

A Regular Meeting of the Board of Trustees of the Village of Port Washington North was held on Monday, **December 7, 2010** at 7:30 p.m. at the Village Hall, 71 Old Shore Road, Port Washington, New York.

Present:	Mayor	-	Robert Weitzner
	Trustees	-	Steven Cohen
		-	Michael Malatino
		-	Sherman Scheff
	Attorney	-	Stuart Besen
	Clerk	-	Palma Torrisi
	Public Stenographer	-	Jennifer Devlin

Excused: Trustee Schenkler

1. Public Hearings

A. Fire Protection & Emergency Medical Services

Mayor Weitzner opened the Public Hearing, duly advertised in the November 25, 2010 Port Washington News, to consider the Fire Protection & Emergency Medical Services 2011 contract with the Port Washington Fire Department Inc. at a cost of \$364,902.00. 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 Malatino, it was unanimously

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, 2011 through December 31, 2011 at a cost to the Village of \$364,902.00, 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 Scheff-aye, Mayor Weitzner-aye. Motion carried.

B. Bill 2 of 2010 – Wireless Telecommunication Facilities Moratorium

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

WHEREAS, the Village of Port Washington North has proposed a moratorium of ninety (90) days on the construction of wireless telecommunication facilities within the jurisdiction of the Village of Port Washington North; 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 bill be adopted, 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, and

WHEREAS, the Village Board of Trustees has declared its intention to declare itself lead agency; and

WHEREAS, the Village Board of Trustees has reviewed the environmental assessment form, and pursuant to said review of the relevant environmental factors affected by the proposed action, and the Village Board of Trustees has determined that said action be classified as an Unlisted Action and be deemed a Negative Declaration, causing no significant adverse effect upon the environment, in accordance with the Environmental Conservation Law of the State of New York and its regulations thereon,

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of Trustees, as Lead Agency, finds that the Type 2 action be classified as exempt pursuant to SEQRA and that it be deemed to constitute a Negative Declaration. The deeming of this action as a Negative Declaration indicates that it would cause no significant adverse effect on the environment.

Mayor Weitzner opened the Public Hearing, duly advertised in the November 25, 2010 Port Washington News, to consider the adoption of Bill 2 of 2010, a local law

establishing a ninety (90) day moratorium on the construction of wireless telecommunication facilities. On motion of Trustee Scheff, seconded by Trustee Malatino, the following resolution was adopted:

WHEREAS, the Board of Trustees of the Village of Port Washington North has proposed amending the Code of the Village of Port Washington North by enacting a ninety (90) day moratorium as Local Law 2 of 2010 entitled a Moratorium on the Construction of Wireless Telecommunication Facilities; and

WHEREAS, the Board of Trustees of 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 Local Law be enacted, 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; and

WHEREAS, the Village Board of Trustees has declared its intention to declare itself lead agency and by resolution 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;

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of Trustees, adopts Bill 2 of 2010 entitled a Moratorium on the Construction of Wireless Telecommunication Facilities, to read as follows:

LOCAL LAW 2 OF 2010

OF THE VILLAGE OF PORT WASHINGTON NORTH TO ENACT A MORATORIUM ON THE CONSTRUCTION OF WIRELESS TELECOMMUNICATION FACILITIES

Section 1. Legislative Intent

I. The Telecommunications Act of 1996 "the Act" and the court decisions interpreting the Act allow for local regulation of facilities, such as antennae, cell towers, and other means by which to carry wireless voice and information transmissions and whose purpose is to provide wireless telecommunications and information, image and data transmissions through cell phones and related hand-held equipment. Such local regulation is limited to that authorized by the Act and the case law interpreting said Act.

II. The Code of the Village of Port Washington North currently does not contain regulations in this area to implement the regulatory authority of the Village as permitted by the Act and case law interpreting the Act.

II. The Board of Trustees now wishes to address these needs for regulation of these wireless communication facilities, including accessory facilities or structures through the preparation and adoption of code amendments that will implement the regulatory authority reserved to the Village.

IV. The Board of Trustees will need at least 90 days to identify and analyze the issues associated with wireless communication facilities and then develop and implement the relevant code amendment(s). Accordingly, it is the Board's intention to impose a limited 90-day moratorium on the acceptance of applications, and the review, processing and approval of pending applications wireless communication facilities and accessory facilities and structures on both private and public property, to permit the preparation and adoption of such amendments. The moratorium will create a more stable development environment so that the appropriate code amendments can be formulated, considered and adopted in an orderly and thorough manner. It will also prevent the approval of projects that may be subsequently deemed non-conforming under the new regulations.

V. This moratorium is intended to be applied to all new and currently pending applications or requests for permission to locate wireless communication facilities on private property or in the Village right-of-way.

VI. The moratorium also permits a property owner to apply for an exemption which may be granted by the Board of Trustees under certain circumstances. In making

any such exemption determination, the Board of Trustees shall obtain and consider written reports from the Board of Zoning Appeals, Planning Board and Building Inspector and such other sources as required in the discretion of the Board of Trustees, consistent with this Local Law, Village Law and the Village Code. A grant of an exemption to an applicant's application shall include a determination of unnecessary hardship and unique circumstances and a finding that the grant of an exemption will not set precedent for future applications to locate wireless communication facilities and will be consistent with Village goal of regulating these facilities to the maximum extent permitted by law.

Section 2. Statutory Authority and Supercession

This Local Law is adopted pursuant to the Village Law, Municipal Home Rule Law and State Environmental Quality Review Act and its implementing regulations and expressly supercedes those provisions of the Village Code and New York State Law which would have required the Village, or any Board thereof, to accept process and approve applications involving construction or development of wireless communication facilities on public or private property, within statutory time periods during the moratorium period.

Section 3. Applicability

The provisions of this Local Law shall apply to all public and private lands within the Incorporated Village of Port Washington North.

Section 4. Review and Approval Prohibited

The Village and any Board or Department thereof shall not accept as complete any new application as described herein nor shall it continue to process or approve any such application under the moratorium during the period set forth herein.

Section 5. Time Period

The moratorium established by the Local Law shall apply for a period of 90 days from the effective date hereof. If the proposed code revisions have not been completed within that time, the Board of Trustees may by resolution extend the moratorium for another 90 day period without public hearing, after which the moratorium shall expire and cannot be further extended.

Section 6. SEQRA

The Board of Trustees has determined that pursuant to Section 617.5(c) 20 and 27 of the SEQRA regulations this action of the Village of Port Washington North "routine or continuing agency administration and management, not including new programs or major reordering of priorities" and "adoption of regulations, policies, procedures and local legislative decisions in connection with any Type II action..." and therefore, the proposed action of the Village of Port Washington North in this matter is a Type II action and requires no further action pursuant to SEQRA.

Section 7. Severability

If any clause, sentence, paragraph, subdivision, section or other part of this Local Law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect, impair or invalidate the remainder of this Local Law, and it shall be construed to have been the legislative intent to enact this Local Law without such unconstitutional, or invalid parts therein.

Section 8. Effective Date

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

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

2. Clerk

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

RESOLVED that the reading of the minutes of the Board of Trustees meeting of October 5, 2010 waived and that they be and hereby are approved as prepared by Clerk Torrisi.

3. Treasurer

A. On motion of Trustee Scheff, seconded by Trustee Malatino, it was unanimously RESOLVED that the reading of the Abstract of General Fund Vouchers #107, totalling \$154,643.17, and the Abstract of Trust & Agency Vouchers #69, totalling \$850.01, be waived and that they be and hereby are approved as prepared by Treasurer Pisano.

B. On motion of Trustee Malatino, seconded by Trustee Scheff, it was unanimously RESOLVED that the Budget Report as of October 31, 2010, and the modifications contained therein, showing the General Fund Balance to be \$2,253,005.64, and the Trust & Agency Fund Balance to be \$74,830.14, be and hereby is accepted as prepared by Treasurer Pisano.

C. Chris Reino, of Cullen & Danowski LLP, addressed the Board with respect to the annual update document and independent audit report for the fiscal year commencing June 1, 2009 and ending on May 31, 2010. On motion of Trustee Scheff, seconded by Trustee Cohen, it was unanimously RESOLVED that the Audit Report and Annual Update Report for the General Fund, and the Audit Report and Annual Update Report for the Village Court, for the fiscal year commencing June 1, 2009 and ending on May 31, 2010, prepared by Cullen & Danowski LLP, be and hereby are accepted.

The Board was presented with the Annual Report for the General Fund and the Annual Report and Management Letter for the Village Justice Court for the fiscal year commencing June 1, 2009 and ending May 31, 2010. On motion of Trustee Cohen, seconded by Trustee Scheff, the following resolution was unanimously adopted:

WHEREAS the Board of Trustees has been presented with the Annual Report for the General Fund and the Annual Report and Management Letter for the Village Court for the fiscal year commencing June 1, 2009 and ending May 31, 2010;
NOW, THEREFORE, BE IT RESOLVED that the Annual Report for the General Fund and the Annual Report and Management Letter for the Village Court, for the fiscal year commencing June 1, 2009 and ending May 31, 2010, be and hereby are accepted as prepared by Cullen & Danowski LLP.

D. Final Budget Revisions for Year Ending May 31, 2010

On motion of Trustee Scheff, seconded by Trustee Malatino, it was unanimously RESOLVED that the budget modifications contained in the Profit and Loss Budget for the fiscal year ending May 31, 2010 be and hereby are approved as submitted by Treasurer Pisano.

E. Office of Parks, Recreation & Historic Preservation Grant Audit

On motion of Trustee Malatino, seconded by Trustee Scheff, it was unanimously RESOLVED that Cullen & Danowski LLP is hereby engaged to conduct an audit of contract revenues and expenditures for the Bay Walk Park and submit it to the New York State Office of Parks, Recreation and Historic Preservation, pursuant to Contract #C540437, at a cost not to exceed \$4,500.00 as more particularly set for in a proposal dated December 6, 2010.

4. Reports

A. Building Department

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

RESOLVED that the Building Department report for November 2010 be and hereby is accepted as submitted by Building Inspector Barbach and Deputy Inspector Lauria.

B. Public Works

On motion of Trustee Malatino, seconded by Trustee Scheff, it was unanimously RESOLVED that the Public Works report for the month of November 2010 be and hereby is accepted as submitted by Superintendent Novinski.

C. Emergency Management & Traffic Safety

On motion of Trustee Scheff, seconded by Trustee Malatino, it was unanimously RESOLVED that the Emergency Management & Traffic Safety reports for the month of November 2010 be and hereby are accepted as presented by Commissioner Kaplan.

D. Justice Court

The Board accepted the Justice Court report for October 2010 submitted by Court Clerk Kropacek.

5. Business

A. Board of Appeals Chairman

The Mayor advised the Board of the resignation submitted by Howard Krebs as Chairman and Member of the Board of Appeals, effective December 4, 2010. Mayor Weitzner appointed Stephen Hazelkorn, effective immediately, as Chairman of the Board of Appeals to fill the unexpired term of Howard Krebs, said term to expire April 2011. Mayor Weitzner administered the oath of office to Board of Appeals Chairman Stephen Hazelkorn.

B. Small Claims Assessment Review Petitions

Assessor Torrisi reported to the Board that the Village's Tax Certiorari, Small Claims and Assessment Consultant attorney Gerard Terry settled Small Claims Assessment Review Petitions, totalling \$10,946.30, with clients of the following firms:

Brandt Steinberg & Lewis LLP	\$ 233.21
Jaspan Schlesinger LLP	309.93
Sean Acosta, d/b/a P. T. R. C.	10,259.55
Re-assessment & Evaluation Services Inc.	143.61

The Assessor stated that the hearing officer's decisions were submitted on October 15, 2010 and that payments by the Village are due on January 13, 2011.

C. Street Sweeping Bids

On motion of Trustee Malatino, seconded by Trustee Scheff, it was unanimously RESOLVED that sealed bids on the Sweeping and Cleaning of Village Streets during the Spring, Summer and Fall of 2011, 2012 and 2013 will be received until 12:00 noon on the 4th day of January 2011 at the Village Hall, 71 Old Shore Road, Port Washington, New York 11050.

D. Notice Boards

Mayor Weitzner stated that proposals for 7 sign boards were received from: Belson Outdoors for \$2,277.00; Gemplers for \$2,776.27; Summit Supply for \$2,531.00;

and Upbeat Site Furnishings for \$3,468.81 or \$3,818.81 with custom header. It was the sense of the Board that six sign boards will be ordered from Belson Outdoors.

E. Tree 11

Mayor Weitzner introduced the Town of North Hempstead program, which the Village will participate in for non-residential tree locations.

F. Police Headquarters

The Mayor reiterated the essence of the statement he delivered at the December 2nd meeting of the Port Washington Police District at Schreiber High School regarding the proposed relocation of the police headquarters to the premises owned by Publishers Clearing House in the Village of Port Washington North.

On motion of Trustee Cohen by Trustee Scheff unanimously RESOLVED that the meeting be and hereby is adjourned at 11:45 p.m.

Palma Torrisi, Village Clerk