

A **Regular Meeting** of the Board of Trustees of the Village of Port Washington North was held on Monday, **July 27, 2009** at 7:30pm at the Village Hall, 71 Old Shore Road, Port Washington, New York.

Present:	Mayor	-	Robert Weitzner
	Trustees	-	Steven Cohen
		-	Michael Malatino
		-	Sherman Scheff
		-	Michael Schenkler
	Attorney	-	Anthony Sabino
	Clerk	-	Palma Torrisi

### 1. Clerk

On motion of Trustee Cohen, seconded by Trustee Scheff, it was RESOLVED that the reading of the minutes of the meetings of the Board of Trustees of May 26, 2009 and June 15, 2009 be waived and that they be and hereby are approved as prepared by Clerk Torrisi.

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

### 2. Treasurer

A. On motion of Trustee Cohen, seconded by Trustee Scheff, it was RESOLVED that the reading of the Abstract of General Fund Vouchers #88, totaling \$487,719.36, and the Abstract of Trust & Agency Vouchers #54, totalling \$45.60, be waived and that it be and hereby is approved as presented by Treasurer Stack.

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

B. On motion of Trustee Cohen, seconded by Trustee Malatino, it was RESOLVED that the second draft of the Budget Report as of May 31, 2009, showing the General Fund Balance to be \$1,435,982.60, and the Trust & Agency Balance to be \$74,356.25, be and hereby is accepted, with the budget modifications contained therein, as prepared by Treasurer Stack.

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

### 3. Reports

#### A. Building Department

1. On motion of Trustee Malatino, seconded by Trustee Scheff, it was unanimously RESOLVED that the Building Department reports for June/July 2009 be and hereby is accepted as presented.

2. Dahlia Marcu, 5 Mill Pond Road, and Mary Snyder, 11 Mill Pond Road, relayed to the Board their contention that the attic is being occupied, a bathroom was added without a building permit, and over-occupancy at 7-9 Mill Pond Road. Inspector Barbach informed the Board that the Building Department will be inspecting 7-9 Mill Pond Road with the owner's consent on July 30<sup>th</sup> and will determine at that time compliance with all New York State and Village codes.

3. Louis Colalillo, contract vendee for 246 Pond View Drive, pointed out deviations from plan at the Mill Pond Acres unit he intends to purchase. The Board informed him that violations and summonses have been issued with

respect to those deviations from plan and that a lawsuit has been filed against the Village by the developer of Mill Pond Acres.

#### B. Public Works

On motion of Trustee Cohen, seconded by Trustee Malatino, it was unanimously RESOLVED that the Public Works Department report for the month of July 2009 be and hereby is accepted as presented.

#### C. Justice Court

The Board accepted the Justice Court report for the months of June 2009.

### 4. Business

#### A. Bill 3C of 2009 – Fencing

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

WHEREAS, the Village of Port Washington North has proposed amending the Code of the Village of Port Washington North by adding Chapter 176-140 entitled Fencing, and

WHEREAS, the Village of Port Washington North has determined that it is in the best interest of the residents of the Village that the above referenced Chapter of the Village Code be amended, and

WHEREAS, the Village has prepared and reviewed an environmental assessment form containing an explanation of the action and impacts and has conducted a public hearing on June 22, 2009, and

WHEREAS, the Village Board of Trustees has declared its intention to declare itself lead agency and by Resolution dated June 22, 2009 the Board issued a Negative Declaration indicating that the action would cause no significant adverse effect on the environment; and

WHEREAS, the legislation was referred to the Nassau County Planning Commission for review in accordance with General Municipal Law § 239-M, and

WHEREAS, on July 23rd, 2009 the Nassau County Planning Commission recommended local determination without modifications, now therefore be it

RESOLVED, that the Village Board of Trustees, adopts Bill 3 of 2009 entitled Fencing and amends the Village Code by amending Sections 176-140(B)(1), 176-140(B)(2)(a), 176-140(B)(2)(e), and 176-140(C)(1), and be it further

RESOLVED that said legislation shall take effective upon filing with the Secretary of State.

The foregoing Bill 3C of 2009 was declared adopted as Local Law 2 of 2009 to read:

#### **LOCAL LAW 3 of 2009**

A LOCAL LAW to amend the Code of the Village of Port Washington North Chapter 176-140 entitled Fencing.

BE IT ENACTED by the Board of Trustees of the Village of Port Washington North as follows:

Section One. Code of the Village of Port Washington North Chapter 176-140 entitled Fencing is amended as follows:

176-140(B)(1) On interior lots, no fencing shall be permitted in the front yard except on Mill Pond Road, Avenue C, Valley Road, Shore Road and Harbor Road.

176-140(B)(2)(a) Fencing for a front yard contiguous with public property shall be limited to fences having a minimum of 50% free area when projected as a front elevation. Such fencing shall be constructed of cedar, cypress or polyvinyl synthetic materials. Metal

fences of all kinds are prohibited (inclusive of chain link). Such fencing shall simulate in external appearance painted white or unpainted cedar or cypress or similar woods.

176-140(B)(2)(e) Fencing for a rear yard may project into the adjacent front yard, enclosing the rear yard, but shall not project forward of the rear face of the major structure on the property. The portion of fence enclosing the rear yard shall not exceed 5 feet in height. This section shall include corner parcels.

176-140 (C)(1) The height of a fence shall be measured to the highest point of the fence from the existing grade directly below that point. Fence support posts may exceed the maximum height by not more than four inches so long as said posts are not greater in size than five inches by five inches and, other terminal posts (at corners, ends and gates) do not exceed one every four feet.

after a vote of the Board recorded as follows:

Trustee Cohen-aye, Trustee Malatino-aye, Trustee Scheff-aye, Trustee Schenkler-aye, Mayor Weitzner-aye. Motion carried.

#### B. Shore Road Phase II Local Safe Streets & Traffic Calming Grant

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

WHEREAS, a Project for the Implementation of Traffic Calming Effects and Pedestrian Enhancements on Shore Road between Old Shore Road and Manorhaven Boulevard/Cow Neck Road, PIN# 0759.11.121 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ration of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the Village of Port Washington North desires to advance the above Project by making a commitment of 100% of the Federal and non-federal share of the costs of Construction Funding for Traffic Calming and Pedestrian Improvements;

NOW, THEREFORE, the Board of Trustees of the Village of Port Washington North, duly convened, does hereby

RESOLVED that the Village of Port Washington North hereby approves the above-subject Project, and it is hereby further

RESOLVED that the Village of Port Washington North authorizes the sum of \$368,000.00 to pay in the first instance 100% of the Federal and non-federal share of the cost of Construction Funding for the Project or portions thereof; and it is further

RESOLVED that the sum of \$368,000.00 is hereby appropriated pursuant to this resolution and made available to cover the cost of participation in the above phase of the Project; and it is us further

RESOLVED that in the event the full Federal and non-federal share costs of the Project exceed the amount appropriated above, the Village of Port Washington North shall convene as soon as possible to appropriate said excess amount immediately upon the notification to the New York State Department of Transportation thereof; and it is further

RESOLVED that the Mayor of the Village of Port Washington North be and is hereby authorized to execute all necessary agreements, certification or reimbursement requests for Federal aid on behalf of the Village of Port Washington North with the New York State Department of Transportation in connection with the advancement or approval for the Project and providing for the administration of the Project and the municipality's first instance funding of Project costs and permanent funding of the local share of Federal aid-eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and it us further

RESOLVED that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary agreement in connection with the Project; and it is further

RESOLVED that this resolution shall take effect immediately.

C. Justice Court Assistance Program Grant

On motion of Trustee Schenkler, seconded by Trustee Scheff, it was unanimously RESOLVED that the Board of Trustees authorizes an application to be made by the Clerk to the Village Justice for a New York State Justice Court Assistance Program Grant to fund improvements for the Village Court, said request not to exceed \$30,000.00.

D. Nassau County Urban Consortium

Upon presentation of a proposed resolution by Mayor Weitzner, Trustee Scheff made a motion to adopt that was not seconded. No vote was taken.

E. Long Island Power Authority Outages

Michael Hervey, LIPA Vice President of Operations, and Thomas Barracca, LIPA Performance Engineering Manager, presented a report to the Board showing \$3.8 million in line undergrounding and tree cutting to the main feed into the Village and overhead improvements in the Soundview area.

5. Executive Session

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the Board enter into executive session to discuss litigation with attorneys Brian Sokoloff and Anthony Sabino.

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

4. Business (continued)

Mayor Weitzner reconvened the regular meeting and stated that no action was taken in executive session.

F. Sandy Hollow Associates v. Village of Port Washington North

On motion of Trustee Scheff, seconded by Trustee Cohen, it was unanimously

RESOLVED that the Village engage the law firm of Ackerman, Levine, Brickman, Cullen & Limmer LLP to provide professional services, with regard to the lawsuit brought against the Village by Sandy Hollow Associates, for a cost not to exceed \$7,500.00, at hourly rates of Partner and Senior Municipal Counsel \$270; Of Counsel \$257; Associate \$100 - \$204; Paralegal \$65 - \$98, plus a 2% surcharge on fees to cover disbursements.

On motion of Trustee Scheff, seconded by Trustee Cohen, it was unanimously RESOLVED that the meeting be and hereby is adjourned at 10:30 p.m.

Palma Torrisi, Village Clerk