

A Regular Meeting of the Board of Trustees of the Village of Port Washington North was held on Monday, **November 27, 2006** at 7:30 p.m. at the Village Hall, 71 Old Shore Road, Port Washington, New York.

Present:	Mayor	-	Robert Weitzner
	Trustees	-	Steven Cohen
		-	Daria Hoffman
		-	Michael Malatino
		-	Michael Schenkler
	Attorney	-	Stephen Limmer
	Clerk	-	Palma Torrisi
	Public Stenographer	-	Daniel Cohen

1. Public Hearing – Bill 13B of 2005 – Tree Protection

A. Fire Protection & Emergency Medical Services

Mayor Weitzner opened the Public Hearing, duly advertised in the November 16, 2006 Port Washington News, to consider the Fire Protection & Emergency Medical Services 2006 contract with the Port Washington Fire Department Inc. at a cost of \$278,759.00. A stenographic transcript of the hearing is on file with the Village Clerk. The Mayor adjourned the public hearing to 7:30 p.m. on December 18, 2006 at the Village Hall.

B. Bill 2 of 2006 – Notices of Tax Sales and Notices to Redeem

Mayor Weitzner opened the public hearing, duly advertised in the November 16, 2006 Port Washington News, to consider the adoption of Bill 2 of 2006, a proposed local law amending certain provisions of the Code of the Village of Port Washington North with regard to notices of tax sales and notices to redeem. A stenographic transcript of the hearing was made and is filed with the Village Clerk. All those present having had the opportunity to speak, the Mayor closed the public hearing. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was RESOLVED that Bill 2 of 2006 be and hereby is adopted as Local Law 2 of 2006 to read as follows:

Local Law 2 of the year 2006

A local law amending certain provisions of the Village Code of the Village of Port Washington North with regard to notices of tax sales and notices to redeem

Be it enacted by the Board of Trustees of the Village of Port Washington North

Section 1. Legislative Findings and Intent.

A. In two court decisions, *Jones v. Flowers*, 126 S.Ct. 1708 (2006), and *Kahen-Kashi v. Risman*, 8 A.D.3d 342 (2nd Dept. 2004), the courts have held, in substance, that the notice provisions of Title 3, Tax Sale Provisions, of the New York State Real Property Tax Law, may fail in certain instances to provide the constitutionally required due process before the taking of one's property. It is the intent of this local law to comply with the constitutional requirements for due notice in the collection of property taxes, with regard to tax sales and notices to redeem, by requiring additional reasonable steps to notify owners and lienholders when such reasonable steps are available, and to provide for the collection of the costs to the Village in providing such notice.

B. To the extent that the Real Property Tax Law must be superseded in order to comply with said decisions, it is the intent of this Board to do so.

Section 2. Real Property Tax Law Article 14 superseded.

Pursuant to the provisions of Article IX of the New York State Constitution and Subdivision 1(ii) of §10 of the Municipal Home Rule Law, Article 14 of the New York State Real Property Tax Law is hereby superseded to the extent necessary, in order to implement the

provisions of §147-20.1 and § 147-20.2 of the Code of the Village of Port Washington North, as set forth herein.

Section 3. Article IV, Property Tax Collection, of Chapter 147, Taxation, of the Code of the Village of Port Washington North, is hereby amended by adding new sections §147-20.1 and § 147-20.2, to read as follows:

“§147-20.1. Additional notice of tax sale.

A. Mailing of Notices.

- (1) In addition to the notice requirements set forth in §1452 of the Real Property Tax Law of the State of New York, as the same was in effect on December 31, 1994, the Village Clerk shall mail notice to all owners and lienholders of record of the real property upon which taxes are unpaid with the amount of the tax, interest, and charges thereon and stating that such real property will, on a day subsequent to the expiration of the three weeks to be specified in such notice and the succeeding days, be sold at public auction at a designated place in the village, to discharge the tax, interest, and other charges, which may be due thereon at the time of the sale.
- (2) Said notice shall be sent not less than three weeks before the first day of such sale, by certified or registered mail return receipt requested and by first class mail, to such person's last known address. With regard to an owner, such mailing to the address on the assessment rolls of the village shall be deemed sufficient. As to a lienholder, such mailing to the address noted at the Nassau County Clerk's office with regard to such lien shall be deemed sufficient. Proof of such mailing shall be filed with the Village Clerk.

B. Additional notice.

In the event that both the certified or registered mail and the first class mail are returned to the Village, or the Village Clerk shall have other good reason to believe that neither of said mailings were received by the addressee, the Village Clerk shall:

- (1) If the subject premises are improved with a principal building:
 - (a) Have such notice posted on the front door of the principal building; and
 - (b) Have such notice mailed to “occupant” at the address of the subject premises.
- (2) If the subject premises are not improved with a principal building, have such notice posted in not less than two conspicuous places at the subject premises.
- (3) Take such other reasonable steps, if any, as the Village Clerk may deem appropriate under the circumstances, to provide such notice.

C. Last owner and lienholders search.

The Village Clerk shall obtain from a title or abstract company a last owner and lienholders search of the real property upon which taxes are unpaid.

D. Additional charges.

The cost of the last owner and lienholders search, as well as the cost of such mailing, posting, and any additional expenses in providing the notice required by this section, shall be an additional charge upon such real property to be collected with such taxes, interest and other charges.

§147-20.2. Void or vacated liens and deeds.

If a transfer of tax lien or a tax deed be vacated or be set aside or cancelled, or if it be adjudged in any action or proceeding by a court of competent jurisdiction that a transfer of tax lien or tax deed is invalid or defective or not sufficient to transfer a tax lien or to convey title to the purchaser thereof, or if in any action to foreclose a tax lien or challenging a tax deed it be adjudged that the entire tax lien or tax deed is void and not a valid lien on or deed to the premises which it purports to affect or transfer, and if, as a result of any such adjudication the purchaser or grantee shall surrender such transfer of tax lien or deed, and any and all rights thereto to the village, together with a certified copy of such judgment or decree to the village clerk, thereupon such purchaser shall be repaid by the village the amount paid for such transfer of tax lien, with interest from the time of such payment at the rate set forth in the transfer of tax lien, and such tax lien shall remain as a valid lien upon the premises which it affects, except to such extent that it may have been adjudged irregular or invalid, and the village shall proceed to sell anew, as provided in this article, so much of the said tax lien as is not invalid as if no prior sale purporting to transfer the said tax lien had taken place.”

Section 4. Severability.

The provisions of this local law are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this local law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this local law beyond such person, establishment, or circumstance.

Section 5. Effective Date.

This local law shall take effect immediately.

Vote was recorded as follows: Trustee Cohen-aye, Trustee Hoffman-aye, Trustee Malatino-absent, Trustee Schenkler-aye, Mayor Weitzner-aye. Motion carried.

C. Bill 3A of 2006 – Limiting the Size of Restaurants

Mayor Weitzner opened the public hearing, duly advertised in the November 16, 2006 Port Washington News, to consider the adoption of Bill 3A of 2006, a proposed local law amending certain provisions of the Code of the Village of Port Washington North to limit the size of restaurants. A stenographic transcript of the hearing was made and is filed with the Village Clerk. All those present having had the opportunity to speak, the Mayor closed the public hearing.

D. Bill 4 of 2006 – Regulating Take-Out and Food Delivery

Mayor Weitzner opened the public hearing, duly advertised in the November 16, 2006 Port Washington News, to consider the adoption of Bill 4B of 2006, a proposed local law to regulate take-out-food restaurants and delivery vehicles within certain areas of the Village of Port Washington North. A stenographic transcript of the hearing was made and is filed with the Village Clerk. All those present having had the opportunity to speak, the Mayor closed the public hearing.

2. Clerk

On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was unanimously RESOLVED that the reading of the minutes of the Board of Trustees meeting of September 26, 2006 be waived and that they be and hereby are approved as prepared by Clerk Torrisi.

3. Treasurer

A. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously

RESOLVED that the reading of the Abstract of Vouchers #56, totaling \$164,346.39, and the Abstract of Trust & Agency Vouchers #23, totaling \$672.33, be waived and that they be and hereby are approved as prepared by Treasurer Stack.

B. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously
RESOLVED that the Budget Report as of September 30, 2006, showing the General Fund Balance to be \$2,690,874.00, and the Trust & Agency Fund Balance to be \$55,563.00, be and hereby is accepted as prepared by Treasurer Stack.

C. On motion of Trustee Schenkler, seconded by Trustee Cohen, the following resolution was unanimously adopted:

D. On motion of Trustee Schenkler, seconded by Trustee Cohen it was unanimously
RESOLVED that the budget revisions contained in the Budget Reported dated October 31, 2006 be and hereby are approved.

E. On motion of Trustee Schenkler, seconded by Trustee Hoffman, the following resolution was unanimously adopted:

WHEREAS there was an understanding between Mayor Weitzner and Ronald Novinski prior to his commencement of work for the Village on October 4, 2006 that work performed between October 4 and October 31, 2006 would be compensated at a sum to be negotiated between them, subject to the approval of the Board of Trustees; and

WHEREAS Mayor Weitzner and Ronald Novinski have now agreed upon a compensation for said period in the amount of \$1,000.00;

NOW, THEREFORE, BE IT RESOLVED that the compensation for Ronald Novinski for work performed between October 4, 2006 and October 31, 2006 shall be \$1,000.00.

4. Reports

A. Building Department

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously
RESOLVED that the Building Department report for November 2006 be and hereby is accepted as presented.

B. Public Works

1. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously
RESOLVED that the Public Works report for the month of October 2006 be and hereby is accepted as presented.

2. The Board authorized Superintendent Novinski to procure three or more quotes from responsible vendors for sand/salt mix and, then, to purchase up to \$10,000 worth of sand/salt from the vendor with the lowest quote.

5. Business

A. Halloween Curfew

Marra Hollander, Stefan Muller and Eliana Teodorou addressed the Board with regard to Local Law 6 of 1988, which established an annual Halloween juvenile curfew.

B. Bill 6 of 2006 – Amending Certain Penalty Provisions

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously
RESOLVED that there will be a public hearing of the Board of Trustees of the Village of Port Washington North with respect to the adoption of Bill 6 of 2006, a proposed

local law amending certain penalty provisions of the Village Code, at 7:30 p.m. on December 18, 2006 at the Village Hall, 71 Old Shore Road, Port Washington, New York.

C. Nassau County Traffic & Parking Violations

On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was unanimously RESOLVED that the Village enter into a contract with the Nassau County Traffic and Parking Violations Agency for the collection of delinquent traffic and parking violations, as more particularly set forth in an agreement dated November 27, 2006.

D. Fence Permit Fees

On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was unanimously RESOLVED that the fee shall be \$175.00 for a permit for a new fence and that the fee for a replacement fence shall be \$150.00.

E. Removal of Tree – 60 Soundview Drive

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that, upon advice of the Village arborist, Richard Gibney, the tree in front of the premises at 60 Soundview Drive shall be removed.

F. N.Y.S. Quality Communities Grant – TNH Application

On motion of Trustee Hoffman, seconded by Trustee Schenkler, the following resolution was unanimously adopted:

WHEREAS the Town of North Hempstead along with the villages of Baxter Estates, Flower Hill, Manorhaven, Munsey Park, Port Washington North and Sands Point, which make up the Port Washington peninsula, are seeking \$100,000 to enhance the Town's existing Geographic Information System; and

WHEREAS this cooperative project will provide a centralized system for planning with the Town of North Hempstead and the multiple village jurisdictions that overlap within the peninsula;

NOW, THEREFORE, BE IT RESOLVED that the Village of Port Washington North support the application of the Town of North Hempstead for a New York State Quality Communities Program grant.

6. Executive Session

On motion of Trustee Cohen, seconded by Trustee Cohen, it was unanimously RESOLVED that the Board enter into executive session to seek the advice of counsel.

On motion of Trustee Hoffman, seconded by Trustee Cohen, it was unanimously RESOLVED that the executive session be adjourned and that the regular meeting be reconvened.

Mayor Weitzner stated that no action was taken in executive session and no minutes will be produced.

5. Business (continued)

G. Thomas J. Pellegrino

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that, based upon the legal claim and threatened litigation by Thomas J. Pellegrino, and the advice of counsel that defending such claim would well exceed the amount demanded, and, as in any litigation, as strong a case as the Village may have, there is never a guarantee of success, and, therefore, a settlement of the claim would be a reasonable exercise of the Board's discretion;

NOW, THEREFORE, upon execution and delivery by Thomas J. Pellegrino of a general release, approved as to form by Village Attorney Limmer, the Village will settle with Thomas J. Pellegrino all possible claims he may have for retroactive salary of \$5,000.00, will issue a W-2 form and any other appropriate tax filing ordinarily issued in connection with such payment, and will pay the applicable employer contributions in connection therewith to the New York State Employees' Retirement System.

On motion of Trustee Hoffman, seconded by Trustee Schenkler, it was unanimously RESOLVED that the meeting be and hereby is adjourned at 12:15 a.m.

Palma Torrisi, Village Clerk