

**HENRIETTA TOWN BOARD
AGENDA
OCTOBER 5, 2005**

ORDER OF BUSINESS

1. Roll Call
2. Prayer
3. Pledge of Allegiance to the Flag
4. Public Presentation/Agenda Items
5. Approval of Minutes of the Preceding Meeting(s) - September 21, 2005
6. Miscellaneous Communications
7. Public Hearing:

- Proposed Rezoning of Lands - Belfrey Golf Course

Introduction of and Action Upon Local Laws, Ordinances, Resolutions

Reports of Standing Committees and Actions Thereon

Reports of Special Committees

Public Comment

Adjournment

RESOLUTION #18-208/2005

Authorize Accounts Payable

RESOLUTION #18-209/2005

Call for Public Hearing - Fiscal Year 2006 Preliminary Budget

RESOLUTION #18-210/2005

Authorize Placement of Delinquent Property Maintenance Bills on Tax Rolls

RESOLUTION #18-211/2005

Call for Public Hearing - Authorize Amendments to Chapter A301, "Fee Schedules,"
§A301-3E of the Town Code of the Town of Henrietta, to Increase Sewer Rents

RESOLUTION #18-212/2005

Authorize Attendance of Annual Fire Marshals and Inspectors Conference

RESOLUTION #18-213/2005

Authorize Personnel Items

PURSUANT TO CALL A REGULAR MEETING OF THE TOWN BOARD OF THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK, WAS DULY HELD AT THE HENRIETTA TOWN HALL, 475 CALKINS ROAD, HENRIETTA, NEW YORK ON THE 5TH DAY OF OCTOBER, 2005 AT 8:00 P.M.

MEMBERS PRESENT

ABSENT

MEMBERS

Supervisor James R. Breese
Councilwoman Catherine A. McCabe
Councilman William J. Mulligan, Jr.
Councilman Michael B. Yudelson
Councilwoman Janet B. Zinck
Daniel J. Mastrella, Town Attorney
Patricia J. Shaffer, Town Clerk

SUPERVISOR BREESE

Is there anyone that would like to speak on any Agenda items other than the Public Hearing, which I'll call shortly? Just agenda items only at this time?

TONY KEMMER, 39 CLOONEY DRIVE
(*From audience*) I have some questions.

SUPERVISOR BREESE

Sure. You'll have to come up here on the mic and give us your name and address, please.

TONY KEMMER, 39 CLOONEY DRIVE

Tony Kemmer, 39 Clooney Drive. I'm addressing the Public Hearing. What are the Belfrey Golf Course lands going to be rezoned to? Is that going to be . . .

SUPERVISOR BREESE

We're going to have that Hearing shortly. If you listen, maybe you'll hear. If you have questions, then you can ask questions again.

TONY KEMMER, 39 CLOONEY DRIVE

Thank you.

SUPERVISOR BREESE

Okay, fine. May I have the approval of the Minutes, please.

COUNCILWOMAN McCABE

Mr. Supervisor, I move we approve the Minutes of September 21, 2005.

COUNCILMAN YUDELSON

Second.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye	
Councilman Mulligan	voting	Aye	
Councilman Yudelson	voting	Aye	
Councilwoman Zinck	voting	Aye	
Supervisor Breese		voting	Aye

Carried

SUPERVISOR BREESE

We have a Public Hearing tonight. Has it been properly advertised?

PATRICIA SHAFFER, TOWN CLERK

Yes, Sir.

SUPERVISOR BREESE

This Public Hearing is on a proposed rezoning of lands involving the Belfrey Golf Course and surrounding properties. What I'd like to do is have interested parties come up and present their case in terms of the land owners or Belfrey people, how you feel about this proposed rezoning. Why don't we start with that, and then I'll call on the rest of the public to speak. Yes, Sir?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Good evening Board members. My name is Karl Essler. I'm an attorney with the Fix Spindelman Brovitz and Goldman office in Fairport, and I'm here tonight representing Henry Hansen and Don Tobey, both of whom are here with me in the audience tonight, who are the owners of virtually all of the property that you're talking about rezoning here and rezoning from its current R-1-15 designation to the RR-2 Rural Residential 2 designation, and I think as the Board is aware, Mr. Hansen and Mr. Tobey have submitted a protest petition on this indicating their opposition which carries with it some requirements for the Town under Town Law Section 265. But in any event, the area that we're talking about here also includes a portion of the Belfrey Golf Course and with me here tonight as well are representatives of both the current ownership group of the Belfrey as well as a proposed purchaser of the golf course, Mick Evans, who are also significantly interested in this rezone proposal as it dramatically impacts their plans, and frankly, their ability to successfully move forward with the golf course, and we'll have them talk about that in a moment. I'm sure the Board has obviously seen in the press as I have recently all the stories that have been flying around about all the negative things that have been happening with the golf course and its inability to get going, and I also, I'm sure the Board is also aware that the long-term conversations about this golf course have always included discussions about having the land in the vicinity that we're talking about tonight, north of Erie Station Road and south of the Thruway, as part of a residential development

that would be integral to that golf course and its success. In fact, I noted in the actual Resolution that scheduled this Public Hearing the Board set forth that part of the reason for considering this rezoning was in recognition of those plans and its support of the successful completion of said Belfrey development, the affected parcels, more particularly described in the attachments, were originally omitted from the Rural Residential District and retained as R-1-15, and whereas, various business decisions and disclosures have been made since the establishment of the Rural Residential District that seriously impact the prospects for the previously proposed residential development contemplated for the Belfrey Golf Course, and then you went on to schedule this Public Hearing. What we want to, I think, two (2) things we want to do tonight, first of all, one is to explain to you why in fact any concerns that the Board might have about the residential development not being an integral part in helping this golf course to move forward, may be concerns that are not justified given current developments that are taking place, and also to talk a little bit about the fact that we think, and particularly for Mr. Hansen and Mr. Tobey's standpoint, that it doesn't necessarily further the Town's goals as set forth in the whole Rural Residential concept to rezone this particular property, and I'll talk about that in a bit as well. To begin with, I want to bring up James Coffelt who represents one of the owners, who represents the ownership group of the current Belfrey ownership and have him just give you a very, very brief update on recent developments in terms of what's going on with them. James?

JAMES COFFELT

Thank you, Board, for your consideration. I am the trustee of the Robert Roth Trust and Bob's Executor. Years ago, Bob had a dream, he had the land, and he had the means necessary to complete the course multiple times over. Over the course of a couple of years, there were three (3) specific downturns and two (2) years of rain, which caused quite a problem, followed by his imminent death. Since then, I have been in charge of the estate, trust and so on, and liquidated the assets of the trust for the benefit of completing the golf course. When Bob died, there were six (6) holes done, now there's eighteen (18) virtually done. Likewise, the assets of the trust we have used to complete the course and here we are with one (1) asset, namely the golf course, more debt, frankly, then it can handle, and no real ability to go forward. That is the bad news. The good news, a man named Mick Evans, who owns Elon Golf, has all the golf expertise, designs Nicklaus' courses, or, not designs them, but constructs them, and all of the experience and financial means necessary to complete it. A key component in its completion is the ability to do some significant development, by the way, which involves moving holes to that land and so on. With that, my hope is that you will consider keeping the zoning as is. Thank you.

SUPERVISOR BREESE

I'd like to ask some questions of you, and you may want to defer to somebody else because I'd like to get down to the real numbers. As you know, the Town of Henrietta has been very supportive of the Belfrey project from the beginning, going back, God knows how many years, when Bob first thought about it. So, there's not an issue of whether we support the Belfrey Golf Course or not.

JAMES COFFELT

And thank you for that, by the way.

SUPERVISOR BREESE

I think that continues to be the case, even if we don't agree on some of the issues that are going to come up. But have you analyzed what the new Rural Residential zoning would mean to the density you need to make this project worthwhile for you and others as an investment?

JAMES COFFELT

In this scenario, with the sale of the course to Mick Evans, frankly, we will no longer have an involvement. So, if I could defer the answer to that to Mick and others.

SUPERVISOR BREESE

Okay. I'd like to hear that. I'm sure the Board would, too. Thank you, for now. We might call you back.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Mr. Supervisor, I can tell you, I can give you the numbers on what this does to the density, and then Mick can certainly talk about what that means in terms of his economic situation. But, there's approximately a hundred and seventy (170) acres that are affected by this zoning change that would otherwise be available for the R-1-15 residential development, and under current zoning, in taking out the flood plain areas and everything else, the maximum development on that property would be somewhere on the upward side of two hundred (200) units, residential units. The best that we could do under the RR-2, and that would be using the whole, the sixty-five (65) percent open space and all the incentives and everything else, would be something in the neighborhood of fifty (50) units.

SUPERVISOR BREESE

Fifty (50)?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Fifty (50), on that hundred and seventy (170) acres.

SUPERVISOR BREESE

I'm not sure how you arrive at that number. That sounds a little low to me.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Well, actually, Don Carpenter from our engineering firm has actually worked those computations, and he can probably talk you through them if you're really interested in hearing that.

SUPERVISOR BREESE

Yes, I'd like to hear that. That fifty (50) doesn't sound right to me. Maybe it is, but it doesn't sound right.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Well, here's Don.

SUPERVISOR BREESE

Don, you are with whom?

DON CARPENTER, DDS ENGINEERS

Don Carpenter with DDS Engineers. This is based on a total developable area of a hundred and seventy-one (171) acres, and then times thirty-five (35) percent leaves with a, also subtracting the, or adding the twenty-five (25) percent maximum bonus, it gets us to fifty-four (54) units.

SUPERVISOR BREESE

Fifty-four (54) units, five (5) acre lots?

DON CARPENTER, DDS ENGINEERS

Right. That's setting aside sixty-five (65) percent for the open space.

SUPERVISOR BREESE

They're not all five (5) acre lots, maybe some that wouldn't be, right? According to the schedule we have, which I presume you've seen . . .

DON CARPENTER, DDS ENGINEERS

Yes.

SUPERVISOR BREESE

. . . you're still saying it's fifty-four (54) only?

DON CARPENTER, DDS ENGINEERS

Yes.

SUPERVISOR BREESE

It sounds low to me.

DON CARPENTER, DDS ENGINEERS

Well, we're making a conservative estimate on the amount of wetlands, the stream area. We're also taking out some flood plain area, and that totals roughly forty-eight (48) acres of unbuildable land, which is not allowed to be calculated in the density.

SUPERVISOR BREESE

Well, have you factored in the cost of the houses that would be on a five (5) acre lot? It would be much higher than houses on a smaller lot. In fact, they'd put dollars into it.

DON CARPENTER, DDS ENGINEERS

Yes, I guess that's true.

SUPERVISOR BREESE

Do you get my point?

DON CARPENTER, DDS ENGINEERS

Yes.

SUPERVISOR BREESE

A house on a five (5) acre lot is going to be a much more expensive home.

DON CARPENTER, DDS ENGINEERS

Well, I think the point that we're trying to make here is to have a development that's integral to the golf course, which is really going to be beneficial to both the golf course and the subdivision, and to try and build more of a community and less of say, a transitional subdivision where people may buy a house and then move on further out to the suburbs later. We're trying to aim towards building a development that will have sustainable home sites, people that are going to occupy those home sites because they want to live near the golf course, and the benefit is seen by both the portions of the development.

SUPERVISOR BREESE

What if the zoning was changed to R-1-20, which allows for twenty thousand (20,000) square foot lots, which would give you more housing? How would that work out economically for your client, Mr. Essler?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

I really can't speak to the economics, but I'm sure that Mick can, and again, Mr. Supervisor, just the quick math on that, obviously at twenty thousand (20,000) square foot lots, we'd probably be down somewhere in the, I'm just, and I am just guessing because we haven't run that as a concept plan, but upper one hundreds to close to two hundred lots that would still potentially be available under the R-1-20, maybe a little less than that, and again, what we're talking about on the fifty-four (54) lots, looking at the RR-2 computations, first of all, if you took them as five (5) acre lots, we only have, after you deduct that forty some odd acres that's not usable, and you take the hundred and thirty (130) acres that's left, if they really are five (5) acre lots, you're under thirty (30) units. The Code does give you that ability if you provide open space to increase density on the portions that you do develop, and that's where we came up with the fifty-four (54), but you have a minimum in essence of a one (1) acre lot, even if you do the whole sixty-five (65) percent preservation of open space.

SUPERVISOR BREESE

You're saying a minimum of a one (1) acre lot doesn't work for you economically?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Well, it doesn't if you can only get fifty-four (54) lots on a hundred and seventy (170) acres. Land is not cheap in the Town of Henrietta.

SUPERVISOR BREESE

Are you basically saying that this project, if the zoning was changed by this Board, that this project won't go forward?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

I think that's what Coffelt is saying and what Mr. Evans is going to say to you in a moment, is that if this goes to RR-2, in all likelihood the project's not going to succeed in the long term.

SUPERVISOR BREESE

What if it was R-1-20?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Um . . .

SUPERVISOR BREESE

You could get more houses that way.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Again, I think that might be a doable situation. Obviously, that's not the situation we'll be presenting with tonight. So, we haven't really sat down and run those numbers, but at twenty thousand (20,000) square foot lots, I would have to say, my professional opinion, if you will, is that that's probably close to being workable, close.

SUPERVISOR BREESE

Close to what?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Close to being workable.

SUPERVISOR BREESE

Okay.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

But, I'd like to have Mr. Evans come up and give the Board a little bit of a sense of exactly what he has in mind for this project and how it's tied in.

MICK EVANS, ELON GOLF CONSTRUCTION

Good evening. My name is Mick Evans. I'm from California. I'm with Elon Golf Construction. We've been out to see the city, or the Town, excuse me, four (4) or five (5) times now, and I think we have a great opportunity to not just have a housing development, which is what you're talking about. I think everyone's focusing on, we just

have this hundred and sixty (160) acres that we're going to put a housing development on, and I think we're overlooking the fact that we have a golf course community that overrides some of the normal housing requirements. Twenty thousand (20,000) square feet, if you'd give us credits for all the land we have and let us not necessarily have a twenty thousand (20,000) square foot lot but break it up into, if we have two hundred (200) acres we get, you know, four hundred (400) lots. But, we really need two hundred (200) units, and it's not just for the housing, the money we get from the housing, but what it does is it puts people into the community to support the golf course. So, we have a community that we have kids, families, golfers, some non-golfers, some just social members, but we have a golf club that we need those, we don't need fifty (50) families in our golf community to support that, we don't need a clubhouse and golf course. You can have a great subdivision without a golf course, you don't need it. But you have a good golf course there. Yes, it needs some work, yes it needs to be brought out and be part of the community, and we can do that, but in order to do that and make it financially feasible, we need to bring out the golf into the community. It creates a lifestyle more than anything. Instead of coming home and seeing a fence in your backyard, now you're seeing, you know, a fairway, where your kids can ride their bikes up to the clubhouse and play tennis, or whatever that is, or you have an opportunity to go up to the club and eat dinner at night. So, it's creating more economic year-round than just, once you sell the home, we're gone, but we have a club and a golf community that we need to support for years to come, and that's not only economically viable for the city years to come, too. I mean, that's creating tax revenues for the city, or the Town, excuse me, that goes on forever. If you just put a housing subdivision out there, it will work. You could go build your five (5) acre lots, keep the golf out of it, and you'll have forty (40) people out there. But, years down the line, it does not create anything for the Town. What we're proposing is a lifestyle change and something great for the Town of Henrietta. All of the neighboring towns and cities have that. You can look at other golf developments and they have that. I think the Town of Henrietta needs that. It is upscale to what some of the other subdivisions are around there, but you're going to create that lifestyle that you need in the Town, in my opinion.

SUPERVISOR BREESE

Twenty thousand (20,000) square foot lots would give you more than fifty (50).

MICK EVANS, ELON GOLF CONSTRUCTION

I understand that.

SUPERVISOR BREESE

And it wouldn't give you two hundred (200), probably, but it would give you a lot more than fifty (50). You say it might work if there were some other considerations that were involved.

MICK EVANS, ELON GOLF CONSTRUCTION

The, it just depends on how, when you consider a twenty thousand (20,000) square foot lot, if that's the actual size of the lot, then you're going to end up with a hundred and fifty (150) lots, and no, it doesn't pencil. It just is not economically feasible to bring that golf

into that for that, because you can do, as a developer, you can make just as much money going in there and putting a hundred (100) homes in there and not have any golf in there. You're not creating, you need the people there, you need two (2) to three hundred (300) homes there to create that lifestyle and to support the whole community. If it gets too small, then it just doesn't work, and it's not just, it's not even just from the lots, sales, or the house sales. It creates a certain amount of dollars. That would probably pencil, but there's no sense creating this nice club out there without the people to support it, and in that community you have to set that up so you have success.

SUPERVISOR BREESE

Are there questions from the Board?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

(Away from microphone) Mick, did you want to mention what your plans were in terms of the membership aspect of this?

MICK EVANS, ELON GOLF CONSTRUCTION

Oh, yes. We got sidetracked a little bit, but our goal is for the Town, and we met with a couple of you guys and some people from the city out at the opening, and some of the questions we got were would it be private or public. It will definitely always stay public. There will be a private aspect to it in the club. So, it would be kind of a semi-private, but we always want, we need the public there on a daily basis to make this thing work in the Town of Henrietta. It's just the only way it will work. Yes, we will have memberships, and yes, they will have advantages in the clubhouse and tee times and stuff, but the public needs, we have kids, in your sign out here you've got, you know, get a kid hooked on golf. Well, if you don't have a nice golf course in your community, you can't do that. You need your high school someplace to play. You know, when you hold tournaments in your Town, you need a championship golf course to do that, and I don't think the Town of Henrietta has that. They have a par three (3) course, but they need an upscale course to do that.

SUPERVISOR BREESE

Have you contracted to purchase all of this property? The golf course and the surrounding lands?

MICK EVANS, ELON GOLF CONSTRUCTION

The golf course should have been already purchased and done. When this issue came up, for us, it is a big issue economically.

SUPERVISOR BREESE

Purchased and done by whom?

MICK EVANS, ELON GOLF CONSTRUCTION

Pardon me?

SUPERVISOR BREESE

Explain that. Who purchased the golf course?

MICK EVANS, ELON GOLF CONSTRUCTION

The paperwork is all ready. The deal has been made for me for buying it.

SUPERVISOR BREESE

It was subject to Town approvals, obviously, right? Or, is . . .

MICK EVANS, ELON GOLF CONSTRUCTION

It's subject to this zoning change, yes.

SUPERVISOR BREESE

Okay. Go ahead. Sorry.

MICK EVANS, ELON GOLF CONSTRUCTION

Then we have the other parcels under option, based on this, too.

SUPERVISOR BREESE

Any questions?

COUNCILWOMAN ZINCK

Not right now.

MICK EVANS, ELON GOLF CONSTRUCTION

Afterwards, I'll be free to talk to anybody if they have any more questions.

SUPERVISOR BREESE

Yes, we'll probably call you back up.

MICK EVANS, ELON GOLF CONSTRUCTION

Cool.

SUPERVISOR BREESE

Thank you very much. Mr. Essler?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Mick did bring in some brochures which actually give you some sense of his background and some of his other developments. I'll just hand them to the Clerk to share with you.

SUPERVISOR BREESE

That's helpful. Absolutely.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

I guess, Mr. Supervisor and Board members, the other thing that I wanted to talk about somewhat briefly, and I'll step over to the map, is to try to give you some sense of why we

think it's not necessarily, it doesn't necessarily make sense to try to put this RR-2 within the area that the Board has been talking about, or at least is considering. This is an aerial overview of the entire area around the golf course. You've got, the Thruway is here, and you've got the existing golf course on both sides of the Thruway as is shown here. This is the area that's basically being talked about for rezoning, this parcel right in here that goes from 390 over to the golf course, and then Erie Station Road shows down here. I read, and spent a good deal of time reading through the Behan draft report that was sort of the basis for the RR, and one of the things that I was struck by as I was reading it, I mean, I've been through this over in Pittsford as well, so I understand the concepts and it's hard to argue with the concept of what the Town wants to do by way of preserving open space and rural area and character, but what I was struck when I read the Behan report was, they just started with an assumption that the boundary where that ought to start is the Thruway, without ever really explaining why the Thruway is the magic defining point, and I think if you look at the development that's in this area now, I actually think you will come to the conclusion that the more logical dividing line of this is actually Erie Station Road and working south. I think, obviously the Board, I think, is familiar with the area, but let me kind of walk you through it. Over here on the west side, actually on the west side of the expressway, you have industrially zoned land, where you have the Delphi/Valeo plant. As you work your way over on, then I'll go over to the other side of this area that you're talking about rezoning, you have a fairly dense residential subdivision that already exists. Over here to the south of Erie Station Road, there's actually another residential subdivision here, and so what you're talking about is you're almost like taking, and let's stick a thumb up into what otherwise is an area that actually suggests nice transitional development, this area all along through here between there and there, it makes perfect sense to have some sort of transitional development with here the golf course being a wonderful centerpiece for that development, and then going south from Erie Station Road, it really seems to us to be the, where the boundary line ought to be for this Rural Residential zoning. It doesn't seem as though the Thruway itself ought to be some sort of a magic place, and we would strongly encourage the Board to take a look at that as a concept, and I think it still accomplishes all of the goals and objectives that the Town would have for preserving that kind of area. Let me just close with this, you may have more questions later and other people are going to speak, but the one thing I think I can safely say on behalf of my clients and on behalf of the developers of the project, just the fact that we are here tonight, we have heard the concern that the Board has about, you know, preserving natural features, preserving character of the community and everything else. We would strongly encourage the Board to give us a chance to come forward with something that shows you that we can do a residential development in that area that supports and in fact allows that golf course to survive and helps to encourage those other goals that you have. I think we've heard that it can be a very wonderfully designed project, but of course, if you change the zoning now, it's never going to happen. You don't have to do anything now. As Jerry Goldman, I think, sent a letter to Mr. Mastrella that I assume got shared with the Board, the Board always has the ability right up until the point when a project is finally approved and ready to go in the ground, if you really don't like what you're seeing about what we're doing, you still have the right to rezone the land. You don't have to do it now. So, we're asking you to give

us a chance to show you that we can make the project work in a way that actually enhances and satisfies the goals that you're trying to satisfy here. On that basis, we ask you to not rezone this property at this time.

SUPERVISOR BREESE

Well, do you have a conceptual site plan and a builder to go forward with this?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Ryan Homes has indicated their strong interest in being involved as the developer. In terms of the conceptual plan, we've really only been able to kind of lay out sort of a cookie cutter kind of thing just to see what we can do in terms of the number of lots, but not the sort of thing that we think that's at a point where we could really say to the Town, boy, this is really what we think would be good. It's just something to kind of figure out how many lots we could get under the current zoning.

SUPERVISOR BREESE

Were you planning on building on the west side of Middle Road?

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

That certainly is the plan at this point. That's part of the development area. One of the things I should point out, because I think it was a concern that was expressed at one point, I forgot to mention the proposed clubhouse that we were talking about here, and we would also be talking about accessing that off of Middle Road, which might eliminate any concerns about here or further up here in terms of access. But, yes, we were talking about residential development on this side of Middle Road as well. Although, again, everything is in detail when we get to the Planning Board and we see how things go.

SUPERVISOR BREESE

If you get there.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

That's a very good point, Mr. Supervisor, if we get there.

COUNCILMAN MULLIGAN

Mr. Supervisor?

SUPERVISOR BREESE

Go ahead.

COUNCILMAN MULLIGAN

We first gave Bob Roth the building permit in 1992, thirteen (13) years ago. Bob Roth was a very capable business man. What can you tell us that will indicate that this project is going to be any different than the last thirteen (13) years where essentially nobody's played any golf there. Housing, you mentioned that, that came up this summer. That was never a part of it in the past. That came up when we did the rezoning south of the Thruway. But, I mean, to me it looks like a lot of smoke and mirrors. Thirteen (13)

years, nothing. It's been a disaster. Why should we believe anything else? To complete the thought, I know people that put ten (10), fifteen (15), twenty thousand (20,000) into this thing and the money's gone.

SUPERVISOR BREESE

That's a separate issue, you know.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Well, I'm happy to, I guess, address the question. And you're correct, there's no doubt it's been a long and difficult process, but the fact is, the course is actually there now. Now it's a question of getting that next resource pool there that can make it not only happen, but happen over the long term, and I think what Mick tried to convey and maybe not, perhaps as well as the Board might have liked, but he can come up and address it again, is the idea that he is committed to making this work, but, and I talked to him about this earlier with him tonight, and again, he'll say it if you want him to come up and say it, that the golf course itself is a stand alone entity. It is a thin proposition in terms of long term viability without, not just having housing that you can sell houses for, but having housing that ties into the course in a way that encourages this, the semi-private membership and everything else that gives you a sustaining income from the property. He's here, and he's ready to go, and part of these materials we're giving you, we hope, is to show you that, take a look at what this man has done all over the country. He's not a fly-by-night operator, and he's serious, and if you need to hear him say that again, he'll stand up and say it again. That's what's different.

SUPERVISOR BREESE

I don't think it's fair to hold you responsible for everything that happened for the last thirteen (13) years. I realize we have new people here that want to complete this project, and I think that's good, and I don't think we should scuttle the project just because of the twelve (12) or thirteen (13) years that it's taken to get to this point. Yes?

COUNCILWOMAN McCABE

Through you, Mr. Supervisor, may I ask a question? This Board will not be voting on this tonight, I don't believe . . .

SUPERVISOR BREESE

No. We can't vote before November 2ND.

COUNCILWOMAN McCABE

That's right. Should this Board decide to extend and not vote on November 2ND and give you an opportunity to give to us a concept plan for that particular piece of property that may not, may be better than the zoning that it is at the current time, maybe not quite meet the criteria. However, you do have a golf course involved, which is the green space. To me, you meet the minimum as required in our plans south of the Thruway. You meet the, you can max out the housing in that area because the golf course, you're including the golf course in this property.

SUPERVISOR BREESE

That's correct.

COUNCILWOMAN McCABE

So, to me, you can max this out, stay with the Rural zoning and max out by going to the smaller lots, which is not quite as small as the R-1-15. To me, that seems to be a good opportunity for you to see if you could give us some sort of a concept plan that might be workable for us, because we made a commitment to the community that we would keep the rural part, the southern part of our Town rural residential, and we went through all this planning for it, and for us to not do that, you would have to give us a good reason for us to go to our community and say that this is the reason why we have to do this. So, I'd be willing, I can't speak for the rest of the Board, but I would be willing to put off the vote in November and just let it Table, Table the whole thing until you come up with some sort of a concept plan.

SUPERVISOR BREESE

I'd like to see, I think that's a good comment.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

I think we would welcome an opportunity to do that.

SUPERVISOR BREESE

I think there should be two (2) concept plans for this, one on the, if we go to the rural residential and also the other one, if we decide to go to the twenty thousand (20,000) square foot lots. There ought to be two (2) plans to show us.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

I also just wanted to follow up on one other aspect for your comment, Mrs. McCabe. I've been under the impression that under the, as I've read the RR provisions, that, at least it's arguable whether or not the golf course can count as part of that open space preservation requirement to allow us to max out.

SUPERVISOR BREESE

That's a legal question.

COUNCILWOMAN ZINCK

That's a question that I would like, Dan, do you have any idea, I mean, could we count that golf course as part of the green space?

DANIEL MASTRELLA, TOWN ATTORNEY

Well, I can't answer that off the top of my head, and I'd want to consult with the attorney for the Planning Board because I think that, actually, ultimately, that's who would be making that determination, would be the Planning Board, whether or not that would be acceptable as green space. That's the Board that gives those approvals.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

That's part of why we're talking fifty-four (54) units under that as opposed to some larger number and why you might have been surprised, because we're working under the assumption that you can't take the golf course and plug it into that.

SUPERVISOR BREESE

Well, we want to find a way to make this work, I think, all of us, in some form. We like the golf course, and . . .

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

I'd like to play it sometime. I'm getting anxious, but . . .

SUPERVISOR BREESE

I don't play golf, but I think every Town would love to have a golf course. Every Town wants to have a golf course in their town. It's a good use of land, particularly that land. So, hopefully we can come up with a way that we can accommodate everything that needs to be done here. But we're not there yet.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Again, we'd welcome the opportunity to give you a chance to look at something.

SUPERVISOR BREESE

Thank you.

KARL ESSLER, ESQ., FIX SPINDELMAN BROVITZ & GOLDMAN

Thank you.

SUPERVISOR BREESE

Is there somebody in the audience that would like to speak on this proposal? Do you play golf?

JOHN SCHMITT, RESIDENT

Good evening. John Schmitt, formerly of 66 Fawn Ridge Road, in transit right now. A couple of comments that were made here, and one of them stated that the homeowners surrounding the course will be golfers, or their family will be golfers. I think there's many people who live near and across from some of the Country's finest golf courses who enjoy the view wouldn't know a putter from a driver. So, that's a question that is an assumption. He also talks about the number of kids it will bring in, and excuse me, that's children I assume he's meaning, and we are developing and putting more and more children into our school system.

SUPERVISOR BREESE

That has nothing to do with the Town Board. We cannot consider the school system when we make a decision. I want you to know that.

JOHN SCHMITT, RESIDENT

Okay. There is something, though, that the Town Board has commented on in the past, and what I'm concerned about is, what about the rest of the property south of the Thruway, is the term that we use. If we give an exception to this, or we change the zoning for this and developers come in, in other areas, what do you have to say to them? And I've heard you say that, well, if they take it to court, you don't have anything to say about what the court says.

SUPERVISOR BREESE

I didn't say that. I haven't said that.

JOHN SCHMITT, RESIDENT

Well, maybe that's what I heard, anyway. Maybe you didn't say it, but that's what I heard, and I'm just concerned . . .

SUPERVISOR BREESE

(Inaudible).

JOHN SCHMITT, RESIDENT

. . . about, everybody worked hard, the Town spent money for this development, and I'm really concerned about the area, because . . .

SUPERVISOR BREESE

Wait a minute. Okay, you're right, but we have a unique situation here with the golf course. We don't get a lot of golf course projects. So, to hold a hard and fast rule on this, I don't think it would be fair. I think we have to consider what's in front of us each time. If we get another golf course further south that blends in with the rest of the area, we might approve that, too. Who knows. It's very hypothetical at this point.

JOHN SCHMITT, RESIDENT

Okay.

SUPERVISOR BREESE

But we're dealing with a golf course, and that's much different than normally what we deal with.

JOHN SCHMITT, RESIDENT

Well, the whole process of south of the Thruway, we're dealing with the whole area. That's all I'm concerned about.

SUPERVISOR BREESE

It did include a golf course, though. Okay? Thank you. Would somebody else like to speak on this Public Hearing? Yes, Mr. Kemmer? Go ahead.

TONY KEMMER, 39 CLOONEY DRIVE

I'm Tony Kemmer of 39 Clooney Drive. Just a suggestion to the developer. From years past I've noted, that's a favorite place for people to commune for 4TH of July. You get a good view of all the fireworks through the County, and it's a lot of fun. So, maybe a community center on the corner or consider some kind of, keep a section of that open with parking, because people, during the holidays, for something like that, park along that whole road, and if you put two hundred (200) homes in there, they can't do that stuff anymore. So, consider maybe something to keep a section of it free for the community to use.

SUPERVISOR BREESE

Thank you, Mr. Kemmer. Would somebody else like to speak on this proposed rezoning?

COUNCILMAN YUDELSON

Mr. Supervisor?

SUPERVISOR BREESE

Yes, Mr. Yudelson?

COUNCILMAN YUDELSON

If there's nobody else from the public, I just wanted to add and kind of echo comments made by Councilwoman McCabe and Councilman Mulligan. Like Councilman Mulligan, the inclusion of homes as an essential part of this project was, for me, towards the very end of the process at the time that the press conference was held up at the golf course, and at that time it was the suggestion of larger, more upscale homes, and then as we know, that part of the project fell apart fairly quickly. But, like everybody else on the Board, I really would like to see the project be successful, and as Mrs. McCabe suggested, we would obviously be willing to look at anything that you might want to present to the Board, especially if Mr. Mastrella, you know, confirms for us, which I think he's done initially, the points raised in the letter by Mr. Goldman that we would still have the ability to, you know, be able to change zoning to do something even once a developer had started to proceed, that it would not preclude us from doing something at that point.

DANIEL MASTRELLA, TOWN ATTORNEY

Generally speaking, I can confirm that as a general concept, that's correct. You know, a developer does have to show a significant investment, so to speak, in what they're doing. I wouldn't, you know, I wouldn't suggest to the Board that the Board is in a position to draw that line and determine when that threshold has been met and when it hasn't, but as a general concept, what Mr. Goldman suggested is valid.

COUNCILMAN YUDELSON

Thank you.

SUPERVISOR BREESE

Is there anybody else in the audience that would like to speak on this rezoning? Any Board members that have any other questions at this time?

COUNCILWOMAN ZINCK

Just one more comment, just to add on to what's been said. I think there's a lot, I could certainly understand everybody's concerns here. Obviously, there are people concerned about selling their land, a developer that, you know, has some financial needs, and a Board that's committed to the community for how we were going to see the big plan for the Town of Henrietta. So, I think we've got a good direction in taking a look at some of the questions that have been posed here, and then we'll have to move forward from there. So, thank you everybody for your comments.

SUPERVISOR BREESE

One of our responsibilities as a Board is to try to encourage recreational activities in the Town of Henrietta, and we've done a good job of that with parks and recreation programs and other things, and obviously a golf course is a recreational activity. So, that's one of our responsibilities, to take a very close look at it, and see if there's a way we can't make that happen. So, I think we all have an open mind on this. We'd like to see some more information from you folks. We're not going to vote, I don't think we'll vote on November 2ND. We can, but I don't think we will. Get us some proposals for different kinds of uses, I mentioned the two (2), and let's take it from there. Thank you. The Public Hearing is adjourned.

(Brief adjournment)

SUPERVISOR BREESE

May I have the first Resolution, please.

RESOLUTION #18-208/2005

On Motion of

Councilwoman Zinck

Seconded by

Councilman Yudelson

BE IT RESOLVED, that the Director of Finance be authorized to pay the following bills payable:

EXHIBIT A

Bills Payable
dated 10/5/2005
\$ 127,490.64

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:			
Councilwoman McCabe	voting	Aye	
Councilman Mulligan	voting	Aye	
Councilman Yudelson	voting	Aye	
Councilwoman Zinck	voting	Aye	
Supervisor Breese		voting	Aye
Carried			

RESOLUTION #18-209/2005

On Motion of

Seconded by

Councilwoman Zinck

Councilman Mulligan

WHEREAS, the Tentative Budget of the Town of Henrietta for the fiscal year 2006 was filed in the Office of the Town Clerk on September 30, 2005 and was presented to Town Board Members on this same date, and

WHEREAS, Town Law requires that a Public Hearing be held on the Preliminary Budget.

THEREFORE, BE IT RESOLVED, that a Public Hearing be held on November 2, 2005 at 8:00 P.M. at the Henrietta Town Hall, 475 Calkins Road, Main Meeting Room, Henrietta, New York on the fiscal year 2006 Preliminary Budget.

BE IT FURTHER RESOLVED, that the notice of said Public Hearing be published and posted in the manner provided by law.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:			
Councilwoman McCabe	voting	Aye	
Councilman Mulligan	voting	Aye	
Councilman Yudelson	voting	Aye	
Councilwoman Zinck	voting	Aye	
Supervisor Breese		voting	Aye
Carried			

RESOLUTION #18-210/2005

On Motion of

Seconded by

Councilman Mulligan

Councilwoman McCabe

WHEREAS, owners of several properties located in the Town of Henrietta have neglected to maintain their property during the summer, resulting in the inordinate accumulation of vegetation and/or debris, and have otherwise allowed said property to fall into a state of disrepair, in violation of the Henrietta Town Code, and

WHEREAS, said property owners have failed to comply in a timely fashion to notices of violation thereof served upon them by the Town of Henrietta Code Enforcement Office, and

WHEREAS, this failure resulted in the Town authorizing this work to be performed and the property owners being invoiced for said work, and

WHEREAS, said property owners have failed and neglected to pay said invoices.

THEREFORE, BE IT RESOLVED, that the unpaid invoices on the properties, as per the attachment, be added as a lien against said real property on the 2006 tax levy for collection.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye
Councilman Mulligan	voting	Aye
Councilman Yudelson	voting	Aye
Councilwoman Zinck	voting	Aye
Supervisor Breese	voting	Aye

Carried

RESOLUTION #18-211/2005

On Motion of

Councilman Yudelson

Seconded by

Councilwoman Zinck

WHEREAS, the Superintendent of Drainage, Sewer and Sidewalks has recommended that the attached proposed amendments to Chapter A301, entitled "Fee Schedules," §A301-3E, be enacted to increase sewer rents.

THEREFORE, BE IT RESOLVED, that a meeting of the Town Board of the said Town of Henrietta shall be held at the Henrietta Town Hall, Main Meeting Room, 475 Calkins Road in the Town of Henrietta, Monroe County, New York on the 2ND day of

November, 2005 at 8:00 P.M. to consider the proposed amendments and to hear all persons interested in the subject.

BE IT FURTHER RESOLVED, that notice of said Public Hearing be published in the manner provided by law.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye	
Councilman Mulligan	voting	Aye	
Councilman Yudelson	voting	Aye	
Councilwoman Zinck	voting	Aye	
Supervisor Breese	voting	Aye	
	Carried		

RESOLUTION #18-212/2005

On Motion of

Councilman Mulligan

Seconded by

Councilman Yudelson

WHEREAS, the Fire Marshal has requested authorization to attend the New York State Academy of Fire Science at Montour Falls for the annual Fire Marshals and Inspectors Conference on October 18, 2005 and concluding October 21, 2005, and

WHEREAS, funds are available in the year 2005 Budget, and

WHEREAS, the Town Board supports and encourages additional training for all Town employees.

THEREFORE, BE IT RESOLVED, that Christopher Roth, Fire Marshal, and Ted Gerger, Fire Inspector, be hereby authorized to attend the conference at Montour Falls at a cost not to exceed \$475.00.

BE IT FURTHER RESOLVED, that all properly prepared vouchers be submitted to the Finance Director for reimbursement.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye	
Councilman Mulligan	voting	Aye	
Councilman Yudelson	voting	Aye	
Councilwoman Zinck	voting	Aye	
Supervisor Breese	voting		Aye

Carried

RESOLUTION #18-213/2005

On Motion of

Councilman Mulligan

Seconded by

Councilwoman McCabe

BE IT RESOLVED, that the following persons be hired:

Sara Miller Recreation, Part-time Recreation Assistant @
\$7.00/hr., effective 10/2/2005.

Debra Wildow Recreation, Part-time Recreation Assistant @ \$7.25/hr.,
effective 10/2/2005.

SUPERVISOR BREESE

Discussion? Call the roll, please.

Duly put to a vote:

Councilwoman McCabe	voting	Aye	
Councilman Mulligan	voting	Aye	
Councilman Yudelson	voting	Aye	
Councilwoman Zinck	voting	Aye	
Supervisor Breese	voting		Aye

Carried

SUPERVISOR BREESE

That's the end of the regular meeting. Is there anybody that wants to speak on any other items involving the Town of Henrietta? Yes, Mam?

RACHEL WARREN, 59 TOMAHAWK TRAIL

I noticed in the monthly State newsletter there were two (2) or three (3) projects mentioned in there. One is for sustainable communities, and I know we've been working on that. You might want to take a look at it. It's on the New York State network website. The second thing is, I don't know about you but, I've been noticing the telephone poles around Henrietta that are full of hundreds of nails from garage sale signs which frequently are not picked up after the sales are over, and I was wondering if we could do something about, you know, insisting that people use tape that can come down, or use those stick in

the ground signs that they have that they sell for a Dollar (\$1.00) a piece so that they would pick them up after the sale is over. If they've invested money in it, they'll be sure to take the signs down, and I think it would greatly improve the appearance of the Town.

SUPERVISOR BREESE

Thank you. That's a good comment. We do go out on those very often, we take them down ourselves, but . . .

RACHEL WARREN, 59 TOMAHAWK TRAIL

But that shouldn't be your responsibility.

SUPERVISOR BREESE

No, I know, but by the time you get around giving people notice, they're still up for days, and it's a legitimate point, and I appreciate you bringing it up.

RACHEL WARREN, 59 TOMAHAWK TRAIL

I have a third thing that I'd like to say and that is, I know that you don't feel that schools are connected to the Town, but they are because what happens in the schools affects our taxes as well as the Town taxes.

SUPERVISOR BREESE

I'm talking legally, you know, I'm talking legally.

RACHEL WARREN, 59 TOMAHAWK TRAIL

Well, I know.

SUPERVISOR BREESE

We can't use that as a consideration.

RACHEL WARREN, 59 TOMAHAWK TRAIL

No, I understand that, but that's why I always talk about saving farms so we don't build too many homes. Thank you.

SUPERVISOR BREESE

I understand. Okay. Anybody else? *(Pause - no response)*

The Regular Meeting of the Henrietta Town Board was moved for adjournment by Councilman Yudelson, seconded by Councilwoman McCabe at 8:54 P.M. and passed unanimously.

Respectfully submitted,

Amber N. Hutchinson
Deputy Town Clerk