

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, September 6, 2012 at 7 p.m. in the Municipal Building, 165 Mill Road, Westhampton Beach

**PRESENT: Mayor Conrad Teller
Trustee Patricia DiBenedetto
Trustee Charles Palmer
Deputy Mayor Hank Tucker
Trustee Ralph Urban**

**Clerk-Treasurer Rebecca Molinaro
Village Attorney Richard Haefeli**

Mayor Teller welcomed Boy Scout Troop 62

Trustee DiBenedetto explained the Troop was here tonight working on one of their badges "Citizenship of the Community" and they have to attend a government meeting.

PUBLIC HEARINGS

Amendment to Chapter 196 and 197-Outdoor Dining and Zoning

Mayor Teller made a motion to open the public hearing on amendments to Chapter 196 and Chapter 197 of the Village Code. Seconded by Deputy Mayor Tucker.

Mayor Teller asked if anyone in the audience would like to be heard. There was no comment. Mayor Teller was asked to abstract the amendment.

Village Attorney Richard Haefeli said these amendments are to make the permit more streamlined. This included Outdoor Tables, Chairs and Benches for those locations that are not restaurant use. Also, the Village will have the capability to change dates and times for Outdoor Music if there is a conflict.

Elyse Richman asked about ice cream stores.

Mr. Haefeli said if you are a restaurant you would have outdoor dining, if you are not a restaurant you are entitled to outdoor tables and chairs.

Chief Building Inspector Paul Houlihan said that Elyse is a retail store and as far as the outside seating, it will be tables and chairs, not dining where restaurants have people dining outside. It will be listed under tables and chairs, it will be listed under that use, they are not being served outside.

Motion by Deputy Mayor Tucker:

WHEREAS, Board of Trustees of the Village of Westhampton Beach has considered the amendments to Chapter 196 "Outdoor Dining and Music" and Chapter 197 "Zoning"; and

WHEREAS, on September 6, 2012, a public hearing was held to consider any testimony related to the proposed changes, at which time all persons either for or against the enactment were heard; and

WHEREAS, the proposed amendments were referred to the Suffolk County Planning Commission and found the subject code amendments to be a matter for local determination; and

WHEREAS, the project meets the criteria for classification as a Type II Action pursuant to 6 NYCRR Part 617.5 of the State Environmental Quality Review Act and therefore no further environmental review is required; and

WHEREAS, the Board of Trustee hereby creates a new section of Chapter A200 entitled "Fees" with the inclusion of "Outdoor Tables, Chairs and Benches" and sets forth the fee to be the same as "Outdoor Dining"; now therefore be it

RESOLVED, that after due deliberation the Board of Trustees of the Village of Westhampton Beach finds that it is in the best interest of the Village to adopt the Local law as advertised and attached.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay.

Amendment to Chapter 178-Vehicle and Traffic

Mayor Teller made a motion to open the public hearing on an amendment to Chapter 178 of the Vehicle and Traffic Law. Seconded by Deputy Mayor Tucker.

Mayor Teller said this is an amendment on Vehicle and Traffic Law, mainly in front of the library. He said when they built the library there were fire zones that were not properly marked. The Village re-measured and re-marked the Fire Zone.

Mayor Teller asked if anyone would like to be heard. There being no response, Mayor Teller made a motion to close the public hearing.

Motion by Trustee Urban:

WHEREAS, Board of Trustees of the Village of Westhampton Beach has considered the amendments to Chapter 178 entitled "Vehicle and Traffic" and

WHEREAS, on September 6, 2012, a public hearing was held to consider any testimony related to the proposed changes, at which time all persons either for or against the enactment were heard; and

WHEREAS, the proposed amendments were referred to the Suffolk County Planning Commission and found the subject code amendments to be a matter for local determination; and

WHEREAS, the project meets the criteria for classification as a Type II Action pursuant to 6 NYCRR Part 617.5 of the State Environmental Quality Review Act and therefore no further environmental review is required; now therefore be it

RESOLVED, that after due deliberation the Board of Trustees of the Village of Westhampton Beach finds that it is in the best interest of the Village to adopt the Local law as advertised and attached.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay.

RESOLUTIONS**Accept Departmental Reports**

Motion by Deputy Mayor Tucker:

RESOLVED, that the minutes of the Board of Trustees Meeting of August 2, 2012 are hereby accepted.

Seconded by Trustee DiBenedetto and unanimously approved. 4 Aye, 0 Nay

Accept minutes of Board of Trustees Meetings

Motion by Trustee Urban:

RESOLVED, that the Police Department's and Building Inspector's reports for July 2012 and August 2012, and Justice Court for July 2012 and Treasurer's Reports for May 2012 and June 2012 are hereby accepted.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Authorize Payment of 2011/12 Assessment Roll Small Claims Property Tax Reductions

Motion by Trustee DiBenedetto:

RESOLVED, that the Board of Trustees hereby authorize the payment of 2012/13 tax year property tax reductions in the amount of \$41,700.15 to the property owners specified on the attached list as a settlement of Small Claims as ordered by the NYS Supreme Court.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Authorize Payment of 2010/11 and 2011/12 Assessment Roll Small Claim Refunds

Motion by Trustee Palmer:

RESOLVED, that the Board of Trustees hereby authorize the payment of 2011/12 and 2012/13 tax year property tax reductions in the amount of \$4,711.42 to the property owners specified on the attached list as a settlement of Small Claims as ordered by the NYS Supreme Court.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Authorize Payment of 2009/10, 2010/11 and 2011/12 Certiorari Property Tax Reductions

Motion by Deputy Mayor Tucker:

RESOLVED, that the Board of Trustees hereby authorize the payment of 2010/11, 2011/12 and 2012/13 tax year property tax reductions in the amount of \$6,892.05 to the property owners specified on the attached list as a settlement of certioraris as ordered by the NYS Supreme Court.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay

Approve Agreement with Westhampton Beach School District

Motion by Trustee Urban:

RESOLVED, that the Board of Trustees hereby approve the attached Emergency Shelter Agreement with the Westhampton Beach School District and implementation of said Agreement will occur after appropriate insurance coverage has secured by the Village of Westhampton Beach.

Seconded by Trustee DiBenedetto and unanimously approved. 4 Aye, 0 Nay

Approve Use of Village Property-Westhampton Beach High School

Motion by Trustee DiBenedetto:

RESOLVED, that the Westhampton Beach High School Student Government is hereby authorized to hold the Annual Homecoming Parade on Friday, September 14, 2012 from 4 p.m. to 5 p.m. per the route on file.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Approve Use of Village Property-Westhampton Library

Motion by Trustee Palmer:

RESOLVED, that the Westhampton Library is hereby authorized to conduct an astronomy seminar with the Astronomical Society of Long Island on Saturday, September 22, 2012 from 8 p.m. to 9 p.m. at the Rogers Beach Pavilion.

Seconded by Trustee DiBenedetto and unanimously approved. 4 Aye, 0 Nay

Approve Use of Village Property-Westhampton Beach High School Reunion

Motion by Deputy Mayor Tucker:

RESOLVED, that the Westhampton Beach High School Class of 1962 Reunion Committee is hereby authorized to use the Rogers Beach Pavilion on Sunday, September 30, 2012 from 1 p.m. to 4 p.m. for a reunion celebration picnic.

Seconded by Trustee Urban and unanimously approved. 4 Aye and 0 Nay

Approve Use of Village Property-Alzheimer's Association of Long Island

Motion by Trustee Urban:

RESOLVED, that the Alzheimer's Association of Long Island is hereby authorized to use the Village Green and conduct a 5k Walk per route on file on Saturday, October 20, 2012 from 9 a.m. to 3 p.m. for lunch and festivities.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Approve Use of Village Property-Wedding Ceremony

Motion by Trustee DiBenedetto:

RESOLVED, that Megan Raynor is hereby authorized to use the Village Green on Saturday, November 3, 2012 from 1:30 p.m. to 2:00 p.m. for a wedding ceremony.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

Authorize Justice Court Director to Attend NYS Magistrate's Association Conference

Motion by Trustee Palmer:

RESOLVED, that Justice Court Director Leanne Gionta is hereby authorized to attend the 2012 NYS Magistrate's Association Annual Training Conference in Albany from September 30 to October 3, 2012 at a cost of \$756 for lodging and conference registration plus travel expenses.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay

Authorize Employees to Attend NYS Building Officials Conference

Motion by Deputy Mayor Tucker:

RESOLVED, that Chief Building Inspector Paul Houlihan and Fire Marshal Bill Hart are hereby authorized to attend the 2012 Annual NYS Building Officials Education Conference to receive state mandated training in Albany from October 15 to October 17, 2012 at a cost of \$634.00 per person for lodging and conference registration plus travel expenses.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay

Approve Police Department Rules and Procedures

Motion by Trustee Urban:

RESOLVED, that the Board of Trustees hereby approved the attached Rules and Procedures for the Village Police Department effective immediately.

Trustee Palmer asked to comment on the resolution. He said we have been getting updates from the Chief on this and there are outlines of some of the duties and code of conduct, is there an update when the rest of the standards will be completed?

Police Chief Raymond Dean stated that like he informed the Board at the Work

Session, it is a work in progress, everything else is being finalized and not ready for public...

Trustee Palmer asked if it was printed out, even in draft form, how big would it be? A pretty good amount?

Chief Dean stated he provided a Table of Contents...

Trustee Palmer said he is trying to get a feel for when it is all done...

Chief Dean said they are following exact protocol and standards as Quogue and others following the guidelines for accreditation.

Deputy Mayor Tucker asked for now, we are updating the Duties and Rules of Conduct, what we have here?

Chief Dean said that is correct.

Mayor Teller said this is for our side of the fence.

Seconded by Trustee Palmer and unanimously approved. 4 Aye, 0 Nay

Approve 2011–12 Fiscal Year Budget Transfers

Trustee DiBenedetto requested that this resolution be held over for additional discussion.

Motion by Trustee DiBenedetto to holdover:

Seconded by Trustee Palmer and unanimously approved. 4 Aye, 1 Nay. Mayor Teller voted Nay.

Authorize Unreserved Fund Balance Transfer

Trustee Palmer requested this resolution be held over since it is similar to the previous resolution.

Motion by Trustee Palmer to hold over:

Seconded by Trustee Urban and approved. 4 Aye, 1 Nay. Mayor Teller voted Nay.

Appoint Confidential Secretary to the Zoning Board of Appeals

Motion by Deputy Mayor Tucker:

RESOLVED, that Maeghan Mackie is hereby appointed as the Confidential Secretary to the Zoning Board of Appeals at a bi-weekly salary of \$1,341.00 for a thirty hour work week effective September 10, 2012.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay.

Appoint Architectural Review Board Member

Motion by Trustee Urban:

RESOLVED, that Irina Richardson is hereby appointed as a Member of the Architectural Review Board for a term to expire May 31, 2015.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay.

Approve Stipulation of Agreement with AME

Motion by Trustee DiBenedetto:

RESOLVED, that the Board of Trustees hereby approve the attached Stipulation of

Agreement with AME.

Seconded by Trustee Palmer and unanimously approved. 4 Aye, 0 Nay.

Authorize Use of CHIPS Funding

Motion by Trustee Palmer:

RESOLVED, that the Board of Trustees hereby authorizes the use of CHIPS funding in the amount of \$68,000 to Rosemar Contracting, Inc. for the leveling and resurfacing of Debbie Lane and Tuttle Place in the 2012–13 Fiscal Year.

Seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay.

Authorize Petition to NYS Mandate Relief Council

Motion by Deputy Mayor Tucker:

WHEREAS, New York State leads the nation in local property taxes, in large part because New York leads the nation in imposing unfunded mandates upon local municipalities and school districts; and

WHEREAS, in response to New York's property tax crisis, the Governor and members of the New York State Legislature enacted legislation imposing a limit on the annual growth of the tax levy; and

WHEREAS, unfunded and underfunded mandates continually increase the obligations and expenditures of local governments, and a property tax levy limit without significant mandate reform will undoubtedly lead to cuts in services and decreased infrastructure maintenance; and

WHEREAS, coinciding with the property tax levy limit, local governments have been subject to stagnant state aid in the form of CHIPS and AIM programs; and

WHEREAS, the cumulative impact of satisfying unfunded and underfunded mandates diverts local money from direct local government programs; now therefore be it

RESOLVED, that the Board of Trustees of the Village of Westhampton Beach affirm the obligation of the Governor and the members of the New York State Legislature to reform mandates that are unsound, unduly burdensome or costly, and thereby lead to high property taxes in New York State; and

BE IT FURTHER RESOLVED, that in accordance with Executive Law §666, which establishes a Mandate Relief Council, the Board of Trustees of the Village of Westhampton Beach asks, by resolution of its governing body and pursuant to §666 (4) which allows a petition for relief from a statutorily imposed mandate, that the Mandate Relief Council review the following mandate to determine whether the specific statute, regulation, rule or order of state government is an unfunded mandate or otherwise unsound, unduly burdensome or costly so as to require that it be eliminated or reformed:

Metropolitan Commuter Transportation Mobility Tax

Exempt local governments from payment of the tax under Article 23 of the Tax Law, similar to state legislation in 2011 which exempted payment of the tax for eligible public and private educational institutions and small businesses.

BE IT FURTHER RESOLVED, that this Board of Trustees fully supports the efforts of its local state legislators who voted against the creation of the tax and have since sponsored legislation to repeal said tax and oppose any appeal by New York State of the recent New York State Supreme Court Decision declaring the tax unconstitutional; now

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Governor, Senate Majority and Minority Leaders, Assembly Speaker and the members

of the Senate and Assembly representing Suffolk and Nassau Counties.

Seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay.

Approve Warrant for September 2012

Motion by Trustee Urban:

RESOLVED, that the warrant for September 2012 in the amount of \$220,251.71 for the General Fund is hereby approved.

Seconded by Trustee Palmer and unanimously approved. 4 Aye, 0 Nay.

Mayor Teller made a motion to add on a resolution and it was seconded:

Appoint Special Counsel

Motion by Mayor Teller:

RESOLVED, that Richard Haefeli is hereby appointed Special Counsel in the matter of EK Riverhead Partners, LLC at the rate of \$200.00 per hour.

Seconded Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay.

PUBLIC DISCUSSION

Andrew Mendelson, 5 Beaver Lane, Westhampton. He states that last month he submitted to the Board an application to add the words grocery store to the B-3 code. He said he never heard back. Tonight he is asking the Board if they had time to look at the application. For the last few weeks some supporters have helped circulate a petition saying yes to two grocery stores for Westhampton. In three weeks they have gotten 425 signatures on the petition. They put the petition online and he wanted to read comments from the website. "we need a real supermarket in Westhampton, long overdue, will bring jobs to Westhampton, on my wish list for 20+ years, will be great to have a large, modern store, zoning code can easily be amended so the taxpayers can finally have a choice to shop at a decent supermarket, it's about time Waldbaums has some competition, supermarket is desperately needed, if Waldbaum's had competition, it would be an incentive to have a nice supermarket, let's keep business in Westhampton Beach, we need more competition, residents in Westhampton Beach and surrounding communities need and deserve a new contemporary market, the local market here is a disgrace, we have to go to Hampton Bays, let us shop locally, please have a new supermarket...Mr. Mendelson said there were 100 signatures online. He said the Board is welcome to go online, it is called 2 markets for Westhampton beach. You can go online a read. I ask this Board to consider my proposal. I will come here on a monthly basis, I want to try to get an answer for the people. I intend to mail the people of Westhampton Beach. I welcome comments from people so I can come better prepared to talk with you. I implore you to act on this.

Mr. Haefeli said he would like to comment. He said a long time ago, when your attorney was here, the Board cannot just add supermarket to the B-3 District, there was a 2007 Master Plan and according to NYS Village Law, any change to the B-3 District has to go through the same process since there was an update to the Master Plan. So adding the term supermarket cannot occur unless the Board does all the other things. The Board does not conduct public hearings just to hear input from neighbors. A public hearing takes place when the Board is going to act on something. Like tonight, there were 2 public hearings on local laws. If the Board wants to have an informational meeting, that's fine but they cannot have a public hearing.

Mr. Mendelson said last time he was here, he presented that there are only 8 properties in the B-3...

Mr. Haefeli said that does not solve the problem...

Mr. Mendelson said if the Board want to act on this, the Board can do that very easily...

Mr. Haefeli said no they can't do that very easily, State law does not permit them to do that very easily. I have advised you and your attorney.

Mr. Mendelson said so they cannot change the Master Plan?

Mr. Haefeli said that he has said previously that the Board can revisit the Master Plan but do a new Master Plan or do an update, you cannot just plug a word in... what you are really asking for is a change to permit a grocery store in the B-3 and you have also asked for a change in the Industrial District. That is a substantial request for a use that has never been permitted in that district. It's not the Board can't do it, it is about how you do it.

Mr. Mendelson said he did not ask for a change to the Industrial District, you obviously did not read...

Mr. Haefeli said he did read it, you are combining 2 into 1...

Mr. Mendelson said it would be a subsequent change of zone.

Mr. Haefeli said ten years ago, Mr. Mendelson and his partners objected to a change of zone and the Board didn't do it.

Mr. Mendelson said they never objected. He said they were called about changing the zone on the property from Industrial to Hotel/Resort zoning, that's when we objected. I got the phone call.

Mr. Haefeli said that was not the proposal, the proposal was to change to multi-family residential.

Mr. Mendelson disagreed.

Mr. Haefeli said that's what it was.

Mr. Mendelson said there is mini-storage on one side, a B-3 parcel on Old Riverhead Road and an Industrial piece sandwiched in between the storage and the B-3 piece. So, you are saying with the Industrial piece, you are saying we should build homes on it?

Mr. Haefeli said no, it was a proposal from 10 years ago before you put up the self-storage, there was a proposal to change the entire area to multi-family, like we did on the east side of Riverhead Road, you and your partners objected.

Mr. Mendelson said no, they bought the parcel and immediately built the storage, with the permits in place. You must have spoke with the previous owners.

Mr. Haefeli said is not going any further but just so the Board understands, the piece he is talking about is all in the Industrial District, his piece is vacant, there is the storage, the tennis club, all of that is in the Industrial District.

Dean Speir, Main Street, Westhampton Beach. He asked for 2 clarifications. Aside from the Fiscal Year transfers, all the votes were carried this evening?

Mayor Teller said yes.

Mr. Speir asked Deputy Mayor Tucker through Mr. Haefeli if he was still a member of the Library Board of Directors?

Mr. Haefeli said Mr. Tucker asked him before the vote was taken whether he could vote. All it was doing was asking for permission to use the Village property and there was no conflict of interest and he could vote on it.

Mr. Speir said ok thank you. A second matter concerns Mr. Mendelson. He has said he has made an application to the Village. Has he in fact made any application to the Village?

Mr. Haefeli said there is nothing referenced in the Zoning Code that refers to an application for a Change of Zone. He has submitted information to the Board and that is how I would classify it.

Mr. Speir asked in the form of petitions?

Mr. Haefeli said in the form of what he would like to do. I don't consider it an application.

Robbie Goldberg, 15 Aspatuck Road. She first stated that she is happy about the news about the hurricane center at the school. She had asked last year before Hurricane Irene where they could go and she's glad this has happened. The second is that she has almost been hit by cars going the wrong way on Glovers Lane. A van actually came at her and went up on the sidewalk because it was going the wrong way. Can something be done?

Mayor Teller asked Chief Dean to take care of it and look into.

Jim Flood, Rogers Avenue, said he has had the same problem on Glovers Lane. There is a huge sign but people do not look at it.

Trustee DiBenedetto asked if there was a sign by Waldbaum's.

Mayor Teller said yes there is.

Mayor Teller asked if anyone else would like to be heard. There being no further response, he made a motion at 7:18 p.m. to commence an Executive Session for the purposes of discussing contract negotiations. The motion was seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay.

Meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Rebecca Molinaro
Clerk-Treasurer