

A Regular Meeting of the Board of Trustees of the Village of Port Washington North was held on Wednesday, **December 18, 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
	General Counsel	-	Stephen Limmer
	Clerk	-	Palma Torrisi
	Public Stenographer	-	Renate Reid

1. Public Hearings

A. Fire Protection & Emergency Medical Services

Mayor Weitzner opened the Public Hearing, duly adjourned from November 27, 2006, 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 Cohen, seconded by Trustee Hoffman, 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, 2007 through December 31, 2007 at a cost to the Village of \$278,759.00, 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 Hoffman-aye, Trustee Malatino-absent, Trustee Schenkler-abstains, Mayor Weitzner-aye. Motion carried.

B. Bill 6A of 2006 – Amending Certain Village Code Penalty Provisions

Mayor Weitzner presented a short environmental assessment form prepared by the counsel. On motion of Trustee Schenkler, seconded by Trustee Cohen, the following resolution was unanimously adopted:

WHEREAS Bill 6A of 2006, amending certain penalty provisions of the Village Code of the Village of Port Washington North, has been submitted to the Board of Trustees for its consideration; and

WHEREAS a short environmental assessment form has been submitted on behalf of the Village; and

WHEREAS the members of the Board have carefully reviewed said assessment form; and

WHEREAS the subject bill concerns the legislative action of this Board;

NOW, THEREFORE, BE IT RESOLVED that this Board hereby designates itself as the lead agency for environmental review with regard to the adoption of the proposed local law and this Board determines that the proposed local law is not an action as determined by the Commissioner of the Department of Environmental Conservation, and that it will not have an adverse impact on the environment.

The Mayor opened the Public Hearing, duly advertised in the December 7, 2006 Port Washington News, to consider the adoption of Bill 6A of 2006, a proposed local law amending certain penalty provisions of the Code of the Village of Port Washington North. 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 Schenkler, it was RESOLVED that Bill 6A of 2006 be and hereby is adopted as LOCAL LAW 4 of 2006 to read as follows:

**Local Law 4 of the year 2006**

**A local law amending certain penalty provisions  
of the Village Code of the Village of Port Washington North**

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

Section 1. Chapter 135, Signs, of the Code of the Village of Port Washington North, is hereby amended, by adding a new section, § 135-13, Penalties for offenses, to read as follows:

**“§ 135-13. Penalties for offenses.**

A violation of any provision of this chapter shall constitute a violation pursuant to the Penal Law, punishable by a fine not to exceed \$1,000 or by imprisonment for a term not to exceed 15 days, or both such fine and imprisonment. Each day's continued violation shall constitute a separate and distinct offense.”

Section 2. 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.

2. Clerk

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was RESOLVED that the reading of the minutes of the Board of Trustees meeting of October 23, 2006 be waived and that they be and hereby are approved as prepared by Clerk Torrisi.

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

3. Treasurer

A. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the reading of the Abstract of Vouchers #57, totaling \$376,602.57, and the Abstract of Trust & Agency Vouchers #24, totaling \$2,265.73, 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, 2006, showing the General Fund Balance to be \$2,680,263, and the Trust & Agency Fund Balance to be \$24,675, be and hereby is accepted as prepared by Treasurer Stack.

C. On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was unanimously RESOLVED that the budget modifications appearing in the November 30, 2006 Budget Report be and hereby are approved.

D. The Board was presented with the Audit Report for the General Fund and the Audit Report & Management Letter for the Village Court for the fiscal year commencing June 1, 2005 and ending May 31, 2006.

4. Reports

A. Building Department

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was

RESOLVED that the Building Department report for the month of November 2006 be and hereby is accepted as submitted.

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

#### B. Public Works

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was RESOLVED that the Public Works Department report for the month of November 2006 be and hereby is accepted as submitted.

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

#### C. Environmental Commissioner

On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was unanimously RESOLVED that the monthly report of the Environmental Commissioner be and hereby is accepted as presented by Robert Keane.

#### D. Emergency Management

Commissioner Moschos reported that the Village has been supplied with one 900 megahertz industrial capacity radio, which uses a repeater network. The radio, which is worth approximately \$3,000, will be used to communicate in the event of an emergency.

On motion of Trustee Cohen, seconded by Trustee Schenkler, it was unanimously RESOLVED that the monthly report for Emergency Management be and hereby is accepted as presented by Commissioner Alex Moschos.

### 5. Business

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

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was RESOLVED that Bill 3A of 2006 be and hereby is adopted as LOCAL LAW 3 of 2006 to read as follows:

##### Local Law 3 of the year 2006

A local law amending certain provisions of the Village Code  
of the Village of Port Washington North  
to limit the size of restaurants

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

#### Section 1. Legislative Findings and Intent.

A. The Village of Port Washington North has turned a corner from an industrial area with oil terminals and vacated sands pits, toward a more tranquil residential waterfront community.

B. The main entrance to the Village is still Shore Road. Shore Road is not only the major corridor to the Village of Port Washington North, it is also the major corridor to the Village of Manorhaven and one of the major corridors to the Village of Sands Point.

C. The Village has recently developed a water front park along the west side of Shore Road, which is to be part of a Bay Walk Park extending through multiple municipalities along

Manhasset Bay, and has adopted a Waterfront Zoning District in order to best take advantage of the Village's unique waterfront area for the benefit of its residents and other families seeking to take advantage of the limited waterfront available to Town of North Hempstead residents.

D. Because of the extensive and often high speed traffic along Shore Road, the significant amount of traffic accidents, including fatalities, the Village, in conjunction with other neighboring municipalities is in the midst of preparing and implementing traffic calming along Shore Road, to create a safer and more serene area for those seeking the advantage of the newly productive waterfront area. Part of that traffic mitigation is being funded by State grants based upon, in part the recognized need to reduce the adverse impacts from the existing traffic. Accordingly, any major increases in traffic will be counter-productive to the urgent traffic calming now being sought.

E. Any new restaurant use will impact Shore Road. Although there are many existing restaurants within the Village of Port Washington North, and such restaurants provide a variety of choices for residents and visitors to the community, this Board finds that once restaurants exceed a certain size, they create problems not usually attendant to smaller restaurants, while simultaneously limiting the variety of food options offered to the community. Because of their seating capacity, larger restaurants will often bringing in large parties, and often, since they are serving on a larger scale, encourage quicker turnover for a great number of people than two smaller restaurants of the same gross area. The traffic impact from such larger restaurants will significantly adversely impact Shore Road and may negate the positive impact of the traffic calming program underway.

F. Based upon the forgoing findings of fact, this Board finds that it is in the best interests of the health, safety, and welfare of the Village to limit the size of restaurants within the Village.

Section 2. § 176-149, Consideration of applications for conditional uses, of Article XIII, Board of Appeals, of Chapter 176, Zoning, of the Code of the Village of Port Washington North, is hereby amended by adding new subsection I, to read as follows:

"I. No food establishment shall exceed 4,000 square feet in gross floor area. "Gross floor area" as used in this section shall include the sum of the gross horizontal areas of the several floors of the principal building and all accessory buildings, if any, measured from the exterior face of studs or masonry of outer walls or partitions or from the center line of walls separating two buildings, but not including attic space providing headroom of less than six feet or cellar space used entirely for utility installations or for storage, and the outer dimensions of all outdoor areas used for seating, drinking, or serving of food or beverages, or otherwise as part of the eating establishment."

Section 3. Effective Date.

This local law shall take effect immediately.

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

#### B. Bill 4 of 2006 – Regulating Take Out and Food Delivery

Mayor Weitzner directed counsel to draft Bill 4F of 2006, with certain changes as to the number of and conditions regarding delivery vehicles.

#### C. Bill Wolf Petroleum – 80 Old Shore Road Sign

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that, to the extent that Bill Wolf Petroleum was given the impression that it was given permission to retain a legal non-conforming pole sign, after the use on the property for which the sign existed had terminated, the Board hereby

RESOLVED that any such permission is hereby terminated and said pole sign, in accordance with Chapter 135 of the Village Code, shall be removed by December 27, 2006.

D. Tree Removal Request – 41/43 Marlin Lane

The Board addressed the request of the Silverstein family at 43 Marlin Lane to remove a female gingko curb tree. The Board directed that the gingko curb tree located between 41 and 43 Marlin Lane be posted for removal and the neighbors notified, ten days prior to the meeting, that the matter of the tree's removal will be taken up at the January 22, 2007 meeting of the Board of Trustees.

E. Local Safe Streets & Traffic Calming

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the Village of Port Washington North enter into a supplemental agreement to amend the Local Safe Streets & Traffic Calming agreement with the New York State Department of Transportation for improvements to Shore Road to extend the contract end date to June 30, 2007; and be it further RESOLVED that Mayor Weitzner is hereby authorized to execute said supplemental agreement with the New York State Department of Transportation.

F. Radcliff Avenue

Henry Cosenza of 99 Radcliff Avenue requested greater police presence on Radcliff Avenue and the installation of a speed monitoring device on that road.

On motion of Trustee Malatino, seconded by Trustee Hoffman, it was unanimously RESOLVED that the meeting be and hereby is adjourned at 9:30 p.m.

Palma Torrisi, Village Clerk