

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Wednesday, December 5, 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
Village Planner Kyle Collins**

PUBLIC HEARINGS

Chapter 40 of the Village Code-Affordable Housing

Mayor Teller made a motion to open the public hearing on Chapter 40 of the Village Code relating to Affordable Housing. Seconded by Trustee Urban and approved.

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 Deputy Mayor Tucker:

WHEREAS, Board of Trustees of the Village of Westhampton Beach has considered the proposal to create Chapter 40, entitled "Administration of Affordable Housing Units", to address the control and occupancy of housing opportunities created pursuant to Chapter 197 (Zoning); and

WHEREAS, on December 5, 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 Trustee DiBenedetto and unanimously approved. 4 Aye, 0 Nay.

RESOLUTIONS

Accept minutes of Board of Trustees Meetings

Motion by Deputy Mayor Tucker:

RESOLVED, that the minutes of the Board of Trustees Meeting of November 1, 2012 are hereby accepted.

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

Accept Departmental Reports

Motion by Trustee Urban:

RESOLVED, that the Justice Court, Police Department and Building Inspector's reports

for November 2012 and Treasurer's Reports for October 2012 are hereby accepted.

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

Schedule Public Hearing-Chapter 178-42 of the Village Code-Vehicle and Traffic

Motion by Trustee DiBenedetto:

RESOLVED, that the Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, January 3, 2012 at 7:00 p.m. at the Village Hall on Chapter 178-42 of the Village Code entitled Vehicle and Traffic.

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

Approve and Accept Performance Bond with Rolling Pin, Inc.

Motion by Trustee Palmer:

WHEREAS, the Planning Board at its September 13, 2012 meeting adopted a resolution approving the site plan of Rolling Pin, Inc. and among the conditions it imposed was that a maintenance bond in the amount of \$3,377.00 be posted to insure performance of landscape requirements, and

WHEREAS, Rolling Pin, Inc. as Principal has executed a performance bond in the amount of \$3,377.00 which has been secured by the Village in the form of a check for the entire amount; now therefore be it

RESOLVED, the Board of Trustees hereby approves and accepts the performance bond in the amount of \$3,377.00 posted by Rolling Pin, Inc. as surety for said bond.

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

Approve 2011-12 Fiscal Year Budget Transfers

Mayor Teller made a motion to hold the resolution to the end of the meeting.

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

Declare and Approve Sale of Village Surplus Vehicles

Motion by Deputy Mayor Tucker:

WHEREAS, the Police Department and Department of Public Works have each indicated the vehicles indicated on the attached list are no longer in use by the respective Departments; and

WHEREAS, that the Village-owned vehicle is hereby declared surplus and obsolete for Village purposes; and be it further

RESOLVED, that the Police Department and Department of Public Works are authorized to publicize the items for sale on GovDeals and to dispose of any items that may remain unsold after the auction period has closed.

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

Ratify Agreement with Police Benevolent Association

Motion by Trustee Urban:

RESOLVED, that the Board of Trustees hereby ratify an agreement with the PBA.

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

Appoint Special Counsel

Motion by Trustee DiBenedetto:

WHEREAS, the Supreme Court of the State of New York has dismissed the Article 78 Proceeding of Winhaven Realty, LLC v. Zoning Board of Appeals of the Village of Westhampton Beach, which proceeding sought to reverse the decision of the Zoning Board denying variance relief; and

WHEREAS, Winhaven Realty, LLC has filed a Notice of Appeal to the Appellate Division, Second Department of the Order of the Supreme Court, Suffolk County; and

WHEREAS, the Board believes the Order of the Supreme Court is correct and that it is in the best interest of the Village to defend the appeal of said Order; now therefore be it

RESOLVED, that the Board of Trustees authorizes Hermon J. Bishop, as Special Village Counsel, to defend the appeal of the Order of the Supreme Court, at the rate of \$190.00 per hour, plus costs.

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

Accept Resignation of Acting Village Justice

Motion by Trustee Palmer:

RESOLVED, that the Board of Trustees hereby regretfully accept the resignation of Acting Village Justice Rose Lowe effective immediately.

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

Appoint 2013 Registrar, Deputy Registrar and Sub-Registrars

Deputy Mayor Tucker asked Village Clerk Rebecca Molinaro to explain the resolution since it just went on the agenda.

Ms. Molinaro responded that this is a resolution the Board does every December. She initially did not place on Friday's agenda, it was an oversight on her part. It is an annual appointment by the Village and the monies are the same as last year.

Deputy Mayor Tucker asked what does the money cover?

Ms. Molinaro said the stipends are for the titles, the Village does every year.

Village Attorney Richard Haefeli said it is for the Vital Statistics, it does not happen very often but if a birth or a death occurs in the Village, Southampton Village has a lot because they have a hospital, but it happens here in the Village.

Deputy Mayor Tucker asked if they are issued during the day when people are working here or it is something different, where they have to come in? Is it different where they would be getting a stipend?

Ms. Molinaro responded that you are on call. There are directories that list all of the registrars for all municipalities.

Deputy Mayor said ok.

Motion by Deputy Mayor Tucker:

RESOLVED, that Clerk-Treasurer Rebecca Molinaro is hereby appointed as Registrar of Vital Statistics for 2013 with an annual stipend of \$350.00, and Deputy Treasurer Elizabeth Lindtvit is appointed as Deputy Registrar for 2013 with an annual stipend of \$300.00, and Veronica Wagner and Rosemary Towers are appointed as Sub-Registrars for 2013 with annual stipends of \$200.00.

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

Approve 2013 Traffic Signal Maintenance Agreement

Motion by Trustee Urban:

RESOLVED, that the proposal submitted by Johnson Electrical Construction Corporation for the 2013 traffic signal maintenance at a cost of \$685.00 per month, to include \$5.50 per bulb replacement, is hereby accepted.

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

Authorize Notice of Bid Opening for Municipal Buildings Cleaning Contract

Motion by Trustee DiBenedetto:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Bid Opening to be held on Wednesday, January 2, 2013 at 11:00 a.m. at the Village Hall for the Municipal Buildings Office Cleaning Services contract pursuant to the bid specifications.

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

Authorize 2013 Renewal of Tonino's Outdoor Dining Permit

Motion by Trustee Palmer:

WHEREAS, Tonino's has applied to renew the Outdoor Dining Permit for 2013 to place three (3) tables and twelve (12) chairs pursuant to §196-1 of the Village Code; and

WHEREAS, there were no incidents or reports filed with the Police Department concerning said use; now therefore be it

RESOLVED, that the Board of Trustees hereby authorizes the placement of outdoor tables and chairs as shown on the submitted plan approved October 6, 2011 and subject to the same set of conditions.

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

Authorize 2013 Renewal of Starr Boggs Outdoor Music Permit

Motion by Deputy Mayor Tucker:

RESOLVED, that the Board of Trustees hereby approve the renewal of the Starr Boggs Outdoor Music Permit for 2013 subject to the same conditions as set forth in the Determination dated September 3, 2009, the provisions of Chapter 196-3 of the Village Code and the requirement that the volume of the amplification shall not be so excessive as to annoy or disturb a reasonable person of normal auditory sensitivity.

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

Approve Warrant for December 2012

Motion by Trustee Urban:

RESOLVED, that the warrant for December 2012 in the amount of \$ 1,270,755.85 from the General Fund is hereby approved.

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

Deputy Mayor Tucker wanted to thank Trustee DiBenedetto and John from the Highway Department for the great work for beautification and the holiday lights. It was very nice. He has been getting a lot of positive feedback from people from all over the Village. I just wanted to thank you Pat, you worked hard on the trees, and John. It was touch and go on the 30 foot tree if we were going to get it decorated. Saved us lots of money in the process. Thank you.

Deputy Mayor Tucker wanted to speak to a resolution passed by our Board and there are some things that have been printed by newspapers and we never really had a chance to discuss it yet and I would like to say how we got to where we are and I will take a few minutes here and encourage anyone else who would like to speak to jump right in. We received an email back in June, June 11th, and it warned of potential salary overpayments. I had asked the Clerk-Treasurer about the overpayments and was told there were no overpayments but wait until the underpayments we owe. I asked the Mayor and he had said there were no overpayments, everyone got their salary, even departing employees. I went to the Mayor prior to the Organizational Meeting and told him I was not comfortable putting someone in a position of responsibility with taxpayer's \$9 million money when there were potential accounting problems that were still outstanding, we should address those first. He assured me there were no overpayments. On the day of the appointment, the Mayor handed me a spreadsheet from the Clerk-Treasurer with an employee's salary and I was told see there were no overpayments. Based on his certainty and that the matter had been thoroughly looked at. So then we had no problems with the appointment. That was July 2nd. That night when we left the meeting, we went to sign vouchers and were explaining the vouchers to two new Trustees and were showing what it entailed and when we were signing a few things popped right out at us that were above and beyond overpayments, some other financial discrepancies. But after that we reviewed the spreadsheet and discovered that employee had been overpaid. That was early July. Calculations were done wrong. We went to the Mayor and he said no, I went to the Clerk-Treasurer and have had no evidence of underpayments and now overpaid employees the whole year. I offered to sit down alone, so we could go over what was wrong and could fix it, weren't looking to chastise anyone just fix an error of potential money taxpayers were out at that time. I asked why the spreadsheets were created by the previous Village Clerk, who was kept on for training purposes, and in fact, we had the same problem prior here in the Village, the Mayor you know was well aware of the problem, I was told it was easier to calculate. I was told she would sit down with myself, the outside accountant, the Deputy Treasurer and I asked Trustee Palmer to sit down with us since he works for Suffolk County in the accounting department and I thought he would be a good person to help resolve this issue. The five of us met in the beginning of July. We were told there were no overpayments. I explained to the group the change the Clerk-Treasurer made resulted in an overpayment and then they agreed. We agreed to go back and calculate every employee's salary and then meet again and see if it was done correctly and then see how we would recoup the monies from the employees. A week passed and I asked how it was going. I was told it was a work in progress. I was saying to myself wow, we are already into the new fiscal year and how is that going to affect it. We were told the new fiscal year was fine because it was ending on a Friday, that didn't really make sense. July ended, so by third week of August, there still were no answers, the Board had been asking what was up with the overpayments. That was about 2 and half months since we had asked and now it is six months and I am yet to see any overpayments that were calculated, how it was resolved, how it was taken from the employees. What I read in the newspaper, there was something like \$123,000 that was overspent. That was troubling to me and some other members this is what happened to taxpayer money. No back up paperwork submitted at all. I still have concerns that the monies were not recouped correctly from the employees, that there still are problems with that. I think there are potentially problems with this fiscal year. By law, we are not allowed to supervise the Village Clerk. That is the sole function of the Mayor, Clerk-Treasurer, that is the sole function of the Mayor, we get to appoint or not, that is a function of the Mayor to oversee, we cannot command or demand so we went to the Mayor and through the Mayor. We asked the Mayor to help us, figure how it was resolved, and he told us he had no problem and it would be fixed. Since there was nothing else we could do by law, we felt we had to seek Special Counsel. And we had to seek Special Counsel to make sure taxpayer monies are properly handled and maintained. It was a difficult first meeting, for Charlie and Ralph, there is no manual for this, even Pat had a year at that point in time, it is still overwhelming and I commend them for this, we have a fiduciary responsibility to make sure finances are in order. That brings us to the current situation. We are now asked to do budget transfers for lines that were over in the year end. That is typical, happens every year. Except this year, we weren't given any spreadsheets or back up as of the day before the meeting. Just a number, of \$248, 236.33, and a page and a half summary of the different lines that were over, but with no details. The Board of Trustees held over until we had a chance to get detail in writing. Maybe Pat would like to speak more about that.

Trustee DiBenedetto said back in September I asked for it to be more specific because the initial information was not enough. I did get some back up, the day after requesting it but it did not make sense, it was not in sequential order. After some back and forth and having meetings, it still did not make sense. Bottom line, as a Trustee we are in charge of Village property and finances and unless we can substantiate what has been spent, and it has been spent and approved, but unless we have the paperwork trail that shows what and how, we can't really approve. All we are asking for is maybe it is a glitch in the program or something else we need to address in the Village. To this day, there is ambiguity as far as trying to figure it out on paper and how it was spent. I think a little clarity is needed, the errors regarding the payroll, the error was not found by the auditors, it was found by the Trustees and brought to the attention of the Mayor and the Village. We had some slack at one of the other meetings from members of the audience about the money we were spending to hire outside counsel, but if people can bear in mind, the Village has a budget of roughly half million for legal, all the Trustees unanimously voted to spend a little piece of that to best represent the Village. And to spend \$5,000 out of half million and for us to pass a resolution so the public knew how we were spending it, I think we should be commended for that. So the public knows what is happening with taxpayer dollars.

Trustee Palmer said it had come up in other meetings about the Office of the State Comptroller, and issues Hank and Pat have said and I met with the State Comptroller and see if we wanted to proceed with the OSC, and I met with them the first week of October voicing our concerns and other issues with procurement, and things I was learning. I met with them, I informed them, my fellow Board in an email, that I met with a principal examiner, and principal examiner to, they have some CPA's and CFA's on staff too. I voiced my concerns over record keeping and other things OSC has been involved with across the state. They said ok, tell us your concerns on letterhead, and they will do a risk assessment and we'll look at your budget numbers and the state report that you send. They said their concentration was really school districts, like Roslyn, but they were starting to wean off and do other things, like Village of Patchogue you may have seen in paper. By the time they got to the letter, they would assess whether they would come out and do a quick overview. So basically this lead to proceeding in a legal manner too, no justification for some of the transfers so for us to look at some of our options, since our fiscal year is June 1 to May 31 and to close out on the fiscal year, and we have to close out the year. Our auditors are closing out the year, doing the fund balance and so not that time wasn't of the essence, we wanted to try to close out the fiscal year, the 11-12 and proceed with 12-13 year. This is where the whole thing with the overpayments, underpayments and transfers and closing out the year, we looked at other options and we were pursuing possibly other quotes for other work.

Deputy Mayor Tucker asked Trustee Palmer if the State asked if it was a long process for them and to see if they would even come to our Village?

Trustee Palmer said yes, they did. He even called Mayor Pontieri from the Village of Patchogue and he went through an audit and they went through the wringer, they asked a lot of questions, questionnaires, pulling records and they were there 6-8 months and it really was just their capital projects so they didn't really do an overall look at Patchogue and they were still there that long. Mayor Pontieri said they were professional and did a good job. The OSC devoted a lot of resources and it would be a lengthy process. It wouldn't be done overnight. They would come in first and do survey, a 2-3 week thing and look at how you do things, little questionnaire and they will reassess based on their risk assessment. So that was something what was looked at and conveyed to the other Board members too. That was an avenue looked at.

Trustee Urban said he has a great deal of faith in the State auditors and because of his experience with school districts as a school teacher. they come to a school districts sometimes twice a year and they are very professional and thorough and look at a lots of things. I have a lot of faith in the State and their process. I believe if we are patient they will come up with some answers for us. They are here now doing their survey, so that is a step in the right direction.

Trustee DiBenedetto said they have been gracious and afforded each of us time and allowed us to convey concerns and ask questions. Hopefully, it will have a resolution relatively soon.

Deputy Mayor Tucker said the question is as we have heard, how are we going to approve budget transfers if we can't even verify they were even legal. I mean just one salary line was \$124,000 over, it was the consensus of the Trustees that after with the information Charlie came back to us with from the State Comptroller if they were even going to come, they could take a really long time for them to do. As it stands, I don't know how the Mayor, or Becky, was able to get them in here a couple days after our resolution, we had decided on the expertise and hire legal representation to oversee an investigation for us. We have our Village Attorney and it is hard to put him in a position of going between Board members, Mayor and Clerk-Treasurers, we felt to do it right and be transparent, we wanted to be fully represented. So we hired an attorney who has experience, who was a Clerk, he has experience with State Comptrollers and auditors, he is sitting here now, I would like to introduce, Scott B. Augustine, Esq. our Special Counsel and if he would like to say anything.

Mr. Augustine handed out a packet to the Board members. He said that he believes the Board is aware that after he was hired to look at their concerns the Office of the State Comptroller informed them if their intention to perform an exploratory, or entrance, of their finances to lead to a further audit. Because the State does a complete, A to Z audit of finances, they conduct an entrance examination to look at the issues they really want to focus on, what type staff they will need to look at those issues. My understanding is the exploratory, or entrance review, has commenced and should be ending this month and they will be able to tell the Board what they will be focusing on and when they will get to it. To make sure the State and I were not looking at the same things and wasting taxpayer money, I met with the Comptroller's Office with the last week or the week before and I don't recall the exact date. I discussed with them the matters of concerns the Trustees have shared with me so far. I was given the impression they would be looking at some of them, but were really not sure, until next year, until they finish their exploratory review. But is it clear there are some things either they are not going to review in detail you need or they won't review in the timely manner you need. The three items that I was told was reviewing and resolving the payroll problem. Their role can tell you there is a problem, which you already know, but will put it back on your laps to do something about. When I met with John Lundy, your auditors, he showed me three documents that was done for the payroll. The original document that led to the overpayment, and one from his associate Michael who has been in Village Hall, the proposed fix and then he showed me a third document which was his calculations. He ran one employee and did his numbers, which now shows an underpayment. First you had an overpayment and now the proposed fix shows and underpayment and Lundy's calculation. And since the State is not going to solve this for you, I am recommending that you hire your auditors, and fix it. Get it done, enough is enough, get the CPA's. Let them run the calculations for every employee, they deserve it. They don't have to worry you are taking too much away from them. I think the taxpayers, get the CPA to give you a number. In there is letter from Lundy for them, get it resolved once and for all. The second matter the State told me they would not do timely, if at all, was the budget transfers. From my understanding, this is the fourth time on the calendar, you need to close out your books and if you are not comfortable with the information you are getting to make a decision, Lundy, and again, these are things above and beyond their normal audit. They have been auditing you for years, they know your Village, when I went to their offices, it is obvious these guys are pros, let them give you an explanation why, we had a big discussion on why, how these budget overages occurred. They will give you memo, report and tell you why it happened and how it happened and show you how it compared to the budget and how it went over. At that point, if it leads to further questions, it does, that's part of the process. If the explanations he gives are sufficient, then you vote and good practices its getting this resolved. The other issue that came up is that there are allegations that certain past and current employees are paid more than what they are entitled to. Again, I don't know if this is correct you need your auditors or accountant to review it. It is a very simple review. They look at what the typical payroll for that employee should be and if there is anything more than the biweekly salary. You have a quote for that too. I think you need to look at these sooner rather than later. These are three things the State will not be diving into. The other concerns the Trustees have shared with me, concerning other financial matters, there is a possibility the state will review them. I don't know. We won't know until the State finishes their exploratory review and we are told that is probably end of the month. At that point, the Board can decide if they want me to look at these things. I am not prepared to look at things the state is looking at unless you want me to. It doesn't seem to be financially prudent when the State is looking into things. I agree

with Trustee Ralph, they are professionals. You need to see what they are looking at and when are they doing it. Just because they are going to look at it, does that mean 4 months, 6 months, it's up to you. Maybe some of these things could wait. There is a resolution here for Satty and Levine to look into the three things I discussed. If you have any questions...

Trustee Urban said in his meeting with the State auditors, I asked them specifically, if there was a problem of some sort that was cumulative or become increasingly large, would they wait until the end of their audit or final report or would they let us know immediately so we can rectify the situation. They shared that if they had something that there was paperwork for and definite evidence for, they would let us know immediately.

Mr. Augustine said he would agree; he got the same impression. However, they are not going to solve it for you. They'll identify it and but won't solve it.

Trustee Urban said yes, they did say that to me as well.

Mr. Augustine said he has now seen three different calculations on your payroll, I think you need to get it done.

Trustee Urban said one of the calculations already was from our auditor, Mr. Augustine.

Mr. Augustine said yes, he ran one employee.

Mr. Urban said the difficulty is finding out which one is right.

Mr. Augustine said I think you should go with a CPA, or the auditors. If there are no further questions...

Trustee Palmer said the getting back to the outside auditors, this is all important, we have had Hurricane Irene and Sandy, just recently, anytime you get state or federal money, we are going through this at the police department too, there are certain OMB circulars that you are supposed to adhere to that talk about you are supposed to have certain procedures, payroll and procurement procedures, you have to document you are maintain expenses properly and if you don't do that you may have a violation and you may have to end up giving that money back because you may not be in compliance with the Office of Management and Budget Review procedures. There are lots of circulars attached to grant contracts that you implicitly wind up having to adhere to. So if you end up having a qualified or disclaimer opinion from Satty and Levine, this could wind up having serious ramifications as far as getting grants, whether they are law enforcement, highway department or community development block grants. This is something you don't want to take lightly. You want to resolve it somewhat quickly and not let it linger, it could lead to a, you know, Levine is trying to issue statements with a May 31st ending, we are in the midst of right now, and if they end up there are statements that are not fairly presented, this could affect certain things. It's not like our year ends 12- 31, it ends mid-year. We are already in the new year, 12-13, and we are trying to close out the prior books and we are six months, seven months, beyond already. So, it is important, time is not of the essence but as Augustine and Hank alluded to it is something I don't know we can really wait for. Based on the exploratory they do, when they come out with recommendations what we can do, can we really wait that long? Satty is a little more familiar with our record-keeping so to do a certain thing like this, they are more familiar with our records already and OSC is getting to know our records right now they are on site. Hopefully we will get something in the next seven to ten days and we can look at it, so that's kind of where we are at unfortunately.

Deputy Mayor Tucker said that he feels, based on what they just heard, what he has provided for us, I mean, there were those who said to us, let the auditors do it, it is part of their job and now we are hearing that possibly, probably, they would not have found it as part of their audit. In fact, we have to pay extra for them to look at this and give us answers. I also think in light of the fact that Mr. Augustine met with the Comptroller and hearing from them that this is something that we should jump on right now and we should not wait and not that they were not going to look at it not they are not going to find it, but with the smoke example that was used, will tell us there is smoke, we know there is already. We know that is there already. We didn't even get into this fiscal year and issues and problems potentially with that. We should have our auditor look at it and

fix this once and for all.

Trustee DiBenedetto said if anything it's a betterment, not only for today but for the future and coming down the line how the Village handles the budget and finances, moving forward. She thanked Scott Augustine for coming today and informing the public how you have assisted the Trustees and the Village and the communication you have had with the State and the auditors and I appreciate that.

Mayor Teller said we have a resolution on the agenda.

Trustee DiBenedetto said she understands that.

Mayor Teller said do you want to hold it or act on it?

Deputy Mayor Tucker said what do you think Mr. Mayor?

Mayor Teller said as far as he is concerned, pass it. You have made all kind of arguments for it, make a decision now, what do you want to do- hold it or move it?

Trustee DiBenedetto said which one?

Trustee Urban said he will read...

Deputy Mayor Tucker said he makes a motion to add this resolution onto the agenda.

Trustee Urban said he thinks the Mayor was addressing the budget transfer resolution that is already on the agenda. Is that what you are talking about?

Deputy Mayor Tucker said no. You are talking about the budget transfers?

Village Attorney Richard Haefeli said the first thing you have to do is the budget transfer, you can do whatever you want with that. If you want to add the resolution for the accountants, then you have to move to add it to the agenda.

Deputy Mayor Tucker said he has a question for Mr. Augustine-is it prudent for us to pass the budget transfers at this time without the detail?

Mr. Augustine said if you don't have the answer to the question of, for example, why the police department, the police I believe, the 3120, I don't have it in front of me, Is over...

Deputy Mayor Tucker said \$124,000

Mr. Augustine said on the salary, why the police department salaries are over \$124,601.00, if you don't know why, I don't know how you can pass this. But if you are not going to hire Lundy or someone to assist you in getting the answer, I don't know what to tell you.

Deputy Mayor Tucker would like to remove the resolution from the agenda until they are at a point they are ready to vote on it.

Mayor Teller asked if there was a second.

Trustee DiBenedetto seconded, she said she has already asked for it to be removed.

Deputy Mayor Tucker asked why is it still on here?

Trustee DiBenedetto said that is a question for...

Deputy Mayor Tucker said we want it off the agenda until we are ready to vote on it.

Mayor Teller said it is off by a vote of 3-2.

Mr. Haefeli said the Mayor sets the agenda. He can put it back on next month. I just want to make sure you are aware of it.

Trustee DiBenedetto that is understood.

Mr. Haefeli said ok, just wanted to make sure you understood.

Mayor Teller said that is why it is on there. He asked Deputy Mayor Tucker if there was something he wanted to add.

Deputy Mayor made a motion to add a resolution to the agenda. Seconded by Trustee DiBenedetto

Mr. Haefeli said you have to be specific what you are adding, if it is the auditors to do specific work.

Deputy Mayor Tucker said he thought they already took care of that during the resolution phase; to appoint the auditors to do additional work.

Seconded by Trustee DiBenedetto.

Trustee Urban said it is not to exceed \$7150.00 but that is just an estimate.

Trustee Palmer said they also gave an hourly rate so it can be less than that. They are familiar with the records so their hours can somewhat fluctuate.

Mr. Haefeli said they are giving you an estimate of what it would cost and the hours, the billable hours on it and if they haven't finished the work when they reach the \$7150, they are not going to do anymore work and you will have to put on another resolution.

Deputy Mayor Tucker said it is \$7250 for the record.

Mr. Augustine said it says the above services will not exceed \$7150, it is not an estimate that is their cap. They broke it down into three categories.

Mr. Haefeli said ok, the resolution would read not to exceed \$7150, whatever the number is.

Mr. Augustine said that is their cap, they broke it down. \$3200 to resolve the payroll, \$1600 to resolve the budget transfers and \$1600 for the employee salary issue.

Trustee DiBenedetto said that it does say in there if it does go above, they will advise the Board before incurring any additional cost.

Voted on as follows to add the resolution (Mayor Teller voted no):

Trustee DiBenedetto	Aye	Deputy Mayor Tucker	Aye
Trustee Palmer	Aye	Trustee Urban	No

Motion by Trustee DiBenedetto:

WHEREAS, the Village Board of Trustees have commenced a review of certain financial transactions, and

WHEREAS, having read the recommendations of Special Counsel Scott Augustine, Esq. dated November 30, 2012, as to the immediate need for retaining the village's auditing firm, Satty, Levine and Ciaco to assist with the review of said transactions, and

WHEREAS, the Board of Trustees has received a proposed engagement letter from said auditors dated November 29, 2012 in regards to said matters,

NOW THEREORE LET IT BE RESOLVED THAT:

The Board retains Satty and Levine and Ciaco, CPAs to review the following matter as per their engagement letter of November 29, 2012:

1. Analyze and re-compute employee gross payroll calculations for the year ended May 31, 2012 and also the current fiscal year. Prepare a report to the Board

- indicating overpayments or underpayments to employees.
2. Analyze the attached eight (8) expenditure accounts that are over-budget and advise the board on the detail of these expenditures as compared to the original budget.
 3. Analyze and document all payments made to Village employees, both past and present, this fiscal year and last fiscal year, above and beyond their typical biweekly salary.

Seconded by Deputy Mayor and voted on as follows (Mayor Teller voted no):

Trustee DiBenedetto	Aye	Deputy Mayor Tucker	Aye
Trustee Palmer	Aye	Trustee Urban	No

PUBLIC COMMENT

Dean Speir, Main Street, said he commends the Trustees, all of them, for being a little more forthcoming on this subject since the last time it came up. He said he would to address this to Mr. Tucker, through the Board, for clarification, you talked about overpayments and underpayments but you have found no evidence of underpayments thus far?

Deputy Mayor Tucker said he did not state that. I did not state there was no evidence of underpayments. I said we were told there were no underpayments and were not shown there were underpayments.

Mr. Speir said you stated this happened once before in the Village. When was that?

Deputy Mayor Tucker said it was two years ago.

Mr. Speir asked how that was resolved.

Deputy Mayor Tucker said it was resolved by taking money, taken out of the employee's checks. She found it herself right away. And she immediately put out memo...

Mr. Speir said you mean Kathleen McGinnis?

Deputy Mayor Tucker said yes, and she recouped it from the employees.

Mr. Speir asked how it was uncovered?

Deputy Mayor Tucker said she told me at the time.

Trustee Palmer said he thought she found it herself, I am not really sure.

Mr. Speir said, in the matter of overpayments and underpayments, this apparently has happened with other municipalities, other townships in the past. It had to do with the difference between 26 weeks a year or 24 pays a year. And if it is 24 times per year, then it will coincide with the calendar. But if 26, then it does not.

Deputy Mayor Tucker said it has to be negotiated with the unions.

Mr. Speir said that is not his question. So the Village is on the 26?

Trustee Palmer said biweekly.

Mr. Speir said if you change that, it has to be negotiated with the unions?

Mayor Teller said yes.

Mr. Speir said is the 24 or 26 the discrepancy?

Deputy Mayor Tucker said he can answer that. Since it happened once before, he was told it happened because the spreadsheet in recalculating for the next year, instead of 26.1 or 26.2, it had the wrong calculation that time. But because of that happened, those spreadsheets for the fiscal year we are discussing now, were created for the Clerk-

Treasurer who took over for her...

Mr. Speir said that would be Ms. Molinaro?

Deputy Mayor Tucker said yes. Those spreadsheets were created already with the proper calculation in there so this would not occur and those spreadsheets were changed. And they were changed and apparently were not changed properly, we know that now.

Mr. Speir asked, when you found that there was a problem, after the audit or you picked up something the auditors did not pick up.

Trustee DiBenedetto said that is not the way it should be phrased. The way Lundy performs, our concerns are not within their general scope of an audit, it is above and beyond so it never would have been caught by our auditors, as previously stated by other parties. It was the Trustees who discovered and brought it to the attention of the Board and then by researching it and finding out that it never would have been part of their audit.

Deputy Mayor Tucker said this occurred even before the auditors started, about six months ago, they had not even started and were not even on the horizon at the time.

Trustee Palmer said he thinks they only came in three weeks ago.

Mr. Speir asked for one more point of clarification. Have you found any instances of underpayment?

Deputy Mayor Tucker said what they have seen from Mr. Augustine. I, we have not been given anything. We were told by the Clerk-Treasurer that there were underpayments in June and in all due fairness, that was prior to Ralph and Charlie on the Board. Six months later we are yet to be shown any underpayments. Mr. Augustine said that in speaking with Lundy, they have seen underpayments.

Victor Levy, 58 Beach Road, Westhampton Beach. First he wanted to thank the Board for the presentation. He wanted to thank Mr. Augustine for his presentation, he thinks it zeroed in on some items. If I am correct, he was reviewing questions that the Board had, items that were in the budget, they are not items he brought up. My comment two months ago, I would agree perhaps \$5000 is only pennies but sometimes pennies count, what bothers me is he cannot understand that why didn't you present them, the questions to the auditors?

Deputy Mayor Tucker said there are other issues involved that they cannot discuss. There are other issues that have come up that we saw early on, that are still issues, and we needed to be represented on those issues as a Board. They are not issues for an auditor per se, but they might have to give us certain information, but it is not within the scope of their review.

Mr. Levy asked about the auditors and the scope of their review, does not normally cover payroll?

Trustee Palmer said they do, when they present an opinion on statements, their goal is to reflect that your financial statements fairly represent the finance of the municipality. They do do testing, they could find irregularities but it is really up to management, the Board to actually attest to, there is a statement signed at the exit conference that shows the management is responsible for irregularities. In their testing they could come up with things, further testing to be done, could be done, Mr. Augustine in Bellport and myself with the County, does fall outside their scope. They are conveying it does. It does seem ok, they will be going in depth and like I said before, it could lead to a qualifier or adverse opinion, which could affect last year's statements. Materiality always factors in but it certainly is a concern.

Deputy Mayor Tucker stated that he would say obviously, they gave us quote. I guess inherent of what they told us, it would not be part of their scope.

Trustee Palmer said basically, they are not responsible for your budgetary accounts. Your balance sheet accounts are what really gets closed out, not the day to day operating accounts. If you pass a \$5 million budget and end up spending \$10 million

that is up to the municipality if you want to go into a fund balance deficit. They don't really comment on the budget process. That's why Mr. Augustine stated they have a problem with the why, maybe why people pass budgets, maybe the Mayor is up for reelection or a County Executive, maybe they want to pass a lower budget. It's not up to them to determine why. So really they deal with your financial statements to make sure they are fairly presented.

Mr. Levy said and to make sure you have followed normal accounting procedures and purchasing. Generally they have concerns about purchases.

Trustee Palmer said that is correct.

Mr. Levy said they are concerned about access to accounts, who can sign. And a lot the internal controls and I would think payroll would be part of that.

Deputy Mayor Tucker said we have had them for quite some time, they have done great by the Village, I have never questioned them, that's why we weren't planning on hiring a different auditing firm, we had to do a resolution hiring the attorney before he could give us advice.

Mr. Levy said he explained carefully that the state is coming in under a limited review, he would think their scope could be expanded if there was an issue. He thinks as long as they are here, there is reason to let them to proceed. I think you could have addressed these items and they could have been presented by the Trustees. The report you get is addressed to the Mayor and the Trustees.

Deputy Mayor Tucker said he thinks six months, has been a long time we have been waiting for answers on some of these items. We are now spilled over into the new fiscal year.

Mr. Levy said you are asking them now in December.

Trustee DiBenedetto said they were here for a general audit at the time.

Mr. Levy said you hire them to do an audit, if you have specific questions, ask them.

Deputy Mayor Tucker said they were posed to the Village Clerk-Treasurer and to the Mayor, they were known. They are the ones that handle the audit.

Mr. Levy said if you didn't get a satisfactory answer, why didn't you ask them? I was through six audits with this Village and I can remember on two occasions things I have specific questions about.

Deputy Mayor Tucker said there are other issues we are working on.

Mr. Levy said if there are other issues that's another thing. But I am questioning the \$7250 for the resolution for three specific items, you say six months is now too long to wait but September, October, November have passed...

Trustee DiBenedetto said but they were here for the general audit in September.

Mr. Levy said so why didn't you bring them up?

Trustee DiBenedetto said the questions we are posing now would be the same questions and the outcome would have basically been the same.

Mr. Levy said it may or may not have been the same but the comment was we have waited 6 months but you could have brought it up 3 months ago.

Trustee DiBenedetto said but the money would have been the same.

Mr. Levy said but the time would have been different.

Trustee DiBenedetto said the time would have been different but you were questioning the money and the money would have been the same.

Mr. Levy said but if you did it then...

Trustee DiBenedetto said that would have been great, but now we know, for the 2nd, 3rd, 4th, 5th and 6th audit. You have been exposed to that many, this is our first. There is no manual for government.

Mr. Levy said yes there is, it's the New York State Public Officials...

Trustee DiBenedetto said the NYCOM book, you use it as a guide. We are learning as we are living it and we are living it. We are doing the best that we can to communicate with all Board members and also with Village employees to correct an issue and multiple issues and to move forward for the betterment of the Village and the benefit of the public and the residents. That's what we are doing, if we saved 2 months, that would have been great. If you knew that 2 months ago, I wish you would have said something, I am sorry that you didn't.

Mr. Levy said that my suggestion was that if you knew there was a problem, then you would have called the state. And not listen to the nonsense you could not get someone from the state here.

Deputy Mayor Tucker said in a day? That's what occurred here. We passed a resolution and miraculously they had an appointment here. We had gone that route. Charlie went there.

Trustee Palmer said he went there on October 5th.

Mr. Levy said when he needed an opinion from the Comptroller's Office and it would take 60 days, he picked up the phone and called Fred Thiele's office and he had an opinion in 5 days.

Deputy Mayor Tucker said ok, is that what occurred this time?

Mr. Levy said I don't know.

Deputy Mayor Tucker said he thought maybe you knew. I don't know how they came, the Mayor said he called them. I want to answer one thing, from back in June, if Pat and I hadn't pursued this, the taxpayers would have been out \$20,000 at a minimum so far. So I think why didn't you do this earlier, we are trying to do what's best for the public, for the taxpayers, we are trying to do it cautiously, it is a little difficult when you have a Village Clerk-Treasurer and a Mayor that you have to go through to get some of things to occur. Its not like I have called Lundy, based on all of the issues before us, we felt it was best to way to go.

Andrew Menselson, this is the last Board meeting of the year, he wanted to come and again ask the Board to considered his amended petition of Self-Storage Westhampton, LLC which he put in March 12th of this year. My petition seeks to add the words grocery stored to permitted uses in the B-3 district. This year he has tried very hard to show the public interest in this project.

Mr. Haefeli said if he came up with something that was a legitimate petition, maybe they would consider it. You have not done that. As I have said to you on more than one occasion, since there was a Master Plan of the Business Districts done in 2007, this Board could not act without doing a comprehensive plan. Just adding grocery store into the B-2 zoning district cannot take place. You have been told more that more than once.

Mr. Mendelson stated he thought he was addressing the Board.

Mr. Haefeli said he is their legal counsel, your petition is defective, not that you even submitted a petition. You cannot add grocery store into the B-3 district without a comprehensive plan.

Mr. Mendelson asked he said he could not petition the Board...

Mr. Haefeli said our petition, to the fact that you claim it is a petition, is defective and

they don't have to consider it.

Mr. Mendelson asked if the Village could respond to his petition?

Mr. Haefeli said no, they do not have to respond to you.

Mr. Mendelson said he is asking the Trustees to respond, he would like to get that response in writing so that he can come here with his attorneys.

Mr. Haefeli said they do not have to respond.

Mr. Mendelson said he is a taxpayer and he would like the Trustees to respond.

Trustee DiBenedetto said that in fairness, Kyle Collins was here before explaining the Master Plan, when she became a member of the Planning Board, she received a copy of the Plan and she is not sure if Ralph and Charlie have a copy of that and if they don't, obtain a copy, read it, familiarize yourself with it. And when Mr. Mendelson comes, we can have a discussion.

Mr. Mendelson said you all have a copy of the petition?

Trustee DiBenedetto responded yes we do.

Mayor Teller asked if anyone else would like to be heard. There being no further response, he made a motion at 8:20 p.m. to adjourn the meeting. The motion was seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay.

Respectfully submitted,

Rebecca Molinaro
Clerk-Treasurer