

A Regular Meeting of the Board of Trustees of the Village of Port Washington North was held on Wednesday, **December 14, 2005** at 8:30 p.m. at the Village Hall, 71 Old Shore Road, Port Washington, New York.

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

Excused: Trustee Hoffman

1. Public Hearings

A. Fire Protection & Emergency Medical Services

Mayor Weitzner opened the Public Hearing, duly advertised in the December 1, 2005 Port Washington News, to consider the Fire Protection & Emergency Medical Services 2006 contract with the Port Washington Fire Department Inc. at a cost of \$245,139.00. A stenographic transcript of the hearing is on file with the Village Clerk. All those present wishing to speak having been heard, the Mayor closed the public hearing. On motion of Trustee Malatino, seconded by Trustee Cohen, the following resolution was adopted:

RESOLVED that the Village contract with the Port Washington Fire Department Inc. for the furnishing of FIRE PROTECTION AND EMERGENCY MEDICAL SERVICE within the Village for the period of January 1, 2006 through December 31, 2006 at a cost to the Village of \$245,139.00, and that the Mayor is hereby authorized to execute such contract on behalf of the Village.

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

B. Bill 14D of 2005 – Permitted Uses in the Business District

Mayor Weitzner opened the Public Hearing, duly advertised in the December 1, 2005 Port Washington News, to consider the adoption of Bill 14D of 2005, a proposed local law amending the provisions of the Code of the Village of Port Washington North with regard to permitted uses in the Business District. A stenographic transcript of the hearing is on file with the Village Clerk. All those present wishing to speak having been heard, the Mayor closed the public hearing. On motion of Trustee Cohen, seconded by Trustee Malatino, it was RESOLVED that Bill 14D of 2005 be and hereby is adopted as LOCAL LAW No. 14 of 2005 to read as follows:

Local Law 14 of the year 2005

A local law amending the provisions of the Code of the Village of Port Washington North with regard to Permitted uses in the Business District.

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

Section 1. Subsection D of § 176-70, Permitted uses, of Article VIII, Business District, of Chapter 176, Zoning, of the Code of the Village of Port Washington North, is hereby amended by adding the following as permitted uses under the category of “Stores and shops for conducting any of the following retail and service businesses”:

“health club, spa, gymnasium, nail salon, hobby and crafts, sports and sporting goods, and audio and video sales and rentals”.

Section 2. Subdivisions 2 and 3, of section F, of said § 176-70, is hereby deleted.

Section 3. Subdivision 4, of said section F, of said § 176-70, is hereby amended by deleting the first sentence, to wit “The outdoor display or storage of merchandise.”

Section 4. § 176-71, Conditional uses, of said Article VIII, is hereby amended, to read as follows:

§ 176-71. Conditional uses.

In addition to the permitted uses set forth in § 176-70, a building may be erected, altered, or used, and a lot or premises may be used for any of the purposes set forth in this section, when authorized by:

- A. The Board of Appeals, utilizing the general standards for consideration and determination established in § 176-149: theater; bowling alley; church or other building for religious purposes; school; telephone exchange; funeral home; and food establishments (excluding the consumption of, food or beverage on the premises outside a building).
- B. The Board of Trustees, utilizing the general standards for consideration and determination established for the Board of Appeals in § 176-149: shops or stores which make available any facility for, or which permit the consumption of, food or beverage on the premises outside a building; open-front shops or stores; and the outdoor display or storage of merchandise.

Section 5. Subsection D, of § 176-149, Consideration of applications for conditional uses, of Article XIII, Board of Appeals, of said Chapter, is hereby amended to read as follows:

“D. Whether the proposed use will be hazardous, conflicting, or incongruous to the immediate area, stores, nearby residential dwellings, or the neighborhood by reason of excessive traffic, interference with pedestrian flow, assembly of persons or vehicles, proximity to travel routes or congregations of children or pedestrians.”

Section 6. Subsection E, of said § 176-149, is hereby amended to read as follows:

“E. Whether the proposed use will be of such nature as to be objectionable to the immediate area, stores, nearby residential dwellings, or the neighborhood by reason of noise, lights, vibration or other factors of impact.”

Section 7. Effective Date. This local law shall take effect immediately.

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

C. Bill 15A of 2005 – Regarding Sanitary Sewer Lines

Mayor Weitzner opened the public hearing, duly advertised in the December 1, 2005 Port Washington News, to consider the adoption of Bill 15A of 2005, a proposed local law amending the property maintenance provisions of the Code of the Village of Port Washington North with regard to sanitary sewer lines. On motion of Trustee Cohen, seconded by Trustee Malatino, it was RESOLVED that Bill 15A of 2005 be and hereby is adopted as LOCAL LAW No. 15 of 2005 to read as follows:

Local Law 15 of the year 2005

A local law amending the property maintenance provisions of the Code of the Village of Port Washington North with regard to Sanitary sewer lines

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

Section 1. § 128-10, Responsibility of occupants, of Chapter 128, Property Maintenance, of the Code of the Village of Port Washington North, is hereby amended by adding a new subsection k, to read as follows:

“k. Maintenance of all sanitary waste lines running from and/or between the buildings on the premises and to a sewer main that is under the custody and care, for maintenance purposes, of a Special District of the Town or other public body. Such maintenance shall include, but not be limited to, assuring that the sewer lines are free of leaks and free

of unreasonable obstruction from tree roots or other matter. In all prosecutions brought for the enforcement of this subsection k, the affidavit of an occupant and/or property owner to support an application to the Village for the removal of a tree because of such tree's obstruction of and/or damage to a sanitary waste line, shall be the basis for a rebuttable presumption in any prosecution of the affiant that such sanitary waste line shall have to be repaired in order to comply with this subsection k. The rebuttal of the aforesaid presumption shall be an affirmative defense by the affiant.”

Section 2. Effective Date. This local law shall take effect immediately.

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

2. Clerk

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the reading of the minutes of the Board of Trustees meetings of October 24, October 27 and November 18, 2005 be waived and that they be and hereby are approved as prepared by Clerk Torrisi.

3. Treasurer

A. On motion of Trustee Cohen, seconded by Trustee Schenkler, it was unanimously RESOLVED that the reading of the Abstract of Vouchers #45, totaling \$90,526.79, and the Abstract of Trust & Agency Vouchers #12, totaling \$3,648.22, 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 October 31, 2005, showing the General Fund Balance to be \$1,897,048, and the Trust & Agency Fund Balance to be \$101,061, be and hereby is accepted as prepared by Treasurer Stack.

C. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the Budget for fiscal year 2005/6 be and hereby is modified by moving \$900.00 from the contingency fund (A8170-401) to leaf removal.

D. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the revised Voucher Claim form prepared by Treasurer Stack be and hereby is accepted for use.

E. Independent Audit & Annual Financial Report

On motion of Trustee Cohen, seconded by Trustee Schenkler, it was unanimously RESOLVED that the Independent Audit and Annual Financial Report for the Village's fiscal year commencing June 1, 2004 and ending May 31, 2005, conducted and prepared by Lundy & Company LLC, be and hereby is accepted.

4. Reports

A. Building Department

1. On motion of Trustee Cohen, seconded by Trustee Schenkler, it was unanimously RESOLVED that the Building Department report for the month of November 2005 be and hereby is accepted as submitted.

2. Sign – Linda's Gifts to Go

On motion of Trustee Cohen, seconded by Trustee Malatino, it was unanimously RESOLVED that Sign Permit #S05-34 for a business ground sign for Linda's Gifts to Go, 1 Soundview Drive, Port Washington, be and hereby is approved in accordance with the

application and plans submitted on November 28, 2005, with the condition that the post will be wood or vinyl.

3. Sign – The Wreck

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that Sign Permit application #S05-35 of RBS LLC for a business ground sign for The Wreck restaurant, 37 Shore Road, Port Washington, be and hereby is approved in accordance with the application and plans submitted on December 6, 2005.

B. Public Works

On motion of Trustee Schenkler, seconded by Trustee Malatino, it was unanimously RESOLVED that the Public Works Department report for the month of November 2005 be and hereby is accepted as submitted.

5. Business

A. NYS Department of State Environmental Protection Grant

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the Village of Port Washington North enter into an agreement with the State of New York to accept a \$300,000 grant from 2004 Environmental Protection Funds for the design and construction of Bay Walk Park (Thomas J. Pellegrino Waterfront Park) as more particularly set forth in Contract #C006571, which requires a total Village share of \$30,000.

B. Thomson/Danaher Appraisal

Trustee Cohen reported that the following proposals had been received to conduct and prepare an appraisal of the approximately 11-acre Thomson/Danaher parcels:

Fitzgerald Valuations Services Inc., Jericho, NY	\$4,000.00
Cushman & Wakefield Inc., New York, NY	3,500.00

Anthony Sabino, attorney for the Village, recommended engaging the services of Cushman & Wakefield. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously

RESOLVED that the Village engage the services of Cushman & Wakefield Inc. to complete an appraisal of the approximately 11-acre Thomson/Danaher parcels designated on the Nassau County Land & Tax Map as Section 4, Block J, Lot 690, and Section 4, Block 123, Lots 8, 21, 44A & C, 49 and 51, at a cost not to exceed \$3,500.00; in accordance with its proposal by letter dated December 21, 2005 and modified such that the property to be appraised be as shown on a survey dated December 11, 1993, revised January 28, 1994.

D. Commissioner of Emergency Management

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

WHEREAS, it is incumbent upon the Village, in order to properly provide for and protect the health, safety, and welfare of the residents, visitors, and property within the Village, to adopt an Emergency Response Plan; and

WHEREAS, as a part of that Plan, it is in the best interests of the Village to appoint a Commissioner of Emergency Management, to perform certain essential duties, as more fully set forth below;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The position of Commissioner of Emergency Management (hereinafter referred to as the "Commissioner") is hereby established.
2. The Commissioner shall be appointed by the Mayor, with the approval of the Board of Trustees.
3. The term of the Commissioner shall be one official year.
4. The Commissioner may be removed, with or without cause, at any time by a majority of the Board of Trustees.
5. The Commissioner shall serve without compensation.
6. The duties of the Commissioner, under the direction of the Mayor, shall be:

- 6.1. To direct the implementation of the Comprehensive Plan for the Emergency Command Center.
- 6.2. To coordinate the emergency operations of the Emergency Command Center.
- 6.3. To estimate situations and advise the Mayor of operational priorities.
- 6.4. To recommend and request assistance from Nassau County Civil Defense and other agencies.
- 6.5. To take all other actions reasonable or necessary in emergency situations as set forth in the Village's Emergency Response Plan assigned to the Commissioner and to otherwise assist the Mayor as the Mayor deems appropriate.

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the meeting be and hereby is adjourned at 11:30 p.m.

Palma Torrisi, Village Clerk