

**TOWN CLERKS MINUTES
REGULAR MEETING
TOWN BOARD
MARCH 16, 2006**

Present: Supervisor John Dunford
Councilman Paul Johnson
Councilman Richard Honeck
Councilman Pat Bonanno
Councilwoman Lorraine Mitts

Also: Town Clerk Ruth Mazzei

REGULAR MEETING

Councilman Bonanno made a motion to open the regular meeting and Councilwoman Mitts seconded. All in favor.

Pledge of Allegiance

Notation of Exits

Brief Explanation of Town Board's Decision-Making Process

Special Presentation for the New York State Office of Real Property Services

The NYS Office of Real Property presented an Excellence in Equity Award. The Town of Southeast receives \$5. per parcel which comes to approximately #35,000. This award is given to towns that qualify for State Aid under the annual program.

PUBLIC HEARINGS

BREWSTER COMMERCIAL COMPLEX-SPECIAL PERMIT

Councilman Honeck made a motion to open the public hearing and Councilwoman Mitts seconded. All in favor. Town Clerk Mazzei read the legal notice. Dan Hollis from Shamberg, Marwell and Hollis was present to represent property at 577 North Main Street. It is 3.6 Acres and has existing violations. They went in front of the Planning Board and need 4 special permits for different areas. The Town Clerk informed him of the fees due. Some of the issues are pre-existing but feel that they can comply with the zoning ordinance. Landscaping needs to be done and additional screening around the storage areas. The Town would like to see the landscaping for the project first and the engineer should be present at the April 20th meeting. Supervisor Dunford made a motion to keep the public hearing open and Councilman Johnson seconded. All in favor.

REDUCTION OF PERFORMANCE BOND-STONECREST SENIOR HOUSING

Councilman Honeck made a motion to open the public hearing and Councilman Johnson seconded. All in favor. Town Clerk Mazzei read the legal notice. The Bond amount is \$1,261,400. there is a letter from the engineer and the Planning Board to have this reduced to \$126,149. Lynne Ekhardt asked to check with the DEC before releasing. Supervisor Dunford made a motion to close the hearing and Councilman Honeck seconded. All in favor.

REVIEW OF MINUTES

Councilwoman Mitts made a motion to review the minutes of January 26, 2006 Special Meeting, and February 16, 2006 Regular Meeting. Councilman Honeck seconded. All in favor.

CORRESPONDENCE

Councilman Johnson made a motion to waive the reading of the correspondence and Councilman Bonanno seconded. All in favor.

Correspondence Received

1. Board of Elections, Putnam County Re: Certification of Offices
2. Brewster Fire Department Re: Annual Carnival & Parade
3. Shamberg Marwell Davis & Hollis, P.C. Re: Proposed Local Law to Amend Chapter 138 of the Town Code "Zoning – Retail Use, Large Retail Establishment and Related Sections. Property Location: Route 6 Tax Map Section 68, Block 2 Lot 48 Owners: Farrington Properties LLC
4. Aflac Re: Voluntary Supplemental Insurance Plans
5. Property Tax Reform Task Force Re: Property Tax and School Funding Reform
6. Tim & Kathleen Radigan Re: Waterview Estates
7. MARSH Certificate of Insurance Re: Reclamation Inc. of Kingston, LLC.
8. ACORD Certificate of Liability Insurance Re: The Roberts Filter Group and Howard Clark
9. A&B Pizzeria/DBA Sinapi's Pizzeria Re: Liquor License for Sinapi's Pizzeria & Restaurant Country Plaza , Route 22
10. Southeast Town Court Re: Small Claim Matter
11. SusCom Re: Transfer in Ownership from SusCom to Comcast
12. Spain Agency Re: NY Municipal Ins. Reciprocal Commercial Package Policy # MPLTSOUT001
13. George Yourke Re: Waterview Estates
14. Richard Feuerman Re: Waterview Estates
15. ACORD Certificate of Liability Insurance Re: Hoffman Fuel of Danbury
16. Jacobson Re: Fox Lane Subdivision 11 Fields Lane Final Plat Review NLJ #0001-0825, Landau Subdivision 299 Joe's Hill Road Continued Site Plan Review NLJ#0001-0836, Unilock New York, Inc. International Blvd. Amended Site Plan Review NLJ #0001-0308, Omnipoint Communications Proposed Telecommunications Facility, 1944 Route 22 Site Plan Review NLJ #0001-0818
17. New York State Environmental Facilities Corporation Re: NYC Watershed – WWTP Upgrade Program Brewster Heights Sewer District #1 Engineer Contract Amendment 6
18. NYS Environmental Facilities Corporation Re: Clean Water State Revolving Fund Proposed Regulation Revisions
19. Michael Langley Re: Application to remain a member of the Town of Southeast Conservation Commission
20. State of New York Board of Real Property Services Re: Notice of Tentative Special Franchise Full Value
21. Mr. Richard Feuerman and Ms. Cherie Ingraham Re: Town Code Amendments
22. Ms. Ann Fanizzi Re: Comments – Local Law Chapter 138
23. Garden Homes Management Re: Proposed Zoning Amendments
24. New York State Environmental Facilities Corporation Re: NYC Watershed – WWTP Upgrade Program Brewster Heights Sewer District #1 Engineer Contract Amendment 6
25. Sabrina Romeus Re: William Papp - File: TSOUT-2005-016
26. Tom Regan Re: Re: Garden Street School Problem
27. Severn Trent Services Re: Brewster Heights Water Treatment Facility, Springhouse Water Treatment Facility, Castle Park Water Treatment Facility, Lakeview Manor Water Treatment Facility

28. Jacobson Re: Brewster Commercial Complex Amended Site Plan NLJ #0001-0840, Campus at Fields Corners Review for Conditions of Final Approval NLJ #0001-0432, Waterview Estates Subdivision Preliminary Plat Review NLJ #0001-0817, Mount Ebo Lot 6, Preliminary Review NLJ #0001-0845, Home Depot USA, Inc. Amended Site Plan Review NLJ #0001-0867, Dykemans Corporate Park Continued Sketch Plan Review NLJ #0001-0756, Westchester Tractor, Terra 9 (Lot11) Amended Site Plan NLJ #0001-0866, Gasland Petroleum, Inc. Amended Site Plan Review NLJ #0001-0, Agusta Subdivision Continued Sketch Plan Review NLJ #0001-0853
29. Vail's Grove Golf Course Re: Liquor License at 230 Peach Lake Road, Brewster, New York
30. Kevin Beall Re: Fox Lane Construction/Boatworks/Outfitters
31. Jerry Mulligan, Westchester County Department of Planning Re: Notice of Preliminary Decision for Use of East of Hudson Water Quality Investment Funds
32. Sterling Environmental Engineering P.C. Re: Town of Southeast Landfill Closure Sterling File #E99016
33. New York State Survey Re: The Operating Expenses of Vehicles for the Elderly – January 2006
34. Robert J. Bondi Re: Notice of Preliminary Decision for Use of East of Hudson Fund
35. Daniel Callahan Re: Approval to Build Two Benches at the Electrazone Field
36. Michael J. Piazza, Jr., Commissioner Departments of Mental Health, Social Services and Youth Bureau Re: Encampment of Homeless Persons in Southeast
37. New York State Office of Real Property Services Re: Residential Assessment Ratio
38. Susan Coyle Re: Restriction of Peach Lake Outlet
39. Putnam County Office of the Sheriff and Correctional Facility Re: Encampment of Homeless Persons in Southeast
40. Robert Parsons Re: Sewers in Starr Ridge Manor
41. Riverkeeper Re: Community Workshop at the Mahopac Public Library on March 11, 2006 from 1 to 4 p.m.
42. Michael Fuller Sirignano, Esq. Re: Sarkas Residence at 59 Enoch Crosby Road, Brewster, New York Lot No. 4, Town of Southeast Tax Map No. 55-1-4
43. Robert H. Sammons, P.E. Re: NYC Watershed – WWTP Upgrade Program Brewster Heights Sewer District #1 Construction Change Order Approval/Denial
44. Stephen V. Fasano Re: Resignation as Chair and Member of the Southeast Conservation Commission Effective 5/1/06
45. New York State DEC Re: Clean Water State Revolving Fund (CWSRF)
46. Hudson River Watershed Alliance Re: Sustainable Water Resources Management: Working with Nature 3/16/06 at the Garrison Institute
47. Jacobson Re: Omnipoint Communications Site Plan Review NLJ#0001-0818, Stateline Retail Center Sketch Site Plan NLJ#0001-0868, Vail's Grove Golf Course Revised Sketch Plan Review NLJ #0001-0850, Route 6 Business Plaza Revised Sketch Site Plan Review NLJ #0001-0855, Fisher Subdivision Revised Sketch Plan Review NLJ#0001-0835, Campus at Fields Corners Review for Conditions of Final Approval NLJ #0001-0432, Weston Chase Subdivision Request for Performance Bond Reduction NLJ #0001-0775
48. ACORD Certificate of Liability Insurance Re: JTR Transportation Corp.
49. State of New York Thruway Authority and DOT Re: Electronic Funds Transfer (EFT)
50. United States Senate Re: National Endowment for the Arts Guidelines for FY2007 Grant Program
51. The NYS Assembly Re: 2006-07 Budget Proposal
52. The Putnam County Legislature Re: The Tilly Foster Advisory Board
53. Pace University Re: The Municipal Law Resource Center
54. Bradley D. Schwartz Re: Sewer District Plan for Peach Lake
55. Public Employer Risk Management Association, Inc. Re: The Association of Towns Meeting
56. Malcolm Pirnie Re: Brewster Heights WWTP Upgrade Construction Instrumentation and Controls Systems Startup Report #3, February 14, 2006
57. Town of Southeast Industrial Development Agency Re: Notice of Scheduled Public Meeting Pursuant to Open Meetings Law

- 58. Paul A. Camarda Re: Stateline Retail Centre, Route 6, Southeast, New York
- 59. Malcolm Pirnie Re: Peaceable Hill Water District Alternative Supply Evaluation
- 60. Town Board Re: Engineering Assessment of Brewster Heights Water Supply
- 61. Putnam County Executive Re: Senior Citizens Services Center
- 62. Town of Patterson Planning and Zoning Office Re: Shared Municipal Services Incentive Grant Program 2005-2006
- 63. Office of the Town Engineer Re: MS 4 Inter-municipal Agreement, Town of Carmel
- 64. Cuddy & Fedder, Re: Foil Request for All documents, Maps, Approvals, Files and Material Relating to the Home Depot and the Highlands Shopping Center Located at Independence Way
- 65. Cathy Croft Re: Baker Farm Subdivision and Town Board Minutes for 1/19/06, Route 22 Overlay Documents and cost of Route 22 Overlay Planning to Date Incurred by Town to AKRF
- 66. Lisa Shelly Re: Foil Request for Violations, Permit Application for Playscape
- 67. Terrence Corcoran Re: Foil Request for Copies of Town Justice Court Budget for the Last 5 Years, Information or Statistics on the Number of Cases the Court has Cleared in Each of the last 5 Years
- 68. Kim Vanorman Re: Request for Subdivision on John Simpson Road and Old Barrett Road (Tenth Jam Associates)

Correspondence Received

- 1. New York State EFC Re: Certification and Disbursement Request #35
- 2. Robert H. Sammons, P.E. Re: Report #71 for the Brewster Heights Wastewater Treatment Plant Upgrade and Report #66 for the Blackberry Hill Sewer District Treatment Facility
- 3. Residents of Springhouse Estates Water District Re: Meeting with Residents on Water System
- 4. Town Board Re: Insurance Claim at 12 Village Drive and Proposal for Engineering Services for Springhouse Water District, Disinfection By-Products Issue
- 5. Supervisor Dunford Re: Engineering Services for Springhouse Water District
- 6. Supervisor Dunford Re: Budget – 2004
- 7. Town Board Re: Safety Concern at Civic Center
- 8. Memo from the Special District Administrator Re: Severn Trent
- 9. Mr. Graham Trelstad Re: Brewster Honda
- 10. HSBC Re: Certificate of Deposit for Linda J. Golay
- 11. Janet McSwain, P.C. Re: Brewster Heights WWTP Upgrade Amendment #6 to Engineering Contract

VOUCHERS

Councilman Honeck made a motion to approve the voucher list in the amount of \$986,795.00. Councilwoman Mitts seconded. All in favor.

MEETING DATES

Councilman Bonanno made a motion setting meeting dates. Councilwoman Mitts seconded. All in favor.

March 30, 2006	7:30PM Civic Center	Work Session
April 13, 2006	7:30PM Civic Center	Work Session
April 20, 2006	7:30PM Civic Center	Regular Meeting

SETTING OF PUBLIC HEARINGS

Councilwoman Mitts made a motion calling for the following Public Hearings.

Councilman Honeck seconded. All in favor.

April 20, 2006	7:30PM	Reduction of Performance Bond-Weston Chase
	7:31PM	Special Permit-Fox Lane Boat Works
	7:32PM	Special Permit-Pennella, LLC
	7:33PM	Amendment Local Law-Wetlands Ordinance

BUDGET TRANSFERS

Councilman Johnson made a motion authorizing attached “Budget Transfers.”

Councilman Honeck seconded. All in favor.

MOTION-REDUCTION OF SPEED LIMIT ON ROUTE 312

Councilman Honeck made a motion authorizing Supervisor Dunford to send a letter to Putnam County Highways and copied the New York State Department of Transportation for the reduction of speed limit on Route 312. Supervisor Dunford seconded. All in favor.

RESOLUTION # /2006 WETLANDS PERMIT-DENICE D. QUINN SUBDIVISION

Introduced By: Councilwoman Mitts

Seconded By: Councilman Johnson

WHEREAS, the Conservation Commission of the Town of Southeast rendered a decision dated February 27, 2006 with the application of Denice D. Quinn Subdivision to construct portions of a common drive, an individual driveway, and an infiltration area for stormwater in the wetland buffer. All of these activities are located in wetlands buffer area. The property is located at Turk Hill Road, Tax Map #67.-1-50 & 67.-1-51, in the Town of Southeast, Putnam County, New York.

WHEREAS, the Town Board finds that there is no reason to upset the determination of the Conservation Commission in connection with said application,

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast hereby declines to exercise its power to over turn the February 27, 2006 determination of the Conservation Commission regarding the application from Denice D. Quinn Subdivision for a wetlands permit for property located at Turk Hill Road, Town of Southeast, Putnam County, subject to the terms and conditions imposed by the Town of Southeast Conservation Commission.

UPON ROLL CALL VOTE:

Supervisor Dunford – Aye	Councilman Bonanno – Aye
Councilman Johnson – Aye	Councilwoman Mitts – Aye
Councilman Honeck – Aye	

VOTE: carried by a vote of 5 in favor, 0 against: 0 abstained..

**RESOLUTION # /06 - LOCAL LAW AMENDING ZONING ORDINANCE -
deferred**

Supervisor Dunford made a motion to defer the vote regarding the zoning ordinance local law. A petition was received and the Town Board would like to review it before voting.. Councilman Honeck seconded and all in favor.

Upon roll call vote:

Supervisor Dunford – aye
Councilman Johnson - nay
Councilman Honeck – aye
Councilman Bonanno – aye
Councilwoman Mitts – aye

Vote carried by a vote of 4 ayes, 1 nays, 0 abstained.

RESOLUTION # /06 – AUTHORIZING PAYMENT FOR PLANS AND SPECIFICATONS FOR PEACH LAKE

Introduced by Supervisor Dunford
Seconded by Councilman Honeck

A Resolution of the Town of Southeast, New York, Adopted March 16, 2006 in relation to the creation of the Peach Lake Sewer district, authorizing planning for future capital improvements, stating the estimated Maximum cost thereof is \$30,000, appropriating said amount therefore and authorizing the issuance of \$30,000 serial bonds of said town to finance said appropriation.

Be it Resolved by the Town Board of the town of Southeast, in the County of Putnam, New York (the “Issuer” or the “Town”) (by the favorable vote of not less than two-thirds of all the members of said Town Board), as follows:

Section 1. Based upon the review of this action by the Issuer, the Town Board hereby determines that it is a Type II Action under the State under the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law) and therefore no further environmental review is required.

Section 2. the Insurer is hereby authorized to finance in relation to the creation of the Peach Lake Sewer District, the cost of the preparation pursuant to section ninety-nine-d of the general municipal law of surveys, preliminary plans and detailed plans, specifications and estimates necessary for planning for a capital improvement which it is contemplated might be undertaken in the future. In the event that the future capital improvement contemplated by this resolution shall be financed in whole or in part after the commencement of the financing of the object or purpose described herein and if the period of five years shall not have lapsed since the date of issuance of the first obligation or obligations for such object or purpose, then the period of probable usefulness therefore shall be equal to the period of probable usefulness of the future capital improvement for which the financing of such object or purpose was originally commenced less the period of time which shall have elapsed from the date of issuance of the first obligation or obligations for such future capital improvement. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$30,000 and said amount is hereby appropriated therefore. The plan of financing includes the issuance of \$30,000 serial bonds of the Issuer to finance said appropriation and the levy and collection of taxes on all the taxable real property of the Issuer to pay the principal of said bonds and the interest thereon as the same shall become due and payable. No amount has been previously authorized by the Issuer to be applied to the payment of such specific object or purpose.

Section 3. Serial bonds of the Town in the principal amount of \$30,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law,

constitution Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law") to finance said appropriation.

Section 4. the following additional matters are hereby determined and declared:

- (a) The period of probable usefulness of said specific object or purpose for which said \$30,000 serial bonds authorized pursuant to this resolution are to be issued, within the limitations of Section 11.00 a. 62 (second) of the Law is five (5) years.
- (b) the proposed maturity of the bonds authorized by this resolution will not exceed five (5) years.

Section 5. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.99 of the Law and said bonds and any notes issued in anticipation of said bonds, shall be general obligations of the Town, payable as to both principal and interest by general tax upon all the taxable real property within the town without limitation of rate or amount. The faith and credit of the town are hereby irrevocably pledged to the punctual payment of the principal and interest on said bonds on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the town by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this resolution and the Law and pursuant to the provisions of Section 21.00, Section 30.00, Section 50.00, Sections 56.00 to 60.00 and Section 63.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and the renewals thereof, determining whether to issue bonds with substantially level or declining annual debt service, prescribing the terms, for and contents of the bonds herein authorized, bond anticipation notes issued in anticipation of said bonds and the renewals thereof, and any other powers or duties pertaining to or incidental to the sale and issuance of the bonds herein authorized, bond anticipation notes issued in anticipation of the sale of said bonds may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the town is not authorized to expend money, or
- (b) the provisions of law which should be complied with the date of the publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution of the State of New York.

Section 8. the Town Clerk is hereby authorized and directed to publish this resolution, in full, together with a Notice attached in substantially the form prescribed in Section 81.00 of the Law, in the Putnam Trader, a newspaper published in Carmel, New York, hereby designated the official newspaper of the town.

Section 9. This resolution shall take effect immediately.

Upon roll call vote:

Supervisor Dunford – aye
Councilman Johnson - aye
Councilman Honeck – aye
Councilman Bonanno – aye
Councilwoman Mitts – aye

Vote carried by a vote of 5 ayes, 0 nays, 0 abstained.

**RESOLUTION # /06 - LOCAL LAW AMENDING CHAPTER 138 - "ZONING" –
"ADULT USES"**

Introduced by Councilwoman Mitts
Seconded by Councilman Honeck

WHEREAS, a resolution having been adopted by the Town Board of the Town of Southeast for a public hearing to be held by said Town Board to hear all interested parties on a proposed local law to amend the Southeast Town Code to amend Chapter 138 of the Code of the Town of Southeast entitled "Zoning"; and

WHEREAS, notice of said public hearing was advertised in an official newspaper of the Town of Southeast in the manner prescribed by law and such public hearing was held on September 15, 2005; and

WHEREAS, it is the sense of this Town Board that the proposed local law will ensure more orderly and planned development within the Town, thereby promoting the health, safety and general welfare of the public.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Southeast hereby adopts Local Law No. 4 of 2006 pursuant to the Municipal Home Rule Law amending Chapter 138 to the Southeast Town Code, a copy of which is annexed hereto and made a part of this resolution, and be it further

RESOLVED, that the Town Clerk be and hereby is authorized and directed to enter said Local Law in the minutes of this meeting and in the Code Book of the Town of Southeast, and to give due notice of the adoption of said local law to the Secretary of State of New York within the time required by law.

Upon roll call vote:

Supervisor Dunford – aye
Councilman Johnson - aye
Councilman Honeck – aye
Councilman Bonanno – aye
Councilwoman Mitts – aye

Vote carried by a vote of 5 ayes, 0 nays, 0 abstained.

Section 1. Amendments to Article 1, "General Provisions; Definitions"

Section 138-4, "Definitions." is amended, in part, to add:

All definitions found in § 138-25. "Definitions" shall be added with the additions and modifications indicated below.

Add: Adult Cabaret — A building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of

specific sexual activities or specified anatomical areas for observation by patrons therein.”

Add: Adult Retail Shop — An establishment having as a substantial or significant portion of its stock-in-trade videotapes, films, slides, books, magazines or adult accessories, whether for sale or rent, and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

Add: Adult Use — Any activity covered by the definitions of adult bookstore, adult cabaret, adult motel, adult motion-picture theater, adult retail shop, massage parlor, model studio, or sexual encounter center.

Combine and Revise the definitions of “Adult Mini-Motion-Picture Theater” and “Adult Motion- Picture Theater” to read: An enclosed or unenclosed building, structure or portion thereof used for presenting materials distinguished or characterized by primary emphasis on matter depicting, describing or relating to sexual activities or sexual anatomical areas for observation by patrons.

Section 2. Amendments to Article V, “Nonresidential Districts”

Section 138-24, “General” the Commercial Zoning Schedule is amended, in part, by amending the column labeled “Permitted Principal Uses (see Notes G and N)” as follows:

HC-1 Permitted Principal Uses

Retail Use
Office
Personal Services
Professional Services
Restaurant
Recreation

Special Permit Uses*

Car wash
Public Utilities
Adult uses, nightclubs, pawnshops, pool or billiard halls, and tattoo parlors

HC-2 Permitted Principal Uses

Retail Use
Office
Personal Services
Professional Services
Restaurant
Recreation

Special Permit Uses*

Car wash
Fast food
Public Utilities
Adult uses, nightclubs, pawnshops, pool or billiard halls, and tattoo parlors

Section 3. Amendments to Article VII, “Restricted Uses”

Section 138-34, 138-35, and 138-36 are renumbered to 138-63.3 and is renamed to “Adult Uses, Nightclubs, Pawnshops, Pool or Billiard Hall and Tattoo Parlors. Article VII would be replaced with “Reserved.”

Section 138-63.3 is modified to read:

Restricted Uses, as defined in § 138-35, are subject to the following criteria:

No persons shall cause or permit the use, occupancy or establishment of any land, building or structure as or for an adult use, nightclub, pawnshop, pool or billiard hall or tattoo parlor unless a special permit, in accordance with Article X of this chapter is received from the Town Board, subject to the special standards identified below.

A. Purpose. The Town Board finds that certain business activities, by their nature, have serious objectionable operation characteristics which can lead to a significant impact on the surrounding community. The Town Board further finds that the unrestrained proliferation of such business is inconsistent with existing development and future plans for the Town of Southeast in that they often result in influences on the community which increase the crime rate and undermine the economy, moral and social character of the community. To preserve the integrity and character of residential neighborhoods and important natural and human resources of the town, the Town intends to restrict the proximity of adult use establishments to churches, schools, nursery schools, day-care centers, educational institutions, parks, historic and scenic resources, civic and cultural facilities and residential areas.

B. Standards. Adult uses, nightclubs, pawnshops, pool or billiard halls, and tattoo parlors may be permitted by the Town Board in the HC-1 and HC-2 Districts subject to the following requirements:

- (1) No more than one activity constituting an adult entertainment use shall be permitted on any lot.
- (2) No adult entertainment use shall be permitted in any building otherwise used in whole or part for residential purposes.
- (3) No adult entertainment use shall be permitted on any lot which is located within 1,000 feet of any other lot on which is located an adult entertainment use. This distance shall be measured from the nearest property line of such use to the nearest property line of the proposed adult entertainment use.
- (4) No adult entertainment use shall be permitted on any lot which is located within 500 feet of any lot in any residential district. This distance shall be measured from the nearest property line of any residential district to the nearest public entrance door of the adult use premises.
- (5) No adult entertainment use shall be permitted on any lot which is located within 1,000 feet of any lot on which is located near a church, community center, funeral home, school, day-care center, hospital, alcoholism center or drug treatment center, counseling or psychiatric treatment facility or public park. This distance shall be measured from the nearest property line of such above use to the nearest public entrance door of the adult use premises.
- (6) No adult entertainment use shall be permitted on any lot which is located within 1,000 feet of any school bus stop. This distance shall be measured from the nearest school bus stop to the nearest public entrance door of the adult use premises.
- (7) The proposed use shall meet all other requirements of the law of the Town of Southeast, including but not limited to district lot and bulk regulations, parking regulations and signage requirements.
- (8) It shall be a condition of any special permit issued for an adult entertainment use that no person under the age of 18 years shall be permitted into the premises.

(9) Explicit messages or drawings on signs and/or the public display of explicit sexual material associated with any adult entertainment use is prohibited.

(10) The Town Board may impose such terms and conditions upon the issuance of the special permit required hereunder as it deems appropriate to further the aims of this subsections, including but not limited to restrictions on advertising, outdoor displays and the location of merchandise.

C. Effect on existing uses.

(1) Any adult entertainment use lawfully in existence on the date on which the provision of this subsection become effective shall be permitted to continue, provided that such use is registered with the Building Inspector within 30 days of the effective date of this subsection and it is established to the satisfaction of the Building Inspector that such use complies with all the requirements set forth herein.

(2) Any adult entertainment use in existence on the date on which the provisions of this subsection become effective which fails to conform to the regulations herein shall be discontinued in accordance with the following amortization schedule:

Amount of Capital Investment
(as of effective date of Article) Date Before Which Use Shall Terminate

\$0 to \$25,000 September 1, 2006
\$25,001 to \$50,000 September 1, 2007
\$50,001 to \$75,000 September 1, 2008
\$75,001 to \$100,000 September 1, 2009
\$100,001 or more September 1, 2010

MOTION-AWARDING OF SERVICES

Councilman Johnson made a motion awarding Town with Roll-off-Services to Superior Waste Disposal, Inc. for \$21,014.70 the lowest and only bid.

Upon roll call vote:

Supervisor Dunford – aye
Councilman Johnson - aye
Councilman Honeck – aye
Councilman Bonanno – nay
Councilwoman Mitts – aye

Vote carried by a vote of 4 ayes, 1 nays, 0 abstained.

MOTION-LANDSCAPING SERVICES

Councilman Honeck made a motion awarding Town Wide Landscaping Services to Colonial Town. Councilman Johnson seconded. All in favor.

RESOLUTION # /2006 LANDFILL CLOSURE STATE ASSISTANCE APPLICATION

Introduced By: Supervisor Dunford
Seconded By: Councilman Honeck

WHEREAS, the Town of Southeast herein called the “Municipality” has been hereby determined that certain work, as describe in the State assistance application and any amendments thereof, herein called the “Project”, is desirable and in the public interest; and

WHEREAS, Title 5 of Article 54 and Title 4 of Article 56 of the Environmental Conservation Law authorized State assistance payments to municipalities for closure of municipal landfills by means of a written agreement and the Municipality deems it to be in the public interest and benefit under this law to apply herewith.

NOW, THEREFORE. BE IT RESOLVED by the Town Board

1. That, as described in Contract No. C300878 between the Town of Southeast and the New York State Department of Environmental Conservation, the Municipality shall receive a 50% reimbursement for the Department for eligible costs expended for the Municipal Landfill Closure project. The Municipality is responsible for the remaining 50% of costs associated with the project..
2. That, unless otherwise modified, the Department’s reimbursement to the Municipality under this contract must not exceed one million three hundred seventy-nine thousand four hundred thirty-five dollars and no cents. Only those costs incurred during the term of this contract , that are determined to be “eligible costs” by the Department, are eligible for reimbursement.
3. That this Resolution shall take effect immediately.

UPON ROLL CALL VOTE

Supervisor Dunford – Aye	Councilman Johnson – Aye
Councilman Honeck – Aye	Councilwoman Mitts – Aye
Councilman Bonanno – Aye	

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

RESOLUTION # /AMENDING LOCAL LAW 6 OF 2005 RENTAL REGISTRATION CODE OF THE TOWN OF SOUTHEAST

Introduced by Councilman Honeck
Seconded by Councilwoman Mitts

WHEREAS, a resolution having been adopted by the Town Board of the Town of Southeast for a public hearing to be held by said Town Board to hear all interested parties on a proposed local law to amend Local Law No. 6 of 2005, a chapter of the code of the Town of Southeast, entitled “Rental Registration”; and

WHEREAS, notice of said public hearing was advertised in an official newspaper of the Town of Southeast in the manner prescribed by law and such public hearing was held on February 16, 2006; and

WHEREAS, it is the sense of this Town Board that the proposed local law will assist the Town to eradicate illegal housing and to avoid unsafe and unsanitary conditions caused by over crowding and thereby promote the better health, safety and welfare of the public.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Southeast hereby adopts Local Law No. 5 of 2006 amending Local Law No. 6 of 2005 entitled “Rental Registration”, a copy of which is annexed hereto and made a part of this resolution, and be it further

RESOLVED, that the Town Clerk be and hereby is authorized and directed to enter said Local Law in the minutes of this meeting and in the Code Book of the Town of Southeast, and to give due notice of the adoption of said local law to the Secretary of State of New York within the time required by law.

Upon roll call vote:

Supervisor Dunford – aye
Councilman Johnson - aye
Councilman Honeck – aye
Councilman Bonanno – aye
Councilwoman Mitts – aye

Vote carried by a vote of 5 ayes, 0 nays, 0 abstained.

LOCAL LAW #5 OF 2006 – RENTAL REGISTRATION

§ Legislative intent.

The Town Board of the Town of Southeast has determined that there exists in the Town of Southeast serious conditions arising from rental of dwelling units that are substandard or in violation of the New York State Uniform Fire Prevention and Building Code, Multiple Residence Law, Town of Southeast Housing Code, Building Rehabilitation Code, Electrical Code, Fire Prevention Code, Plumbing Code and other codes and ordinances of the town, are inadequate in size, overcrowded and dangerous, that such dwelling units pose hazards to life, limb and property of residents of the town and others, tend to promote and encourage deterioration of the housing stock of the town, create blight and excessive vehicle traffic and parking problems and to overburden municipal services. The Board finds that current Code provisions are inadequate to halt the proliferation of such conditions and that the public health, safety, welfare and good order and governance of the town will be enhanced by enactment of the regulations set forth in this chapter, which regulations are remedial in nature and effect.

§ Applicability; more restrictive provisions to prevail.

A. Scope. This chapter shall apply to all rental dwelling units located within the Town of Southeast, whether or not the use and occupancy thereof shall be permitted under the applicable use regulations for the zoning district in which such rental dwelling unit is located, as in this chapter provided. Any dwelling unit, rooming house, rooming unit or any other premises subject to this chapter shall be presumed to be rented for a fee and a charge made if said premises are not occupied by the legal owner thereof. This chapter shall apply to all rental dwelling units located within the Town of Southeast, whether or not the use and occupancy thereof shall be permitted.

B. Applicability. The provisions of this chapter shall be deemed to supplement applicable state and local laws, ordinances, codes and regulations. Nothing in this chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the town, county or state or existing requirements of any other provision of local laws or ordinances of the town or county or state laws and regulations. In case of conflict between any provision of this chapter and any applicable state or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail. The issuance of any permit or the filing of any form under this chapter does not make legal any action or state of facts that is otherwise illegal under any other applicable legislation.

§ Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER -- Building Inspector, Assistant Building Inspector, Zoning Enforcement Officer, sheriff or Fire Inspector of the Town of Southeast.

DWELLING UNIT -- A structure or building, or part thereof, or an area, room or rooms therein, occupied or to be occupied by one or more persons as a home or residence.

OWNER -- Owner or any other person having the right to possession of a dwelling unit.

RENT -- A return, in money, property or other valuable consideration (including payment in kind or for services or other thing of value) for use and occupancy or the right to use and occupancy of a dwelling unit, whether or not a legal relationship of landlord and tenant exists between the owner and the occupant or occupants thereof.

RENTAL DWELLING -- A dwelling unit established, occupied, used or maintained for rental occupancy.

RENTAL OCCUPANCY -- The occupancy or use of a dwelling unit by one or more persons as a home or residence under an arrangement whereby the occupant or occupants thereof pay rent for such occupancy and use.

IMMEDIATE FAMILY -- The "immediate family" of the owner of a housing unit consists of the owner's spouse, children, parents, grandparents or grandchildren.

§ Rental occupancy permit required

A. It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any person or entity who owns a dwelling unit in the town to use, establish, maintain, operate, let, lease, rent or suffer or permit the occupancy and use thereof as a rental occupancy by someone other than the owner or his immediate family without first having obtained a valid rental occupancy permit therefore. Failure or refusal to procure a rental occupancy permit hereunder shall be deemed a violation.

B. Application for a rental occupancy permit for a rental dwelling unit shall be made in writing to the Building Department on a form provided therefore. Such application shall be filed and shall contain:

(1) The name, address and telephone number, if any, of the owner of the dwelling unit intended for rental occupancy; the street address and tax map designation (section, block and lot or lots) of the premises intended for rental occupancy or the premises in which the rental dwelling units intended for occupancy are located; a description of the structure, including the number of rental dwelling units in the structure; the number of persons intended to be accommodated by, and to reside in, each such rental dwelling unit; and the number of rooms, and the dimensions and use of each room, in the structure but outside of the rental dwelling units.

(2) The names of each person presently residing in or occupying such premises intended for rental occupancy.

C. For each rental dwelling unit, a description of the unit, including the number of rooms in the rental dwelling unit; and the dimensions and use of each such room shall be included. The name, address and telephone number, if any, of the managing agent or operator of each such intended rental dwelling unit shall be included. Such application shall be accompanied by the following:

(1) A property survey of the premises drawn to scale not greater than 40 feet to one inch, or, if not shown on the survey, a site plan, drawn to scale, showing all buildings, structures, walks, drives and other physical features of the premises and the number, location and access of existing and proposed on-site vehicle parking facilities. A building permit application, properly prepared, for all proposed buildings, improvements and alterations to existing buildings on the premises, if any. A copy of the certificate of occupancy or certificate of existing use, if any.

D. In the case of a condominium unit, the application shall be accompanied by a scale drawing or floor plan of the condominium unit in lieu of a survey or site plan.

E. Each application shall be executed by and sworn to by the owner of the premises or such person who operates such premises if other than the owner.

F. Notwithstanding the above, no rental occupancy permit shall be required for equestrian center worker housing as contemplated in §138-63 of the Southeast Town Code.

G. Notwithstanding the above, no rental occupancy permit shall be required for a residential care facility established under New York State guidelines.

§ Fees.

A. A nonrefundable permit application fee shall be paid, upon filing an application for a rental occupancy permit, in accordance with the following schedule of rental dwelling units per structure:

Type of Dwellings	Fee
One unit	\$ 75.00
Two unit	\$150.00
Three unit	\$225.00
Four unit	\$300.00
More than four unit	\$300.00, plus \$50.00 for each unit in excess of four

B. The fee required by this section shall be waived for any applicant which demonstrates that it is a not-for-profit housing development corporation organized under the laws of the State of New York, and that it is providing housing for senior citizens or other designated special populations subject to income guidelines established by either federal or state regulation.

C. Any commercial hotel/motel business operating exclusively and catering to transient clientele, that is, customers who customarily reside at these establishments for short durations for the purpose of vacationing, travel, business, recreational activities, conventions, emergencies and other activities that are customary to a commercial hotel/motel operation, shall pay a biannual fee of \$200 per application. For the purposes of this chapter, a "short duration" shall be defined as not more than 21 consecutive days. This section shall not apply to any commercial motel/hotel whose primary purpose is to provide permanent residences to their customers. For the purposes of this chapter, "permanent residence" shall be defined as more than 21 consecutive days.

D. Any rental unit that operates during a one-hundred-fifty-day period in the months of May, June, July, August and September, only, shall pay a bi-annual fee of \$10 per unit.

§ Review of application.

The Code Enforcement Officer shall review each application for completeness and accuracy and shall make an on-site inspection of the proposed rental dwelling unit or units. If satisfied that the proposed rental dwelling unit or units, as well as the premises in which the same are located, comply fully with all applicable state and local laws, ordinances, rules and regulations of the county and town, and that such rental dwelling unit or units would not create an unsafe or dangerous condition or create an unsafe and substandard structure as defined in Town Code or create a nuisance to adjoining nearby property, the Code Enforcement Officer shall issue the permit or permits.

§ Term.

All permits issued pursuant to this chapter shall be valid for a period of two years from date of issuance.

§ Register of permits.

It shall be the duty of the Code Enforcement Officer to maintain a register of permits issued pursuant to this chapter. Such register shall be kept by tax map number, license number, receipt number, street address showing the name and address of the permittee, the number of rental dwelling units at such street address, the number of rooms in each such rental dwelling unit and the date of expiration of permit for such unit.

§ Smoke detectors.

No permit shall be issued until the Code Enforcement Officer shall inspect the rental dwelling unit to determine that it is equipped with a functioning smoke detection device, in compliance with New York State Uniform Fire Prevention and Building Code.

§ Inspections.

The Code Enforcement Officer is authorized to make, or cause to be made, inspections to determine the condition of rental dwelling units to safeguard the health, safety and welfare of the public. The Code Enforcement Officer is authorized to enter, upon consent of the owner if the unit is unoccupied, or upon consent of the occupant if the unit is occupied, any rental dwelling unit and the premises in which the same is located, at any reasonable time during daylight hours, or at such other time as may be necessary in an emergency, without consent of the owner, agent and/or tenant for the purpose of performing his duties under this chapter.

§ Application for search warrant.

The Code Enforcement Officer of the Town of Southeast is authorized to make application to any court of competent jurisdiction for the issuance of a search warrant in order to conduct an inspection of any premises covered by this chapter where the owner refuses or fails, after due notice by certified mail, to allow an inspection of its rental premises and where there is reasonable cause to believe that a violation of this chapter occurred. The application for a search warrant shall in all respects comply with the applicable laws of the State of New York.

§ Revocation of permit.

A. The Code Enforcement Officer shall revoke a rental occupancy permit where he or she finds that the permit holder has caused, permitted, suffered or allowed to exist and remain upon the premises for which such permit has been issued for a period of 14 business days or more after written notice has been given to the permit holder or the managing agent of such rental dwelling unit a violation of the Multiple Residence Law, New York State Uniform Fire Prevention and Building Code or a violation of this chapter or other chapter of the Town Code. Revocation of a permit under this subsection cannot be done by a devisee or assistant of the Code Enforcement Officer.

B. An appeal from such revocation may be taken by the permit holder to the Town Board, by written request, made within 30 days from the date of such revocation. The Town Board shall hold a public hearing on such appeal within 30 days after receipt of written notice of such appeal, and after such hearing shall make written findings, a conclusion and a decision either sustaining such permit revocation or reinstating such permit within 30 days after close of such public hearing. Unless the Town Board directs otherwise in circumstances constituting serious threats to health and safety, the filing of an appeal shall stay the effectiveness of a permit revocation until the Town Board has considered and ruled upon the issue.

§ Rental registration required.

It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any owner to permit any tenant or other person, excluding immediate family, to take up residence by a rental occupancy in any

dwelling unit without the owner's first having completed and filed with the Code Enforcement Officer a rental registration form approved by the Code Enforcement Officer. A new form must be filed whenever a dwelling unit or portion thereof has become vacant and the owner intends to permit a new tenant or other person to take up residence. No additional fee will be required if registering a change in tenancy only, under an existing valid permit.

§ Confidentiality of rental registration.

Under Public Officers Law § 872(b), rental registration forms, and that portion of the rental occupancy permit application required, shall be exempt from disclosure under the Freedom of Information Law on the grounds that such disclosure would constitute an unwarranted invasion of personal privacy. The Code Enforcement Officer will institute strict policies to ensure that such information is available only to town personnel who are engaged in the enforcement of the provisions of this chapter.

§ Broker's responsibility prior to listing.

It shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York for any broker or agent to list, show or otherwise offer for lease, rent or sale on behalf of the owner any dwelling unit for which a current rental occupancy permit has not been issued by the Code Enforcement Officer. It shall be the broker or agent's duty to verify the existence of a valid permit before acting on behalf of the owner. Notwithstanding the above, first-time rentals shall be granted a fourteen-business-day grace period for submission of required application paperwork and tenant registration.

§ Broker's responsibility after renting.

Any broker or agent who has earned a commission or other compensation for renting or leasing a dwelling unit must, within five business days of earning said commission or other compensation, file with the Code Enforcement Officer a rental registration form, unless the owner has already filed such a form in the meantime. Failure to file shall be unlawful and a violation of this chapter and an offense within the meaning of the Penal Law of the State of New York.

§ Penalties for offenses.

A. Any person, association, firm or corporation which violates any provision of this chapter or assists in the violation of any provision of this chapter shall be guilty of a violation, punishable:

- (1) By a fine of not less than \$250 and not exceeding \$1,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense.
- (2) By a fine of not less than \$1,000 nor more than \$3,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the second of two offenses, both of which were committed within a period of five years.
- (3) By a fine of not less than \$2,000 nor more than \$5,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the third or subsequent offenses of a series of offenses, all of which were committed within a period of five years.

B. Each week's continued violation shall constitute a separate additional violation.

§ Administration.

This chapter shall be enforced by the Code Enforcement Officer as defined by this chapter.

§ Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in said judgment.

§ Implementation.

This chapter shall be effective on, or upon filing with the Secretary of State, whichever is later. No violation of this chapter will be charged prior to, and no violation of this chapter, regarding failure to obtain a permit, will be charged against a person or entity which:

- A. Has filed the necessary application in proper form and in good faith, with all required information and attachments, on or before.
- B. Has consented to an inspection of the premises in question; and
- C. Has not received a final determination on the application, for reasons over which the applicant has no control.

NEW BUSINESS

It was announced that Clean-up Day is April 29, Earth Day is April 22, and Opening Day for Little League is April 22.

Ann Fanizzi asked about the petition the town received. She was told 20% of land owners had to sign before it was submitted. A super vote is needed before the law could be passed. The Supervisor told her that the board had to make sure the petition is valid. She then complimented the board regarding the zoning code. She said she will submit to the Supervisor any suggestions she may have.

Dan Hollis was present to represent the Farrington properties. He will review the plans on March 30 at a work session.

A resident asked why Starr Ridge Manor is included in the proposed Peach Lake Sewer District. The Supervisor said that some of the septic in Peach Lake are failing. The received permission from the DEP there has to be a variance. PLEC took a survey. The costs, benefits, etc. will be looked at and that is if the DEP will allow Starr Ridge to be included.

Another resident spoke of the process regarding Starr Ridge Manor. He said each property will have a vote. Supervisor Dunford said that a meeting with Starr Ridge can be set up after the map, plan and reports are ready. When asked about the location of the plant, the Supervisor said it would have to be near an outlet of Peach Lake. There are few viable places. Mr. Donato said the problems, such as water, smells, etc., are caused with the plant being so close to homes. He said some reports are now bogus. It was to be that Starr Ridge had the option on whether to join. He also said he feels the problem really comes from Westchester with their septic, golf course and fertilizer runoff. Another resident said she felt like they were not kept informed of the results. The Supervisor stated that there were 2-3 public informational meetings. There is no real data yet. The costs will change drastically with or without the Starr Ridge District. A resident said that PLEC told them it would cost \$100. per resident. The Supervisor reiterated that there was no data yet. Another resident spoke of the Stormwater Management Plan. She said that the sewers will not solve the problem. Supervisor Dunford said that financial help would be needed from the government and he will reach out to the residents and see if it is beneficial. Mr. Swartz asked about the states of the Hahn report. The Supervisor

said it will take 2-3 months more. It has already been 6 months. When asked if the residents will pay if the problem is not solved and the answer was yes.

MS4 commission – The supervisor said it is a part of the County.

Landfill - 7 month delay from DEC for the latest review. MTA is involved so the Town's hands are tied.

Terravest Ball Field – the town does not as of yet have a deed.

Zoning - Councilwoman Mitts said that across from Terravest is now rural commercial. The supervisor explained that many of the projects are case by case. If there is no preliminary approval yet then the project will not continue.

Stateline Project – Supervisor Dunford and Councilman Honeck met with the applicant in December. Mr. Dunford told him that he felt the project would not go forth, since the Master Plan calls for less intensive use in gateways.

Square Foot Limits- Route 22 in HC1 and HC2 zones. There is a moratorium in place. Waiting to see the analysis and overlay.

Funding - The Supervisor said that the funding had to be put in place first. If the district is formed then the town can recoup the costs. The map, plan and report will identify costs. It must be approved by the State. The drainage district will have to set aside moneys. If a drainage district was set up after 2002, a law is specific for the developer. When the work is completed the bond can then be released.

Superior Waste – Has the same address as AWS. Councilwoman Mitts said that Councilman Bonanno is going to set up standards for bidding.

EXECUTIVE SESSION

Supervisor Dunford made a motion to enter into executive session regarding litigation and Councilwoman Mitts seconded. All in favor. Supervisor Dunford made a motion to close Executive Session and close the Regular Meeting. Councilman Johnson seconded and all in favor.

Respectfully submitted:

Ruth Argo Mazzei
Southeast Town Clerk