

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Thursday, June 6, 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 Elizabeth Lindtvit  
Village Attorney Richard Haefeli

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**PUBLIC HEARINGS**

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Mayor Teller made a motion to open the public hearing to Amend Chapter 123 of Village Code-Parks and Recreation. Seconded by Deputy Mayor Tucker and approved 4 Aye and 0 Nay.

Village Attorney Richard Haefeli briefly explained the change in the local law; Mayor Teller asked if anyone would like to be heard. There being no response, Mayor Teller made a motion to close the public hearing, Seconded by Deputy Mayor Tucker and approved 4 Aye 0 Nay.

WHEREAS, This Board has advertised a local law amending Chapter 123 of the Village Code, entitled "PARKS AND RECREATION" and

WHEREAS, a public hearing was held on June 6, 2013, and

WHEREAS, this Board has resolved that it is the lead agency for purposes of SEQRA review, and

WHEREAS, this Board has reviewed the submitted EAF Part I and the applicable criteria pursuant to 6 NYCRR 617.7 in determining the environmental significance of this action, and

Whereas, this Board has determined that the proposed local law is one of general applicability.

IT IS THEREFORE RESOLVED that the proposed action will not have a significant effect on the environment and therefore this Board issues a negative declaration with respect to this proposed action, and

WHEREAS, all persons present at the meeting have had an opportunity to speak on behalf of or in opposition to the proposed Local Law, or any part thereof, and

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

Seconded by Trustee Urban and approved 4 Aye 0 Nay

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Mayor Teller made a motion to open the public hearing to Amend Chapter 178 of Village Code-Vehicles and Traffic. Seconded by Deputy Mayor Tucker and approved 4 Aye and 0 Nay.

Mayor Teller asked if anyone would like to be heard.

There being no response, Village Attorney Richard Haefeli briefly explained the change in the local law, Mayor Teller made a motion to close the public hearing, Seconded by Trustee Deputy Mayor Tucker and approved 4 Aye 0 Nay.

WHEREAS, This Board has advertised a local law amending Chapter 178 of the Village Code, entitled "VEHICLES AND TRAFFIC" and

WHEREAS, a public hearing was held on June 6, 2013, and

WHEREAS, this Board has resolved that it is the lead agency for purposes of SEQRA review, and

WHEREAS, this Board has reviewed the submitted EAF Part I and the applicable criteria pursuant to 6 NYCRR 617.7 in determining the environmental significance of this action, and

Whereas, this Board has determined that the proposed local law is one of general applicability.

IT IS THEREFORE RESOLVED that the proposed action will not have a significant effect on the environment and therefore this Board issues a negative declaration with respect to this proposed action, and

WHEREAS, all persons present at the meeting have had an opportunity to speak on behalf of or in opposition to the proposed Local Law, or any part thereof, and

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

Seconded by Deputy Mayor Tucker and approved 4 Aye 0 Nay

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Mayor Teller made a motion to open the public hearing to Amend Chapter 196 of Village Code-Outdoor Dining, Outdoor Tables, Chairs and Benches and Music.

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

Village Attorney Richard Haefeli, explained the local law change,

Mayor Teller asked if anyone would like to be heard.

Simon Jorna, owner of Beach Bakery made a comment that over the years this law was probably written for him. Simon continued on about the number of tables being 7 and chairs being 28. His thoughts were that in his business the people who come in are singles and doubles and would prefer a smaller table over a table of 4 persons. Mayor told Simon this was not his Special Exception hearing, Richard Haefeli clarified that Simon was talking about the Local Law itself about the number of tables. His suggestion for the law is 14 tables of 2 instead of 7 tables of 4. He would like his business to be a bistro atmosphere, 2 people per table. He asked for a change of 7 to 14 tables, Deputy Tucker asked him if he could fit 14 tables and his response was he wasn't talking about hi place he was talking about other places; if it fits 7 tables of 4 it would fit 14 tables of 2. Richard Haefeli questioned Simon about not wanting more chairs but changing the number of tables in the law. Trustee DiBenedetto asked if there was discussion about table sizes, Richard Haefeli explained that was discussed and the Planning Board level of the Special Exception process. Simon commented he felt the Board would be making a mistake if they passed this law and should consider a modification. Richard Haefeli told the Board of Trustees they could hold the hearing over, make amendments to the law and continue next month. Trustee DiBenedetto stated that it should be considered.

Mayor made a motion to hold over the public hearing,

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

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Mayor Teller made a motion to open the public hearing Special Exception-2013 Beach Bakery Outdoor Dining. Seconded by Trustee Urban and approved 4 Aye and 0 Nay.

Mayor asked Simon if he would like to be heard again, He stated that if the Board wants to give him 28 he will be happy and won't have anything to say. His request is for 28 chairs and 14 tables. Deputy Mayor Tucker stated as of yesterday the decision was 5 tables and 22 chairs, updated paperwork was dropped off today by Don Jewell requesting 28 seats. Deputy Mayor Tucker commented about site coming along and looking nice, wondering where music was going to be, saying that is next issue. Deputy Mayor Tucker told Simon the Board typically accepts the Planning Board recommendations. Richard Haefeli stated that Simon could come back to the Board when the construction is finished and be reconsidered for a change in the number of tables and chairs. Discussion continued about the number of tables, Simon would like tables for 2 persons not for 4 persons.

Mayor made a motion to close the public hearing

Seconded by Trustee Urban and approved 4 Aye and 0 Nay

The applicant is the owner of property located at 112 Main Street which is used as a standard restaurant and has applied for a permit pursuant to the provisions of Section 196-1 of the Village Code to permit the placement of tables and chairs on a south and west side of the building.

Outdoor tables, chairs and benches are permitted in the B-1 Zoning District by way of permit issued by this Board.

The application has been submitted to the Planning Board for its recommendation which was issued on April 12, 2013. The Planning recommended approval of the five tables and twenty-two chairs proposed by the applicant.

The applicant is granted a special exception permit for five tables and twenty-two chairs to be placed on the south side and west side of the building.

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

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Mayor made a motion to open public hearing for the 2013 Special Exception Renewal Beach Bakery Outdoor Music. Seconded by Deputy Mayor Tucker and approved 4 Aye and 0 Nay.

Mayor stated there was one conflict in schedule with music on the green but it is being worked out. Richard Haefeli told Simon he needed to do a presentation; Simon stated that the music was helpful for the merchants on Main Street it brings people to Main Street. Simon is asking for music for more time that last year. Deputy Mayor Tucker commented that it is a question of safety, when the people gather they spill over into the street.

Mayor Teller, thanked Simon and asked if anyone else would like to be heard, Tom Moore, Lilac Road asked the Board to consider Simon's application with respect to closing one or two parking spaces in front of the business. Mr. Moore stated that with respect to the conflict with the Village green, they are far enough apart and would increase pedestrian traffic on Main Street and seems consistent with what the Board wants to do. Mr. Moore's last comment was he supports Simon's application. Deputy Mayor Tucker asked Chief Dean what he thought about closing spots on Main Street, Chief Dean replied that those spots are public spots and not Simon's spots; parking is a premium on Main Street. He stated that having pedestrians in the street is not safe. Chief Dean stated that his officers will move people along if it gets to crowded. Deputy Mayor Tucker told Simon he needs to take some responsibility for crowd control, it is a safety issue. Susan Gugick, 18 Tuttle Place, stated that a comment was made about it being a dark place, suggested a flood light to light up the area. Trustee DiBenedetto thanked her for her suggestion and stated that the big issue was the crowd control; more and more people are coming to the Village.

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

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

The applicant is the owner of property located at 112 Main Street and has applied for a permit pursuant to Section 196-2 the Village Code to permit outdoor music.

Outdoor music is permitted only in the B-1 Zoning District by way of permit issued by this Board.

NOW BE IT RESOLVED AS FOLLOWS:

That the Board of Trustees hereby authorizes and grants to Beach Bakery a permit for outdoor music subject to all of the conditions set forth in Section 196-2 of the Code together with the following conditions:

1. It shall be the obligation of Beach Bakery that the public sidewalk not be obstructed and that no structures shall be placed on Main Street, preventing the use of any parking spaces in front of Beach Bakery.
2. There shall be no advertising of any type, with respect to any musician, musicians or artists performing on the property of Beach Bakery.
3. Music shall be allowed only on Friday and Saturday nights from 7 PM to 11 PM, except on Labor Day weekend when music shall also be allowed on Sunday night.
4. If on any night that music is allowed there is a conflict with music provided at the Village Green, then the music shall not start until 8 PM.

Seconded by Deputy Mayor Tucker and approved 4 Aye and 0 Nay

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Mayor Teller made a motion to open public hearing 2013 Special Exception Sweet Andy's Cookies Outdoor Dining. Seconded by Trustee Urban and approved 4 Aye and 0 Nay

Mayor Teller asked if anyone was here for this application, Richard Haefeli stated that the applicant didn't realize he needed to be at the meeting. Mr. Haefeli also continued explaining that the applicant went before the planning board and received the recommendation of three (3) tables and nine (9) chairs, it is a luncheon with permitted use, Mr. Haefeli stated. Mr. Haefeli stated that is was probable just an oversight on the applicants part that he wasn't present at the meeting.

Mayor Teller asked if anyone wanted to speak, there being no response,

Mayor Teller made a motion to close the Public Hearing

Seconded by Deputy Mayor Tucker and approves 4 Aye and 0 Nay.

The applicant is the owner of property located at 136 Old Riverhead Road which is used as a luncheonette and has applied for a permit pursuant to the provisions of Section 196-1 of the Code of the Village of Westhampton Beach to permit the placement of three (3) tables and nine (9) chairs on a west side of the building.

Outdoor tables, chairs and benches are permitted in the B-3 Zoning District by way of permit issued by this Board.

The application has been submitted to the Planning Board for its recommendation which was issued on April 12, 2013. The Planning Board recommended approval of the three tables and nine chairs proposed by the applicant.

The applicant is granted a permit for three tables and nine chairs to be placed on the on the west side of the building.

Seconded by Trustee DiBenedetto and approved 4 Aye and 0 Nay

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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 Special Meeting of April 17, 2013, and Regular meeting of May 9, 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 April 2013, Justice Court, Police Department's and Building Inspector's reports for May 2013, are hereby accepted.

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

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**Accept Proposal for Services – Online Graphics**

Motion by Trustee DiBenedetto:

Resolved, that the Board of Trustees hereby accept a proposal from Online Graphics at a one-time cost of \$400.00 for client specific photography and HD video. All photos will be the property of the Village to use at their discretion.

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

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**Appoint Seasonal Employee**

Motion by Trustee Palmer:

RESOLVED, that Thomas Abbatiello Jr. be appointed as a Lifeguard for the 2013 season at the rate \$15.00 per hour to replace Matthew Montpetit, who has taken another job and will not be working for the Village.

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

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**Approve Seasonal Boat Slip Refund**

Motion by Deputy Mayor Tucker:

RESOLVED, that the Board of Trustees hereby approve the refund of \$150.00 for the difference in boat size of a seasonal fee paid by Carl Johnson.

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

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**Approve Non-Resident Beach Sticker Refund**

Motion by Trustee Urban:

RESOLVED , that the Board of Trustees hereby approve the refund of \$425.00 to Edith A. Zang for the return of the non-resident beach parking sticker number 182 she purchased, per the letter she sent to the Mayor & Village Trustees. This is a one-time discretionary refund.

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

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**Approve Memorandum of Agreement with AME**

Motion by Trustee DiBenedetto:

RESOLVED, that the Board of Trustees hereby approve the attached Memorandum of Agreement with AME.

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

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**Approve Use of Village Property – Alzheimer’s Disease Resource Center**

Motion by Trustee Palmer:

RESOLVED, that the Alzheimer’s Disease Resource Center is hereby authorized to use the Village Green and conduct a 5k Walk per route on file on Saturday, October 26, 2013 from 9 a.m. to 3 p.m. for lunch and festivities.

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

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**Authorize Use of Village Property-Westhampton Beach Elementary School**

Motion by Deputy Mayor Tucker:

RESOLVED, that the Westhampton Beach Elementary School is hereby authorized to use Rogers Beach on Friday, June 14, 2013 from 9:30 a.m. to 2:30 p.m. for the annual 5<sup>th</sup> Grade Beach Day.

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

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**Authorize Use of Village Property-Ocean Dunes Club Condominium**

Motion by Trustee Urban:

RESOLVED, that the Ocean Dunes Club Condominium is hereby authorized to use the Village Hall Board Meeting Room on Sunday, June 30, 2013 from 9:00 a.m. to 12:00 p.m. for the Annual Condominium Meeting.

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

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**Authorize Use of Village Property-Seafield Center**

Motion by Trustee DiBenedetto:

RESOLVED, that the Seafield Center is hereby authorized to use the Rogers Beach Pavilion on Friday, September 6, 2013 (rain date September 13, 2013) from 7 a.m. to 4 p.m. for the Annual Wellness Day.

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

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**Authorize 2013 Renewal of Funcho’s Fajita Grill Outdoor Music Permit**

Motion by Trustee Palmer:

RESOLVED, that the Board of Trustees hereby approve the renewal of the Funcho’s Fajita Grill Outdoor Music Permit for 2013 subject to the same conditions as set forth in the Determination dated January 6, 2011, the provisions of Chapter 196-2 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 Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay

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**Authorize 2013 Renewal of Funcho's Fajita Grill Outdoor Dining Permit**

Motion by Deputy Mayor Tucker:

WHEREAS, Funcho's Fajita Grill has applied to renew the Outdoor Dining Permit for 2013 to place five (5) outdoor tables and twenty (20) standard 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 in 2006 and subject to the same set of conditions.

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

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**Authorize Employee to Attend Annual IACP Training**

Motion by Trustee Urban:

RESOLVED, that Police Chief Raymond Dean is hereby authorized to attend the 2013 Annual IACP Training in Philadelphia from October 20 to October 23, 2013 at a cost of \$845.00 per person for lodging and conference registration plus travel expenses. Funding is appropriated in Account A3120.415, Training and Conventions.

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

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**Authorize Reimbursement Payment to Employee**

Motion by Trustee DiBenedetto:

RESOLVED, that the Board of Trustees hereby approve a payment in the amount of

\$923.30 to Andrew DeRubeis as reimbursement for tuition at Farmingdale State University. Mr. DeRubeis successfully completed a course in Woody Plants II to achieve his goal as a Horticulturist for the Village of Westhampton Beach. This payment will come from account A8510.405 Beautification.

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

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**Authorize Purchase of Tires for Pay Loader**

Motion by Trustee Palmer:

RESOLVED, that the Board of Trustees hereby approve a payment to Barnwell Tires, Inc. in the amount \$ 4,500.00 from account code A5110.201 for four (4) 175R25 Volvo Pay Loader tires, including removal and installation.

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

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**Authorize Purchase of Shade System**

Motion by Deputy Mayor Tucker:

RESOLVED, that the Board of Trustees hereby approve a purchase of a Shade System "Sail" Canopy to replace the gazebo at the Village Yacht Basin for a maximum amount of \$18,000 from the Park Fund subject to written contract.

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

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**Authorize Increased Work Schedule**

Motion by Trustee Urban:

RESOLVED, that the Board of Trustees hereby approve the increase of 5 hours to a 35 hour work week for Veronica Wagner, Assessment Clerk to assume the duties of the false alarm billing.

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

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**Authorize Report from Village Planner**

Motion by Trustee DiBenedetto:

WHEREAS, the Board of Trustees is considering whether to undertake a review of the 2007 business districts master plan

NOW BE IT RESOLVED AS FOLLOWS:

That the Board of Trustees hereby authorizes the Village Planner to submit a report to the Board outlining the procedure required for updating the 2007 business district master plan together with the estimated cost for such an update.

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

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**Approve Warrant for June 2013**

Motion by Trustee Palmer:

RESOLVED, that the warrant for May 31, 2013 in the amount of \$221,057.28 for the General Fund is hereby approved.

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

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**PUBLIC DISCUSSION**

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Joan Levan of 17 Oneck Road asked the Board of Trustees if there was a set time for the Village Planner to complete the requested task. Mayor Teller responded with an approximate time line of two (2) months possibly ready by August. Leonard Gugick of 18 Tuttle Place asked for update on the Eruv. Richard Haefeli explained that all paperwork has been filed with the court system; motions before the court to dismiss the case against Verizon. Frank Isler, attorney for Andrew Mendelsohn, questioned resolution being added to agenda at last minute; not on website as of 2:30pm. Mr. Isler asked if the resolution was pertaining to their petition to the Board and asked the Board to revisit their resolution stating there is no need to amend the master plan with respect to grocery use in the B-3 district. Mr. Isler read from the master plan as he has done in the past. He proceeded to tell the Board what their plan is for the downtown area reference truck traffic delivering to the groceries downtown. He tells the Board the resolution is totally un-necessary, if you look at the master plan you don't need to be a planner, just someone who can read English. Mr. Isler states asked the Board to revisit their resolution and that the master plan is totally compatible and not needed to be changed. Mr. Isler Asked the Board to move their petition along. Audience members clapped. Mr. Haefeli commented that since the papers have been submitted, the applicant is calling it a petition, he is questioning where it is or not. Mr. Haefeli stated that he "has consistently stated that the proposal is a change and under the Village Law 7722 a change can only occur by an amendment to the existing master plan. The plan was adopted in 2007; under the state law, and in my opinion, and the opinion of the appellate division due to the number of cases the change the change being proposed can only take place, I'm not saying it can't take place; it can only take place if there has been an amendment to the master plan. Mr. Isler commented that the law is very clear, if



there is a change of zone as your attorney has said, if that is different than your master plan currently provides; it is contrary to the plan; then you must amend your plan; but an amendment that is consistent with your master plan need not require an amendment, that is my legal opinion, your counsel probably has a different one. I beg to differ with him. Thank you. Mr. Gugick requested that a summary of the petition be presented. Mr. Haefeli stated the petition was not there currently, but is filed with the Village and told Mr. Gugick he could look at it under the freedom of information law. Trustee Palmer asked the attorney if a property amendment is inconsistent with the master plan; the attorney replied that he has given the Board that opinion from day one and is not changing the opinion. Deputy Mayor Tucker stated the reason for the resolution was to move this issue along. Tom Moore, Lilac Road; question about amendment to the zoning code, this particular amendment is that a fact as to whether that is consistent or not, is that a legal question or factual question for the Board. Mr. Haefeli responded that it starts off as a legal question if it is a proposed amendment to zoning code where a master plan has been adopted there has to be an amendment to the master plan. All the Board is doing tonight is getting the information from the planner as to proceeding forward or whether they want to proceed forward. Susan Gugick commented that she was satisfied with Waldbaums, thought they would be expanding and Trustee DiBenedetto explained what happened with the renovations where not completed because the mother company A&P pulled the money for the project and minor renovations were completed. Mayor Teller asked Ms. Gugick to hold up about the supermarket, not a public meeting for that. She asked if there would be input from village residents, most certainly. Deputy Mayor Tucker and Trustee DiBenedetto both stated that the Village wants to move forward. Trustee Palmer added that it would be an amendment not a whole new plan. Susan Gugick, deer population what is being done, completely destroyed her fencing, eaten hedges, asked what is going to be done. Deputy Mayor Tucker explained that the village can have hunters cull the herd as long as there is 500' between neighbors. The issue needs to be addressed from the State level on down. Simon stood up at meeting end to compliment Paul Houlihan. Simon asked the Board if there was a 5 year, 10 year plan for development of the Village. The Board answered there are no plans right now.

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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. The motion was seconded by Deputy Mayor Tucker and unanimously approved. 4 Aye, 0 Nay.

Respectfully submitted,



Elizabeth Lindtvit  
Clerk-Treasurer