

**The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, March 7, 2013 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**

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## **RESOLUTIONS**

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### **Accept minutes of Board of Trustees Meeting**

Motion by Deputy Mayor Tucker:

RESOLVED, that the minutes of the Board of Trustees Meeting of February 7, 2013 are hereby accepted.

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

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### **Accept Departmental Reports**

Motion by Trustee Urban:

RESOLVED, that the Treasurer's reports for January 2013, Justice Court, Police Department's and Building Inspector's reports for February 2013, are hereby accepted.

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

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### **Schedule Public Hearing-Local Law to Override Tax Levy Limit**

Motion by Trustee DiBenedetto:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and post a Notice of Public Hearing to be held on Thursday, April 4, 2013 at 7:00 p.m. at the Village Hall on a local law to authorize a property tax levy in excess of the limit established in General Municipal Law §3-c.

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

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### **Schedule Public Hearing on 2013-14 Tentative Village Budget**

Motion by Trustee Palmer:

RESOLVED, that the Village Clerk-Treasurer is hereby directed to publish and posted a Notice of Public Hearing to be held on Thursday, April 4, 2013 at 7:00 p.m. at the Village Hall on the 2013-14 Tentative Village Budget.

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

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### **Refer Special Exception Application to Planning Board-Sunset West, LLC**

Motion by Deputy Mayor Tucker:

RESOLVED, that the Special Exception Application for restaurant use submitted by Sunset West, LLC & Teserra, LLC located at 87 and 131 Sunset Avenue and identified by SCTM# 905-12-1-41, 48.4 and 48.5 is hereby referred to the Village Planning Board for review.

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

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**Refer Special Exception Application to Planning Board-Beach Bakery Outdoor Dining**

Motion by Trustee Urban

RESOLVED, that the Special Exception Application for Outdoor Dining submitted by Beach Bakery located at 112 Main Street and identified by SCTM# 905-012-04-34 is hereby referred to the Village Planning Board for review.

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

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**Refer Special Exception Application to Planning Board-Beach Bakery Outdoor Music**

Motion by Trustee DiBenedetto:

RESOLVED, that the Special Exception Application for Outdoor Music submitted by Beach Bakery located at 112 Main Street and identified by SCTM# 905-012-04-34 is hereby submitted to the Village Planning Board for review.

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

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**Refer Special Exception Application to Planning Board-Café Mambo**

Motion by Trustee Palmer:

RESOLVED, that the Special Exception Application for Outdoor Dining submitted by Café Mambo located at 3 Moniebogue Lane and identified by SCTM# 905-011-02-009 is hereby submitted to the Village Planning Board for review.

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

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**Accept Bid for Marina Repairs**

Motion by Deputy Mayor Tucker:

RESOLVED, that the Board of Trustees hereby accept the bid from Corazzini Asphalt, Inc. at a cost of \$169,206.00 for repairs to the Village Marina and electrical systems pursuant to the bid specifications.

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

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**Authorize Mayor to Execute Agreement with 106<sup>th</sup> Rescue Wing**

Motion by Trustee Urban:

RESOLVED, that the Mayor is hereby authorized to execute a Memorandum of Understanding with the 106<sup>th</sup> Rescue Wing, New York Air National Guard relating to the usage of their water main for a fire suppression system located at the Village Public Works facility at 124 Old Riverhead Road.

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

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**Ratify Agreement with Village Employee**

Motion by Trustee DiBenedetto:

RESOLVED, that the Board of Trustees hereby ratifies an agreement with a Village employee.

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

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**Amend Village Procurement Policy**

Motion by Trustee Palmer to hold the resolution for the work session, seconded by Deputy Mayor Tucker and voted on as follows:

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

RESOLVED, that the Board of Trustees hereby amend the Village Procurement Policy pursuant to New York State Law.

**Approve 2011–12 Fiscal Year Annual Financial Statements**

Motion by Deputy Mayor Tucker to hold over the resolution. He said the auditors have been asked to look at things not included in the scope of the audit and they have come up with a report we received yesterday. I thought we would be able to hear from them tonight but due to illness it's not happening so I would like to hold it over until we get a briefing on it.

Trustee Palmer said he agrees with the things Scott has been working on and some outside stuff, I don't know if it would affect some of the statements, I think it would be a good idea to hold it over.

Seconded by Trustee DiBenedetto and voted on as follows:

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

RESOLVED, that the 2011–12 Fiscal Year Annual Financial Statements prepared by Satty, Levine and Ciacco for the Village of Westhampton Beach and the Village Justice Court are hereby approved.

**Renew Rogers Beach Concession Agreement**

Motion by Trustee Urban:

RESOLVED, that the Board of Trustees hereby authorize the renewal of the Rogers Beach Concession Agreement with Jessup Foods, LLC (D/B/A Quogue Country Market) for the 2013 summer season.

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

**Accept Proposal for Services-GASB 43 & 45**

Motion by Trustee DiBenedetto:

RESOLVED, that the Board of Trustees hereby accept a proposal from Aquarius Capital to prepare an actuarial evaluation of post-employment benefits as required under GASB 43 and 45 at a cost of \$4,000.00.

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

**Declare and Approve Sale of Village Surplus Items**

Motion by Trustee Palmer:

WHEREAS, the Department of Public Works has indicated that the items on the attached list are no longer in use by their Department; and

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

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

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

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**Approve Use of Village Property-Harbor House**

Motion by Deputy Mayor Tucker:

RESOLVED, that Library Avenue Owners Corp./Harbor House is hereby authorized to use the Trustee Meeting Room at Village Hall on Saturday, March 16, 2013 from 9:30 a.m. to 1:30 p.m. for their Board of Directors Meeting.

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

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**Approve Use of Village Property-HUGS, Inc.**

Motion by Trustee Urban:

RESOLVED, that HUGS, Inc. is hereby authorized to use Rogers Beach and Pavilion on Sunday, April 7, 2013 from 11:00 a.m. to 2:00 p.m. for a water plunge benefit.

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

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**Approve Use of Village Property-Peconic Bay Medical Center**

Motion by Trustee DiBenedetto:

RESOLVED, that Peconic Bay Medical Center is hereby authorized to use the Great Lawn from Thursday, May 9 to Saturday, May 11, 2013 from 9 a.m. to 6 p.m. and Sunday, May 12, 2013 from 11 a.m. to 6 p.m. for the Annual Garden Festival.

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

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**Approve Use of Village Property-Cystic Fibrosis Foundation**

Motion by Trustee Palmer:

RESOLVED, that the Cystic Fibrosis Foundation is hereby authorized to conduct a walk/run per the route on file and use the Village Green on Saturday, May 18, 2013 from 7 a.m. to 3:00 p.m.

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

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**Approve Use of Village Property-EJ Autism Foundation**

Motion by Deputy Mayor Tucker:

RESOLVED, that the EJ Autism Foundation is hereby authorized to use the intersection of Montauk Highway and Sunset Avenue on Saturday, May 18, 2013 from 5 p.m. to 5:30 p.m. as a rest stop for the Relay for Autism Awareness Walk.

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

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**Approve Use of Village Property-Bide-A-Wee**

Motion by Trustee Urban:

RESOLVED, that Bide-A-Wee is hereby authorized to conduct the "Love on a Leash" Parade on Saturday, August 17, 2013 from 8 a.m. to 2 p.m. per the route on file and also use the Village Green for registration activities.

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

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**Approve 2011–12 Fiscal Year Budget Transfers**

Motion by Trustee DiBenedetto to holdover. She said since the Village has not had the opportunity to meet with Lundy and the auditors to go through the report they received yesterday.

Trustee Urban said that he would like to remind the Board that they have had all this information and holding these over do not solve any of the problems that have come up. It was used to bring a matter to our attention. The problem has been brought to our attention, it doesn't solve the problem, it doesn't fix anything. I would recommend that we pass these budget transfers at this time.

Deputy Mayor Tucker said there are some financial discrepancies that we looked at and they are part of these numbers and yesterday we just got back the detail on that and it shows up some information that warrants a further discussion. If we vote on something it is our fiduciary responsibility...that we have questions on when it comes to money...

Trustee Urban said he does not disagree, he disagrees with the fact that holding this over does not address the problem.

Deputy Mayor Tucker said he personally does not want to vote on money, that he was not able to tie out and a proper understanding of. I am for holding these over too.

Trustee Palmer said he agrees. We were hoping to have a presentation tonight, we got the thing so late like Hank said, we just got a two or three page report yesterday, these transfers shown systematic deficiencies on a weekly or biweekly basis, especially payroll, so holding these over just shows we are just are at the end, the finality of this is forthcoming right now. I don't see any problem with it.

Seconded by Deputy Mayor Tucker and voted on as follows:

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

**Approve 2011–12 Fiscal Year Budget Transfers**

RESOLVED that the following 2011-12 Fiscal Year Budget Transfer to account A1420.4 Contractual in the amount of \$44,538.12 from account A1420.401 Litigation, leaving a balance of \$18,418.07 effective 5/31/12, is hereby approved.

**Approve 2011–12 Fiscal Year Budget Transfers**

RESOLVED, that the following 2011-12 Fiscal Year Budget Transfer to account A1430.4 Personal Attorney in the amount of \$18,418.07 from account A1420.401 Litigation effective 5/31/12, is hereby approved.

**Approve 2011–12 Fiscal Year Budget Transfers**

RESOLVED, that the following 2011-12 Fiscal Year Budget Transfer to account A3120.100 Police Department – Personal in the amount of \$124,601.55 from account A1990 Contingent Items, leaving a balance of \$40,485.98 effective 5/31/12, is hereby approved.

**Approve 2011–12 Fiscal Year Budget Transfers**

RESOLVED, that the following 2011-12 Fiscal Year Budget Transfer to account A3120.103 Police Department-Overtime-Personal in amount of \$24,312.07 from account A190 Contingent Items, leaving a balance of \$16,174.91 effective 5/31/12, is hereby approved.

**Approve 2011–12 Fiscal Year Budget Transfers**

RESLOVED, that the following 2011-12 Fiscal Year Budget Transfer to account

A31120.105 PD Detective Overtime-Personal Service in the amount of \$2,054.28 from account A1990 Contingent Items, leaving a balance of \$14,120.63 effective 5/31/12, is hereby approved.

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**Approve Warrant for March 2013**

Motion by Trustee Palmer:

RESOLVED, that the warrant for March 2013 in the amount of \$194,195.14 for the General Fund is hereby approved.

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

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**PUBLIC DISCUSSION**

Frank Isler, I represent Andrew Mendelson, I request that the board take up an act on our request that you consider an amendment for your zoning code to allow grocery use in that zone. We have been here before to discuss. The one thing that is not in dispute is there is substantial public interest in this, for and against, could be either one, we really don't understand why the Board has not undertaken an initiative to act, on the petition we have presented to you to decide to start the review process, by accepting the petition we filed or make it on your own motion to consider, that would trigger a public hearing, review process going, it is not a commitment. We know there is substantial interest in this, we are here to ask you to start the process. It is your discretion, we know that, but this is not going away. We previously told the Board, grocery used to be a permitted use in the B3 zone.

Village Attorney Haefeli said no, it was never a use.

Mr. Isler said it was a permitted use in an overlay district, that allowed grocery use in the B3 and B2 zone, the Planning Board, when the overlay district was being repealed, asked that it remain a permitted use in those districts. We are urging you to do so. I cannot emphasize enough by that by starting the process you are acting to have the community vet the issue. You are starting a process, you may at the end conclude that it is an excellent idea and amend your code, when the code is amended that is the only time someone can apply for building permit, again, I urge you to please act. Thank you.

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Irina Richardson, 73 Lilac Road, the road that the school is on. My complaint is with the snow clean up with the storm we just had. We have a lot of children in the district who do not have buses to get to school and have to use the sidewalks and during the last snowfall, although the roads were very well cleared, the sidewalks didn't get cleared as quickly, the circle, from Mill to the schools was never cleared it just melted. On Lilac, it was clear, but there are plenty of students who come from further down in the Village. Once you got the circle, you had to walk in the streets. I know this because I walk everyday on my own so I know what was clear and there are children who ride their bikes or walk to school. I felt it was very unsafe to have children walking in the streets to schools. Once we open the school, it implies it is safe for children to get to school. Not everyone has the luxury of a bus or a ride to school. I would like to make sure in the future that roads and the sidewalks that take our children to school are clear.

Mayor Teller said he saw two plows working.

Public Works Superintendent John Kearns said as everyone knows, we had a blizzard. The first ten hours was snow and water that packed on as ice. Because of that, it made it impossible with our equipment to do what you are suggesting. It took a few days to soften so we could run the machines. He said there was drifting over. He said there is 80 feet that gets pushed over. He said is not the same on Lilac, there is 50 feet of road. We did the best we could once we got out there and it softened up. Our equipment did what it could. I apologize, we do what we can when we do it. If you went to other towns, it was probably worse.

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Kym Laube from HUGS, Inc., I wanted to thank this group and the Village employees for making it easy for our site use form for our event. I wanted to thank you for the opportunity to encourage the Village and surrounding areas to come down and raise some money for school supplies for local kids. The date is Sunday, April 7<sup>th</sup> from 12pm to 2pm. There are prizes for largest team, it is a great community event and helps raise monies for school

supplies. It is a Rogers Beach. It is for backpacks for students. It is an idea that came from a young person and we owe it to her to rally around and make her vision happen.

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Joan Levan, Oneck Road. She asked how are we going to make this supermarket situation move further. He comes up every month and asks the question.

Mr. Haefeli said he has stated from the start the answer is that is a totally discretionary matter, they can act or they don't have to act. And it's a decision for them to make and if they don't want to act they don't have to. I want to say, there was a comment about the overlay district and the B3 it is a shopping center with a special exception not a permitted use, there is a distinction in the law and you could have a supermarket in there but you would have to meet a substantial criteria. There was never been a permitted use from the time this Village had a zoning code to the present day, there has never been a grocery store stand alone as a permitted use outside of the B1 district. That is part of what the Board is considering.

Ms. Levan said you are also saying the Board can get together and do something...

Mr. Haefeli said yes, the Board has the right to act or not to act or do nothing. I have said that from the start.

Ms. Levan said if they act, what is the process?

Mr. Haefeli said if someone comes to the Board and asks for something, they can listen, that's the only obligation they have, to listen, they don't have an obligation to do anything else. If they don't want to do anything, they don't have to anything.

Ms. Levan said, should they decide, to do something, what is the process?

Mr. Haefeli said he would have to look into if the Board tells him what they want to do, he would give the advice to the Board. And sit down with the Village Planner, if they want to.

Ms. Levan said she has one more question. What is the status of Glover's Park.

Trustee DiBenedetto said she is in the process of putting together numbers for the March Work Session. There is a preliminary plan that has been shown at the January Work Session that was liked by the Board and by Mary Wilson, with the Community Preservation Foundation at the Town. So we are moving forward, numbers are being compiled so we see if we like it.

Ms. Levan asked if the Village would have something this summer.

Trustee DiBenedetto said I think from start to finish it would be a three month project so then it can go to public meeting, I would love to see something sooner rather than later. I am hoping to have some finality soon.

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Michelle Bugge, Bayfield Lane, wants to address 2 issues. The supermarket. I know I speak for many housewives who shop at Waldbaums. I would love for you to consider moving forward and see what the next step is. The personnel is helpful, but does not offer good selection, I have to spend extra money on gas, very high to travel to Hampton Bays or Riverhead. I know I speak for lots of people, housewives, everyone that shops, no one is happy with Waldbaums. We don't want to see people lose their jobs but we are trying to take care of our families and get the proper groceries, spend less, the cleanliness and shop locally, they have tried to clean the store, it is not doable. This day and age we should have a better supermarket in the area. I don't know what goes into it with codes, you really should think, I know you all have to shop, I know I am speaking for several people. This is what is needed, you need a good supermarket and take care of your families. My second issue is flooding on Bayfield. I know there are French drains, John is good about coming down, so is the Mayor. I lose several rooms from Sandy. I am not one who can afford to raise their home to code. I want to know what the Village is going to do to help protect against this flooding. Even on a rainy day I can't wash my clothing, the water is up the driveway on a rainy day. Sandy wiped out three of my rooms, I cannot afford to lose my home, I cannot afford to raise my home. I am a year round resident, this is not my summer home. I am not able to get the grant. I did not have enough substantial damage. I want to know how you are going to help the people who are year round who cannot afford to go up

to FEMA code. Something has to be done to help. John is great, he is helping but this is bigger, this really needs to be addressed. I have been here 13 years, I love where I live.

There are some things you have to listen to the public on. Supermarkets and drainage. These are important things to survive here. I hope something can be rectified on that major issue. I am not the only one. My neighbors are raising so I am going to get the runoff. If anyone can propose something for people who can't go up, it would be much appreciated.

Deputy Mayor Tucker asked Ms. Bugge if she had flood insurance.

Ms. Bugge said she does have flood insurance. It did not cover everything and it was very difficult collect from.

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Bob Trager, 4 Meadow Lane, Westhampton Beach. Since the Board is here, what is the problem. The shopping for food and groceries is horrible in this town.

Mr. Haefeli said this is a discussion for the Board to undertake and they are not tonight. The Board has to consider if they even want to consider it.

Mr. Trager said he wanted to know the hesitation individually.

Trustee DiBenedetto said she would to add her own personal knowledge. When she was on the Planning Board, I did take some representatives from A&P, Waldbaums, when they were trying to move forward with some building permits, internally, to show them the deplorable conditions. At this point, as a Trustee, the first step is for everyone to be familiar with the Master Plan to digest it and see what steps, if any, for a change of zone, needs to happen, if the Master Plan is still applicable to this day and age. I know the last update was six or seven years ago and the community has changed to an extent. It's going to continually grow and we just need to see whether a change of zone is something that is necessary and needed.

Mr. Trager said this should have nothing to do with whether it is Waldbaums, or Citarelli's, if the man wants to build a supermarket, spend his money and build a supermarket, let a little competition take over. What's wrong with up there?

Trustee DiBenedetto said that is a very easy question to ask and it's easy to ask to change zoning anywhere. It could potentially lead to people wanting to change anything. I understand the frustration and desire, but steps need to be taken and the Board needs to be familiar with what is here to decide what needs to happen or not happen.

Mr. Trager asked if the Board would commit to a strategy, how to tackle this. This is not open ended, maybe the next meeting or the meeting after that we can come to a consensus.

Mr. Haefeli said the consensus right now is they do not have a consensus and he does not think a public meeting this nature, until they discuss it, are going to come out and tell you how they are going to approach it.

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Toni Birk, Potunk Lane, Westhampton Beach. She asked if all the Trustees have read the Master Plan.

Mayor Teller said he believed the majority.

Ms. Birk said that she and Andrew spoke 2 years in April when she was a Trustee about what it would take to come in and develop your property. We talked, had a couple conversations and I told you that I shop everywhere. I have school age children and shop all over the place. I do believe in healthy competition. I got back to you and recognized the problem and I was on the Board when they reviewed the Master Plan and changes were adopted in 2007, the zone change, the way you want to do it it would be spot zoning and that is illegal. But the primary concern is, and Charlie you have been on the Board for a year, since July, Mr. Mendelson was hoping that with a change of the Board things would happen a lot faster, I would encourage you to read the Master Plan so at least when he does come up you will have an intelligent answer as to why there should be action or no action. If I remember correctly, the biggest issue, if there were those types of changes, it would destroy the character of Main Street and those businesses down on Main Street. I



believe there is probably a copy of the Master Plan in the office if anyone from the public would like to review it, to understand. I believe the Building Administrator Paul Houlihan would answer any questions if you are not learned in zoning. I think the public needs to

look at that, not just have a new store because Waldbaums has problems, I am not going to drag a dead horse around the track and reiterate what the problem is with Waldbaums. When I got on the Board in 2006, the plans were all approved back in the Fall of 2005. I recommend to anyone do your due diligence, read the Master Plan and understand the big picture of the Village. I would love to see a new store but I would not want my name associated with destroying our quaint little Village. All I can say is do your due diligence, Charlie, Ralph you said you read part of it, it is a big topic and you have been on the Board seven months and it's not that big to read. Education yourself so you understand what this Board has to deal with. Try to understand what they have to do.

Mr. Isler said they are not doing spot zoning. Spot zoning is where you have one specific parcel and zoning it. What we are asking you to consider is to amend the B3 zoning district, the entire district, to allow the grocery store to be there. So this is not site specific to Mr. Mendelson's parcel, it is the entire B3 district, it is not spot zoning. The B1 zone under your code is focused on pedestrian encouraged uses, not automotive uses, it is in the preamble to the B1 zoning code. The B2 and B3 preambles are directed at automobile, highway uses, exactly what a grocery store is. Frankly, the Master Plan that you have in place does not even need to be amended to allow it in the B3. If you feel there is a need to amend the Master Plan, they evolve, as the needs change, the whole book does not need to be rewritten, it can be one chapter. In 2002, there was an amendment proposal and it was ten pages long. It was not doing the whole thing over, ten pages. But if you read the code, this use is compelled in the B3, they are all highway uses, I could put a PC Richards on the property so the Master Plan argument the last speaker had was not correct. Legally, this is not spot zoning. We are talking about a zone change to the entire district.

Mr. Haefeli responded that whether or not it is spot zoning is one of the issues. It is the only parcel of land in the Village of Westhampton Beach that would be impacted by it. Number two, any changes in the code have to be done in accordance with the Master Plan, they adopted a Master Plan with reference to the business district. If they want to make changed, they have to do it with an amendment to the Master Plan and adding the word grocery store is a change in the classification that would require a Master Plan update.

Mr. Isler said this what we would discuss and have a public hearing on. The woman who spoke before me is entitled to her opinion, that is the process we are asking you to start formally. In response to Mr. Haefeli and spot zoning, when you zone change for the district if there are improved parcels on the parcel, that does not preclude the owner from knocking down what they have and building something else. It is not spot zoning because they have a vacant piece or not a vacant piece. If your amendment is consistent with the Master Plan you have in place, adding the word does not change the Master Plan, it is consistent with it. These are the kinds of things we are looking to develop and we can present to you all kinds of support for what we are saying, during the review process for consideration of the amendment for the entire B3 zone.

Mr. Haefeli said he wanted to say again this is a discretionary act by the Board and the Board can act, not act or do nothing. It is my opinion if the Board decided to act, they would have to adopt a new Master Plan because this is a change, this use has never been permitted and in addition to that, for your client to proceed, with what he wants to proceed with, he would also have to get the industrial district changed to the B3 district and that really hasn't been brought out. You can't put your supermarket in on the piece of property in the B3. He owns a piece of property that is in the industrial district, that would have to be totally changed and a change to the Master Plan in and of itself. You can't start asking for a grocery store on a piece of property you can't accommodate because your papers state you have to use the industrial piece.

Mr. Isler said you are stopping before you are beginning. What we are asking you to do is to start a process to look at a zone change. This issues whether it warrants a change to the Master Plan. If you do the B3 zone, we ask that you make the industrial piece that too. That is an application we would make. We can't make that application until you consider and start the process on the B3 zoning change. You are starting a process, you are not committing. Mr. Haefeli is 100% correct, it is your discretion whether to start the process or not. We are urging you to start the process. You are hearing a lot of issues that needs to

be aired. Ultimately, maybe a majority of the Board will feel it is a good idea, needs a Master Plan update of some type. You are not reinventing the wheel. This is a small amendment but what make that decision after you have started the process. Then you have heard both sides of the topic, impacts downtown, consistent with the B1, not consistent with the B1. The only way this will go is if you start the process, let it be, let it grow, have the planners, the environmental look at the thing. Having this at your public comment period is not productive, I am glad we are discussing, you have to move the process to get the ball rolling.

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Scott Augustine, I was appointed as Special Counsel to provide a financial review of certain issues that Trustees had concerns about. Please recall that I appeared before the Board a few months ago when the Office of the State Comptroller began its exploratory review of Village finances. At that time, I informed the Board both verbally and in writing that it seemed financially prudent to on hold some of the financial concerns entrusted to my review, put them on hold until the State does their part, in hopes you wouldn't have to spend money on me, the State would do it at no cost. Please recall though at that same meeting there were certain issues the State probably would not review in a timely manner or in sufficient depth and would require the assistance of your Village auditors. The Board took my advice and hired John Lundy to document and review several of the issues pointed out to me. Mr. Lundy successfully completed his report and provided me a copy about a week ago, my initial review of Mr. Lundy's report was very favorable, thorough, fair, unbiased. On that Friday, March 1<sup>st</sup> I immediately informed the Board that I received Mr. Lundy's report and I instructed Mr. Lundy to send copies to everyone on the Board, the Village Attorney, I was assured by Mr. Lundy he would overnight it and you would receive it on Monday. It was my plan to have Mr. Lundy present tonight to discuss the report with the Board and seek authority to obtain an opinion from Labor counsel on some of the labor issues the Lundy report raises. However, I was informed yesterday that Mr. Lundy is ill, in the hospital and can't be reached and can't be here tonight. Accordingly, I respectfully requested that my presentation be postponed to a later date, mutually convenient to all parties. However, to my surprise, I received an email from the Village Clerk that the Mayor was not inclined to postpone this matter and that I was to appear tonight, even though Mr. Lundy was in the hospital.

Mayor Teller interrupted saying that one thing you never said was that Lundy was in the hospital, you never said that.

Mr. Augustine said due to the health...

Mayor Teller said not even their firm said that so, go ahead...

Mr. Augustine asked if he could read his email where he refers to the health issues of Mr. Lundy.

Trustee Urban said please.

Mr. Augustine said he has the email saying what you are saying I did not say.

Mayor Teller said your emailed implied you were shutting the place down due to storm, not to any illness.

Mr. Augustine read: The email said to the Mayor, Trustees, Clerk-Treasurer, Village Attorney, Mr. Lundy, and Mr. Zuckerman, in combination of unfortunate events, illness and weather, our meeting of tomorrow night for me to provide the Board a status report and to discuss the Satty report needs to be postponed. I have taken the liberty of informing the Satty firm and Mr. Zuckerman by phone. I hope everyone remains safe and regains their health. I'll speak to Ms. Molinaro next week about rescheduling a meeting to a mutually convenient date.

Trustee Urban said what when he read it he misinterpreted it, he thought Mr. Augustine was ill. It never mentioned that Mr. Lundy was ill, if you reread the email, it does not mention who is ill, I thought you were ill.

Mr. Augustine answered to Trustee Urban that if he was ill, why would you demand I be present if I was ill?

Trustee Urban said he did not demand he be present, he is just telling him that the email...

Mr. Augustine said there is a problem with the consistency of your argument, with all due respect...

Trustee Urban said your email was not specific who was ill, that all I am saying.

Mayor Teller said the auditing firm said they were sending out two people.

Mr. Augustine said although he was surprised to be instructed to here tonight, he is actually glad in a way because he ran into a problem today, this morning during my investigation, that requires the assistance of the Board. Specifically what has happened is the Lundy report that was supposed to be delivered to the Board on Monday actually did not show up to Village Hall until yesterday. Now here is the problem, the Lundy report that I was provided a week, that I judged to be thorough, fair and unbiased, has been altered and changed. The report you were provided yesterday is different. It contains three extra pages, that in my opinion are inconsistent with the report I received and the changes are such that significantly alters the findings, conclusions and tenor of the report. So I was provided a report, I asked that it be forwarded to the Board, I was assured you would get it the next day, it took three days to get here and then the report is significantly altered in my opinion, it is inconsistent, the alternations were done without my knowledge, in a last minute way, and the alternations to the report call, in my mind, puts the reports integrity in question. Especially the three extra pages that were mysteriously added.

Mr. Haefeli said he must interrupt at this point. You are making a criticism of the Village auditors and they are not here. I understand what you are saying, you are saying there are two different reports and we are not aware of two different reports. But it seems to me that rather than have that discussion at a public meeting where the auditors are not here, this should be put on at a point in time where they auditors can come and discuss the issues, they are not here and we do not have a copy of what you are saying.

Mr. Augustine said you may not be aware there are two different reports but the Trustees are aware there are two different reports...

Mayor Teller said Lundy is your firm, but this particular part of the investigation at the end, the budget transfers, couple budget transfers and something else. They are under your control, the fact is they told us they would not even come out tonight unless you said so, so you straighten out the report, don't bother me with it. As far as I am concerned we've got a report, is it binding on us, is it good or is it bad? You're saying its been altered, by who?

Mr. Augustine said that is exactly the question he had for the Board. I want to know if someone contacted Mr. Lundy and asked the report to be altered between the date I received it...

Mr. Haefeli said I don't believe that is an appropriate question...

Mayor Teller said it talked to Lundy on the weekend, I don't ask him a question on their audit other than is there a red flag or not. I am the last guy talked to Lundy and he said he was sending it out and it would get here on Wednesday, he apparently went to the hospital and I don't know that for a fact but, I talked to Mike and they said what is going on, it was supposed to be here, it came on Wednesday, Pat was there, a woman came in with a box with six copies that is all I know about your damn report.

Mr. Augustine said he appreciated the answer from the Mayor and it answers his question.

Mayor Teller said if you think I can type and change it you are out of your mind.

Mr. Augustine said it was not an accusation that you changed the report, I was trying to find out what happened between the date I received the report and the date you received it five days later, I now know.

Deputy Mayor Tucker asked Mr. Augustine what date he received the report.

Mr. Augustine said there is a part he is leaving out. He said to Mr. Haefeli, in an attempt to find out what happened, I contacted Mr. Lundy's office and was told he was in the hospital

and was unavailable. I did speak with the person who prepared the three page changes and she said she did it at the instructions of her boss on Monday. So now I understand what happened between my getting the original report and yours two days later, I understand. You answered the question.

Mayor Teller said you hired them, you get your report straightened out and we will give you back the copies.

Mr. Augustine said at the present time there are two copies floating around.

Mayor Teller said well you better straighten them out because you are the one presenting them.

Mr. Augustine said yes, sir, I will straighten them out.

Mr. Haefeli said to Mr. Augustine, he does not have a problem with what he is saying but he is the attorney for the Board on this issue, this is something that should have been discussed with the Board in an attorney-client privilege and not in front of the audience that is here, then it could have been cleared up. You are not supposed to be discussing these sort of issues in front of the Board in front of an audience. You are an attorney.

Deputy Mayor Tucker said part of the problem is that we were told we would have the report on Monday, March 4<sup>th</sup> and we have a document dated March 5<sup>th</sup> and we were told it was completed, he was finishing it up a couple weeks ago and you said you got it...

Mr. Augustine said he got it approximately a week ago.

Mayor Teller said we got it Wednesday morning at 9:35

Deputy Mayor Tucker said ok.

Mr. Haefeli said the issue he is raising is not that it should not be discussed, what I am saying is I am critical of the manner in which it is being discussed. It is not a member of the audience making a discussion it is the attorney representing the municipality about a discrepancy in a report and that is something that never should be discussed in public initially, it has to be discussed between the attorney and the client. That is the only point I am making.

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Michelle Bugge, she said that Mr. Tucker asked if she had flood insurance and she wanted to know what that has to do with addressing the flooding problem.

Deputy Mayor Tucker said no, you said your house was wrecked and I wanted to make sure you were taking advantage of the flood insurance and you mentioned FEMA wasn't giving a lot of money, one of things we are talking about is trying to help homeowners understand what the programs are, the electricity, the panels were clipped and they are waiting until the spring to address it. We talked to Paul...

Ms. Bugge said she talked to Paul and learned she wasn't eligible...

Deputy Mayor Tucker said he wanted to make sure she looked at all possibilities.

Ms. Bugge said that because she has flood insurance the problem is not going to be addressed.

Chief Building Inspector Paul Houlihan said there have been discussions on this, on the possibility on getting ICC money, increased cost of compliance money, if you have flood insurance because if you have flood insurance you can get up to an extra \$30,000 to raise your house. There are a couple of things that have to be done. She did not have enough damage to be substantial damage, that would have to be at least 50% of the house. She was one of many who had far less than that. If you don't have a letter from the municipality saying that, you cant get the money. Even if you have a letter, and we have given out many half a dozen and even if we give you a letter, that doesn't mean they go and give you \$30,000, you have to put your package together. You have to get your building permit, get the house raised and after it is raised then they give you the money. There is a whole process there and in addition to that, the Village Clerk and myself and the Police

Department were at a kick-off meeting for hazard mitigation which could lead to more monies down the road and we are working with the Town and County and taking those steps too. I would encourage anyone, to look at the website, we have something about ICC and the monies.

Deputy Mayor Tucker said that there is something called repetitive where there are always problems that's why I was asking, but you had participated, and you can get a number direct with FEMA, then you wouldn't have to go through us and they can keep track and they can look at someone who has had repetitive problems.

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Collette Hoffman, Quiogue. She sees signs all the time, to shop local, she doesn't want to spend her weekends shopping in Riverhead, she wants to be in Westhampton and stay local. She is home in an hour or 3 ½ hours later, up and down 58, when she could find a nice supermarket would can give her deals all year long instead of Waldbaums who cleans up in the summer for all the summer people come and it is not fair. I came from the city where supermarkets are open 24 hours, just a variety and a selection and not crowded aisles. I want my money to stay here, I have children a home to feed, I don't want to go elsewhere. I want to shop local and that's what I want to do but I am being driven somewhere else. We talk about all the time, I could be right here and not have to do all that with a nicer store.

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Trustee DiBenedetto wanted to comment to Ms. Richardson about the sidewalks. If there is something they can talk about at a work session about putting something as far as, some type of resolution to make the homeowner responsible for cleaning because I don't know, the bus routes and what he limits are for who has to walk and who is entitled to buses s that when we have an emergency like this and take the burden off the Village and make the homeowner responsible for sidewalk in front of their property. Maybe that is something we need to address, just a thought.

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Dean Speir, Westhampton Beach. He said he understands the Village is going to be selling surplus items, including lighting, can his streetlight be done?

Mayor Teller said it has been delivered. The ones being sold are from the barn.

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Mayor Teller asked if anyone else would like to be heard. There being no further response, he made a motion to adjourn the meeting and enter into Executive Session for personnel purposes. The motion was seconded by Trustee Urban and unanimously approved. 4 Aye, 0 Nay.

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Respectfully submitted,

Rebecca Molinaro  
Clerk-Treasurer