

A Regular Meeting of the Board of Trustees of the Village of Port Washington North was held on Monday, **November 28, 2005** 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 Schenkler
	Attorney	-	Stephen Limmer
	Clerk	-	Palma Torrisi
	Public Stenographer	-	Thomas Basile

Excused: Trustee Malatino

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

Mayor Weitzner opened the public hearing, duly advertised in the November 3, 2005 Port Washington News, to consider the adoption of Bill 13B of 2005, a proposed local law amending the provisions of the Code of the Village of Port Washington North with regard to tree protection. 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 Hoffman, it was RESOLVED that Bill 13B of 2005 be and hereby is adopted as Local Law 12 of 2005 to read as follows:

#### Local Law 12 of the year 2005

A local law amending the provisions of the Code of the Village of Port Washington North with regard to tree protection.

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

Section 1. § 143-15, Permit required for installation of trees, shrubs and structures, of Chapter 143, Streets and Sidewalks, of the Code of the Village of Port Washington North, is hereby amended, to read as follows:

“No person shall install or locate or plant any trees, shrubs, or structures in any street in the Village of Port Washington North without the prior written permission of the Village and, with regard to trees, in accordance with chapter 156 of this Code.”

Section 2. § 143-16, Protection of vegetation on public land, of said Chapter 143, is hereby amended, to read as follows:

“No person shall injure, deface, mutilate, or destroy trees, shrubs, or grass plots in streets or public places, and no person shall cut down or remove any such tree, shrub, or grass plot except as otherwise required or permitted by this article and, with regard to trees, in accordance with chapter 156 of this Code.”

Section 3. § 143-21, Penalties for offenses, of said Chapter 143, is hereby amended, to read as follows:

“A. Any person violating any provisions of this article shall be liable to a penalty of not more than \$250. Said penalty shall be in addition to all other sums hereinabove provided to be paid. Each day of such violation shall constitute a separate offense.

B. Nothing in this section shall be deemed to limit the penalties otherwise provided with regard to trees in chapter 156 of this Code.”

Section 4. Said Code is hereby amended by adding a new chapter, Trees, to read as follows:

#### **“Chapter 156**

#### **TREES**

**§ 156-1. Findings; intent.**

- A. The Board of Trustees of the hereby finds that there is a direct relationship between the preservation and planting of trees, shrubs, and associated vegetation in sufficient numbers in the Village and the health, safety, and welfare of Village residents and that trees, shrubs, and associated vegetation are related to the natural, scenic, and aesthetic values and the physical and visual qualities of the environment which the Village is obligated to protect. Trees and such vegetation reduce noise, provide welcome shade to Village residents, preserve the balance of oxygen in the air by removing carbon dioxide and fostering air quality and create a bucolic and rural atmosphere in the Village, especially along the roads. Trees also stabilize the soil and control water pollution by preventing soil erosion and flooding, yield advantageous climatic effects, and provide a natural habitat for wildlife.
- B. The destructive and indiscriminate removal of trees and related vegetation causes increased Village costs for proper drainage control, impairs the benefits of occupancy of existing residential properties, and impairs the stability and value of both improved and unimproved real property in the area of the destruction and adversely affects the health, safety, and general welfare of the residents of the Village.

**§ 156-2. Definitions.**

For the purposes of this chapter, the following terms, phrases, and words shall have the following meanings:

APPLICANT - The owner, contract vendee, or lessee of the real property or its duly authorized agent.

BUILDING INSPECTOR - The Building Inspector of the Village.

HABIT - The natural growing characteristics of any tree which includes branch spread and distribution, branch height above ground, and root spread and distribution.

PERSON - Any individual, firm, partnership, association, corporation, company, public agency, public utility, or other legal entity or organization of any kind.

REAL PROPERTY – All real property, public and private, within the Village.

STREET TREE- Any tree located along the side of a street between the street curb and the closest private property line.

SUBSTANTIAL ALTERATION - Any cutting or drastic pruning or elevating the habit of a tree which impairs or endangers the life of such tree or destroys its natural symmetry and shall include but not be limited to heavy or unnecessary cutting of top branches and cutting of major lower limbs.

TREE- A tree with a diameter of six inches or more at a point which is four feet six inches above the ground at the base of the tree; or, in the case of a tree that, without a permit issued pursuant to this chapter, has been cut or removed so that the foregoing cannot be determined beyond a reasonable doubt, any such tree that shall have a diameter of six inches or more at any point.

VILLAGE -- The Village of Point Washington North.

**§ 156-3. Prohibitions.**

- A. It shall be unlawful for any person without a permit to cut down, remove, or destroy any tree or substantially alter the habit of any tree within the Village.
- B. It shall be unlawful for any person who owns or occupies real property to cause, suffer, permit, or allow the cutting down, removal, or destruction of any tree or the substantial

alteration of the habit of any tree on real property, unless a valid permit shall have been issued for said work.

**§ 156-4. Application for permit.**

- A. Application for a permit shall be made to the Building Inspector.
- B. The application shall be made on such form as may be prescribed by the Building Inspector and shall include but not be limited to the following:
  - (1) The name and address of the applicant.
  - (2) The name and address of the owner of the property.
  - (3) The purpose of the proposed removal or alteration.
  - (4) The site of the proposed removal or alteration.
  - (5) The location and size of the tree to be removed.
  - (6) The condition of the tree with respect to disease, hazard, proximity to existing or proposed structures, and interference with utility services.
  - (7) The recommendation of a certified arborist or the tree service that will be performing the removal. Only a certified arborist or experienced tree service shall be permitted to remove or substantially alter the habit of a tree within the Village. Any proposed tree service shall be required to provide satisfactory proof of its experience to the Building Inspector upon request.
  - (8) The written and acknowledged authorization of the owner of the property.
- C. The decision of the Building Inspector shall be based upon the following criteria:
  - (1) The condition of the tree with respect to disease and danger of falling, proximity to existing or proposed structures, and interference with utility services.
  - (2) The necessity of the removal or alteration of the tree in question.
  - (3) The effect of the removal or alteration thereof on ecological systems.
  - (4) The character established at the proposed site of removal or alteration with respect to existing vegetation management practices.
  - (5) The impact of any removal or alteration upon existing screening of any road or highway bordering the property.
  - (6) The noteworthiness of the tree to the character of the community based upon, among other things, its size, species, and location.
- D. The Building Inspector shall have the authority, in granting any application to remove or alter a tree to condition such grant upon the immediate replacement of such tree by one or more trees, in total caliper substantially the same as the tree being replaced, of the same or similar species, or such other reasonable condition or conditions that are directly related to and incidental to the proposed removal or alteration of the tree.
- E. Any permit issued hereunder may be revoked and all work authorized by said permit halted if the Building Inspector shall find that the permit was obtained by false or misleading statements or the work being performed is not proceeding in accordance with the terms of the permit and the provisions of this chapter.
- F. A permit issued pursuant to this chapter shall expire six months from and after the date of its issuance. No work may be performed under an expired permit.

**§ 156-5. Fees.**

The application fee herein shall be determined from time to time by resolution of the Board of Trustees. The fee shall be paid upon submission of the application and shall not be refundable except with respect to trees that the Building Inspector determines are either substantially dead or are so diseased, damaged, uprooted or otherwise affected that they are, or may reasonably be believed to soon become, a danger to persons or property.

#### **§ 156-6. Removal of trees.**

- A. Private property. Any tree growing on real property which constitutes a danger to a public street or public place or the public using the same or which in any way endangers the usefulness of a public sewer or utility lines, or which by reason of infestation or blight endangers other trees in the Village, or which constitutes a danger to life and/or property to private property, including, but not limited to, the property of the owner of the tree and/or such owner's immediate neighbors, shall be removed or the habit thereof altered by the owner of said real property as directed by the Building Inspector. In the event that the property owner fails to comply with the directive of the Building Inspector within the time specified by the Building Inspector, the Village may then take the action directed by the Building Inspector and assess the cost thereof against the property owner. If the assessment is not paid within thirty days of demand, the Village may add such assessment to the Village's annual real estate taxes for the subject real property and collect such sum as a special assessment and as a part of said Village taxes, including all penalties and interest thereon as apply to such real estate taxes. The directive from the Building Inspector shall be in writing, shall clearly state the source of the danger, the action to be taken, the date by which such action must be taken and shall be served on the owner of the real property personally or by certified or registered mail, return receipt requested, addressed to said owner at the last address for said owner on the tax records of the Village. If served by mail, the notice shall be deemed received three days after the notice is deposited in a depository maintained by the United States Postal Service.
- B. Public property. Except when authorized by the Mayor in the case of an emergency, no tree on Village property shall be taken down without the consent of the Board of Trustees. With regard to street trees, no such consent shall be given until notice of the intent to remove any such tree:
- (a) Has been given by Certified Mail Return Receipt Requested to the owners of all residentially used property within 100 feet of the tree on both sides of the street where the tree is located, as the names and addresses of such owners are shown on the most recent Village tax rolls; and
  - (b) Has been posted for at least three days upon such tree.

Such notice shall state the date, time, and place of the Board of Trustees meeting at which the removal such tree is to be discussed.

#### **§ 156-7. Replacement.**

- A. Anyone wishing to replace a street tree that has been felled may do so with the permission of the Village. In doing so, such person will be given a list of the acceptable trees. If a homeowner wishes to plant a street tree, and does so, it will be such person's sole responsibility to care for said tree.
- B. Any person who cuts down, removes, or destroys a tree or substantially alters the habit of a tree and any person who solicits, requests, commands, importunes, or intentionally aids another person to engage in such conduct and any owner or occupant of real property who causes, suffers, or permits a tree on said property to be cut down, removed, or destroyed without first receiving a permit to do so shall immediately replace the same, substantially in kind, as directed by the Building Inspector. Such replacement, in the sole discretion of the Building Inspector, may be by one or more trees, in total caliper substantially the same as the tree being replaced, of the same or similar species.

#### **§ 156-8. Protection of trees.**

All trees on property on which demolition, excavation, grading or construction activity is conducted shall be guarded with a substantial fence at all times when any of said activities are taking place. The fence shall be at least four feet high and shall completely enclose the trunk of the tree at a distance from the trunk equal to the greater of six inches for each one inch of the tree's diameter at a point one foot above grade at the base of the tree, or four feet. On application of the owner or the owner's agent, the Building Inspector may waive the necessity of the fence for one or more trees where the Building Inspector finds that distance, existing natural features, or man-made structures afford adequate protection for such tree or trees. No person shall conduct any demolition, excavation, grading, or construction activity on real property without erecting and maintaining thereon the fences above required.

**§ 156-9. Appeals.**

- A. Any person aggrieved by an act or determination of the Building Inspector in the exercise of the authority granted in this chapter shall have the right to appeal to the Board of Trustees, the decision of which shall be final and conclusive.
- B. In exercising its authority hereunder, the Board of Trustees shall have the same authority to impose conditions as the Building Inspector.
- C. An appeal shall be in writing, stating the decision appealed from and the reasons for the appeal.

**§ 156-10. Enforcement; penalties for offenses.**

- A. The Building Inspector shall administer and enforce the provisions of this chapter. In the absence or inability of the Building Inspector to perform said duties, the same shall be performed by an Assistant Building Inspector or other person designated by resolution of the Board of Trustees of the Village.
- B. Penalties.
  - (1) Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a violation under the New York State Penal Law and, upon conviction thereof, shall be subject to:
    - (a) A fine of not more than \$5,000 for each tree illegally removed, destroyed or substantially altered; a fine of not more than \$5,000 for each replacement tree not planted; and a fine of not more than \$5,000 for any other such violation; or
    - (b) Imprisonment for a term of not more than 15 days; or
    - (c) Both such fine and such imprisonment.
  - (2) Each such violation shall constitute a separate offense and shall be punishable as such hereunder.

**§ 156-11. Suspension of permit or other approval.**

- A. In the event that any property owner or any other person performing work with the consent, express or implied, of the property owner shall violate any provision or condition of any permit or other approval of an application from any department, board, or committee of the Village by removing, destroying, or substantially altering the habit of a tree, or by suffering, permitting, or allowing the removal, destruction, or substantial alteration of the habit of a tree on such property, such permit or other approval shall be suspended. Such suspension shall continue and no further action shall be taken pursuant to such approval, until such person shall apply to the departments, boards, and/or committees which granted such permits or approvals for modifications thereof based upon the removal, destruction, or substantial alteration of the habit of such tree or trees. Upon such application, such departments, boards, and/or committees may modify such permits or approvals by implementing such conditions, including, but not limited to, the requirement that one or more new trees of the same height and/or caliper as the illegally

removed tree or trees be planted and maintained for a specific period of time, not to exceed five years, or such other condition or conditions as such departments, boards, and/or committees might deem appropriate. Such conditions may also include a prohibition of any further work on such property until the replacement tree or trees have been planted and that a declaration of covenants and restrictions be recorded by the owner of the property, running with the land, to assure that such conditions with regard to such replacement trees shall be enforceable against all future owners.

- B. Notwithstanding anything to the contrary in this section, the Building Inspector shall have the authority to authorize and/or direct that the property owner and/or any other person performing work with the consent, express or implied, of the property owner take such actions as in the sole discretion of the Building Inspector are reasonable and/or necessary to maintain the property in a safe condition and to assure that all relevant stormwater, sediment and erosion control, and tree protection measures are implemented and maintained, and that such other actions, as the Building Inspector may determine to be in the best interests of the Village, are implemented and maintained until such application has been made, a decision thereon has been rendered by such departments, boards, and/or committees, and the additional conditions, if any, of such departments, boards, and/or committees have been implemented.”

Section 5. Effective Date. This local law shall take effect immediately.

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

## 2. Appointments

A. Mayor Weitzner accepted the resignation of Sheldon Greenbaum as Chairman and Member of the Board of Appeals. On motion of Trustee Schenkler, seconded by Trustee Cohen, the following appointments made by Mayor Weitzner were approved:

Sheldon Greenbaum as Village Justice for a term to expire April 2006;  
Howard Krebs as Acting Village Justice for a term to expire April 2006;  
Alex Moschos as a member of the Planning Board, for a term of approximately seven years, said term to expire April 2012;  
Steven Cohen as a member of the Planning Board, for a term of approximately six years, said term to expire April 2011.

B. Mayor Weitzner appointed Howard Krebs as a member of the Board of Appeals, to fill the unexpired term of Sheldon Greenbaum, said term to expire April 2006, and also appointed Howard Krebs as chairman of the Board of Appeals, to fill the unexpired term of Sheldon Greenbaum, said term to expire April 2006.

Mayor Weitzner administered the oaths of office to Sheldon Greenbaum, Howard Krebs, Alex Moschos and Steven Cohen.

## 3. Clerk

A. 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 September 26, 2005 and October 18, 2005 be waived and that they be and hereby are approved as prepared by Clerk Torrisi.

B. On motion of Trustee Cohen, seconded by Trustee Hoffman, it was unanimously  
RESOLVED that the next regular meeting of the Board of Trustees is hereby rescheduled to Wednesday, December 21, 2005 at 7:30 p.m. at the Village Hall.

## 4. Treasurer

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

RESOLVED that the reading of the Abstract of Vouchers #44, totaling \$185,407.13, and the Abstract of Trust & Agency Vouchers #11, totaling \$3,207.67, be waived and that they be and hereby are approved as prepared by Treasurer Stack.

B. On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was unanimously  
RESOLVED that the Budget Report as of September 30, 2005, showing the General Fund Balance to be \$1,995,083, and the Trust & Agency Fund Balance to be \$102,419, 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 revisions contained in the Budget Reported dated October 31, 2005 be and hereby are approved.

## 5. Reports

### A. Building Department

1. On motion of Trustee Hoffman, seconded by Trustee Cohen, it was unanimously  
RESOLVED that the Building Department report for October 24 to November 25/28, 2005 be and hereby is accepted as submitted.

#### 2. Valet Parking Permit – Michael Tizzano

The Board reviewed the application of Michael Tizzano of I Tre Tre Ltd. for a valet parking permit. On motion of Trustee Cohen, seconded by Trustee Hoffman, it was unanimously  
RESOLVED that the Valet Parking Permit application of Michael Tizzano, to permit Romantico of Capri and Sisina restaurants to conduct valet parking at 55 Shore Road, in accordance with plan "BD-1", dated 10/22/02, prepared by Pinner Associates be and hereby is approved.

### B. Public Works

On motion of Trustee Hoffman, seconded by Trustee Schenkler, it was unanimously  
RESOLVED that the Public Works report for the month of October 2005 be and hereby is accepted as presented.

### C. Environmental Commission

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

## 6. Old Business

### A. Bill 9D of 2005 – Screening of Private Waste Receptacles

On motion of Trustee Hoffman, seconded by Trustee Cohen, it was RESOLVED that Bill 9D of 2005 be and hereby is adopted as Local Law 13 of 2005 to read as follows:

#### Local Law 13 of the year 2005

A local law requiring the screening of Private Waste Receptacles  
in the Village of Port Washington North

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

Section 1. § 140-1, Definitions, of Article I, Refuse and Garbage, of Chapter 140, Solid Waste, of the Code of the Village of Port Washington North, is hereby amended by adding a new definition, "Private Waste Receptacle," to read as follows:

“PRIVATE WASTE RECEPTACLE — A litter storage and/or collection receptacle maintained on private premises by the owner or the tenant or with either of their consent.”

Section 2. § 140-4, Placement of private waste receptacles, is hereby amended to read as follows:

**“§ 140-4. Placement and screening of private waste receptacles.**

- A. No private waste receptacle shall be placed so as to contribute to or constitute the creation of a nuisance or to endanger the health of any person.
- B. All private waste receptacles on private property that is used for any purpose other than for one detached single-family or one detached two-family dwelling shall be screened from view by legal structures, landscaping, fences, and/or gates at all times except when the gates to such enclosures are necessarily opened to gain access to the private waste receptacles when they are actually being loaded or unloaded of waste. Such screening shall be immediately around the private waste receptacle at such location and of such height and density, as determined by the Village Building Inspector, so as to fully screen the private waste receptacles from view. ‘Immediately around’ as used in this section shall mean as close in proximity as is feasible to the private waste receptacle leaving sufficient room for access to deposit and remove waste from the receptacle. Two or more private waste receptacles may be contained within the same enclosure.”

Section 3. Legal pre-existing multi-family residential premises; waivers by Board of Trustees.

Any multi-family residential premises that legally existed on the date of the adoption of this local law, within two months of such date of adoption, may apply to the Board of Trustees for a waiver of some or all of the conditions of this local law, based upon practical difficulty in compliance. The Board of Trustees, in granting any such waivers, shall have the authority to condition such grant upon reasonable conditions that are directly related to and incidental to the waiving of the screening requirements.

Section 4. Effective Date.

This local law shall take effect three months from the date of its adoption.

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

**B. Bill 15A of 2005 – Sanitary Sewer Lines**

Mayor Weitzner introduced 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, duly advertised in the November 10, 2005 Port Washington News. On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously

RESOLVED that there will be a public hearing with regard to Bill 15A of 2005 on Wednesday, December 21, 2005 at 7:30 p.m. at the Village Hall.

**C. Street Signs**

**1. Traffic Control Devices**

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

All vehicles shall come to a full stop, before proceeding, at each of the following locations:

1. Eastbound traffic on Soundview Drive at the intersection of Soundview Drive and Waterview Drive;
2. Westbound traffic on Soundview Drive at the intersection of Soundview Drive and Waterview Drive;
3. Eastbound traffic on Soundview Drive at the intersection of Soundview Drive and Dock Lane;
4. Westbound traffic on Soundview Drive at the intersection of

Soundview Drive and Radcliff Avenue;

5. Eastbound traffic on Soundview Drive at the intersection of Soundview Drive and Fishermans Drive;

And be it further RESOLVED that the previous regulation requiring the stopping of westbound traffic on Soundview Drive at the intersection of Soundview Drive and Sandy Court, is hereby repealed.

#### B. Street Name Signs

On motion of Trustee Schenkler, seconded by Trustee Hoffman, it was unanimously RESOLVED that Your Signs be and hereby is engaged to design, produce and install 45 street signs at a cost not to exceed \$19,957.50, as more particularly set forth in accordance with its written proposal received on November 28, 2005.

#### D. Tree Policy

On motion of Trustee Hoffman, seconded by Trustee Cohen, it was unanimously RESOLVED that the *Tree Policy* report and *Action Steps Toward Implementation*, written by Mayor Weitzner, be and hereby are adopted.

#### E. Port Washington Water Pollution Control District – 8 Acres Study

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the Board hereby authorizes the payment of \$20,000.00 from the Village Club budget line to the Port Washington Water Pollution Control District for an engineering feasibility study of the District's system to determine available disposal and pumpage capacity in order to accommodate sewer services at the out-of-District property owned by the Village, designated on the Nassau County Land & Tax Map as Section 4, Block J, Lot 753.

#### F. Repaving Part of Soundview Drive

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that sealed bids for the 2005 Road Improvements Program will be received at the Village Clerk's Office, at the Village Hall of the Village of Port Washington North, located at 71 Old Shore Road, Port Washington North, New York, until 12:00 noon on Thursday, January 19, 2006, and then at said office publicly opened and read aloud.

#### G. Levy Agreement

On motion of Trustee Schenkler, seconded by Trustee Hoffman, the following RESOLUTION was unanimously adopted, subject to the approval of the Mayor and the Village Attorney as to any amendment:

Agreement made as of the 28<sup>th</sup> day of November, 2005, (hereinafter referred to as "this Agreement") by and between the Village of Port Washington North, a municipal corporation, with its principal office at its Village Hall, 71 Old Shore Road, Port Washington, New York 11050 (hereinafter referred to as the "Village"), and LPF 167 Shore, LLC, with its principal place of business at 317 Madison Avenue, Suite 1720, New York, New York 10017 (hereinafter referred to as "LPF").

Whereas, the Village is the owner of certain premises known as 21 Soundview Drive and 107 Cow Neck Road, in the Village of Port Washington North, also known as Lots 10 and 20, respectively, in Block 125, Section 4 of the Nassau County Land and Tax Map ((hereinafter referred to as the "Village Premises"); and

Whereas, LPF is the owner of certain premises known as 167 Shore Road and One Soundview Drive, in the Village of Port Washington North, also known as Lots 19, 22, and 23, in Block 125, Section 4 of the Nassau County Land and Tax Map (hereinafter referred to as the "LPF Premises"); and

Whereas, the Village Premises had been used as a municipal parking lot when the Village had been using One Soundview Drive as its Village Hall; and

Whereas, the Village has determined since it has relocated its Village Hall that the Village Premises are no longer needed as a municipal parking lot and that the Village Premises should now be sold as surplus property; and

Whereas, LPF has determined that it may have certain rights to require the Village to continue the use of the Village Premises as a municipal parking lot; and

Whereas, the Village Premises have been improved together with a portion of the LPF Premises as a parking lot (hereinafter referred to as the "Combined Parking Lot"), such that, the drainage facilities, curbing, and striping, of the portion of the Combined Parking Lot within the LPF Premises would be impaired by the development of the Village Premises; and

Whereas, the Village and LPF (hereinafter referred to as the "Parties") would like to amicably settle their respective claims and rights without the unnecessary cost and expense of litigation;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The Village represents that it is the owner of the Village Premises and that the person executing this Agreement on behalf of the Village has been duly authorized by the Village to execute and deliver it to LPF.
2. LPF represents that it is the owner of the LPF Premises and that the person executing this Agreement on behalf of LPF has been duly authorized by LPF to execute and deliver it to the Village.
3. The Village agrees that prior to the development of all or any part of the Combined Parking Lot by the Village or any of its contract vendees, grantees, successors, or assigns, the Village shall:
  - 3.1. Construct one or more new stormwater drywell(s) in the LPF portion of the Combined Parking Lot as required for proper drainage of the LFP Premises, in replacement of the existing stormwater drywell in the Village Premises, at such location(s) as is designated by the Village Building Inspector or, at the option of the Village, the Village Engineer, subject to the approval of LPF, which shall not be unreasonably withheld.
  - 3.2. Disconnect the underground sprinkler system on the Village Premises from the underground sprinkler system on LPF Premises and repair the underground sprinkler system on LPF Premises as required.
4. The Village agrees that prior to the issuance of a certificate of occupancy for any development of all or any part of the Combined Parking Lot by the Village or any of its contract vendees, grantees, successors, or assigns, the Village shall:
  - 4.1. Repair and seal the blacktop and restripe the parking spaces in the LPF portion of the Combined Parking Lot, similar in style and quality to the then existing blacktop and striping, at such locations as are deemed necessary by virtue of the separation of the Village Premises from the Combined Parking Lot and as designated by LPF, subject to the approval of the Village Building Inspector, which shall not be unreasonably withheld.
  - 4.2. Construct a six (6) foot high stockade fence and fluted bumper guard on the Village Premises behind the new curb. The dress side of the stockade fence shall face the LFP premises. Maintenance of the stockade fence and fluted bumper guard shall be the responsibility of the Village or its grantees, successors or assigns.
  - 4.3. Construct a new curb, similar in style and quality to the then existing curb, around the perimeter of LPF portion of the Combined Parking Lot where it adjoins the Village Premises.
5. At the option of the Village and with the consent of LPF, the Village may pay to LPF a sum, to which the Parties have mutually agreed, in lieu of the Village, its contract vendees, grantees, successors, or assigns, performing one of more if the Village's obligations hereunder.
6. LPF, on behalf of itself, its grantees, successors, and assigns, waives any rights to the Village Premises it may have, including, but not limited to, any claims it may have to require that the Village Premises be continued as a municipal or other parking lot or which would otherwise limit the future use of the Village Premises.

H. Thomson/Danaher Property Appraisal

On motion of Trustee Cohen, seconded by Trustee Schenkler, it was unanimously RESOLVED that the expenditure of an amount not to exceed \$7,500.00 be approved for the appraisal of the approximate 11-acre Thomson/Danaher property, designated on the Nassau County Land & Tax Map as Section 4, Block J, Lot 690 and Section 4, Block 123, Lots 8, 21, 44A & 51; and that a modification of \$7,500.00 be made to the appraisal budget line.

I. 21 Soundview Drive and 107 Cow Neck Road

On motion of Trustee Cohen, seconded by Trustee Hoffman, it was unanimously RESOLVED that the Village enter into an agreement with G S K Soundview Realty LLC for the sale for the price of \$1,000,000.00 of 21 Soundview Drive and 107 Cow Neck Road, said parcels designated on the Nassau County Land & Tax Map as Section 4, Block 125, Lots 10 & 20 respectively, upon the purchaser's payment of \$50,000.00 at the signing of the contract and \$50,000.00 at the end of the due diligence period, subject a to 90-day due diligence period during which or at the end of which the purchaser may cancel for any or no reason and receive its \$50,000.00 deposit back.

7. New Business

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

Mayor Weitzner introduced 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. The Mayor also presented a short environmental assessment form prepared by the Village Attorney. On motion of Trustee Hoffman, seconded by Trustee Cohen, the following resolution was unanimously adopted:

WHEREAS 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, 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 14<sup>th</sup> day of December 2005 at 7:30 p.m. at the Village Hall, 71 Old Shore Road, Port Washington, New York.

B. Fire Protection & Emergency Medical Service

On motion of Trustee Cohen, seconded by Trustee Hoffman, it was unanimously RESOLVED that the Board of Trustees of the Village of Port Washington North will hold a public hearing on December 14, 2005 at 7:30 pm at the Village Hall, 71 Old Shore Road, Port Washington, New York, with regard to a proposed 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.

9. Executive Session

On motion of Trustee Schenkler, 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.

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the meeting be and hereby is adjourned at 12:30 a.m.

Palma Torrisi, Village Clerk