numbers from the town so I knew  
11 what the assessed valuation is so  
12 I could allocate what that piece  
13 is going to be. So that's the  
14 difficulty with municipalities.

15 MR. PARCELLS: Yeah, one  
16 year later.

17 MAYOR COLBY: Basically  
18 it's one year -- we're sitting on  
19 a budget from the year before what  
20 we expended, so we have to push  
21 some of these expenses off into  
22 the next fiscal year and that's  
23 why I appealed for reason and  
24 sanity to happen with this  
25 litigation. I'm hoping that

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2 anyone who has a suit against the  
3 village just please drop it.

4 You're paying the taxes for it,  
5 we're all paying taxes to fund  
6 litigation that's unnecessary  
7 frankly. And it's hurting the  
8 village, it's hurting our values,  
9 hurting the value of our  
10 properties, it's creating a strife  
11 between neighbors and I'm asking  
12 for it to stop.

13 MR. BENACERRAF: I agree  
14 with that, by the way, but that's  
15 not the only lever we have, we  
16 have to look at each one of the  
17 line items with a critical view  
18 and see where we can and cannot  
19 itemize given the circumstances,  
20 but I agree with litigation,  
21 there's no question --

22 AUDIENCE MEMBER: Yeah.

23 MR. PARCELLS: So Jon, you  
24 have -- what is the budget  
25 schedule, you have a preliminary

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2 budget when, next month?

3 MAYOR COLBY: I'm gonna do  
4 it a month earlier, I'm gonna do  
5 it in March, I usually do it in  
6 April, so I'll do it in March so  
7 you guys have a month to look at  
8 it, you can look at it in April  
9 and we'll vote on it April. And  
10 we have four more months to go in  
11 the fiscal year, five more months  
12 before we get the next tax  
13 receipts. We do have prepaid tax  
14 receipts of about \$70,000 that I  
15 think show confidence in the  
16 village and village governance and  
17 we can use that only by board  
18 resolution, if we need the money,  
19 if we don't want to defer certain  
20 expenses, we could use that, but  
21 only by board resolution to do so,  
22 otherwise we need to use it in  
23 next -- next year.

24 MR. BENACERRAF: Just to be  
25 clear, that's prepaid taxes that

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2 the village received from certain  
3 residents, so it's sort of a  
4 little bit cheating, if --

5 MAYOR COLBY: Only by board  
6 resolution, it's up to the board.

7 MR. BENACERRAF: Yeah.

8 MR. PARCELLS: I believe  
9 the prepaid taxes, I'm not so  
10 sure, John, you can characterize  
11 as faith in the Village, it has  
12 more to do with the voting --

13 MAYOR COLBY: Well, I like  
14 to think optimistically, just to  
15 give you -- we have \$188,000 in  
16 the bank, 64,000 of that is the  
17 prepayments and \$11,000 is people  
18 paid extra in -- for 2017 taxes,  
19 which thank you, but extra money,  
20 they overpaid it, I'm glad I don't  
21 have that accountant to work for  
22 me. So we have \$109,000 in the  
23 bank available now, it does not  
24 include the prepaid, the prepaid  
25 tax receipts. So we're just gonna



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2 defer, we'll only pay the  
3 essential bills for the next  
4 couple of months, we'll defer that  
5 to next fiscal year some of the  
6 extraordinary items and so we can  
7 budget and plan for paying them in  
8 next budget cycle and we can also  
9 budget for more legislation, if we  
10 want to do more changes to the  
11 code, we can plan for this, it  
12 should have been -- we wanted to  
13 make changes to the code, it  
14 should have been in the budget in  
15 the prior year, it's difficult to  
16 jump into a new fiscal year and  
17 say, oh, we're going to change the  
18 code this year, we don't have the  
19 money to do it and that will  
20 effect our legal expenses.

21 MS. MORGAN: I have one  
22 question, did we end up getting  
23 rid of that extra truck which was  
24 gonna save us money on insurance?

25 MAYOR COLBY: Richie wanted

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2 to use it for the fall cleanup but

3 I gave him -- I told him he can

4 buy it from us, and he wanted to

5 use it for the fall cleanup, so

6 I'll get back to him and we'll get

7 it off the insurance quickly.

8 I'll call over --

9 MS. MORGAN: Yeah, 'cause

10 we need to --

11 MAYOR COLBY: I'll get back

12 to him. It saves us \$1,000.

13 MS. MORGAN: Yeah, and

14 every \$1,000 makes a big

15 difference.

16 MAYOR COLBY: Yeah. So we

17 can trim -- we can trim some of

18 these items, we have extra cell

19 phone expense we may be able to

20 eliminate, we can consolidate some

21 of these things, but it took us

22 four or five months. I think

23 everybody did a good job

24 understanding what these expenses

25 are, where the money's going and

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2 how it's coming in, so I'd like to  
3 commend everybody for going with  
4 the learning curve with us, I  
5 appreciate your patience.

6 MR. CARY: So I need to  
7 make two (inaudible), if I can,  
8 one is -- and granted, we may have  
9 a new house in the ecosystem to  
10 draw tax from, so I'm not sure  
11 what the number is, but in the end  
12 of the day the village makes  
13 320,000 in tax, that's what it  
14 made last year, that's what it  
15 made the year before, that's what  
16 it made the year before that, um,  
17 and, you know, if you go to the  
18 audit for '17, the village spent,  
19 you know, \$15,000 more than it  
20 took in including all the grants  
21 it got, including if you just go  
22 to audit number it's like \$14,900.

23 MAYOR COLBY: Yup.

24 MR. CARY: You know, in  
25 this year, 2018, ending

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2 March 31st, 2018 you do have to  
3 pay the fire department \$35,000,  
4 which you didn't have to pay last  
5 year, and you do have to repay a  
6 bond which matures in March for  
7 20,000.

8 MAYOR COLBY: Right, both  
9 of those are in the budget though.

10 MR. CARY: I understand.

11 MAYOR COLBY: Right.

12 MR. CARY: But if you just  
13 take last year, the expenditures  
14 we had last year, and admittedly,  
15 Patrick, you're right, the legal  
16 may be higher last year then it  
17 was this year, there was some  
18 water tank expenditures, which may  
19 be higher last year than this year  
20 was, if you just add up all those  
21 number, the village is in the hole  
22 by, you know, 70,000 based on what  
23 it did last year. And, you know,  
24 I think we should be aware of  
25 that. And the only way to fix it

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2 is we get more revenues, which can  
3 happen two ways, or we adjust the  
4 expense base. And I know really  
5 what that means, whether we  
6 outsource what we used to in  
7 source, um, or maybe take lower  
8 services in the village as a  
9 general matter, so you're  
10 adjusting the expense base or you  
11 adjust the revenue base, which is  
12 a tax increase or you seek grants  
13 from the state. I'm not really  
14 sure what the (inaudible) is to  
15 get grants from the state, I  
16 understand what a capital grant  
17 is, we're gonna build a road, we  
18 need a capital grant to do that.  
19 An operating grant, I'm not sure  
20 what that is, but I'm assuming the  
21 village has some operating needs  
22 and it makes a petition to the  
23 government and it gets a grant, so  
24 that seems to be one avenue we  
25 could pursue at least to alleviate

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2 the budget shortfall of '18 that  
3 maybe God forbid in '19, that's  
4 the only answer.

5 MAYOR COLBY: Okay. Thank  
6 you. I have the budget for the  
7 final audit from the Watkins  
8 Smith, I included it in your  
9 package, that's his final  
10 presentation. We got it just  
11 before Christmas. We need a  
12 resolution to approve it. If you  
13 have a chance to look at it,  
14 basically Jonathan summarized the  
15 net losses for 14,684 for the year  
16 fiscal '17. So you have it, you  
17 want to discuss it, we can discuss  
18 it, after we finish discussing it  
19 if everybody's okay with it you  
20 guys need a motion to approve the  
21 budget -- I'm sorry it's not a  
22 budget, it's the final audit.

23 MS. MORGAN: Motion to  
24 approve.

25 MAYOR COLBY: Do I have a

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2 second?

3 MR. BENACERRAF: Second.

4 MAYOR COLBY: In favor?

5 MR. BENACERRAF: Aye.

6 MR. PARCELLS: Aye.

7 MAYOR COLBY: Motion

8 carries. The budget -- the audit  
9 it is approved from Watkins Smith.

10 Next up we have the bond  
11 resolution that we authorized.  
12 Wayne, do you want to discuss that  
13 or you want me to do that?

14 MR. BRUYN: Well, I think  
15 Patrick can.

16 MAYOR COLBY: Okay.

17 MR. BRUYN: Well, first of  
18 all, you scheduled a meeting on  
19 the 20th, you did present the  
20 alternative proposal on the water  
21 tank and I thought that the board  
22 did a lot of homework, a lot of  
23 analysis, and at the end of the  
24 day given the availability of  
25 funds, the timing, the permit

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2 process, I think it came out that  
3 the board decided to go forward  
4 with the tank proposal and the  
5 contract that you already had in  
6 place and authorize that contract.

7 In light of that, the board had  
8 previously looked at the  
9 possibility that you might need  
10 more funds above and beyond that  
11 which was already bonded, so you  
12 had bond counsel prepare a  
13 resolution to expand that, I  
14 guess, an additional 200,000.

15 MR. PARCELLS: 200,000,  
16 yeah.

17 MR. BRUYN: And so that  
18 resolution is before you. It  
19 requires a majority, two-thirds  
20 vote of the board, which is in  
21 this case four board members. And  
22 if you adopt that it is subject to  
23 a permissive referendum that is  
24 the purpose of why you need four,  
25 and that will be duly published,



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2 and you can move forward.

3 MR. PARCELLS: We did vote  
4 on this on our meeting, we failed  
5 to post it publically, I guess, is  
6 that correct?

7 MR. BRUYN: I don't think  
8 you voted.

9 MAYOR COLBY: We never took  
10 a vote.

11 MR. PARCELLS: We didn't?

12 MAYOR COLBY: No.

13 MR. BRUYN: It was part of  
14 your agenda back in November, but  
15 at that meeting my understanding  
16 was that the board wanted to go  
17 back and do research of the  
18 alternatives before we move  
19 forward on anything.

20 MR. PARCELLS: Yeah, we  
21 tabled it.

22 MR. BRUYN: So you tabled  
23 it, but in light of your action on  
24 the 20th I think it's (inaudible).

25 MR. PARCELLS: Is what's

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2 his name? Bob Smith's draft in  
3 appropriate order for us?

4 MR. BRUYN: Yes, it was  
5 redrafted and emailed to the mayor  
6 and he includes it --

7 MR. PARCELLS: Okay. I was  
8 unaware of that.

9 MR. BRUYN: Yes.

10 MAYOR COLBY: Yes, we  
11 changed the dates and it's ready  
12 to go. I got it on Tuesday, it's  
13 ready to go. I have them both  
14 here.

15 MR. PARCELLS: So in  
16 passing, if we approve expanding  
17 the bond resolution from 600 to  
18 800,000 that doesn't obligate us  
19 in any way?

20 MR. BRUYN: No.

21 MR. PARCELLS: It just  
22 allows that revenue?

23 MR. BRUYN: Correct.

24 MR. PARCELLS: Okay.

25 MAYOR COLBY: So call for a

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2 motion to accept the bond

3 resolution as presented?

4 MR. PARCELLS: So moved.

5 MAYOR COLBY: Second?

6 MS. MORGAN: Second.

7 MAYOR COLBY: In favor?

8 MR. PARCELLS: Aye.

9 MS. MORGAN: Aye.

10 MR. BENACERRAF: Aye.

11 MAYOR COLBY: Okay. Motion  
12 carries.

13 Instruct the village clerk  
14 to notice that bond resolution in  
15 the paper.

16 Next up, water works  
17 report. The tanks, the  
18 contractor's ready to execute,  
19 Wayne, ready to go?

20 MR. BRUYN: Yes.

21 MAYOR COLBY: Do you want  
22 all of us to sign? I can sign it?

23 MR. BRUYN: Well, they set  
24 it up that it has all five of you  
25 to sign.

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2 MAYOR COLBY: So we can do  
3 it, please pass it down, we can  
4 all sign it and that will be all  
5 right.

6 MR. PARCELLS: So can I  
7 just -- I mean just going  
8 forward --

9 MR. BRUYN: I don't know if  
10 you have another copy?

11 MAYOR COLBY: We do, yeah.

12 MR. BRUYN: Wanted to give  
13 all the copies. You can do this  
14 after, rather than now.

15 MAYOR COLBY: Okay. Fine.

16 MR. PARCELLS: My copy's  
17 not here anyway.

18 So with respect to the  
19 water tanks, as Wayne just  
20 mentioned, we've done some  
21 homework and we've explored  
22 alternatives and we made a  
23 decision about which way to go.  
24 And we're prepared now to sign the  
25 contract to begin the construction

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2 process. Statewide, who will be  
3 providing the tank, and H2M, who  
4 will be overseeing the  
5 construction of the tank, have  
6 told us that this is 120 day build  
7 cycle, so with some luck we will  
8 have a functioning tank by the  
9 beginning of summer. These things  
10 never seem, my experience with  
11 construction projects, which is  
12 limited, even though everyone  
13 knows I'm a real estate developer,  
14 but they never seem to work out  
15 the way that they should. And so  
16 we should be prepared just as a,  
17 you know, as a community that we  
18 may not have this tank functioning  
19 by summer, we'll have to live with  
20 the one that we've got or some  
21 combination of the two. But the  
22 actual administration of the  
23 contract and the building of the  
24 tank, I've kind of taken the lead  
25 on getting us to where we are from

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2 the time we took over in June or  
3 July until now. And now I think  
4 it makes sense to bifurcate the  
5 process. I didn't even to talk to  
6 you about this, I'm sorry to  
7 blindsides you, but I think, John,  
8 you would be the best person to  
9 kind of oversee the whole  
10 construction process, manage the  
11 -- you're here more than I am.

12 You certainly have more experience  
13 and you understand (inaudible),  
14 which I don't, and that sort of  
15 thing, and, you know, I think that  
16 makes sense. There are other  
17 things that I would like to spend  
18 time focusing on. I'd like to try  
19 to get us work on a grant for  
20 meters, which I think is possible,  
21 it is possible, whether we can get  
22 it or not, I don't know, but  
23 that's gonna require some work.

24 And there's also some -- there are  
25 some discussions going on about

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2 possible changes to the way that  
3 we operate the water system that  
4 may or may not come to anything,  
5 and I'd like to, you know,  
6 continue with that if there's  
7 something, you know, that seems  
8 promising, then we'll bring it up  
9 and have a public discussion, does  
10 that make any sense to you?

11 MAYOR COLBY: Sure, Pat,  
12 it's great.

13 MR. PARCELLS: So I have  
14 spoken to Harry Hagen (phonetic),  
15 who is the Statewide person who is  
16 in this -- who presented this  
17 contract. I've not spoken to John  
18 (inaudible). I have some calls in  
19 to him, but I haven't reached him  
20 yet, but I wanted to discuss with  
21 him in advance, but I haven't had  
22 that opportunity. But in any  
23 case, it's -- we have a -- still  
24 we have about \$70,000 or so left  
25 on the grant, which we don't have

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2 to repay that we can draw on  
3 initially, we have \$475,000 that  
4 we can drawdown as we need it, and  
5 there's a process for doing that,  
6 and it's just a very simple thing  
7 that Lisa just needs to -- but  
8 someone needs to make sure that  
9 we're not paying for things that  
10 haven't been done, and you're  
11 probably best suited to do that.  
12 We will have at least -- unless we  
13 renegotiate this, and we do need  
14 to talk about this, but we have a  
15 principle payment that will be due  
16 in September 2018, the first one,  
17 so if we draw -- if we go into  
18 that \$475,000 by then, which we  
19 will, then we need to anticipate  
20 in our budget --

21 MAYOR COLBY: Mm-hmm.

22 MR. PARCELLS: -- that  
23 principle repayment. So there's  
24 some more sort of blocking and  
25 tacking that needs to be done.



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2 But going forward I think, you  
3 know, it's best that H2M and  
4 Statewide understand that, you  
5 know, you're the person whose  
6 going to be administering the  
7 contract and overseeing it.

8 MAYOR COLBY: My  
9 signature's on it, that's true,  
10 thank you.

11 MR. PARCELLS: H2M, we've  
12 paid them to date.

13 MAYOR COLBY: Are they all  
14 paid up or do we still owe them  
15 more?

16 MR. PARCELLS: Yes, we have  
17 paid them. And by the way --  
18 well, there's H2M has in their  
19 contract a \$20,000 fee for  
20 overseeing Statewide's  
21 construction activities, so you  
22 have H2M whose supposed to be able  
23 to look at what Statewide is doing  
24 to determine when they ask us for  
25 payment that it's actually due,

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2 but, you know, I've already  
3 cotpaged (phonetic) them, maybe  
4 that's not the right word, but  
5 anyway H2M has already dug into  
6 that \$20,000 and I had to beat  
7 them back, that was that \$1,700  
8 payment, and so my suspicion is  
9 that this is an opportunity for an  
10 overrun, so we have to be really  
11 firm with that, \$20,000 is what  
12 they negotiated, they should be  
13 paid no more than that. And, but  
14 again, we still have enough grant  
15 money to get things started  
16 without having to -- without  
17 creating, you know, digging into  
18 the 475 or that would obligate us  
19 for a principle repayment.

20 MAYOR COLBY: Okay. All  
21 right. Thank you, Patrick.

22 MR. BRUYN: My  
23 recommendation going forward is to  
24 schedule a meeting with Patrick  
25 and John and any of the other

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2 board members that want to be  
3 there, but with H2M and a  
4 representative --

5 MR. PARCELLS: Yes.

6 MAYOR COLBY: Once I text  
7 you with the contract, I'll get in  
8 touch with Harry and get  
9 together --

10 MR. BRUYN: So we can get  
11 all the logistics down.

12 MAYOR COLBY: Yes.

13 MR. PARCELLS: I was  
14 talking to them and the other one,  
15 but that's exactly right, everyone  
16 needs to kind of sit down and have  
17 a sit down.

18 MAYOR COLBY: Yeah, in time  
19 we'll also publicize that to the  
20 residents letting them know what  
21 is going on with the water main,  
22 again, we have the existing tanks,  
23 the wells, none of this effects  
24 the well operation, it only  
25 effects the tank and the hookup to

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2 the existing wells, so we'll keep  
3 everybody posted. We get to all  
4 get free water.

5 AUDIENCE MEMBER: One other  
6 question, John, does the new tank  
7 involve drilling a new well?

8 MAYOR COLBY: No.

9 AUDIENCE MEMBER: So we're  
10 using the existing well?

11 MAYOR COLBY: Existing  
12 well, two of them, yeah.

13 AUDIENCE MEMBER: When does  
14 the new tank construction actually  
15 begin?

16 MAYOR COLBY: Well, that's  
17 120 days from once we sign this to  
18 the possibility of starting the  
19 construction.

20 AUDIENCE MEMBER: Right.

21 MAYOR COLBY: There has to  
22 be a slab put in for the base.

23 AUDIENCE MEMBER: Right.

24 MAYOR COLBY: And the tank  
25 comes in sections and ring

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2 sections and they actually lift  
3 them, lift them one section, one  
4 circumference at a time all the  
5 one way up to 100 feet maximum.  
6 There are guys on-site that will  
7 do that and they're trained to do  
8 that --

9 AUDIENCE MEMBER: Right.

10 MAYOR COLBY: -- so.

11 MR. PARCELLS: Once the  
12 contractor signs, Statewide will  
13 begin, will begin to actually  
14 manufacture the tank. It's  
15 manufactured somewhere in  
16 Illinois. And in big rings. And  
17 then they'll then ship them out, I  
18 don't know, one ring at a time,  
19 however --

20 AUDIENCE MEMBER: Right.

21 MR. PARCELLS: -- however  
22 it is that they're gonna get them  
23 here, and then they'll, as John  
24 mentioned, they'll put the bottom  
25 and then they jack it up and put

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2 the other one underneath it. So  
3 once they have a contract they can  
4 begin to, uh, manufacture the tank  
5 which takes some time, I think  
6 they said 60 days or something  
7 like that.

8 MAYOR COLBY: Mm-hmm.

9 MR. PARCELLS: And then by  
10 then, you know, spring will have  
11 arrived and they can put in the  
12 foundation and then it takes  
13 another couple weeks after that  
14 before the tank can actually --  
15 construction of the tank can  
16 begin, so timing-wise it's okay, I  
17 think, you know, as I said,  
18 there's a chance we can have this  
19 working by June.

20 MAYOR COLBY: I agree,  
21 there's no change to the wells, no  
22 change to the electrical service,  
23 everything can run, new tank can  
24 operate with what we have  
25 infrastructure-wise.

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2 AUDIENCE MEMBER: And if we  
3 determine that the wells we have  
4 are adequate to avoid the high  
5 sulfur content that we have in the  
6 water from the summer --

7 MAYOR COLBY: Well, that  
8 comes from the usage and we have  
9 the next item on the agenda is  
10 irrigation well application by  
11 your neighbor that may eliminate  
12 some of the usage of the village  
13 water. It comes down to, I  
14 believe, four residences using  
15 village water for irrigation.

16 AUDIENCE MEMBER: Um.

17 MR. PARCELLS: So Jonathan,  
18 you know, in July, on a busy day  
19 in July we used like 25,000  
20 gallons of water a day, I think  
21 that's the number, is that about  
22 right?

23 MAYOR COLBY: Yeah, that's  
24 right.

25 MR. PARCELLS: So last year

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2 we were pumping as much as 200,000  
3 gallons a day because we had this  
4 leak that took some time to  
5 discover, so, and that's what  
6 caused sulfur, it was pumping so  
7 much, otherwise we've always had  
8 good water here and once it goes  
9 back to normal, and it already  
10 has.

11 MRS. DEUTSCH: Yeah.

12 MAYOR COLBY: Oh, it's down  
13 to 89, it's perfect --

14 AUDIENCE MEMBER: Right, so  
15 adjust usage and the wells are  
16 adequate.

17 MAYOR COLBY: Yeah. I  
18 still like a backup plan in case  
19 this happens again, but at least  
20 for now the wells are adequate.

21 AUDIENCE MEMBER: Mm-hmm.

22 MAYOR COLBY: That brings  
23 us to the next item, which is the  
24 irrigation well application for  
25 24 Shore Road, does anyone -- this



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2 has been sent to the building  
3 inspector, it's been approved by  
4 the building inspector and sent  
5 back to the Board of Trustees for  
6 review, if anybody has any  
7 questions?

8 MR. PARCELLS: This here  
9 (Indicating)?

10 MAYOR COLBY: If anybody  
11 has any questions we can review  
12 the application, we can ask  
13 questions or we can approve it as  
14 is and give them the permit?

15 Discussion?

16 MR. PARCELLS: And the  
17 building inspector's seen this and  
18 the setbacks and all?

19 MAYOR COLBY: Sent it back,  
20 yup.

21 MR. PARCELLS: Okay.

22 MS. MORGAN: I would defer  
23 to the building inspector.

24 MAYOR COLBY: Okay. Motion  
25 to accept this?

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2 MR. PARCELLS: So moved.

3 MAYOR COLBY: Second?

4 MS. MORGAN: Second.

5 MAYOR COLBY: Favor?

6 MR. PARCELLS: Aye.

7 MAYOR COLBY: Okay. Refer

8 that back for the permit, thank

9 you.

10 MR. PARCELLS: Should we

11 anticipate three other

12 applications in the near future?

13 MAYOR COLBY: My German's

14 a little weak, but I'll try my

15 best to.

16 Next up is village roads

17 and maintenance report. We had,

18 again, more snow removal a couple

19 days ago. Richie's on vacation

20 now. Gene Shepard is filling in

21 for him and Hap is filling in for

22 him in the event we have more snow

23 and ice coming in. They pre --

24 pre-salted the roads the other day

25 with a salt and sand mixture. If

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2 anyone was on the island last week  
3 there was black ice all over the  
4 island. There was an accident on  
5 114. It was pretty, pretty  
6 difficult, pretty -- the roads  
7 were very difficult, but Richie  
8 was out salting them, of course,  
9 and everything is working okay.

10 We're looking at repairing  
11 a section of road going up in  
12 Gardiner's Bay Country Club  
13 there's a section that's been  
14 eroding over the last couple of  
15 years, the macadam's cracking. We  
16 need to repair it at some point.  
17 There is some CHIPS money  
18 available for that. I have to  
19 look into the cost of that. Jay  
20 Cart suggested that we raise the  
21 level of the road. We'll probably  
22 do that. So I'll work with Richie  
23 on that. That is village road and  
24 maintenance.

25 MS4 Committee. As you know

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2 the Town of Shelter Island's new  
3 town attorney, Bob, Bob DeStefano,  
4 Junior. Bob told me that the MS4  
5 Committee has been now merged with  
6 the Town of Southold MS4 Committee  
7 which is great because they have  
8 more resources than either the  
9 village or the town does to manage  
10 the MS4 reporting requirements.

11 And as you know, the manual report  
12 needs to be filed by both town and  
13 village and Mr. Collins, the  
14 engineer for Southold Town, who  
15 has been doing a great job for  
16 them and advocating for us, all of  
17 us on the east end trying to  
18 maintain our requirements for MS4,  
19 that's the municipal storm runoff  
20 into Dering Harbor and the  
21 estuary, so any runoff, road  
22 runoff, sewer overflow, if you got  
23 a hose that spits into Dering  
24 Harbor, DEC's coming after you,  
25 but we are managing it as best we

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2 can. So I think that's a  
3 (inaudible) that the board is now  
4 merged in with the Southold  
5 community, that's MS4.

6 Anything from the village  
7 greens and improvements?

8 MR. BENACERRAF: What was  
9 all the trees you were talking  
10 about, talking about the trees?

11 MS. MORGAN: The trees in  
12 front of here?

13 MR. BENACERRAF: Yeah.

14 MR. PARCELLS: No, you're  
15 talking about the plantings.

16 MAYOR COLBY: Plantings,  
17 yeah.

18 MS. MORGAN: We were going  
19 to try to plant some white  
20 flowering Daffodils, but by the  
21 time we got everybody's agreement  
22 they had sold out. So that will  
23 be the tune of next year.

24 MAYOR COLBY: Okay, great.  
25 Thank you.

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2 MS. MORGAN: I wasn't too  
3 fast given our financial situation  
4 to postpone an expense.

5 MAYOR COLBY: Okay.  
6 Nothing from the planning board,  
7 nothing from the ZBA, nothing from  
8 the ARB.

9 Oh, we just got a call, we  
10 have a complaint from the Sunshine  
11 property on the ARB. We're  
12 looking at their compliance with  
13 the approved Architectural Review  
14 Board plans. Now the building  
15 inspector went in there, I think,  
16 I haven't heard back from him yet,  
17 but he went in to look and review  
18 the plans of what was submitted  
19 and approved by the ARB versus  
20 what the Sunshine folks actually  
21 did. And I'm waiting for a report  
22 back from George, but I have not  
23 received one yet. I'll let you  
24 know that the procedure with that  
25 is the applicant would have to

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2 come before the ARB seeking more  
3 and more approvals for if they've  
4 done anything different, a  
5 deviation from their existing plan  
6 or if not they can just correct it  
7 if they so choose. I'm not sure  
8 what's gonna happen.

9 MR. BENACERRAF: Do you  
10 have a verbal indication?

11 MAYOR COLBY: I'm sorry?

12 MR. BENACERRAF: Do you  
13 have a formal or do you a verbal  
14 indication?

15 MAYOR COLBY: Nothing, no.  
16 We just told George what the  
17 problems are and I'll let him go  
18 in and take a look at it and see.  
19 There's a problem with the apron.  
20 All residents are required to have  
21 an apron at the end of the  
22 driveway, and unfortunately where  
23 they're located there was a dry  
24 well cover right where the apron's  
25 supposed to be and they should

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2 have moved the driveway over to  
3 accommodate the cover but they  
4 didn't do that, so we'll work on  
5 it.

6 MR. PARCELLS: But do we  
7 know that the driveway is where  
8 it's supposed to be, I think that  
9 was part of the issue?

10 MAYOR COLBY: Well, the  
11 problem is it's on the plan, part  
12 of it. Mickey went in there and  
13 looked and according to the plan  
14 the driveway is where it's  
15 supposed to be on the plan, but  
16 the dry well cover is right, right  
17 there, so we need to work that  
18 through.

19 MRS. DEUTSCH: I will  
20 challenge that, from our  
21 observation and another  
22 architect's opinion, the  
23 driveway's not where it's supposed  
24 to be.

25 MAYOR COLBY: Okay. Well,



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2 George is going to look into it.

3 MRS. DEUTSCH: I can't  
4 confirm that and that's why we --

5 MAYOR COLBY: He's got the  
6 approved plans.

7 MRS. DEUTSCH: Yeah.

8 MAYOR COLBY: And we'll let  
9 him do that, but I can't -- I told  
10 him where the dry well is, so he  
11 went in there with the sonar  
12 detector and figured it all out,  
13 and I told him.

14 MRS. DEUTSCH: Also if that  
15 sewer is there or, you know, the  
16 drain, their architects then they  
17 shouldn't have submitted a plan  
18 that was not achievable, you know,  
19 I mean --

20 MAYOR COLBY: In fairness  
21 they don't know where the dry well  
22 cover was, we found that out  
23 later, but I told --

24 MRS. DEUTSCH: But it's the  
25 drain I think that's the problem

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2 also, right?

3 MAYOR COLBY: That I don't  
4 know.

5 MRS. DEUTSCH: Yeah.

6 MAYOR COLBY: We'll try and  
7 work it through. All right.  
8 Thank you.

9 ARB. Anything from the  
10 neighboring committee on Shore  
11 Road, any updates?

12 MS. MORGAN: Yeah, so I  
13 spoke with Clora, and Clora has  
14 volunteered to go through -- I  
15 have a list of all of the names of  
16 all of the roads on the island and  
17 come up with suggested names that  
18 aren't duplicative in any way of  
19 names that are already being used.  
20 The whole idea is to get rid of  
21 confusion for First Responders, so  
22 she's going to get on that and  
23 suggest some names for a survey  
24 that we're doing and we have a  
25 little more time.

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2 MAYOR COLBY: Okay. Great.

3 Thank you.

4 MS. MORGAN: Sure.

5 MAYOR COLBY: Thank you.

6 Any resident comments

7 today? Anybody? This is where we

8 say good things about the village,

9 no bad things, only pros.

10 MRS. DEUTSCH: I have a

11 request. I feel that there is a

12 lot of issues in with compliance

13 that, you know, we just spent

14 almost an hour talking about

15 shrubs and fences and yet people

16 might break rules or break the

17 laws and unless you're planning to

18 sue the village, it's very hard to

19 get the codes enforced. And, you

20 know, we suffered through a lot of

21 infractions during a huge

22 construction project for over a

23 year now. We had multiple

24 complaints. There was often

25 nobody to call. And we would be

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2 left with a decision, okay, do we,  
3 you know, call John Colby at eight  
4 o'clock on a Saturday night now?

5 MAYOR COLBY: Which I have,  
6 I answered the phone.

7 MRS. DEUTSCH: And we did,  
8 and you were very gracious. And  
9 there were plenty of times we also  
10 didn't. And the times we did, you  
11 know, and if you weren't around  
12 and a lot of times you are around,  
13 and we're appreciative and there's  
14 nobody to call and the infractions  
15 go uncharged, so, and now we're  
16 faced, again, with the same issue  
17 of was it built to code or not,  
18 you know, to the plans? So I  
19 think we need to look at both,  
20 first of all, the ARB codes and I  
21 say this as an ARB member and as a  
22 resident who went through a big  
23 challenge with, you know, an  
24 architectural plan with the  
25 neighbor, the code needs to be

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2 much more straightforward and  
3 clear and easy to interpret so we  
4 don't get plans on that table that  
5 everybody doesn't like and then  
6 we're being threatened that we'll  
7 be sued and we're sort of bullied  
8 into accepting things, so the ARB  
9 code needs a lot of work. And  
10 then the whole enforcement, you  
11 know, of the construction and then  
12 the final product. What it took  
13 back and forth as you all know,  
14 and I apologize with 100 emails  
15 just to get to this point of  
16 sending the building inspector to  
17 go look at something that was  
18 built not to plan or supposedly,  
19 it shouldn't be this difficult.

20 MAYOR COLBY: Well, if they  
21 don't comply with the rules, it is  
22 difficult, it's difficult to know.  
23 You're the one watching. I go  
24 over there everyday and I look  
25 around, but I'm not necessarily

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2 looking for infractions, I just  
3 make sure that the water's not  
4 running or something's not left on  
5 the driveway.

6 MRS. DEUTSCH: Right.

7 We're not looking for infractions  
8 either. But when we pull out of  
9 our driveway and there's a flood  
10 in front of our driveway, you  
11 know, that sends up a red flag or  
12 when we pull out of the driveway  
13 and their driveway's right across  
14 from our driveway and it wasn't  
15 that way on the plan, we would  
16 have, you know, disagreed with  
17 that and I'm sure they would have,  
18 you know, happily moved their  
19 driveway over three feet, but on  
20 the plan the two driveways are not  
21 right across from each other, so.  
22 John, we are not looking for  
23 trouble, it's sort of, you know,  
24 hitting us in the face. And all  
25 we're asking is that the laws of

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2 the village are followed, that's  
3 all.

4 MAYOR COLBY: Okay.

5 MR. PARCELLS: So I agree  
6 with you, Stephanie, that I think,  
7 in my opinion, the ARB needs a lot  
8 of work. I think it lacks clarity  
9 and definition in the standards  
10 and a lot of things can be  
11 approved there.

12 And with respect to the  
13 process though, I mean my opinion  
14 it's okay, you go to the ARB, you  
15 present your plans, the ARB  
16 approves it. You -- the ARB signs  
17 it, they sign it and they have  
18 to -- they're then obligated to  
19 deliver what's on those plans, and  
20 if they don't, the simple -- it  
21 should be simple enough, the  
22 building inspector goes to make  
23 sure that --

24 MRS. DEUTSCH: Mm-hmm.

25 MR. PARCELLS: -- whatever

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2 is on the plan is what they have  
3 and if it's not, then as John  
4 mentioned earlier, either they  
5 have to come back to the ARB and  
6 ask for relief or they have to  
7 change it. It should not be more  
8 complicated.

9 MRS. DEUTSCH: But it was,  
10 Patrick, because we've been  
11 discussing this since September.

12 MR. PARCELLS: What's that?

13 MRS. DEUTSCH: We have  
14 raised these issues that have been  
15 brought to light now since  
16 September, the issue with the  
17 driveway, the issue with -- it  
18 took us how long is it, six months  
19 just to get the building  
20 inspector.

21 MR. PARCELLS: It needs to  
22 work a little better.

23 MRS. DEUTSCH: Right, so  
24 that's what I'm saying. And the  
25 construction infractions, you



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2 know.

3 MR. PARCELLS: That's okay.

4 You know what, the Sunshine people  
5 probably, you know, they're  
6 building a spec house, so they're  
7 probably gonna be hit a little  
8 differently than if someone were  
9 coming in to build a house --

10 MRS. DEUTSCH: Agreed.

11 MR. PARCELLS: -- that were  
12 part of the community.

13 MRS. DEUTSCH: Agreed.

14 MR. PARCELLS: (Continuing)  
15 So, you know, that's done and it's  
16 over.

17 MRS. DEUTSCH: Until the  
18 next spec house.

19 MR. PARCELLS: Well, okay,  
20 well, you know, hopefully we'll be  
21 a little more diligent about, you  
22 know --

23 MR. DEUTSCH: But, Patrick,  
24 it's not diligence, it's actually  
25 a flaw in the ability of the

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2 village to execute, you actually  
3 have to get the code enforcer to  
4 witness the violation.

5 MRS. DEUTSCH: And we have  
6 no way to contact the code  
7 enforcer.

8 MR. DEUTSCH: And he lives  
9 off island, so it's basically an  
10 unworkable solution.

11 MAYOR COLBY: We're  
12 actually working on hiring  
13 somebody else on island to do code  
14 enforcement.

15 MRS. DEUTSCH: Okay.

16 MS. MORGAN: Yeah, we  
17 agreed on it.

18 MAYOR COLBY: We have been  
19 through this.

20 MS. MORGAN: Yeah, so we're  
21 definitely, we're listening to  
22 what you're saying, we've made an  
23 resolution, I don't know if it's  
24 the proper term, we've agreed to  
25 some degree.

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2 MAYOR COLBY: Yeah, I just  
3 have to talk to him --

4 MS. MORGAN: Yeah.

5 MAYOR COLBY: -- that's all,  
6 we understand, I understand.

7 MR. DEUTSCH: Got it.

8 MS. MORGAN: Who we think  
9 is a super person and whose right  
10 nearby.

11 MRS. DEUTSCH: (Inaudible)  
12 that, too, yeah.

13 MS. MORGAN: Who will be  
14 very responsive because it is  
15 terrible what you guys have had to  
16 deal with all that.

17 My question is on the ARB,  
18 which is obviously we're trying  
19 really hard to simplify everything  
20 and make everything fair from a  
21 legislative point of view within  
22 the ARB, can you guys as a  
23 committee take that on to start  
24 simplifying?

25 MRS. DEUTSCH: I'll bring

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2 it up with Mickey and I know there  
3 is others, I know Clora's very  
4 interested in that after what she  
5 went through and I'm sure --

6 MS. MORGAN: Yeah.

7 MRS. DEUTSCH: Do you have  
8 anybody who would be willing to  
9 volunteer, it's a tough job --

10 MS. MORGAN: Yes.

11 MRS. DEUTSCH -- but I'll  
12 certainly bring it up with Mickey.

13 MS. MORGAN: Yeah, I think  
14 we're all working and it might not  
15 seem it, but we're spending a lot  
16 of time trying to work through all  
17 of this.

18 MRS. DEUTSCH: It does seem  
19 it, and yes, thank you, yes, of  
20 course.

21 MS. MORGAN: So I think  
22 everybody needs to if you see a  
23 problem, like take ownership of  
24 that.

25 MRS. DEUTSCH: Great.

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2 MS. MORGAN: And we'll  
3 support you, right, John?

4 MAYOR COLBY: Yeah,  
5 absolutely.

6 MRS. DEUTSCH: Okay.

7 MAYOR COLBY: We'll do the  
8 best we can. I know I called  
9 Sunshine myself and asked if we  
10 can remove the material from his  
11 property, he told me to drop dead,  
12 so, you know, what can I do but  
13 send the guy in? I can't send  
14 anybody into the property to do  
15 it.

16 MRS. DEUTSCH: Right, but  
17 that's another example that --

18 MR. DEUTSCH: Really?

19 MRS. DEUTSCH -- you know --

20 MAYOR COLBY: Yeah.

21 MRS. DEUTSCH: -- we lived  
22 with garbage in front of our house  
23 for a year that didn't have to be  
24 there, so we need a law to prevent  
25 it.

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2 MS. MORGAN: Yes.

3 MRS. DEUTSCH: Because you  
4 never know, you know, when it's  
5 gonna happen.

6 But just getting back to  
7 the ARB so, John, would you be  
8 willing to?

9 MAYOR COLBY: Me?

10 MRS. DEUTSCH: How about to  
11 consult on that committee?

12 MAYOR COLBY: Of course, on  
13 top of the water tank, I can shout  
14 down from the water tank, I'll be  
15 happy to do that.

16 MR. HUNT: It is my  
17 understanding that the ARB is a  
18 review board and not an  
19 enforcement board?

20 MR. PARCELLS: That's  
21 right.

22 MR. HUNT: And so there  
23 seems to be a special problem with  
24 enforcement, but I'm not sure that  
25 it should be refined or improved

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2 on the ARB level, the ARB is  
3 supposed to opine on review of the  
4 look and feel of whatever's gonna  
5 happen, make a decision, and after  
6 that then there needs to be a  
7 different enforcement agency.

8 MR. DEUTSCH: I agree.

9 MRS. DEUTSCH: Yes. But to  
10 the extent that the ARB code is  
11 clearer, there will be less issues  
12 going to the enforcement --

13 MS. MORGAN: Yes.

14 MRS. DEUTSCH: -- because  
15 ARB you can sit up there and say  
16 I'm sorry, this doesn't comply  
17 with our clearly stated, you know,  
18 requirements.

19 AUDIENCE MEMBER: Part of  
20 it is a gap it time, too, stuff  
21 goes on when you're not here, no  
22 one's watching. Whose watching?

23 MRS. DEUTSCH: Right.

24 MS. MORGAN: There are two  
25 issues in Stephanie's point that

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2 the less ambiguity we have in the  
3 guidelines, the better everything  
4 will run, the less problems we'll  
5 have with --

6 MRS. DEUTSCH: Right.

7 MS. MORGAN: -- things  
8 not -- submissions not being --

9 MRS. DEUTSCH: Very clear.

10 MS. MORGAN: Yeah, we just  
11 need clarity in everything. And  
12 if you guys can take that on, you  
13 guys will be the best people to do  
14 that.

15 MRS. DEUTSCH: Right.

16 But to Alfredo's point, I  
17 think there's also to enforcement.

18 MS. MORGAN: Yes.

19 MRS. DEUTSCH: (Continuing)  
20 So there's the ARB original code,  
21 there's the enforcement during  
22 construction.

23 MS. MORGAN: Yes.

24 MRS. DEUTSCH: So that  
25 there's what do you do with the



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2 noise violation or the  
3 construction garbage left and  
4 that's a code enforcer, which it  
5 sounds like you're working on.

6 MS. MORGAN: Yes.

7 MRS. DEUTSCH: And then  
8 lastly, okay, now the project is  
9 finished and something slipped by  
10 that, you know, wasn't picked up  
11 and they used the wrong material  
12 on the house.

13 AUDIENCE MEMBER: And it's  
14 built.

15 MRS. DEUTSCH: And it's  
16 built, okay, that's a building  
17 inspector.

18 MAYOR COLBY: They don't  
19 have a C.O. yet.

20 MRS. DEUTSCH: Right.

21 AUDIENCE MEMBER: Good.

22 MAYOR COLBY: (Inaudible.)

23 MRS. DEUTSCH: That's a  
24 building inspector issue.

25 MR. PARCELLS: So you --

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2 Bridg is absolutely right, and we  
3 should not, in my view, ever ask  
4 the ARB to be an intercourse, they  
5 should be reviewing those things  
6 so there is sort of three pillars;  
7 the Architectural Review Board  
8 which grants the approval for the  
9 building permit, then it becomes  
10 the responsibility of the building  
11 inspector to ensure that  
12 whatever's on those plans are  
13 executed, and if they're not, we  
14 have a code enforcement officer  
15 who should go in and site them for  
16 code violations. We just need to  
17 do it. And we need, as you say,  
18 and I agree, I think everyone  
19 agrees, the ARB, the language in  
20 the -- for the Architectural  
21 Review Board is very deficient and  
22 we should work on that. I might  
23 suggest that you, your committee  
24 or whatever you guys want to divvy  
25 up the responsibilities, go and

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2 gather up language from other

3 villages --

4 MRS. DEUTSCH: Absolutely.

5 MR. PARCELLS: -- so that

6 you have some kind of

7 navigation --

8 MRS. DEUTSCH: Mm-hmm.

9 MR. PARCELLS: -- you know,

10 to begin the process --

11 MRS. DEUTSCH: Right.

12 MR. PARCELLS: -- of

13 bringing, you know, new ideas to

14 new legislation.

15 MRS. DEUTSCH: Yes.

16 MS. MORGAN: And we'll do

17 everything we can to support that.

18 MRS. DEUTSCH: So then I

19 guess we'll wait and see what the

20 building inspector finds and then

21 figure out where --

22 MAYOR COLBY: Yeah, we'll

23 wait. He may come back to Mickey

24 and ask him specific questions

25 about what the intent of the ARB

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2 was, but that's an issue, too, but  
3 I'll follow up --

4 MR. PARCELLS: But  
5 shouldn't it be absolutely clear  
6 from the plans?

7 MAYOR COLBY: Not  
8 necessarily, not according to  
9 Mickey. Mickey and I talked about  
10 it. And there is some  
11 disagreement about it, we'll send  
12 George.

13 MRS. DEUTSCH: Well, can  
14 you share that actually because  
15 I'm surprised to hear that?

16 MAYOR COLBY: You got the  
17 email about the columns, right?  
18 The columns they may be not  
19 exactly what they presented in the  
20 plan, but they're 95 percent close  
21 to what they did present, but they  
22 do look close to yours, similar to  
23 yours, so the building inspector  
24 needs help from the ARB to  
25 understand that, if that's

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2 significant or not, if it's an  
3 inch taller or five inches taller,  
4 if that's the deviation, we just  
5 want to be fair somehow, that's  
6 all. George will go in there and  
7 look and we'll call you back.

8 MRS. DEUTSCH: Right. And  
9 again, I think these are fair, you  
10 know, I don't want to speak for  
11 the ARB, but I would be surprised  
12 if anyone on the ARB would object  
13 to an inch difference in a column,  
14 but when you have all of these  
15 issues combined starting with the  
16 driveway's in the wrong place, you  
17 know, and the columns and possibly  
18 the building material and the  
19 apron, it starts to be abusive  
20 that they just did what they  
21 wanted and there are too many  
22 things that deviate from plan --

23 MAYOR COLBY: Understood.

24 MRS. DEUTSCH: -- so.

25 MAYOR COLBY: All right.

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2 MRS. DEUTSCH: It just has  
3 to be addressed. And I -- I guess  
4 what I'm asking is this is not  
5 going to be a decision that you  
6 and Mickey make independently,  
7 right? You will share --

8 MAYOR COLBY: No --

9 MRS. DEUTSCH: -- the  
10 findings?

11 MAYOR COLBY: -- you were  
12 copied on the emails.

13 MRS. DEUTSCH: Okay.

14 MAYOR COLBY: Remember the  
15 ARB, the ARB should share the  
16 information, so the ARB  
17 understands how it works, not just  
18 me, I don't want to be necessarily  
19 the only decision-maker, so I  
20 delegate it to Mickey and  
21 hopefully the rest of the ARB.

22 MRS. DEUTSCH: Right. And  
23 I'm happy to, you know, step out  
24 of that discussion as an ARB  
25 member, but I would like it

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2 brought to the ARB and, you know,  
3 have it --

4 MAYOR COLBY: Yeah.

5 MR. BENACERRAF: John, just  
6 on that point, how is the final  
7 decision made considering there's  
8 27 minor variances?

9 MAYOR COLBY: Then they  
10 have -- Sunshine's got to go back  
11 to the ARB for -- to give them  
12 additional materials so the ARB  
13 can approve it or not.

14 MR. BENACERRAF: You can  
15 look at the number of infractions,  
16 in every single one in isolation  
17 could be an inch, to Stephanie's  
18 point, there's 27 of them --

19 MAYOR COLBY: Yeah.

20 MR. BENACERRAF: -- in  
21 theory is the totality of the  
22 variance, the infraction, if you  
23 will is --

24 MS. MORGAN: Material.

25 MR. BENACERRAF: --

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2 material.

3 MAYOR COLBY: Of course,  
4 deviation from the approved plans.

5 MRS. DEUTSCH: And  
6 especially when it's not because  
7 of nit-picking, but every one of  
8 those 27 saved the builder a few  
9 thousand dollars, so now the value  
10 of the house is less than what it  
11 should have been and the sale  
12 price of the house is, so this all  
13 has a compounding effect, you  
14 know, it seems like trivial  
15 issues, but --

16 MR. BENACERRAF: It's not  
17 trivial.

18 MRS. DEUTSCH: -- it's not.

19 MAYOR COLBY: We went  
20 through the ringer with Sunshine  
21 as you know for over a year.

22 MR. PARCELLS: Well, let's  
23 see what the issues are, I mean if  
24 they're di minimis, then, you  
25 know, George --



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2 MAYOR COLBY: George will  
3 report back to us and he'll let us  
4 know, Stephanie.

5 MRS. DEUTSCH: Thank you.

6 MS. MORGAN: I only have  
7 one comment on that.

8 MAYOR COLBY: Sure.

9 MS. MORGAN: So Lisa has  
10 got the wifi working, so I'll put  
11 that in an email, but we have wifi  
12 now, so when you come in you can  
13 log onto the wifi and follow on  
14 your computer the agenda or, you  
15 know, access any other ancillary  
16 paperwork that we've sent out, so  
17 that should be very helpful and  
18 we're really appreciative of Lisa  
19 for doing that.

20 And then I had a question  
21 in your opening statement about  
22 how you -- you're asking Tim Hogue  
23 and Marian Brownlie to resign  
24 their posts?

25 MAYOR COLBY: Mm-hmm,

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2 that's right.

3 MR. PARCELLS: Are those

4 two (inaudible).

5 MAYOR COLBY: Yes.

6 MS. MORGAN: So how will

7 that work?

8 MAYOR COLBY: Well, we'll

9 see, hopefully their counsel's

10 here today (Referring) will report

11 back about what we said and we'll

12 see if I get a resignation letter

13 in 30 days.

14 MS. MORGAN: And if they

15 don't resign their posts, do you

16 have authority to remove them?

17 MAYOR COLBY: We'll take

18 that up next step.

19 MS. MORGAN: Okay.

20 MAYOR COLBY: Anything

21 else?

22 Nothing else on the

23 community reports.

24 Any new business? Anybody

25 want to go to executive session or

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2 shall we not? It's up to you  
3 guys?

4 MR. PARCELLS: Do we  
5 have -- is there anything that we  
6 need to go into executive session  
7 for?

8 MR. BRUYN: I just want to  
9 talk about the litigation.

10 MAYOR COLBY: Yeah, all  
11 right. So we'll motion to go into  
12 executive session.

13 MR. PARCELLS: So moved.

14 MAYOR COLBY: Second?

15 MS. MORGAN: Second.

16 MR. PARCELLS: Second.

17 MAYOR COLBY: Second.

18 We'll be back folks, stay tuned.

19 (11:42 a.m. the Board went  
20 into executive session.)

21 (12:15 p.m. the Board  
22 returned from executive session.)

23 MAYOR COLBY: Continuing  
24 back from executive session.

25 Where'd Betsy go?

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2 We just need -- we're back  
3 from executive session. Thank  
4 you. Dates for the next meeting  
5 is Saturday, 3 March 2018 at 10:00  
6 o'clock.

7 Any questions?

8 Motion to adjourn?

9 MR. BENACERRAF: So moved.

10 MAYOR COLBY: In favor?

11 MR. PARCELLS: Aye.

12 MAYOR COLBY: Done.

13 Thank you all.

14 (12:15 p.m. the meeting  
15 concluded.)

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CERTIFICATION

4

5 I, DONNA L. RITZMANN, a Notary Public

6 in and for the State of New York, do hereby

7 certify:

8 THAT the foregoing is a true and

9 accurate transcript of my stenographic notes to

10 the best of my ability.

11 IN WITNESS WHEREOF, I have hereunto

12 set my hand this 17th day of February, 2018.

13

14

15

\_\_\_\_\_  
DONNA L. RITZMANN

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<b>A</b>				
<b>a.m</b> 1:8 147:19	<b>adequate</b> 111:4 112:16,20	100:22	31:19 48:10 55:18 55:20 138:8	118:13 124:24 138:7,20
<b>ability</b> 24:18 34:6 129:25 149:10	<b>adjourn</b> 15:15 16:18 18:5 148:8	<b>ambiguity</b> 136:2	<b>approvals</b> 119:3	<b>Ari</b> 2:7 3:24 26:11 38:21 40:14 67:6
<b>able</b> 6:2 12:13 61:20 78:3 90:19 105:22	<b>adjourned</b> 15:10 15:13 17:4	<b>amend</b> 18:13	<b>approve</b> 9:17 50:8 50:10 51:22 56:14 94:12,20,24 98:16 113:13 143:13	<b>arrived</b> 110:11
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