

Minutes of the Regular Meeting of the Town Board of the Town of LaFayette held February 9, 2004 in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette.

Present: Gregory Scammell, Supervisor
Sandra Smith, Councilwoman
David Knapp, Councilman
Thomas Bailey, Councilman
William McConnell, Councilman

Recording Secretary: Mary Jo Kelly, Town Clerk

Others Present: Leon Cook, Highway Superintendent
Kevin Gilligan, Town Attorney
Marshall Taylor, Assessor/Clerk
Tom Chartrand, Bookkeeper
Sue Snavlin, Dep. D.C.O.
Anne Smith, Historian
Mrs. Stanton, Tanglewood

1. Supervisor Scammell called the meeting to order at 6:38 p.m.
2. Roll call taken at the public hearings.
3. Pledge to the U. S. Flag led by Councilman Knapp at public hearings.
4. January 26th Town Board Meeting Minutes approved at public hearings.
5. **COMMUNICATIONS:**

A. **Residents.** No one came forward.

Tom Chartrand said he submitted more information for the end of the year report. He reviewed the final figures for 2003. He noted this year will be the last payment on the building. We will also have new tower revenue coming in. We started the year with \$284,000 in the General Fund. We ended with \$125,000 for next years tax reduction. We used \$139,000 to reduce taxes for this year. The Highway Dept. started with \$103,000 and ended with \$39,000. \$43,000 was appropriated. He noted a lot of the left-over revenue in the Highway Dept. was due to the good FEMA work Leon Cook did. We still have \$2,900 in Community Development. Under CTC there is \$2,196 which has been being used for funding the Beach. The library shows a deficit at the end of the year of - \$125.00. They didn't actually overspend their expenditure side, they under revenue on the revenue side. There won't be anything to reduce

taxes for the library next year. Fire protection had a balance of \$1,000. Overall, he believes we are not in too bad of shape considering the things we had to deal with last year.

Sue Snavlin said she had to go to Otisco's meeting so she asked if she could give her report now. She submitted a written dog report and information regarding Dog Control Officer's authority to determine a dog's disposition.

Councilman Knapp asked about the quarantine from the county.

Sue Snavlin said from January 1st to April 30th, there's a deer quarantine. The DEC is supposed to enforce it. The big thing is that a DEC Officer can shoot a dog chasing deer but a local resident cannot. You must call the DEC to handle it. This has nothing to do with the town at all.

Supervisor Scammell asked if she would review the contract with Lake Country prior to the Town Board approving it.

Sue Snavlin said it appears to be O.K.

Councilmen Knapp moved and Bailey seconded the motion to authorize the Supervisor to sign the contract with Lake Country. Motion passed unanimously.

Supervisor Scammell said he hasn't heard anything back from Dr. Cadwallader regarding the questions the Town Board had on the vouchers.

Councilman Bailey asked about the plastic airline crate.

Supervisor Scammell said Cathy Piercy did the DCO inspection. She is from Ag & Markets. She noted he needs a large plastic airline kennel to transport dogs in the cold weather as he no longer has a cab on his truck. He asked Sue if she had any idea about how much one would cost.

Sue Snavlin believes around \$100.

Councilmen McConnell moved and Bailey seconded the motion to authorize Jon Rogers to purchase an airline crate not to exceed \$100.00. Motion passed unanimously.

B. Assessor & Clerk to the Assessors Marshall Taylor: Resignation withdrawn.

C. Central New York Regional Planning & Development Board: MS4 Stormwater Phase II.

"The purpose of this memorandum is to provide you with Phase II compliance cost estimates developed by the Federal Environmental Protection Agency (EPA) that you might find useful when preparing upcoming annual budgets...EPA estimates that the average annual per household program cost for automatically designated Phase II communities is \$9.16...Phase II compliance can pose a significant financial burden for regulated municipalities. The best way to lower

overall Phase II program costs is to take advantage of cost sharing opportunities provided through cooperative program efforts...

Councilman Knapp said we are basically looking at the Butternut Creek area.

Supervisor Scammell said yes. He asked Leon Cook if there were any other areas.

Leon Cook said no.

Supervisor Scammell said we will be sharing costs for this.

D. United States Senator Charles Schumer: U.S. SBA MREIDL program loans.

“Knowing of the impact the recent call-up of military reservists has had on New York’s businesses and communities, I want to bring to your attention the U.S. Small Business Administration’s (SBA) Military Reservist Economic Injury Disaster Loans (MREIDL)...As you may know, the MREIDL program provides funds to eligible small businesses to meet the ordinary and necessary operating expenses that businesses could have met, but were unable to meet because an essential employee was called up to active duty...”

E. 5R Processors: Recycle old computer equipment.

“I would like to take this opportunity to introduce you to our company.

We are 5R Processors, LTD an 18-year-old recycling and disposal company for computers and communications equipment located in Syracuse, NY that is EPA and DEC C-7 Certified...”

Supervisor Scammell asked Anne Smith if OCRRA is charging for the drop-off of old computers.

Anne Smith said no. They just allow you to bring them in once or twice a year.

F. Town of DeWitt Supervisor Jim DeStefano & Onondaga County Legislator Mark Stanczyk: Room Occupancy Tax.

“The purpose of my letter today is to solicit your support for the Local

Law regarding Room Occupancy Tax that will be introduced by Legislator Stanczyk for action by the County Legislature on February 2, 2004. This proposed legislation will provide much needed assistance to the fire and police personnel who are called daily to the hotels & motels on a variety of problems peculiar to their transient clientele and their industry...”

G. Southern Hill Preservation Corporation Executive Director Julee Johnson: HOME Program support.

“I am writing to request a letter of support for our application to the

HOME Program, which is a Federal program administered by the NYS Division of Housing & Community Renewal. The application is due February 9th so I would appreciate receiving your letter by February 5th...Additionally, there is a high rate of homeownership in southern Onondaga County. On average, 70% of the area's residents are homeowners..."

Supervisor Scammell said he did send a letter of support. They have been very good over the years in helping people and loaning them money.

H. Syracuse Post-Standard (1.23.04, C-1): Unemployment for December, 2003.

"December broke the Syracuse area's 15-month streak of job gains...It was the first month since August 2002 in which the area had fewer jobs than it did in the same month the year before...The area's unemployment rate rose to 6 percent, from 5.9 percent in November and 5.6 percent in December 2002. It was the eighth consecutive month that the unemployment rate rose compared with the same month the year before...The biggest difference between December and most months last year was the loss of government jobs. There were 800 fewer government jobs..."

I. Onondaga County Legislature: 2.2.04 agenda.

Supervisor Scammell said the only item of interest he saw on the agenda was to delay the increase in the Right to Burial Fees for the Veterans Cemetery.

J. YWCA of Syracuse & Onondaga County: Academy of Diversity Achievers Award.

"The YWCA of Syracuse & Onondaga County is proud to announce the 5th Annual YWC Academy of Diversity Achievers Award....The nominee should demonstrate one or more of the following criteria: Participates in programs to promote and embrace diversity, supports opportunities for women's growth and leadership, embodies the spirit of peace, justice, freedom and dignity, works towards the elimination of racism.....This award will be presented ...April 29, 2004 at the ONCENTER..."

K. U.S. Senator Charles Schumer: Teaching American History Grant Program.

"Knowing of your interest in strengthening our communities, I am

writing to let you know that the United States Department of Education (DOE), Office of Innovation and Improvement has announced the opening of the Teaching American history Grant Program...”

L. Other.

6. **SPECIAL REPORT:** None.

7. **REPORTS:**

A. Departmental (4th Monday).

- 1) **Building & Zoning Code Enforcement:** Ralph Lamson & Jack Sutton.
 - **Junk vehicle status** (attached spreadsheet).
 - a) **Route 11 North** (near McClary Road on east side).
 - b) **Jamesville Apulia** (numerous violations just south of Jamesville Beach Park).
 - c) **Route 91.**
 - d) **LaFayette Road, 1/2mile North of Route 20.** Abandoned autos.
 - e) **Route 20 & Tully Farms Road.**
 - **Other violations.**
 - a) **Apulia Road:** Other trailer.
 - b) **5630 Amidon Road** (Daniels) – living in tent, letter sent.
 - c) **Route 20 & Tully Farms Road** – lumber & auto sales?
 - d) **Weisbrodt property on Route 11 South**
- 2) **Dog Control:** Jon Rogers, Sue Snavlin & Madeline Despres.
 - **Feral dogs.**
 - **Billing query.**
 - **Annual Dog Quarantine** (January 1st through April 30th). Discussed earlier in the meeting.
 - **Plastic airline crate for Jon Rogers** (per DCO inspection). Discussed earlier in the meeting.
 - **Lake Country Veterinary Clinic contract.** Approved earlier in the meeting.
- 3) **Highway Superintendent:** Leon Cook.
 - **SPDES** – awaiting coordinated actions at county level.
 - **Ellabrook Drive (Applewood Acres).**

Kevin Gilligan said we are at the point where the Town Board needs to make a decision about the title insurance. The alternative is for his firm to take a lengthy review of the title. This needs to be done to be

sure you are getting a clean deed to the road. Usually the insurance title is cheaper.

Supervisor Scammell would like to think about this.

Leon Cook said it's a very small piece of road that Ken Schoeck is turning over and it would cost Ken \$500 for the title insurance. Several times they have transferred property to us in that area and it's never been a problem. He would like the Town Board to waive the title insurance. He guarantees there would be no problems.

Supervisor Scammell said if we don't have him do it, the town will have to pay it.

Kevin Gilligan said that is correct. Otherwise, you have no definite guarantee you have ownership of the road. At some point the intent will be for that to become a road and if you don't have clear title to that point, the area beyond it would be in jeopardy.

Supervisor Scammell would like to think about this some more.

- **Weller Road** (200' paving) grant – awaiting forms from NYS Assemblyman Brown workup.

4) **Justice:** Malcolm Knapp & Maureen Perrin.

- **Credit card** – implementation.

5) **Library Director:** Scott Kushner.

6) **Recreation Director:** Regina Reinschmidt.

7) **Town Clerk:** Mary Jo Kelly.

8) **Town Supervisor:** Greg Scammell.

- **2003 Year End Report.**

This was discussed earlier in the meeting.

Supervisor Scammell believes we ended up about 5 ½ % under budget last year. He thanked everyone for their help in accomplishing this.

Councilman Knapp moved and McConnell seconded the motion to approve the following transfers:

LIBRARY FUND:

To:	L7411.1 Library Operations (Staff)	Personal Services	
	\$1,075.00		
	L7410.2 Library Operations	Equipment	\$ 210.00
	L7410.4 Library Materials (Books)	Contractual	\$ 405.00
	L7435.4 Library Operations (Travel)	Contractual	\$
<u>25.00</u>		TOTAL	\$1,715.00

From: L7413.4 Library Materials (Serials) Contractual	\$ 575.00
L7430.4 Library Operations (Supplies) Contractual	\$
925.00	
L7431.4 Library Operations (Telephone) Contractual	\$ 150.00
L7434.4 Library Materials (Comm.Prog) Contractual	\$ 65.00
TOTAL	\$1,715.00

GENERAL FUND:

To: A1110.4 Justices	Contractual	\$ 300.00
A1310.4 Bookkeeper	Contractual	\$ 100.00
A1480.4 Public Information (WEB site) Contractual	\$ 200.00	
A1620.4 Buildings	Contractual	
\$7,000.00		
A5182.4 Street Lighting	Contractual	\$
800.00		
A7310.4 Youth Program	Contractual	
\$1,500.00		
A7510.4 Historian	Contractual	\$
100.00		
A9950.9 Interfund Transfers	Revaluation	
	Reserve	\$5,000.00
	TOTAL	\$15,000.00

From: A1355.2 Assessors	Equipment	
\$3,300.00		
A1355.4 Assessors	Contractual	
\$6,300.00		
A1620.2 Buildings	Equipment	
\$3,000.00		
A5132.4 Garage	Contractual	\$ 800.00
A7310.2 Youth Program	Equipment	
\$1,500.00		
A7550.4 Celebrations	Contractual	\$ 100.00
	TOTAL	\$15,000.00

HIGHWAY FUND

To: DA5110.4 Repairs	Contractual	\$1,200.00
	TOTAL	\$1,200.00

From: DA5142.4 Snow Removal	Contractual	\$1,200.00
	TOTAL	\$1,200.00

Motion passed unanimously.

- Intermunicipal Cooperation & Consolidation.**

B. Committee (2nd Monday).

1) Communications & Technology.

a) **Website alternatives** (Home grown, Digital Towpath, PAETEC, etc.). Need costs.

- **Costs.**
- **How to post information.**

Supervisor Scammell asked if there was anything new on this.

Marshall Taylor said a fellow from PaeTec is going to put something together for the next Town Board Meeting.

b) **Email alternatives** (AOL, PAETEC, etc).

- **Costs.**

2) Emergency Response.

- **AEDs** (Defibrillators).

Councilman Bailey said he is waiting for the window to open. It opens

in March. He hasn't heard anything back from the state level for the grants for the AED's. He is looking into a grant which deals with personal protection equipment. At another time they could have grants for apparatus. We would certainly fit the bill to be a benefactor of the grants.

Councilman Knapp said especially with Route 81.

Councilman Bailey said this would be a joint effort between the town and the fire department.

- **Local alerts notification to public.**

3) Employee Policies & Benefits.

- Update employee manual to reflect reversion of nonmedical benefits such as vacation pay, sick pay and personal days back to 24 hour/week threshold.

Supervisor Scammell said at the last Town Board Meeting the motion

was made to go back to the 24 hour/week for the nonmedical benefits. Mary Jo has updated the policy.

4) Environmental & Conservation Advisory Board.

5) Highway.

6) Physical Plant.

Councilman Knapp said we had a day last week with strong winds

and rain and there was a leak downstairs in the Library. We will have the side of the building where the rain comes in sealed up in the spring.

- **LaFayette Commons:** SW walls, scheduled for Spring, 2004.

- **LaFayette Commons:** Heat tape to be installed in valley over library entrance.
- **LaFayette Commons:** Sheet rock repaired in Library circulation desk area.
- **LaFayette Community Center:** insulate over the kitchen area to prevent ice buildup.

Supervisor Scammell said he isn't sure we need some heat tape or not on the Community Center roof. He will have Herb Salladin check to see about access.

7) **Recreation & Youth (DK/SS/RR).**

a) **Bailey Park.**

b) **LaFayette Beach.**

- **New septic system under construction.**
- **Survey/transfer LaFayette Beach from LCC to town.**

c) **Stafford Park.**

Councilman Knapp said he received an email from Regina Reinschmidt. Last year the Board discussed making Dave Baker's position official. Right now the town pays him a little and the Community Council pays him a little. He thinks we need to talk to Tom Chartrand about this position. It has worked out well having him.

Councilman McConnell said he wrote a letter a couple of years ago when he coached down there. His services are greatly needed.

8) **Safety**

Leon Cook said there is a meeting tomorrow night at 6:30.

9) **Senior Transportation & Housing.**

10) **Service Awards.**

- **Amendment to Volunteer Firefighter Service Award Program.**

Councilman Knapp asked Mary Jo if she had heard of any appeals.

Mary Jo said no.

11) **SOTS & OCCRA Liaison.**

- **Increase in resident's complaints about lack of pickup (McClary, Dodge, Newell Hill).**

Councilman Knapp believes the last 3 week have gone well.

12) **Water.**

- **U.S. Army Corps of Engineers/Jamesville Reservoir – Preliminary Restoration Plan.**

13) Zoning Review**a) Private horse stables – Under Review.**

- **PB/ZBA/CEO/CCF input.**
- **1 or 2 w.1acre each/Private Stable/Public Stable.**
- **Fencing.**
- **Manure management.**

Councilman Knapp said on the one and two private horse stables, as

far as he is concerned, we have put this to bed. Now we are talking about 3 or more private/public stables and specifically the fencing.

Supervisor Scammell thought even the fencing was decided upon. He believes it was going to just read “fencing”.

Councilman Knapp said he is curious about the whole property parcel fencing. From a horse owner standpoint, it's not a requirement so should we be forcing that issue?

Supervisor Scammell said he would go back to the public safety comment Councilman Bailey brought up.

Kevin Gilligan said you could say one acre needs to be fenced or two acres need to be fenced. Some wording could be put in so the horses could be out without getting into the road.

Councilman McConnell thinks most horse owners would fence in some small area. He can't support regulating how much has to be fenced. He thinks there's enough common sense out there because of the value of the pets.

Kevin Gilligan said you could go from where you are now which is to fence 2 acres per horse to not having anything.

Councilman McConnell said we don't have anything now.

Kevin Gilligan said it has been determined by the Planning Board that it is 2 acres. Right now the translation of the town is that it requires fencing until the Town Board makes a legislative change.

Councilman McConnell doesn't believe there is a need for 2 acres per horse when today the horses are taken care of differently.

Councilman Bailey said from a liability standpoint it would seem an insurance carrier who wrote a policy for a public stable would want some kind of fencing.

Supervisor Scammell believes it could just state fencing is needed.

Kevin Gilligan said the applicant is supposed to be showing a plan which should show the area they plan on fencing. He believes the Planning Board can determine if it's sufficient.

Supervisor Scammell asked what we care from a planning perspective about that.

Kevin Gilligan said you don't. The only thing you would care about is if there isn't any outdoor area fenced in, there might be an increase in the chance of a horse getting loose.

Councilman McConnell would disagree as that might not be the way the owners will be taking care of or utilizing their horses.

Marshall Taylor asked what rights the non-horse owner has to protect himself against the horses. What happens to the people outside the horse owner in terms of their rights? If he had to sue the horse owner, is it better to have a town ordinance for support?

Kevin Gilligan said the ordinance would help.

Councilman McConnell asked where this stands with greater than 3 horses in a private setting. This proposal cuts down the amount of acreage needed.

Kevin Gilligan said as well as not having the applicant come in to get any controlled site approval from the Planning Board or providing a manure management plan, etc.

Councilman Knapp introduced a proposed Zoning ordinance Amendment relating to the regulation of horses made the following motion, which was seconded by Councilman Bailey:

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the adoption of an Ordinance in the Town of LaFayette, such that there are no other involved agencies within the meaning of the new York State Environmental Quality Review Act (SEQR) with respect to the proposed adoption of said Ordinance, with the result that the Town Board shall act as lead agency in this matter.

NOW, THEREFORE, it is

RESOLVED AND DETERMINED, that the following proposed Ordinance Amendment is hereby introduced for the Town Board's consideration:

**AMENDMENT TO THE 1970 ZONING ORDINANCE;
AS PREVIOUSLY AMENDED, AS IT RELATES TO THE
REGULATION OF HORSES IN THE TOWN OF LAFAYETTE**

BE IT ORDAINED, by the Town of LaFayette, acting through its duly constituted Town Board and pursuant to the authority conferred by Section 265 of the Town Law, that the 1970 Zoning Ordinance of the Town of LaFayette, as previously amended, is hereby further amended as follows:

- 1. Article II. District Regulations, Section "A", entitled "AGRICULTURAL-RESIDENTIAL (AR) DISTRICT", Subsection "1" is amended to add a new paragraph "g", as follows:
 "(g) Private stables for the keeping of not more than two (2) horses, mules and/or burros, providing that such private stable is located on a parcel containing not less than two (2) acres**

of contiguous useable grazing land and providing further that no building housing animals and no accumulations of manure or any other dust or odor producing substances shall be locate within seventy-five (75) feet of any lot line.”

- 2. Effective Date: This Amendment to the 1970 Zoning Ordinance of the Town of LaFayette, as amended, shall take effect as provided in Section 265 of the Town Law; and it is further**

RESOLVED AND DETERMINED, that there are no other involved agencies, that the adoption of said Ordinance is an unlisted action for purposes of environmental review under SEQR and that the Town Board shall act as lead agency with regard to this proposed action; and it is further

RESOLVED, that the Town Board shall conduct a public hearing as to the adoption of this proposed Ordinance at the Town Hall located at 2577 Route 11 on March 8, 2004 at 6:30 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

Supervisor Scammell	Aye
Councilwoman Smith	Aye
Councilman Knapp	Aye
Councilman Bailey	Aye
Councilman McConnell	Aye

The foregoing resolution was thereupon declared duly adopted.

b) Simple/small subdivision Guidelines – Under Review.

- PB/ZBA/CEO/CCF input.**

Kevin Gilligan submitted some information for the Board to review over the next couple of weeks. There are advantages and disadvantages to each approach. His firm’s preliminary review of what Pompey does, is strongly questioned regarding the legality. If the Board wants to move in that direction, he would recommend getting an opinion from the Secretary of State that it is allowable. John Langey suggested a committee be formed with members of the Planning Board, Town Board and Ralph Lamson to review this material.

c) Nonconforming Uses – Under Review.

- PB/ZBA/CEO/CCF input.**
- Building replacement ok after fires.**

- **Lapsing options (12 months).**

Councilwoman Smith introduced a proposed Zoning Ordinance Amendment relating to nonconforming uses, structures and lots and made the following motion, which was seconded by Councilman Knapp:

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the adoption of an Ordinance in the Town of LaFayette, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act (SEQR) with respect to the proposed adoption of said Ordinance, with the result that the Town Board shall act as lead agency in this matter.

NOW, THEREFORE, it is

RESOLVED AND DETERMINED, that the following proposed Ordinance Amendment is hereby introduced for the Town Board's consideration:

**AMENDMENT TO THE 1970 ZONING ORDINANCE
AS PREVIOUSLY AMENDED, AS IT RELATES TO
NONCONFORMING USES OF THE TOWN OF LAFAYETTE**

BE IT ORDAINED, by the Town of LaFayette, acting through its duly constituted Town Board and pursuant to the authority conferred by Section 265 of the Town Law, that the 1970 Zoning Ordinance of the Town of LaFayette, as previously amended, is hereby further amended as follows:

- 1. Article VIII – DEFINITION, Section “B”, entitled “PARTICULAR DEFINITION” is amended so as to remove all paragraph numbers and letters.**
- 2. Article VIII – DEFINITION, Section “B”, entitled “PARTICULAR DEFINITION” is amended so that a definition for “NONCONFORMING STRUCTURE OR LOT” is added, as follows:
“NONCONFORMING STRUCTURE OR LOT – A structure or lot that does not conform to a dimensional regulation prescribed by this ordinance for the district in which it is located or to regulations for signs, off-street parking, loading or accessory buildings, but which structure or lot was in existence at the effective date of this Ordinance and was lawful at the time it was established.”**

3. **Article VIII – DEFINITION, Section “B”, entitled “PARTICULAR DEFINITION” is amended so that the definition of “NONCONFORMING USE” shall read, in its entirety, as follows:**

“NONCONFORMING USE – A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the district in which it is located, but which was in existence at the effective date of this Ordinance and was lawful at the time it was established.”

4. **Article V – PARKING, SIGNS, AND SUPPLEMENTAL REGULATIONS, Section “D”, entitled ‘NONCONFORMING USES’ is amended so that it shall read, in its entirety, as follows:**

“SECTION D. NON-CONFORMING LOTS, STRUCTURES AND USES

 3. **Within the districts established by this Ordinance, there exist lots, structures, and uses of land which were lawful before this Ordinance was originally passed or amended but which would be prohibited, regulated or restricted under the terms of this Ordinance or further amendment. It is the intent of this section to permit these nonconformities to continue until they are removed or abandoned; but not to encourage their survival. It is further the intent of the Town that nonconforming uses shall not be enlarged upon, expanded, extended nor that they be used as grounds for adding other structures or uses prohibited elsewhere in the same district.**
 4. **Except as otherwise provided herein, legal nonconforming uses and structures may continue to exist and may be maintained and repaired. A nonconforming structure that is declared unsafe by a proper official of the Town, may be strengthened or restored to a safe condition.**
 5. **Nonconforming uses are hereby declared to be incompatible with permitted uses in the districts involved. A nonconforming use may be expanded into any portion of a building that existed as of the date of any provision of this Zoning Ordinance, which would otherwise**

prohibit such use. In all other cases, a nonconforming use of a structure or land shall not be extended or enlarged nor shall the existence of a legal nonconforming use serve as grounds for adding structures or uses otherwise prohibited in the same zoning district.

- 6. A nonconforming structure or building may not be extended or enlarged unless the owner thereof shall first apply to the Zoning Board of Appeals and receive a Specific Use Permit authorizing such extension or enlargement. In granting such a Permit, the Board of Appeals must find that such proposed extension or enlargement will not be detrimental to the neighborhood.**
- 7. A nonconforming lot shall not be further reduced in size.**
- 8. No nonconforming use, or part thereof, if wholly or partially changed to a conforming use shall thereafter be changed back to a nonconforming use.**
- 9. In any district, whenever a nonconforming use of land or structure on any part or portion thereof has been discontinued for a period of one (1) year, such nonconforming use shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this Ordinance as it may be amended. Such discontinuance of the active and continuous operation of such nonconforming use or part of portion thereof for such period of one (1) year is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operation. If abandonment in fact is physically demonstrated by the removal of buildings, structures, machinery, equipment and other evidence of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed and all rights to reestablish or continue such nonconforming use shall**

thereupon terminate, regardless of the period of time.

- 10. **Nonconforming structures or buildings or any structure or building containing a nonconforming use may be repaired and/or restored to their former condition after damage by casualty loss or deterioration due to the elements. Such repair and/or restoration must be completed within one (1) year of the date the damage was sustained. Failure to do so shall be considered an abandonment pursuant to the foregoing paragraph (7). This period may be extended for up to one (1) additional year upon application to the Town Zoning Board of Appeals for good cause shown.”**

2. Effective Date: This Amendment to the 1970 Zoning Ordinance of the Town of LaFayette, as amended, shall take effect as provided in Section 265 of the Town Law; and it is further

RESOLVED AND DETERMINED, that there are no other involved agencies, that the adoption of said Ordinance is an unlisted action for purpose of environmental review under SEQR and that the Town Board shall act as lead agency with regard to this proposed action; and it is further

RESOLVED, that the Town Board shall conduct a public hearing as to the adoption of this proposed Ordinance at the Town Hall located at 2577 Route 11 on March 8, 2004 at 6:30 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

Gregory Scammell	Supervisor	Aye
Sandra Smith	Councilwoman	Aye
David Knapp	Councilman	Aye
Thomas Bailey	Councilman	Aye
William McConnell	Councilman	Aye

The foregoing resolution was thereupon declared duly adopted.

Dated: February 9, 2004

- e) **Corridor Plan.**
- f) **Digitized zoning map.**

8. LITIGATION & OTHER LEGAL MATTERS

A. People v. Claire Watson.

B. LaFayette Hotel/Mr. Muraco's project at the four corners & DEC septic approval (progress continues).

Councilman Knapp said he saw Assemblyman Brown at the Winterfest

and he advised he hadn't heard anything new but it was Jim Lynch's intention to continue to push for a solution.

C. PILOT agreement at Festival Gardens.

- **Current taxes compared to PILOT.**

Councilman McConnell said the data showed a deficit and not a future for getting out of that deficit. He was satisfied with Mr. Kelley's explanation. At one time there was a another loan taken to do repairs such as a new roof and septic system. He appreciated the data and believes it's accurate. He believes there is a deficit. He asked Mr. Kelley about the timely manner of their payments and Mr. Smith was surprised as he thought they had only been late once or twice.

Councilman Bailey asked how the town would make up for the reduction.

Supervisor Scammell said the taxpayers would have to make it up.

Marshall Taylor asked if the Town Board had thought about having someone do an appraisal on the property. If they didn't have a pilot, they could come in and talk to the Assessors about the assessment.

Councilman McConnell said if their assessment were down, what would it benefit them?

Marshall Taylor said their taxes would go down. If they have a PILOT, it's irrelevant. Their assessment was set some time ago and they have been in the PILOT for quite some time. If the PILOT ran out, he would agree the current assessment might be a little high. With the PILOT in place, the Assessors hands are tied.

Supervisor Scammell believes there is some merit in having an appropriate assessment on the building even with a PILOT in place.

Marshall Taylor said whatever decrease you give them, the rest of the town will have to pick it up. He would think they would accomplish the same thing by coming in and talking to the Assessors rather than having the PILOT. He said the town has never used the income approach to assessing property. It has always been square footage, etc.

Councilman Knapp asked about the trailer parks.

Marshall Taylor said they are assessed by unit.

Councilman McConnell said he saw the data to support their statement that they are hurting. He asked about their vacancies. He was advised they have 36 apartments and one current vacancy.

Marshall Taylor asked what they are asking for.

Supervisor Scammell said they are looking to go back to 10%.

Mrs. Stanton arrived to discuss horses. She said there are all kinds of fences for horses. There is electric wire, post and rail, plastic which is very expensive. Horses that are usually out with electric fences respect them and are use to them. She thinks the two acres per horse regulation started with Cornell. They did a study and she believes in the study they were looking at breeders. She knows it would be a town problem if someone moved in with too many horses in a small area. They use their fencing at Tanglewood for exercising the horses. The horses are out for 2 to 2 ½ hours a day. Most horse owners would fence off a small area in which the horses could graze. She doesn't understand the idea of 2 acres per horse.

Supervisor Scammell said the Town Board discussed whether fencing should be required at all.

Mrs. Stanton thinks anyone who has horses would automatically build fencing for them. Otherwise, they would have to exercise the horse every day themselves. Anyone who could afford it and wanted to do a good job with their horses would build one or maybe two or three fenced in areas if they had enough land.

Supervisor Scammell asked what an appropriate amount of land would be.

Mrs. Stanton doesn't think there is a set answer to that. They have one area fenced that might be under an acre. They have 64 horses. They turn them out in groups and rotate them all day long. They are not out for a long time. Most people who aren't home all day would leave their horses in their stalls until they get home.

Supervisor Scammell said from a legal perspective they are trying to determine what might be the right amount of fencing.

Mrs. Stanton said if you have any horses at all, you should have a paddock area. They don't need to be out a long time. Two hours is plenty and an hour would probably be enough.

Supervisor Scammell asked about manure management. The Town Board believes in a one or two horse operation, the manure shouldn't be any closer than 75' to the neighboring property lines.

Mrs. Stanton said it breaks down really quickly, actually in a few hours. They sell a lot of their manure.

Supervisor Scammell said in terms of regulating public or private stables, what would she recommend the Board think about.

Mrs. Stanton said people who like horses move into the country so they can have a horse. Generally she thinks they buy enough acreage not to be in the neighbors way. A public stable would be different.

Kevin Gilligan reviewed the public stables requirements.

Mrs. Stanton said she isn't sure about the 2 acres of land per horse.

Councilwoman Smith asked if she has gone by any guidelines over the years.

Mrs. Stanton said they have just evolved over the years. What worked, they kept and what didn't, they didn't keep.

Councilman Bailey asked with regards to insurance, does she have a liability policy?

Mrs. Stanton said yes.

Councilman Bailey asked if there are any requirements the insurance company mandates that would reduce risk in respect to their stable.

Mrs. Stanton said they do come out and do inspections periodically. They teach horse management to S.U. students. S.U. requires the Stanton's to carry a million dollar policy.

Councilman Bailey asked if the inspector says anything about the way the setup is regarding the buildings, etc.

Mrs. Stanton said no. As a matter of fact, it seems he learns from them. They never leave a mounted student alone. They have rules that they have learned over the years.

Supervisor Scammell said if he were a person interested in opening a business or private stable and came to her, what would she recommend doing?

Mrs. Stanton said she would tell him not to build the stalls too small and to make sure you have clean stalls and bed the horses well.

Kevin Gilligan asked how many total acres she has fenced in.

Mrs. Stanton said they have just under 100 acres and they have a small paddock in the front less than 1 acre, a large paddock in the back that is between 3 and 4 acres and they have two others that are ½ acre, if that. The horses are turned out in groups of compatibility.

Marshall Taylor asked if the ordinance requires a barn.

Supervisor Scammell doesn't believe so.

Mrs. Stanton said the owner should have some kind of shelter, even if it's a lean-to.

Councilman Knapp noted on North Road that is what the owner has.

Councilman Bailey asked if she has experienced any horses getting out.

Mrs. Stanton said it's very rare but it has happened once or twice. In the 40 some years they have been there, it may have happened 5 times, if that.

Supervisor Scammell asked if they go get the horses or if the horses return on their own.

Mrs. Stanton said they go get them.

Supervisor Scammell asked what some of the more difficult aspects of having a stable are.

Mrs. Stanton said you can never get away from it. When you want a little peace, it's not always available. The PR part is the roughest for her. It's very difficult to decide if a horse should be put down or not.

Supervisor Scammell asked the average length of a horses life.

Mrs. Stanton said usually between 20 and 25 years.

The Town Board thanked Mrs. Stanton for coming.

- **Noise/nuisance ordinance.**
- **Public nuisance laws.**

Supervisor Scammell believes the Town Board has decided not to go forward with this but to advise the residents it is covered under the Penal Law.

- **Open burning/noxious odors.**

Supervisor Scammell will review this. He believes there is some guidelines for this.

D. Lynn Hutton/SummerRidge – awaiting deed & dedication.

Kevin Gilligan said he was advised by Lynn Hutton to take out the balance of fees due from the security deposit and send him back the balance.

Councilman Knapp asked if Leon Cook is happy with everything. Leon Cook said yes.

**RESOLUTON – TOWN BOARD
TOWN OF LAFAYETTE
February 9, 2004
SUMMERRIDGE PHASE II SUBDIVISION**

The following resolution was made by Councilman Knapp and was seconded by Councilman McConnell.

WHEREAS, SummerRidge Development, Inc. (hereinafter “Developer”) has executed, pursuant to Highway Law Section 171, a “Dedication of Land and Release of Damages” form proposing to dedicate to the Town of LaFayette (hereinafter “Town”) a certain parcel of land for street or highway purposes and releasing the Town from all damages by reason of the laying out and opening of said street(s) or highway(s), said parcel of land being described in Schedule “A”; and

WHEREAS, said Developer also executed and delivered to the Town a warranty deed dated October 14, 2002, conveying said parcel of land to the Town; and

WHEREAS, said Developer also executed and delivered to the Town:

A Highway, Sewer and Drainage Construction and Maintenance Agreement dated November 26, 2001; and

Security in proper form and amount as required by said Agreement including a cash deposit for engineering inspection and monuments; and

WHEREAS, the Developer provided to the Town easements for drainage and utility purposes as required by the approved plan, together with a current abstract of title and title insurance in an amount acceptable to the Town Board; and

WHEREAS, the Highway Superintendent of the Town has made, executed and delivered to the Town Board an order laying out such street(s) or highway(s); and

WHEREAS, the Town Board, by resolution authorized the Supervisor of the Town to execute and enter into an agreement with the Developer for the construction and maintenance of highway, sewer and drainage facilities within such development; and

WHEREAS, the land described in the aforementioned warranty deed has been improved as street(s) or highway(s), in accordance with standards and specifications for a town highway within this Town, and in conformance with applicable regulations and requirements and provisions of state law pertinent thereto; and

WHEREAS, the Developer has requested that the street(s) or highway(s) be named as follows:

Naomi Road; and

WHEREAS, the Town Board has reviewed and considered all of the aforementioned documents and have found them to be in proper order and the Town Board having further found that it is in the public interest to accept dedication of said street(s) and highway(s);

NOW, THEREFORE, it is

RESOLVED, that the Town Board, on the behalf of the Town, does hereby consent to the order of the Highway Superintendent laying out the said street(s) or highways(s) and does hereby accept the dedication of the said street(s) or highway(s) as set forth in Schedule “A”; and it is further

RESOLVED, that the names of said streets shall be as previously noted herein; and it is further

RESOLVED, that the Town Clerk be and she hereby is authorized and directed to file and record in her office the aforementioned “Dedication of Land and Release of Damages” dated September 20, 2001, and executed by Lynn Hutton, president of SummerRidge Development, Inc., the written consent of the Town Board and the order of the Highway Superintendent laying out said street(s) or highway(s); and it is further

RESOLVED, that the Developer be and he is hereby released from further obligation under the highway, Sewer and Drainage Construction and maintenance Agreement dated November 26, 2001,

and that any remaining securities be released to the Developer; and it is further

RESOLVED, that all authorizations and approvals herein granted be and are expressly conditioned upon the Developer providing to the Town good and quiet title to all street(s) or highway(s) and easements, receipt of a duly executed affidavit of no liens, and the payment of all outstanding fees and disbursements, including title document and insurance costs, due to the Town resulting from this development.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

Gregory Scammell	Supervisor	Aye
Sandra Smith	Councilwoman	Aye
David Knapp	Councilman	Aye
Thomas Bailey	Councilman	Aye
William McConnell	Councilman	Aye

The foregoing resolution was thereupon declared duly adopted.

Dated: February 9, 2004

9. UNFINISHED BUSINESS & ACTIVE PROJECTS.

A. Resolution re: Person with Disabilities Exemption.

**TOWN OF LAFAYETTE
RESOLUTION TOWN BOARD MEETING**

The following resolution was offered by Councilman Knapp, who moved its adoption, seconded by Councilwoman Smith, to wit:

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law entitled Local Law No. 1 of 2004, "A Local Law Amending Local Law 2-2001 to Provide for an Increase in the Partial Real Property Tax Exemption for Persons with Disabilities Whose Incomes are Limited by Reason of Such Disabilities", was presented and introduced at a regular meeting of the Town Board of the Town of LaFayette held on January 12, 2004; and

WHEREAS, a public hearing was held on such proposed local law on this 9th day of February, 2004 by the Town Board of the Town of LaFayette and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of LaFayette in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

WHEREAS, the SEQR review process for this action was completed by this Board at its January 12, 2004 meeting; and

WHEREAS, it is in the public interest to enact said Proposed Local Law No. 1 of 2004.

**NOW, THEREFORE, it is
RESOLVED, that the Town Board of the Town of LaFayette,
Onondaga County, New York, does hereby enact Proposed Local Law No. 1 of 2004
as Local Law No. 1 of 2004 as follows:**

**TOWN OF LAFAYETTE
LOCAL LAW 1-2004**

**A Local Law Amending Local Law 2-2001 to Provide
for an Increase in the Partial Real Property
Tax Exemption for Persons with Disabilities Whose
Incomes are Limited by Reason of Such Disabilities.**

Be it enacted by the Board of Trustees of the Town of LaFayette, as follows:

Section 1. New York Real Property Tax Law Section 459-c authorizes municipalities to provide a partial real property tax exemption for real property owned by persons with disabilities whose incomes are limited by reason of such disabilities.

Section 2. New York Real Property Tax Law Section 459-c has been amended to authorize municipalities to increase the maximum income eligibility levels for the exemption for persons with disabilities from its current level to \$32,400.00.

Section 3. The new income guidelines for the sliding scale property tax exemption are as follows:

<u>EXEMPTION</u>	<u>INCOME LIMITS</u>
50%	\$24,000.00
45%	\$25,000.00
40%	\$26,000.00
35%	\$27,000.00
30%	\$27,900.00
25%	\$28,800.00
20%	\$29,700.00
15%	\$30,600.00
10%	\$31,500.00
5%	\$32,400.00

Section 4. Local Law 2 of 2001 is hereby amended to establish increased income eligibility levels for the exemption for persons with disabilities at the maximum amounts authorized by Real Property Tax Law, Section 459-c as described in Section 3 of this Local Law.

Section 5. This Local Law shall take effect in accordance with the provisions of the Municipal Home Rule Law.

The question of the foregoing Resolution was duly put to a vote and, upon roll call, the vote was as follows:

Gregory Scammell	Supervisor	Aye
Sandra Smith	Councilwoman	Aye
David Knapp	Councilman	Aye
Thomas Bailey	Councilman	Aye
William McConnell	Councilman	

The foregoing Resolution was thereupon declared duly adopted.

DATED: February 9, 2004

B. Resolution re: persons 65 Years of Age or Older Exemption.

RESOLUTION AUTHORIZING A PARTIAL EXEMPTION FROM REAL PROPERTY TAXES FOR PERSONS 65 YEARS OF AGE AND OLDER AND INCREASING THE INCOME LIMITATION RELATIVE TO SAME TOWN OF LAFAYETTE

February 9, 2004

The following resolution was made by Councilwoman Smith and seconded by Councilman Knapp.

WHEREAS, Section 467 of the New York Real Property Tax Law authorizes municipalities, after public hearing, to grant a partial exemption from real property taxation for real property owned by certain persons with limited income, who are 65 years of age and over; and

WHEREAS, the Town of LaFayette has, from time to time, provided such tax benefits to its citizens who qualify for such exemption according to the provisions of Section 467 of the New York Real Property Tax Law; and

WHEREAS, the State of New York amended Section 467 of the New York Real Property Tax Law (Chapter 512 of the Laws of 2003) to provide for an increase in the maximum eligibility levels for the Real Property Tax sliding scale exemption for senior citizens from its current level of \$24,000 to \$32,400; and

WHEREAS, the Town wishes to make this benefit available to its qualifying senior citizens as a way of assisting them to keep their homes during retirement years; and

WHEREAS, it is the desire of this Board to increase the senior citizens' property tax exemption to the maximum allowable under the law; and

WHEREAS, this Board, after due notice in accordance with New York Real Property Tax Law, Section 467 and Section 3 of Town of LaFayette Local Law 3-2001, has held a public hearing on this date to consider increasing said exemption.

NOW, THEREFORE, be it

RESOLVED, that this Board hereby authorizes a partial real property tax exemption for persons 65 years of age or older, pursuant and subject to the provisions of Section 467 of the New York Real Property Tax Law and Local Law 3-2001, in accordance with the following schedule:

<u>EXEMPTION</u>	<u>INCOME LIMITS:</u>
50%	\$24,000
45%	\$25,000
40%	\$26,000
35%	\$27,000
30%	\$27,900
25%	\$28,800
20%	\$29,700
15%	\$30,600
10%	\$31,500
05%	\$32,400;

and it is further

RESOLVED, that this resolution shall amend, supercede and replace all prior resolutions of this Town with respect to the subject matter herein.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

Gregory Scammell	Supervisor	Aye
Sandra Smith	Councilwoman	Aye
David Knapp	Councilman	Aye
Thomas Bailey	Councilman	Aye
William McConnell	Councilman	Aye

The foregoing Resolution was thereupon declared duly adopted.

DATED: February 9, 2004

C. Time-Warner Cable TV franchise renewal.

Kevin Gilligan said he reviewed the town's Time-Warner Agreement and there is no franchise fee in it. Normally in the franchise agreements with Time-Warner, they agree to pay up to 5% to the host municipality. This is the first one he has ever seen without a franchise fee. What happens is, the franchise fee is passed on to the users. It would be a source of revenue for non-participants and a break-even for users.

D. ZBA Alternate member appointment.

E. Dell Bush stream naming.

F. Speed limit reduction request:

- **Keough Tract.**

G. Cram Communications, WVOA-AM towers.

- **Engineering study performed by Cram to be reviewed by independent consultant, pertaining to impact on Groth Road Communications Tower.**

The Board felt it was quite a surprise how the land was stripped. Councilman Bailey asked about liability for the town.

Kevin Gilligan said because of the SPDES, they could have to supply a SPDES Plan.

F. Groth Road Communications Tower Inspection. Bolt replacement.

Supervisor Scammell said the gentleman is in the process of replacing the bolt.

G. Association of Towns 2004 Training School & Annual Meeting (resolutions & attendees).

H. Signs .

Kevin Gilligan sent a letter outlining the requirements of the workers compensation. He advised the state will be looking out for local governments who don't require the specified workers compensation.

10. NEW BUSINESS.

A. Other.

Kevin Gilligan discussed our dog ordinance regarding barking dogs.

He is recommending some new language that has been upheld by the courts. The revision would be as follows: “bark, whine or make other noise for a period of at least fifteen (15) minutes within any one-hour period, which barking, whining or other noise can be heard from a location outside of the owner’s premises and would disturb a reasonable person of normal sensitivities.” If the Board would like to go forward with this, he will have a local law ready for the next Town Board Meeting.

Councilwoman Smith asked who the reasonable person referred to in the change would be.

Kevin Gilligan said it could be the D.C.O., a law officer, etc.

Councilman Knapp said it could not be the neighbor.

Kevin Gilligan said that is correct. This change gives the town a good tool to work with.

Councilwoman Smith asked if it would also refer to a kennel.

Kevin Gilligan said yes.

The Town Board was in favor of Kevin Gilligan preparing this local law.

11. There were no suggestions for improvement & positive contributions.

12. Councilmen Knapp moved and Bailey seconded the motion to audit and pay the following bills:

HIGHWAY	# 535 thru # 548
GENERAL FUND	# 549 thru # 577
SPECIAL DISTRICT	# 579 thru # 581
TRUST & AGENCY	# 582 thru # 590

Motion passed unanimously.

13. Executive session (as needed).

14. Councilmen Knapp moved and McConnell seconded the motion to adjourn. Motion passed unanimously.

The Regular Town Board Meeting adjourned at 9:05 p.m.

Respectfully submitted,

Mary Jo Kelly
Town Clerk