

**STATE OF NEW YORK  
COUNTY OF DUTCHESS  
TOWN OF LA GRANGE**

**TOWN BOARD MEETING  
January 25, 2012**

**Present:** Deputy Supervisor Joseph Luna  
Councilman Edward Jessup  
Councilman Gary Polhemus  
Councilman Andrew P. Dyal

**Absent:** Supervisor Jon Wagner

**Recording Secretary:** Christine O'Reilly-Rao, Town Clerk

**Others Present:** Ron Blass, Esq. Van De Water & Van De Water

The regular meeting of the Town Board was held on Wednesday, January 25, 2012, at the LaGrange Town Hall, 120 Stringham Road. Deputy Supervisor Luna called the meeting to order at 7:00 p.m. The Town Clerk led the flag salute.

Deputy Supervisor Luna asked for a motion to approve the minutes for January 11, 2012. Councilman Jessup moved to do so, seconded by Councilman Polhemus. The motion carried unanimously.

**Correspondence**

Information from Cablevision will be on file in the Clerk's office for one week.

**Agenda Items**

Mr. Luna asked for a motion to approve a stipulation agreement settling a tax certiorari for the year 2011 for Mariellen Pangia. (SEE ADDENDUM)  
Councilman Polhemus moved to do so, seconded by Councilman Jessup. The motion carried unanimously.

Mr. Luna asked for a motion to approve a stipulation agreement settling a tax certiorari for the years 2008 to 2011 for 16 Properties, LLC. (SEE ADDENDUM)  
Councilman Polhemus moved to do so, seconded by Councilman Dyal. The motion carried unanimously.

Mr. Luna asked for a motion to approve a stipulation agreement settling a tax certiorari for the years 2010 to 2011 for Ginjules Realty, LLC. (SEE ADDENDUM)  
Councilman Polhemus moved to do so, seconded by Councilman Dyal. The motion carried unanimously.

Deputy Supervisor Luna asked for a motion to approve and authorize the execution of a Stipulation and Order to settle an action "Henry G. Page, Jr. Development LTD and Sleight Farm LLC vs. Town of LaGrange". Highway Superintendant Kelly submitted a letter in support of proposed settlement. (SEE ADDENDUM)

Councilman Jessup so moved, seconded by Councilman Polhemus. The motion carried unanimously.

Deputy Supervisor Luna asked for a motion authorizing a settlement payment to DiMars Properties in the amount of \$15,000 as full and final settlement. (SEE ADDENDUM)  
Councilman Jessup so moved, seconded by Councilman Dyal. The motion carried unanimously.

Councilman Polhemus disclosed to the Town Board that his son, Gary Polhemus Jr., is employed as a full-time Civil Engineer by Clark Patterson. He read into the record his email letter to the Town Board. (SEE ADDENDUM) Mr. Polhemus added that he had spoken to someone at the Association of Towns Conference a few weeks ago and he was told that there was no conflict of interest.

Mr. Luna asked for a motion to acknowledge Justice O'Hare's appointment of Carolyn Harklerode as Court Clerk.

Councilman Polhemus so moved, seconded by Councilman Dyal. The motion carried unanimously.

Mr. Luna asked for a motion to acknowledge Justice Caplicki's appointment of Sandra Dillon as Court Clerk.

Councilman Dyal so moved, seconded by Councilman Polhemus. The motion carried unanimously.

Mr. Luna asked for a motion to approve reimbursement of 21 hours conference attendance for Deputy Fire Inspector, Tim Sayles. Mr. Sayles attended a mandatory training pertaining to his employment on January 10<sup>th</sup> through January 12<sup>th</sup>. All other expenses were paid by Mr. Sayles  
Councilman Polhemus so moved, seconded by Councilman Dyal. The motion carried unanimously.

Deputy Supervisor Luna asked for a motion to reappoint Paul Bisceglia as ZBA Chair. Mr. Bisceglia was appointed on June 8, 2011, but no oath was taken and an oath of office must be taken within 30 days of an appointment.

Councilman Jessup so moved, seconded by Councilman Dyal. The motion carried unanimously.

Deputy Supervisor Luna asked for a motion to approve \$1,500 for a septic design by Clark Patterson Lee. The Town Hall septic system is failing and needs to be replaced. (SEE ADDENDUM)

Councilman Dyal so moved, seconded by Councilman Jessup. The motion carried unanimously.

Mr. Luna asked for a motion to approve the use of Town roads and the Town Hall on March 11, 2012 from 8:00 am to 12 noon for the Mid-Hudson Road Runners' Annual Ed Erichson Memorial 5 mile and 10 mile race.  
Councilman Jessup so moved, seconded by Councilman Dyal. The motion carried unanimously.

Highway Superintendant Mike Kelly is recommending Joseph Tighe be promoted to the position of Mechanics Helper. (SEE ADDENDUM)  
Councilman Jessup moved to approve the promotion, seconded by Councilman Polhemus. The motion carried unanimously.

## **Committee Reports**

### **Water and Sewer**

No report

### **Recreation**

Mr. Polhemus stated that the Committee had a very productive meeting this past Monday. Representatives from the neighborhood abutting Stringham Park as well as the baseball, soccer and lacrosse leagues were present. A discussion regarding the proposed storage shed/pavilion resulted in a decision to physically mark out the location on the property itself, rather than just marking it on a map. There was also a discussion on dugouts for the baseball league, but Mr. Polhemus stated that there is no money at this time to consider that project.

A brief discussion ensued.

Mr. Polhemus stated that Community Day is scheduled for June 9, 2012. The Community Day Committee is in need of a volunteer coordinator to replace Patty Wiegand, who is moving out of state.

Mr. Huff stated that he has been approached as to the formation of a LaGrange Ski Club. The Town would facilitate the venture, but the club itself would be run by volunteers.

### **Open Space**

Mr. Jessup stated that he currently does not have an update on Sleight Farm. The Committee will be able to move forward once the Town's proposed bond consolidation is complete.

### **Highway**

Mr. Jessup stated that the Highway Department is in need of a tire changer and lift in order to comply with the recommendation made by the Town's Worker's Comp carrier. The first meeting for the Committee is March 1, 2012.

**Town Attorney**

No comments

**Administrator of Public Works**

No comments

**Town Board Comment**

Councilman Luna stated that there has been a request for a permit to have a restaurant in a shopping center, which is not currently zoned for such a business. He would like to have this rectified in order to allow the restaurant.

**Environmental Consultants**

Mr. Mance stated that he decided to opt out of the Energy Curtailment System since the reimbursement amount is less than the cost of operating the generator.

**Public Comment**

Councilman Jessup moved to open the Public Comment, seconded by Councilman Dyal. The motion was carried by all.

Ms. Pinello Kaley of the library informed the Board that e books are available 24/7 for download to a KINDLE or NOOK with your library card.

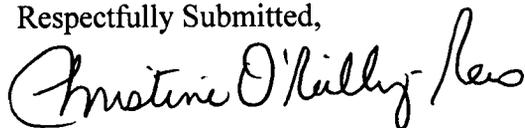
Councilman Jessup moved to close the Public Comment, seconded by Councilman Dyal. The motion was carried by all.

Deputy Supervisor Luna asked for a motion to adjourn the meeting.

Councilman Jessup so moved, seconded by Councilman Dyal. The motion carried.

The meeting adjourned at 7:29 p.m.

Respectfully Submitted,



Christine O'Reilly-Rao  
Town Clerk

## **ADDENDUM**

- Stipulation Agreement: Tax Certiorari for Mariellen Pangia
- Stipulation Agreement: Tax Certiorari for 16 Properties, LLC
- Stipulation Agreement: Tax Certiorari for Ginjules Realty, LLC
- Stipulation and Order: Henry Page Jr. Development Ltd. and Sleight Farm, LLC
- Letter from Superintendant Kelly; Re: Sleight Farm Settlement
- Settlement Agreement: Di Mars Properties
- Disclosure Statement: Councilman Polhemus
- Clark Patterson Lee: Septic Design Proposal
- Letter from Superintendant Kelly; Re: Promotion for Joseph Tighe

**RESOLUTION**

IT IS HEREBY RESOLVED that Van DeWater & Van DeWater, LLP, Kyle W. Barnett, Esq., of counsel, is authorized to enter into a Stipulation settling the tax certiorari proceedings brought by Mariellen Pangia against the Town of LaGrange for 2011 and to sign such other and further papers as are necessary to effectuate the settlement, said refunds to be without interest if paid within sixty (60) days of service of a copy of the Judgment with notice of entry.

Dated: LaGrangeville, New York  
January 25, 2012

MOVED BY: Councilman Pelkennus

SECONDED BY: Councilman Jessup

AYES: 4

NAYES: Ø

*Christine O'Reilly-Rao*  
Town Clerk

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

-----X

In the Matter of the Application of  
Mariellen Pangia  
(Tax Map No. 6362-03-116398-00)

Index No.: 2011/5142

Petitioner,

-against-

Town of LaGrange, Assessor of the Town of  
LaGrange, and Town of LaGrange Assessment  
Board of Review,

STIPULATION OF  
SETTLEMENT

Respondents,

For Review of the Assessment of Certain Real  
Property Under Article 7 of the Real Property Tax Law.

-----X

IT IS HEREBY STIPULATED AND AGREED by and between Robert P.  
Cusumano, Esq. of Levine & Levine, P.C., attorney for the Petitioner, and Kyle W.  
Barnett, Esq. of VanDeWater & VanDeWater, LLP, attorney for the Respondents, that the  
assessment at issue in the above entitled tax certiorari proceeding be corrected and  
reduced as follows:

TAX YEAR	ASSESSMENT	REDUCED ASSESSMENT	AMOUNT OF REDUCTION
2011/2012	493,000.00	459,000.00	34,000.00

and

IT IS FURTHER STIPULATED AND AGREED that any ad valorem real  
property tax paid by the Petitioner to the Town of LaGrange for the tax year 2011/2012,  
insofar as such tax may exceed the tax payment due on the reduced assessment as  
aforesaid, and after calculating any applicable veteran's exemption, shall be refunded to  
the Petitioner's attorney, Levine & Levine, P.C., without interest if paid within sixty (60)

days after service of the Order with Notice of Entry, otherwise at the statutory rate, and

IT IS FURTHER STIPULATED AND AGREED that any real property tax paid by the Petitioners to the County of Dutchess for the tax year 2011/2012, insofar as such tax may exceed the tax payment due on the reduced assessment as aforesaid, and after calculating any applicable veteran's exemption, shall be refunded to the Petitioner's attorney, Levine & Levine, P.C., with interest at the statutory rate, and

IT IS FURTHER STIPULATED AND AGREED that any real property tax paid by the Petitioners to the Arlington Central School District for the tax year 2011/2012, insofar as such tax may exceed the tax payment due on the reduced assessment as aforesaid, and after accounting for any applicable exemptions, shall be refunded to the Petitioner's attorney, Levine & Levine, P.C., with interest at the statutory rate, and

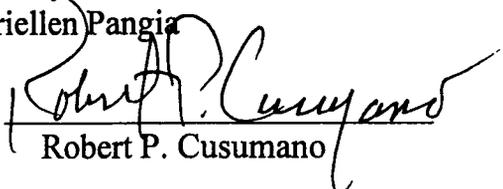
IT IS FURTHER STIPULATED AND AGREED that in the event that taxes are unpaid and have already been billed, the officer or officers having custody of the assessment roll shall forward to the Petitioner a new bill taxing said Petitioner on the basis of the final total assessed valuation stipulated to herein, applying thereto any applicable veteran's or other exemptions, without penalty, and

IT IS FURTHER STIPULATED AND AGREED that the said tax review proceeding shall be discontinued forthwith without costs to any party and that an Order to said effect may be entered without notice.

Dated: Poughkeepsie, New York  
December 1, 2011

Levine & Levine, P.C.  
Attorney for the Petitioner  
Mariellen Pangia

By:

  
Robert P. Cusumano

VanDeWater & VanDeWater, LLP  
Attorney for the Respondents  
Town of LaGrange

By:

\_\_\_\_\_  
Kyle W. Barnett

**RESOLUTION**

IT IS HEREBY RESOLVED that Van DeWater & Van DeWater, LLP, Kyle W. Barnett, Esq., of counsel, is authorized to enter into a Stipulation settling the tax certiorari proceedings brought by 16 Properties, LLC against the Town of LaGrange for the 2008 through 2011 tax years and to sign such other and further papers as are necessary to effectuate the settlement, said refunds to be without interest if paid within sixty (60) days of service of a copy of the Judgment with notice of entry.

Dated: LaGrangeville, New York  
January 25<sup>th</sup>, 2012

MOVED BY: Councilman Palhemus

SECONDED BY: Councilman Diaz

AYES: 4

NAYES: 0

*Christie O'Reilly-Rao*  
Town Clerk

**VAN DEWATER AND VAN DEWATER, LLP**  
COUNSELORS AT LAW

cc: TB  
1/19/12

John B. Van DeWater (1892-1968)  
Robert B. Van DeWater (1921-1990)  
James E. Nelson  
Gerard J. Comatos, Jr.  
Ronald C. Blass, Jr.  
Kyle W. Barnett  
Cynthia S. Rosenzweig

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POUGHKEEPSIE, NEW YORK 12601

Noel deCordova, Jr. (Retired)  
Edward vK Cunningham, Jr.  
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Rebecca A. Valk  
Audrey Friedrichsen Scott  
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January 3, 2012

Town of LaGrange Town Board  
120 Stringham Road  
LaGrangeville NY 12540

Attn: Jon Wagner, Town Supervisor

Re: 16 Properties, LLC v. Town of LaGrange  
Index Nos. 08-16503; 09-16576; 10-17700; and 11-13073

Dear Supervisor Wagner and Town Board Members:

This tax review proceeding involves property located at 16 Industry Street. The premises are situate on approximately 3.59 acres and are improved by a building consisting of approximately 35,970.

In summary form, the tentative settlement and reductions in assessed value are as follows:

Assessment Roll	Assessed Valuation	Reduction in Assessment	Final Assessment
2008	\$2,900,000	\$1,500,000	\$1,400,000
2009	\$2,900,000	\$1,600,000	\$1,300,000
2010	\$2,668,000	\$1,368,000	\$1,300,000
2011	\$2,561,300	\$1,311,300	\$1,250,000

The refunds from the assessment are to be paid without interest, if paid within sixty (60) days after service of an order of settlement with notice of entry.

received  
1/5/12

This settlement is recommended by Robert Taft, Town Assessor. It is our opinion that we would not do any better than the settlement that is before you in the event of a trial.

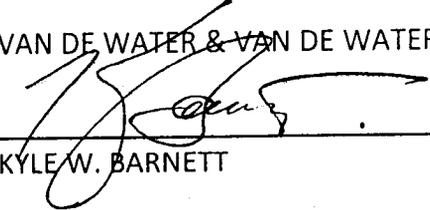
Enclosed is a Resolution for your consideration. By copy of this letter to the Town Clerk, I request that she advise me of your decision after it has been considered by you.

Thank you for referring this matter to us.

Very truly yours,

VAN DE WATER & VAN DE WATER, LLP

By:

  
KYLE W. BARNETT

KWB/tlr

Enclosure

cc: Robert Taft, Town Assessor  
Christine O'Reilly-Rao, Town Clerk  
Ronald C. Blass, Jr., Town Attorney

**RESOLUTION**

IT IS HEREBY RESOLVED that Van DeWater & Van DeWater, LLP, Kyle W. Barnett, Esq., of counsel, is authorized to enter into a Stipulation settling the tax certiorari proceedings brought by Ginjules Realty, LLC against the Town of LaGrange for the 2010 through 2011 tax years and to sign such other and further papers as are necessary to effectuate the settlement, said refunds to be without interest if paid within sixty (60) days of service of a copy of the Judgment with notice of entry.

Dated: LaGrangeville, New York  
~~February~~, 2012 *on January 25, 2012*

MOVED BY: *Councilman Pelhemus*

SECONDED BY: *Councilman Dyal*

AYES: *4*

NAYES: *Ø*

*Christine O'Killy*  
Town Clerk

At a Special Term of the Supreme Court  
of the State of New York, held in  
and for the County of Dutchess, at the  
Dutchess County Courthouse, 10 Market  
Street, Poughkeepsie, New York on the  
\_\_\_\_\_ day of January, 2012.

P R E S E N T: HON. JAMES V. BRANDS  
Justice Supreme Court

-----X

In the Matter of the Application of

GINJULES REALTY, LLC,

Petitioner,

- against -

**CONSENT JUDGMENT**

TOWN OF LA GRANGE, a Municipal Corporation,  
its ASSESSOR, BERNARD J. FOUNTAIN, and its  
BOARD OF ASSESSMENT REVIEW,

Index No.: 2010/5673

Respondents.

To review a certain real property assessment for the  
year 2010 under Article 7 of the Real Property Tax Law.

-----X

In the Matter of the Application of

GINJULES REALTY, LLC,

Petitioner,

- against -

TOWN OF LA GRANGE, a Municipal Corporation,  
its ASSESSOR, ROBERT TAFT, and its  
BOARD OF ASSESSMENT REVIEW,

Index No.: 2011/5261

Respondents.

To review a certain real property assessment for the  
year 2011 under Article 7 of the Real Property Tax Law.

-----X

The above Petitioner having heretofore served and filed a Petition and Notice to review the tax assessment fixed by the Town of La Grange for the assessment years 2010 and 2011, upon certain real property located at 2419 Route 82, Town of La Grange, County of Dutchess and State of New York, and designated as 6561-04-836171, on the Official Assessment Map of the Town of La Grange, and

The issues of these proceedings having duly come on for trial at a Special Term of this Court, and the Petitioner having appeared by CRAIG T. BUMGARNER, ESQ., and the Respondents having appeared by KYLE W. BARNETT, ESQ., attorney for the Town of La Grange, and the parties having made their settlement; it is

ORDERED, that the assessment on the above referenced property be and the same is hereby reduced, corrected and fixed for the assessment years as follows:

**TAX MAP NUMBER 6561-04-836171**

<u>Assessment Year</u>	<u>Assessed Valuation Reduced From</u>	<u>Assessed Valuation Reduced To</u>	<u>Amount of Reduction</u>
2010	\$1,196,000.00	\$900,000.00	\$296,000.00
2011	\$1,148,200.00	\$900,000.00	\$248,200.00

and so reduced and confirmed, it is further

ORDERED, ADJUDGED AND DECREED, that the officer or officers having custody of the assessment rolls upon which the above-mentioned assessments and any taxes levied thereon are entered shall correct the said entries in conformity with this Order and shall note upon the margin of said rolls, opposite of said entries, that the same have been corrected by the authority of this Order, and it is further

ORDERED, that there shall be audited, allowed and paid to the Petitioner by the

ARLINGTON CENTRAL SCHOOL DISTRICT, the amount of school taxes paid by the Petitioner as taxes against the same erroneous assessments in excess of what the taxes would have been if the assessments made in the aforesaid years had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED, that there shall be audited, allowed and paid to the Petitioner by the TOWN OF LA GRANGE AND/OR THE COUNTY OF DUTCHESS, where applicable, the amounts, if any, of State, Judiciary, Sewer, Town and Special District taxes, paid by the Petitioner as taxes against the erroneous assessments in excess of what the taxes would have been if the assessments had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED, that the COUNTY OF DUTCHESS, State of New York, be and is hereby directed and authorized to audit, allow and pay to the Petitioner, where applicable, the amounts, if any, of State, County, Judiciary, Sewer and Special District taxes, paid by the Petitioner as taxes against the erroneous assessments in excess of what the taxes would have been if the assessments had been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, and it is further

ORDERED AND DIRECTED, that all tax refunds are to be paid with interest pursuant to Section 726 of the Real Property Tax Law of the State of New York; except that in the event the refund of taxes is paid within sixty (60) days from the date of service of a copy of this Judgment with notice of entry, then interest is waived; together with the amounts of interest and penalties, if any, paid on the excess of any of the aforesaid taxes by reason of delinquent payment, and it is further

ORDERED AND DIRECTED, that all tax refunds herein-above directed to be made by Respondent, the COUNTY OF DUTCHESS and/or any of the various taxing authorities, be made by check or draft payable to the order of CRAIG T. BUMGARNER, ESQ., and it is further

ORDERED, that this Order hereby constitutes and represents full settlement of each of the tax review proceedings herein, and there are no costs or allowances awarded to, by or against any of the parties, and that upon compliance with the terms of this Order, the above-entitled proceedings be and the same are settled and discontinued.

E N T E R,

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HON. JAMES V. BRANDS, J.S.C.

SIGNATURE AND ENTRY OF THE WITHIN  
ORDER IS HEREBY CONSENTED TO:

---

CRAIG T. BUMGARNER, ESQ.  
Attorney for Petitioner  
1118 Route 52, Suite F  
Carmel, New York 10512  
(845) 225-7100

---

KYLE W. BARNETT, ESQ.  
Attorney for Respondent Town of La Grange  
85 Civic Center Plaza, Suite 101  
P.O. Box 112  
Poughkeepsie, New York 12601  
(845) 452-5900

**RESOLUTION**

Councilman Jessup, offered the following resolution, which was seconded by Councilman Polhemus, who moved its adoption:

WHEREAS, currently pending in the Supreme Court, Dutchess County is an action entitled *Henry G. Page, Jr. Development LTD and Sleight Farm LLC v. the Town of LaGrange* with assigned index #2008-907 challenging Town of LaGrange Local Law #3 of 2007 and Local Law #4 of 2008; and

WHEREAS, the Town Board wishes to settle the aforesaid case in accordance with the terms and conditions detailed in the Stipulation and Order, a copy of which is annexed hereto as Exhibit "A", and said Stipulation will be submitted to the Hon. James D. Pagonis to be so-ordered.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Town Board approves and authorizes the Supervisor to execute a proposed Stipulation and Order or any other agreement having substantially the same or similar provisions.
2. This settlement is for purposes of avoiding the time, delay and expense of further litigation. There is no acknowledgement, express or implied, by any party to the action concerning the merits of the underlying dispute.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Wagner	ABSENT
Councilman Luna	AYE
Councilman Jessup	AYE
Councilman Polhemus	AYE
Councilman Dyal	AYE

DATED: LaGrangeville, New York  
January 25, 2012

  
CHRISTINE O'REILLY-RAO  
TOWN CLERK

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF DUTCHESS

-----X

In the Matter of the Application of  
  
HENRY G. PAGE, JR. DEVELOPMENT LTD.  
and SLEIGHT FARM, LLC,

INDEX NUMBER  
2008-907

PLAINTIFFS,

**STIPULATION  
AND ORDER**

for a Judgment Pursuant to Section 3001 of the  
Civil Practice Law and Rules

vs.

TOWN OF LAGRANGE,

DEFENDANT.

-----X

**THIS STIPULATION AND ORDER** (hereinafter "Stipulation") entered this \_\_\_\_\_  
day of July, 2011 pursuant to CPLR § 2104, between the Town of LaGrange, a municipal  
corporation organized under the laws of the State of New York, with a principal office at Town  
Hall, 120 Stringham Road, LaGrangeville, New York 12540 (hereinafter the "Town"), Henry G.  
Page, Jr. Development, Ltd., a corporation duly organized and existing under the laws of the  
State of New York and having a place for the transaction of business at 66 Fireman's Way,  
Poughkeepsie, New York 12603 (hereinafter "Page Development"), and Sleight Farm, LLC, a  
New York limited liability company having a place for the transaction of business at 2 Gannett  
Drive, Suite 201, White Plains, New York 10604 (hereinafter "Sleight Farm");

**WHEREAS**, Page Development is the developer of the Frank Farm Subdivision (hereinafter "Frank") and Sleight Farm is the developer of the Sleight Farm Subdivision (hereinafter "Sleight"); and

**WHEREAS**, Highway Law Section 171 provides the procedure by which a Town may accept dedication of a road; and

**WHEREAS**, on October 10, 2007, the Town Board of the Town adopted Local Law #3 of 2007, which created a new Section 199-51(J) of the Town Code; and

**WHEREAS**, Local Law #3 of 2007 adopted into the Town Code the Town's longstanding and existing policy that the Town will not accept road dedications until 75% of the total units in the entire subdivision have been completely constructed; and

**WHEREAS**, by the adoption of Local Law #3 of 2007, the Town also adopted into the Town Code a policy that the Town will not accept road dedications in phases. The Town will not accept dedication of the road(s) until 75% of the total units in all phases of the subdivision are completed; and

**WHEREAS**, Page Development and Sleight Farm have filed a declaratory judgment action (Dutchess County Index #2008-907) seeking to have Local Law #3 of 2007 annulled; and

**WHEREAS**, on May 14, 2008, the Town Board of the Town adopted Local Law #4 of 2008, which repealed Local Law #3 of 2007, due to a procedural error underlying its adoption, and readopted the substantive provisions of Local Law #3 of 2007; and

**WHEREAS**, Page Development and Sleight Farm amended their complaint, seeking to have Local Law #4 of 2008 annulled; and

**WHEREAS**, the parties are entering into this Stipulation to resolve any and all disputes regarding the aforesaid litigation among the parties;

**NOW**, it is hereby stipulated and agreed to between the parties, none of whom is an infant or incompetent, as follows:

1. **Town's Agreements**: In settlement of the issues in this action affecting the application of Local Law No. 4 to Frank and Sleight and in consideration of the execution of the releases provided in Paragraph 5 below and in accordance with the other terms and conditions of this Stipulation, the Town will:

- a) Exempt Frank and Sleight from the operation and application of Local Law #4; and
- b) Accept for dedication: i) the roads and public improvements (i.e. all water distribution lines, sewer and stormwater collection lines and all other improvements required for dedication for a particular phase) and ii) the stormwater management ponds (hereinafter "pond") and the outflow piping and other facilities specifically related to each particular pond in Frank and Sleight according to the procedures set forth in Paragraph 2 and 3 below and the other terms and conditions of this Stipulation.

c) Refrain from adopting any local law, ordinance or rule or regulation as to the real property affected by this Stipulation which would be contrary to or inconsistent with this Stipulation, except the Town specifically reserves all rights pursuant to Highway Law Section 171, as detailed within subsection (6) of this Stipulation and Order.

2. **Road Dedication Schedule:** Attached as Exhibit 1 is a map dated December 16, 2010 titled "Road & Stormwater Management Pond Dedications Frank and Sleight Farm Subdivisions" prepared by Gray Engineering, P.C. depicting all of the roads in Frank and Sleight and dividing those roads into Dedication Sections (hereinafter "Sections") labeled A through H. Exhibit 1 also contains, under the caption "Road Dedication Notes", a list identifying which Section (A through H) each of the numbered lots in Frank and Sleight are located. Attached as Exhibit 1 a is a map dated August 26, 2008, titled File #98006.4 prepared by Morris Associates, PLLC depicting a pond located in Phase IV of Frank, and to be constructed and completed before Dedication Section A will be accepted by the Town.

a) Subject to the other terms and conditions of this Stipulation, the Town will accept the roads and public improvements (i.e. all water distribution lines, sewer and stormwater collection lines and all other improvements required for dedication for a particular phase), except for the ponds depicted on Exhibit 1 and Exhibit 1 a and referred to in Paragraph 3 below, for dedication in each Section of Sleight and Frank as depicted on Exhibit 1 on a Section by Section basis at such time as 75% of the homes on

the lots within the particular Section have been constructed. For example, the roads and public improvements in Section A (except for the ponds) on the map attached as Exhibit 1 will be accepted for dedication in accordance with the provisions of this Subparagraph at such time as 75% of the homes on the lots contained in Section A as listed in Exhibit 1 have been constructed.

b) The Section designations [A - H] for each road dedication are not to be construed as an order or sequence for construction or dedication. Any Section may be offered for dedication in any order and at any time, subject to the completion of 75% of the homes in that Section and the other terms and conditions of this Stipulation, except that: i) the dedication of Section A must occur first and the pond depicted on Exhibit 1 a must be constructed and completed as described in Paragraph 3. (b) (i) below before Section A will be accepted for dedication; and ii) the dedication of Section B must occur prior to the dedication of Section C. All other dedications may occur in any order.

c) A residential unit shall be deemed "constructed" upon the issuance of a certificate of occupancy for that unit.

3. **Pond Dedication.** Also depicted on Exhibit 1 and Exhibit 1 a are all of the ponds in Frank and Sleight, together with an identification, under the caption "Stormwater Management Pond Dedication Schedule" of the Road Dedication Sections which are tributary to (i.e. drain into) each of the ponds.

a) Subject to the other terms and conditions of this Stipulation, the Town will accept the ponds depicted on Exhibit 1 and Exhibit 1 a for dedication as

provided in this paragraph. The acceptance of the ponds for dedication shall be separate and independent from the Road Dedication Schedule as set forth in Paragraph 2 above.

b) Each pond and related improvements (e.g., outflow piping) shall be accepted for dedication at such time as: i) a Notice of Termination has been secured from the New York State Department of Environmental Conservation with respect to that pond; and ii) all of the Sections which are identified on Exhibit 1 and Exhibit 1 a as tributary to that pond have themselves previously been accepted for dedication or are being accepted for dedication contemporaneously with the offer of dedication of the pond and related improvements.

4. **Other Dedication Conditions and Requirements.** The order and sequence for the filing of each Subdivision Phase in Frank and Sleight, as specified within the Planning Board resolutions approving each respective subdivision, are separate and independent from the Dedication Schedule for the roads and the procedure for the dedication of the ponds as set forth in this Stipulation. Also, nothing herein shall relieve Page Development and Sleight Farm and their respective successors and/or assigns of the obligation to satisfy any and all other regulations and requirements for dedication of the Town or any other governmental agency issuing permits or approvals.

5. **Page Development and Sleight Farm Agreements:** In consideration of the Town's agreements as set forth in Paragraph 1 above, and in accordance with the other terms and conditions of this Stipulation, Page Development and Sleight Farm will:

a) Provide the Town with a Stipulation of Discontinuance on the merits terminating the pending Declaratory Judgment action (Dutchess County Index #2008-907); and

b) Execute a Release, in the form of which is attached as Exhibit 2, waiving and releasing the Town from any legal action or proceeding seeking to challenge or annul the Town Board's adoption of Local Law #4 of 2008.

c) For each Section, the continuation and maintenance period provided for under Town Code Section 199-51(G)(2) shall be extended to run for a total period of forty- seven (47) months from the date of acceptance by the Town Board of the road or public improvement within that Section, except for the ponds which shall remain subject to the original (unextended) continuation and maintenance period as provided in Town Code Section 199-51(G)(2).

d) For each Section, the continuation security provided for under Town Code Section 199-51(G)(4) shall be increased to 30% of the total cost of construction of the road or other public improvement (except for the ponds) within that Section. The duration of such increased maintenance bond shall be the forty-seven (47) month continuation and maintenance period provided for in subsection 3 (c) above, and the continuation security shall expire four years (48 months) from the date of acceptance by the Town Board of the road or public improvement (except for the ponds) within that Section. The ponds shall remain subject to the original amount and duration (commencing on the date of acceptance for dedication of each pond) of the security as

provided in Town Code Section 199-51(G)(2).

6. Except as provided by this Stipulation, by agreeing to this settlement, the Town is not waiving any rights it otherwise possesses pursuant to Highway Law Section 171 particularly the Town's right under Highway Law Section 171 to use its discretion in determining whether to accept the dedication of any particular road or public improvement. This stipulation addresses the manner in which dedication shall be managed in the event the Town elects to exercise its discretion to accept dedication.

7. **Choice of Venue:** This Stipulation shall be interpreted under the laws of the State of New York. Any litigation under this Stipulation shall be resolved in the trial courts of Dutchess County, State of New York.

8. **Waiver:** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Stipulation constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

9. **Miscellaneous.**

a) This Stipulation shall supersede any other agreement, written or oral, pertaining to the matters covered herein.

b) This Stipulation may not be amended or modified, other than by a written agreement executed by the Town, Page Development and Sleight Farm or their respective successors, nor may any provision hereof be waived other than by a writing executed by Town, Page Development and Sleight Farm or their respective successors;

provided, that any waiver, consent, amendment or modification of any of the provisions of this Stipulation will not be effective against the Town without the written resolution of the Town Board of the Town of LaGrange

c) This Stipulation shall be binding on the parties and their respective successors and assigns, including but not limited to any successor developers of Frank and Sleight.

d) Any party hereto shall have the right to record this Stipulation in the Book of Deeds in the Office of the Dutchess County Clerk.

e) Each of the undersigned has obtained the complete authority from its governing board or members to execute this stipulation.

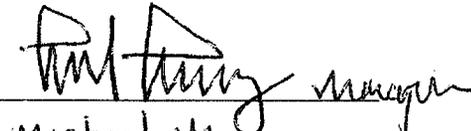
f) The Town's decision to enter into this Stipulation is based upon the current approved layout of the roads, ponds and public improvements within the Frank Farm and Sleight Farm Subdivisions. Should either developer, its successors and/or assigns, receive an approval from the Town of LaGrange Planning Board for a revision to either subdivision, or any phase or portion thereof, which results in a modification of the layout of the roads, ponds and public improvements, without the Highway Superintendent's advance written approval, or should either developer unilaterally modify the roads, ponds and/or public improvements in a manner inconsistent with the approved plat, then this Stipulation shall not be binding upon the Town.

**IN WITNESS WHEREOF**, the undersigned have hereunto subscribed their names, the date and year set forth above.

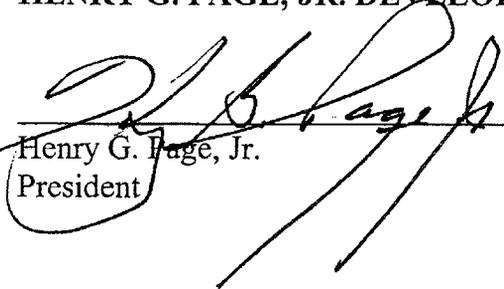
**TOWN OF LAGRANGE**

By: \_\_\_\_\_  
Jon J. Wagner  
Supervisor

**SLEIGHT FARMS LLC**

By:   
Michael Meyers

**HENRY G. PAGE, JR. DEVELOPMENT, LTD.**

By:   
Henry G. Page, Jr.  
President

***SO ORDERED***

\_\_\_\_\_  
James D. Pagonos, AJSC

Dated: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF NEW YORK            )  
  : ss:  
COUNTY OF DUTCHESS        )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2011, before me the undersigned, personally appeared **JON J. WAGNER, Supervisor of the Town of LaGrange**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
(Signature and office of individual taking acknowledgment)

**ACKNOWLEDGMENT**

STATE OF NEW YORK            )  
  : ss:  
COUNTY OF DUTCHESS        )

On the 13<sup>th</sup> day of JULY in the year 2011, before me the undersigned, personally appeared **HENRY G. PAGE, JR., President of Henry G. Page, Jr. Development, Ltd.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Karen Page  
\_\_\_\_\_  
(Signature and office of individual taking acknowledgment)

**KAREN PAGE**  
Notary Public, State Of New York  
No. 01PA6092627  
Qualified In Dutchess County  
Commission Expires May 27, 20 15

ACKNOWLEDGMENT

STATE OF NEW YORK )  
: ss:  
COUNTY OF DUTCHESS )

On the 3rd day of January in the year 2011<sup>12</sup>, before me the undersigned, personally appeared Michael Meyer, the manager of **Sleight Farm, LLC**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Joelle R. Hayman  
(Signature and office of individual taking acknowledgment)

JOELLE R. HAYMAN  
Notary Public, State of New York  
No. 01VE6153882  
Qualified in Ulster County  
Commission Expires October 16, 2014

## EXHIBIT LIST

<u>NUMBER</u>	<u>TITLE</u>
1	Section Dedication Map
1 a	Frank Farm Phase IV Map
2	Release



# TOWN OF LAGRANGE HIGHWAY DEPARTMENT

130 STRINGHAM ROAD  
LAGRANGEVILLE, NY 12540  
845-452-2720 845-452-2709 FAX

Currently pending in the Supreme Court, Dutchess County is an action entitled *Henry G. Page, Jr. Development LTD and Sleight Farm LLC v. the Town of LaGrange* with assigned index #2008-907 challenging Town of LaGrange Local Law #3 of 2007 and Local Law #4 of 2008.

I am aware that the Town Board wishes to settle the aforesaid case in accordance with the terms and conditions detailed in the Stipulation and Order, executed by Henry G. Page Jr. Development Ltd on July 13, 2011 and by Sleight Farm LLC on January 3, 2012,

I am also aware that the Town Board has requested that I reduce to writing my opinion on the proposed settlement. I have reviewed the proposed stipulation, as identified above, and I do not have any objections to its terms. Therefore, I sign this statement for the purpose of documenting for the Town Board that I support the proposed settlement.

MICHAEL KELLY

HIGHWAY SUPERINTENDANT, TOWN OF LAGRANGE

**RESOLUTION**

Councilman Jessup offered the following resolution, which was seconded by Councilman Dyal, who moved its adoption:

WHEREAS, currently pending in the Supreme Court, Dutchess County is an action involving tort entitled *DiMars Properties Inc. v. Town of LaGrange* with assigned index #2011-2886; and

WHEREAS, the Town Board wishes to settle the aforesaid matter.

NOW, THEREFORE, BE IT RESOLVED as follows:

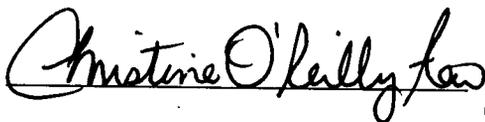
1. The Town Board approves and authorizes a settlement payment to DiMars Properties Inc. in the amount of \$15,000 as full and final settlement of the above referenced action; and
2. This settlement is for purposes of avoiding the time, delay and expense of further litigation. There is no acknowledgement, express or implied, by any party to the action concerning the merits of the underlying dispute.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Wagner	ABSENT
Councilman Luna	AYE
Councilman Jessup	AYE
Councilman Polhemus	AYE
Councilman Dyal	AYE

DATED: January 25, 2012

LaGrangeville, New York



CHRISTINE O'REILLY-RAO  
TOWN CLERK

*Town of  
LaGrange, NY*

Gary Polhemus <gpolhemus@lagrangeny.org>

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## Gary Polhemus Jr. / Clark Patterson Disclosure

1 message

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Gary Polhemus <gpolhemus@lagrangeny.org>

Thu, Dec 29, 2011 at 7:40 AM

To: Jon Wagner <jwagner@lagrangeny.org>, Edward Jessup <ejessup@lagrangeny.org>, Joe Luna <jluna@lagrangeny.org>, Gary Beck <gbeck@lagrangeny.org>

Jon and my fellow board members:

As you are already aware this is to disclose the our son Gary Polhemus Jr. has been employed as an intern by Clark Patterson Lee since 2006.

Upon his graduation December 2012 Gary Jr. has been hired as a full time Civil Engineer by Clark Patterson.

His employment there began prior to my Open Space Chairmanship and significantly before Clark Patterson became the Town of Lagrange Engineers.

In fact his introduction to was put together by Frank Pepe the past Arlington Schools Superintendent.

Gary Polhemus Councilman

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January 17, 2012

Clark Patterson Lee

DESIGN PROFESSIONALS

Ms. Wanda Livigni  
Administrator of Public Works  
Town of LaGrange  
120 Stringham Road  
LaGrangeville, NY 12540

Re: LaGrange – Town Hall  
Subsurface Disposal System

Dear Ms. Livigni:

Clark Patterson Lee (CPL) is proposing to provide professional services to complete an Engineering Report and Design Plan and Details for a subsurface disposal system (SSDS). As it has been reported that the Town does not have the required 4 feet of usable soil above the groundwater table, a raised system will be required. In an effort to reduce the cost of engineering services, CPL is proposing a limited scope as follows. CPL will provide a plan showing the proposed location of the subsurface disposal system on existing site survey with the addition of a 100' offset line from the stream and slope across the SSDS. CPL will specify a new septic tank and siphon system based on existing water use information with wastewater being pumped to the new septic tank from the existing sewage pump system in the building. CPL will review the pump curve for the existing system to determine if adequate to deliver wastewater to the proposed septic tank. The basal area of the SSDS will be sized based on existing water use and soils specified to meet the required 5 – 30 min/in percolation rate at the borrow pit with the minimum size based on 0.2 gallons per day/square foot.

CPL will prepare the above described drawings, details, and engineering report to be presented to the Dutchess County Department of Health (DCDOH) as a proposed repair/replacement. CPL will provide a scope and cost to provide any additional information required by the DCDOH that the Town is not otherwise able to provide directly to the DCDOH.

CPL proposes to complete the above described services for a lump sum fee of \$1,500.

Should you have any questions, please do not hesitate to contact us.

Sincerely,

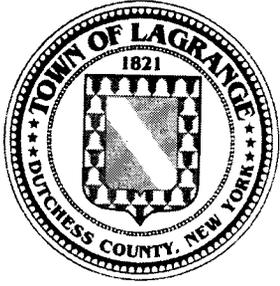
CLARK PATTERSON LEE

Greg W. Bolner, P.E.  
Principal

Please acknowledge acceptance of this proposal by signing below.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

900 Corporate Boulevard  
Newburgh, NY 12550  
clarkpatterson.com  
800.274.9000 TEL  
845.567.9614 FAX



# TOWN OF LAGRANGE HIGHWAY DEPARTMENT

130 STRINGHAM ROAD  
LAGRANGEVILLE, NY 12540  
845-452-2720 845-452-2709 FAX

**DATE:** January 11, 2012  
**TO:** Town Board  
**FROM:** Mike Kelly, Highway Superintendent  
**RE:** Mechanics Helper Position

Town Board:

It is my recommendation that we promote Joseph Tighe to position of Mechanics Helper. This position has been vacant for many months and Joe shows the knowledge and motivation to do this job successfully.

Due to the fact that our fleet is aging, it is imperative that we have a person to keep up on the greasing and maintenance of the vehicle. We can't afford to let the general up keep of the fleet deteriorate as it will become very costly to the town.

Should you have any questions, please contact me anytime.

Thank you,

Mike Kelly