

A Regular Meeting of the Board of Trustees of the Village of Port Washington North was held on Monday, January 22, 2007 at 7:30pm at the Village Hall, 71 Old Shore Road, Port Washington, New York.

Present:	Mayor	-	Robert S. Weitzner
	Trustees	-	Steven Cohen
		-	Daria Hoffman
		-	Michael Malatino
		-	Michael Schenkler
	Attorney	-	Stephen Limmer
	Clerk	-	Palma Torrissi

## 1. Clerk

A. On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was RESOLVED that the reading of the minutes of the Board of Trustees meeting of November 27, 2006 be waived and that they be and hereby are approved as prepared by Clerk Torrissi.

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

B. On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was RESOLVED that the Village Clerk be and hereby is directed to Publish in the Official Newspaper of the Village at least ten days prior to the General Village Election to be held on March 20, 2007 a notice that shall state:

1. The polling place in each election district,
2. The hours during which the polls shall be open, to wit, from noon to nine o'clock in the evening,

The names and addresses of those who have been duly nominated in accordance with the provisions of the election law for the Village office whose petitions have been duly filed with the Village Clerk and the offices and terms of said office for which they have been so nominated.

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

C. On motion of Trustee Hoffman, seconded by Trustee Schenkler, it was RESOLVED that on the 20<sup>th</sup> day of February 2007, at the Village Hall, 71 Old Shore Road, Port Washington, New York 11050, the Board of Trustees and the Assessor will meet for the purpose of hearing complaints in relation to assessments from 10:00 a.m. to 2:00 p.m. on said day. Each complainant shall file with the Village Clerk on or before February 20, 2007 a statement under oath, specifying the respect in which the assessment complained of is incorrect, which statement must be made by the person whose property is assessed or by some person authorized to make such statement who has the knowledge of the facts stated therein.

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

## 2. Treasurer

A. On motion of Trustee Schenkler, seconded by Trustee Malatino, it was RESOLVED that the reading of the General Fund Abstract of Vouchers #58, totaling \$147,599.91, and the Trust & Agency Abstract of Vouchers #25, totalling \$2,810.79, be waived and that they be and hereby are approved as presented by Treasurer Stack.

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

B. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously  
RESOLVED that the Budget Report as of November 30, 2006, showing the General Fund Balance to be \$2,196,790, and the Trust & Agency Fund Balance to be \$78,798, 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 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 on May 31, 2006, prepared by Lundy & Co., P.C., be and hereby are accepted.

D. On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was unanimously  
RESOLVED that the Village of Port Washington North hereby enters into a third party collateral agreement with North Fork Bank, as more particularly set forth in a written contract between the parties, and that the Mayor, Deputy Mayor, Treasurer and Clerk are hereby authorized to sign such documentation as may be necessary to execute the agreement.

E. On motion of Trustee Schenkler, seconded by Trustee Malatino, it was  
RESOLVED that the budget modifications shown in the January 22, 2007 Budget Report be and hereby are accepted.

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

### 3. 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 period of December 13, 2006 through January 17, 2007, be and hereby is accepted as submitted by Building Inspector Dzorney and Deputy Inspector Lauria.

#### 2. Sign Permit Application – Gasoline Service Station

Mayor Weitzner stated that a letter from Maria Ceccacci, permit manager for Catapano Engineering P.C., was received today requesting that the sign permit application, submitted on December 21, 2006, for the gasoline service station at 78 Shore Road, Port Washington, New York, be withdrawn at this time. Catapano Engineering's client did not want to pursue the matter.

3. Upon the complaint by Harris Wichard, a resident of Mill Pond Acres, about the lack of steps over the grass strip between the apartments and the parking lot at Mill Pond Acres, the Board directed the Building Department to look into the matter with the Village's engineer.

#### B. Public Works

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

#### C. Environmental Commission

On motion of Trustee Cohen, 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

On motion of Trustee Malatino, 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.

#### 4. Public Comment

A. Stanley Ronell asked that Daly School personnel be stopped from parking on the southerly side of Avenue C.

B. Steven Kaplan suggested that a double yellow line be painted on Avenue C at the curve as it nears Valley Road.

C. It was reported that the street sign at the corner of Soundview Drive and Driftwood Drive has been broken.

D. Upon complaint by a resident, the Board directed that a letter be sent to the owner of 25 Schooner Lane advising that a complaint has been received that dogs at that premises are barking at night and excessively and that the dogs are not being poop-scooped.

#### 5. Business

##### A. Beautification Commissioner

On motion of Trustee Hoffman, seconded by Trustee Cohen, it was unanimously: RESOLVED that Peri Sue Zausner be and hereby is appointed as Beautification Commissioner, for a term of one official year, said term to expire April 2007.

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

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was RESOLVED that Bill 4F of 2006, regulating Take-Out Food Restaurants and Delivery Vehicles within Certain Areas of the Village of Port Washington North, be and hereby is adopted as Local Law No. 1 of 2007 to read as follows:

#### **Local Law 1 of the year 2007**

#### **A local law to regulate take-out-food restaurants and delivery vehicles within certain areas of the Village of Port Washington North**

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

##### Section 1. Legislative Findings.

A. In Local Law 6 of 2004, this Board found, among other things, that:

(1) Shore Road, within the Village of Port Washington North is a very heavily traveled road and one of two major north-south arteries serving the Port Washington Peninsula. Traffic along Shore Road varies from excessively high speeds, in violation of posted speed limits, during light traffic, to extensive standstills during commuter and certain other times. Accidents along Shore Road have been significant in number and in personal injuries including deaths. Traffic control devices and police enforcement have not been able to sufficiently control the significant traffic and safety issues along Shore Road. The Village has recently secured a Safe Street and Traffic Calming Grant in the amount of \$280,200 from New York State to help

improve the conditions along this major thoroughfare through Port Washington North.

(2) Moreover, Shore Road runs along the sole waterfront area of the Village. The Village is actively seeking to reclaim that waterfront area for appropriate, primarily passive, recreational use, through acquisition, rezoning, and development. In conjunction with the Town of North Hempstead and the villages of Baxter Estates and Manorhaven, the Village has been working to create a continuous bay walk park from the Town of North Hempstead dock to the Village of Manorhaven.

(3) The major goal that the Village seeks to accomplish by its reclamation of its waterfront and its traffic calming along Shore Road, is to create a respite from the busy world in which we live, with a quiet, aesthetically pleasing ambiance for its residents and others to enjoy along the Village's limited waterfront, a special heritage that this Board believes it is obligated to enhance and protect. That ambiance will be substantially diminished by additional traffic queuing onto Shore Road and more frequent "in and out" traffic from fast food and fast service establishments along Shore Road, the viewing of cars and pedestrians running in and out of cars along Shore Road, and road-side litter from the clientele of fast food establishments along Shore Road.

(4) Although Shore Road within the Village is a busy commercial district, some businesses, because of the special traffic patterns that they invite, the short site visits that they encourage, and/or the fast food that they sell, with disposable wrappers, plates, and utensils, have greater impact upon the traffic and litter on Shore Road than others. To the extent that greater setbacks can be provided for those businesses from Shore Road to the buildings within which those businesses are located, the adverse impacts to the safety, health, comfort, aesthetics, and general welfare of the Village residents from those businesses will be significantly lessened.

(5) Accordingly, in order to protect the health, safety, comfort, aesthetics, and general welfare of the Village residents and other members of the public utilizing Shore Road and to preserve some of the calming character of our waterfront Village this Board finds it necessary to prohibit certain businesses within 150 feet of Shore Road.

B. Since the adoption of Local Law 6 of 2004, further consideration has been given as to how those goals of the Village to reclaim its waterfront and calm the traffic along Shore Road to create that respite from the busy world in which we live, with a quiet, aesthetically pleasing ambiance for its residents and others to enjoy along the Village's limited waterfront, have been considered and it is the intent of this legislation to further those goals. After such consideration, it was realized that Soundview Drive, as a major through street leading to Shore Road, needed similar protection for its business area, and additional restrictions were required with regard to take-out-food restaurants to further reduce traffic and create the sought after ambiance.

Section 2. § 176-1, Definitions and word usage, of Chapter 176, Zoning, of the Code of the Village of Port Washington North, is hereby amended by adding the definition of "take-out-food restaurant", to read as follows:

"TAKE-OUT-FOOD RESTAURANT - Any business or enterprise primarily engaged in the sale of food, which meets anyone one or more of the following criteria:

- (1) Has a take-out menu which differs from its regular menu and/or a menu with an indication in words and/or pictures, in substance, stating or indicating that "take-out-food" or "food-to-go" is available.
- (2) Has signs indicating take-out is available.
- (3) Advertises that it sells take-out food.
- (4) Has in-store lines, signs, or stations utilized for take out customers.
- (5) Provides disposable utensils with food that is taken from the premises.

A restaurant, which, as an accessory to its principal business, permits its cliental to take-out food, but does not meet any of the foregoing criteria, is not a take-out-food restaurant."

Section 3. Subsection C of § 176-128, Setbacks, of said Chapter 176, is hereby amended, to read as follows:

“C. No building which is used for any of the uses specified below shall be located in whole or in part within 150 feet of Shore Road and/or 180 feet of Soundview Drive:

- (1) Fast Food Convenience Store.
- (2) Fast Food Restaurant.
- (3) Fast Service Store.
- (4) Take-Out-Food Restaurant.”

Section 4. Said § 176-128, is hereby amended further amended, by adding new subsections D and E, to read, respectively, as follows:

“D. Limitation on delivery vehicles within 150 feet of Shore Road and/or 180 feet of Soundview Drive:

- (1) Except as provided in subdivision 2, no business entity shall have more than one delivery vehicle in use at any one time.
- (2) Notwithstanding anything to the contrary in subdivision 1, a business entity may have not more than two delivery vehicles in use at any one time upon the following conditions:
  - (a) The parking lot wherein the delivery vehicles are parked shall have not less than two legal curb cuts to public roads.
  - (b) No vehicular egress shall be permitted from the parking lot to Shore Road except by a legal curb cut with a traffic light controlling egressing traffic from that curb cut.
  - (c) All curb cuts from Shore Road to the parking lot that are not controlled by a traffic light for egressing traffic from the parking lot shall be marked entrance only with such signs and pavement markings as are approved by the Village Building Inspector.
- (3) No delivery vehicle shall be parked, stopped, or standing, within the area, even while such vehicle is actually being loaded or unloaded with food or other goods, if such vehicle has any signs, logos, business name, telephone number, address, or other commercial information or designation, unless, at the location where it is so parked, stopped, or standing, while it is actually being loaded or unloaded, it is totally screened from all public streets by fencing or a live screen in a manner approved by the Village Building Inspector.
- (4) All delivery vehicles leaving the area shall only do so by exits controlled by a traffic control signal of not less than three phases (red, yellow, green), when such exits are provided for the particular lot from which the vehicle is exiting.”

“E. For the purposes of this section, the subject 150 foot and 180 foot measurements shall be from the closest point of the curb of the subject road to the closest point of the closest exterior wall of the building that provides access to the building, other than access from a door that is used only by the employees at the building and not by the general public.”

Section 5. 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.

#### C. Bill 1B of 2007 – Amending the Code to Prohibit Illicit Discharges

Mayor Weitzner introduced Bill 1B of 2007, a proposed local law amending the Code of the Village of Port Washington North to Prohibit Illicit Discharges. A copy of the bill was delivered to each of the members of the Board of Trustees. The Mayor also presented a short environmental assessment form prepared by the Village Attorney. On motion of Trustee Hoffman, seconded by Trustee Malatino, the following resolution was unanimously adopted:

WHEREAS Bill 1B of 2007, amending the Code of the Village of Port Washington North to prohibit illicit discharges, 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 an unlisted action as determined by the Commissioner of the Department of Environmental Conservation, and that it will not have an adverse impact on the environment, and sets a public hearing with regard to the proposed adoption of this local law for the 26<sup>th</sup> day of February 2007 at 7:30 p.m. at the Village Hall, 71 Old Shore Road, Port Washington, New York

#### D. Bill 2A of 2007 – Stormwater Management and Erosion & Sediment Control

Mayor Weitzner introduced Bill 2A of 2007, a proposed local law amending the Code of the Village of Port Washington North with regard to Stormwater Management and Erosion and Sediment Control. A copy of the bill was delivered to each of the members of the Board of Trustees. The Mayor also presented a short environmental assessment form prepared by the Village Attorney. On motion of Trustee Hoffman, seconded by Trustee Malatino, the following resolution was unanimously adopted:

WHEREAS Bill 2A of 2007, amending the Code of the Village of Port Washington North with regard to stormwater management and erosion and sediment control, 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 an unlisted action as determined by the Commissioner of the Department of Environmental Conservation, and that it will not have an adverse impact on the environment, and sets a public hearing with regard to the proposed adoption of this local law for the 26<sup>th</sup> day of February 2007 at 7:30 p.m. at the Village Hall, 71 Old Shore Road, Port Washington, New York

#### E. Silverstein Tree Removal Request – 41/43 Marlin Lane

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the female ginkgo curb tree located between 41 and 43 Marlin Lane shall be removed.

#### 6. Executive Session

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the Board enter into executive session to discuss real estate contract negotiations with counsel.

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

5. Business (continued)

F. Section 4, Block J, Lot 755 – (“8 Acres”)

On motion of Trustee Cohen, seconded by Trustee Schenkler, it was unanimously RESOLVED that the Village of Port Washington North enter into a real estate broker agreement with Coldwell Banker to sell the Village-owned premises designated on the Nassau County Land & Tax Map as Section 4, Block J, Lot 755 (the “8 Acres”), at a commission not to exceed 4% and upon such other terms and conditions agreed to by the Mayor and approved as to form by Attorney Limmer; and that Mayor Weitzner be and hereby is authorized to execute any necessary documents.

On motion of Trustee Malatino, seconded by Trustee Cohen, it was unanimously RESOLVED that the meeting be and hereby is adjourned at 11:00 p.m.

Palma Torrisi, Village Clerk