

A Regular Meeting of the Board of Trustees of the Village of Port Washington North was held on Monday, **December 6, 2011** 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
		-	Michael Schenkler
	Attorney	-	Stuart Besen
	Clerk	-	Palma Torrisi
	Public Stenographer	-	Jennifer Devlin

1. Public Hearings

A. Fire Protection & Emergency Medical Services

Mayor Weitzner opened the Public Hearing, duly advertised in the November 17, 2011 Port Washington News, to consider the Fire Protection & Emergency Medical Services 2012 contract with the Port Washington Fire Department Inc. at a cost of \$384,832.00. The Mayor adjourned the hearing to 7:30 p.m. on January 3, 2012 at the Village Hall.

B. Bill 6 of 2011 – Extending the Subdivision Moratorium

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

WHEREAS, the Village of Port Washington North has proposed Bill 6 of 2011, a six-month moratorium on building permits, special permits, demolition permits, construction, and subdivisions for parcels of over 10,000 square feet situated within 2000 feet of Shore Road in 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 17, 2011 Port Washington News, to consider the adoption of Bill 6 of 2011, a local law establishing a six month moratorium on building permits, special permits, demolition permits, construction, and subdivisions for parcels of over 10,000 square feet situated within 2000 feet of Shore Road in the jurisdiction of the Village of Port Washington North. All those present wishing to speak having been heard, the Mayor closed the public hearing. A stenographic transcript of the hearing is on file with the Village Clerk. On motion of Trustee Scheff, seconded by Trustee Malatino, it was resolved that Bill 6 of 2011 be and hereby is adopted as Local Law 6 of 2011 to read as follows:

LOCAL LAW 6 of the Year 2011

**SIX MONTH EXTENSION OF MORATORIUM ON
SUBDIVISION, SPECIAL PERMITS AND BUILDING AND
DEMOLITION PERMITS FOR PARCELS AT OR NEAR THE WATERFRONT
IN THE VILLAGE OF PORT WASHINGTON NORTH**

Section 1. Legislative Finding and Intent.

A. The Board of Trustees recognizes the unique character of the 75 year old Village of Port Washington North, which is created in substantial part by the proximity to Manhasset Bay and the recent development of public recreational and open space on the waterfront. This unique geographical position and current recognition of the value of development on or near the waterfront is and essential part of the future well being of the Village and a valuable asset which all of the Village residents share.

B. The Board has recognized the recent development of parcels of land near the waterfront without regard to the effect of the development and the decrease of open space and permeable surface area, could have on the future well being of the Village due to such parcel's proximity to Manhasset Bay. Such development has been occurring recently within the Village of Port Washington North. This Board believes that unregulated future development will inhibit or prevent the development and preservation of the unique character of the Village and could negatively impact the quality of life of the residents and the community which historically has relied on both visual and physical access to the waterfront as an intrinsic part of living in the Village. The Village also wishes to consider the most effective manner to preserve or expand any structures or uses of any land which further advance the waterfront character of the Village.

C. This Board is also aware that a large part of the property which is the subject of this local law is presently nonresidential property and that some or much of that property may be changing from the present uses thereon to different uses which may or may not be consistent with the best interests of the Village, notwithstanding the fact that such different uses would be consistent with the existing zoning for the district within which such property is presently located.

D. This Board is also aware that a moratorium on the same parcels in the Village was enacted on February 3, 2010 and filed with the Secretary of State on March 26, 2010, and extended by resolution dated February 1, 2011, and filed with the Secretary of State on February 14, 2011. Additionally, this Board by resolution made the Village of Port Washington North Planning Board lead agency to investigate and to take all steps and procedures it deems necessary and prudent, including but not limited to hiring H2M as land consultant and conducting a study on how to best protect and preserve the waterfront and nearby properties, and to report back to this Village Board on the findings and conclusions of said study. That the Planning Board through its consultant has made substantial progress in completing the study, but it has not completed its study and needs and desires more time to take the steps necessary to finalize the study and report the findings to the Village Board. That this shall be the final and last extension of the moratorium.

E. In order to allow this Board additional time to investigate and review the recommendations of the Village Planning Board and to determine whether any changes in the present zoning regulations are needed to protect the waterfront and nearby properties, and to enact any needed amendments to the Village's zoning regulations, this Board has determined to enact a six month extension of the moratorium for all parcels in excess of ten thousand (10,000) square feet situated within 2000 feet of either side of Shore Road within the boundaries of the Village for: (1) all subdivisions of real property, and (2) all Special Permit applications and approvals, and (3) all site plan approvals, (4) the issuance of demolition and/or building permits.

Section 2. Scope of Moratorium.

During the period from and after the effective date of this law until August 1, 2012 for all parcels in excess of ten thousand (10,000) square feet situated within 2000 feet of Shore Road within the boundaries of the Village.

- A. No person shall subdivide any real property that is located within the area set forth in this Section.
- B. Neither the Building Department, nor the Planning Board of the Village of Port Washington North shall process any applications for the subdivision of real property within the area set forth in this Section.
- C. No person shall demolish more than 600 square feet or 15% of the existing building's area, whichever is greater, of any structure within the area referred to above within the area set forth in this Section.
- D. No person shall alter any structure if it adds more than 600 square feet or 15% of the existing building's area, whichever is greater, to any structure within the area set forth in this Section.
- E. The provision of this Local Law shall apply to all public and private lands within the Incorporated Village of Port Washington North.

Section 3 Review and Approval Prohibited

- A. 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 any such application under the moratorium during the period set forth herein.

Section 4 Statutory Authority and Supercession

- A. This Local Law is adopted pursuant to the Village Law, Municipal Home Rule 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 subdivisions, special permits, site plans and demolition/building permits, within statutory time periods during the moratorium period.

Section 5 SEQRA

- A. The Board of Trustees has determined that pursuant to Section 617.5 (c) 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 6 Severability

- A. 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 effect, 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 7 Variances

- A. In the event of extraordinary hardship as a result of this Local Law, an application for relief from this Local Law may be made to the Village's Zoning Board of Appeals pursuant to Village Code Section 7-12-b(2) for a use variance.

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

2. Clerk

On motion of Trustee Schenkler, seconded by Trustee Cohen, it was unanimously RESOLVED that the reading of the minutes of the Board of Trustees meeting of October 4, 2011 waived and that they be and hereby are approved as prepared by Clerk Torrisi.

3. Treasurer

A. On motion of Trustee Schenkler, seconded by Trustee Scheff, it was unanimously RESOLVED that the reading of the Abstract of General Fund Vouchers #120, totalling \$333,906.08, and the Abstract of Trust & Agency Vouchers #77, totalling \$2,889.75, be waived and that they be and hereby are approved as prepared by Treasurer Pisano.

B. On motion of Trustee Scheff, seconded by Trustee Cohen, it was unanimously RESOLVED that the Budget Report as of October 31, 2011, and the modifications contained therein, showing the General Fund Balance to be \$2,086,757.64, and the Trust & Agency Fund Balance to be \$106,301.28, be and hereby is accepted as prepared by Treasurer Pisano.

4. Reports

A. Building Department

On motion of Trustee Cohen, seconded by Trustee Schenkler, it was unanimously RESOLVED that the Building Department report for November 2011 be and hereby is accepted as submitted by Building Inspector Barbach and Deputy Inspector Lauria.

B. Public Works

On motion of Trustee Schenkler, seconded by Trustee Malatino, it was unanimously RESOLVED that the Public Works report for the month of November 2011 be and hereby is accepted as submitted by Superintendent Novinski.

C. Emergency Management

On motion of Trustee Schenkler, seconded by Trustee Scheff, it was unanimously RESOLVED that the Emergency Management report 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 August, September and October 2011 submitted by Court Clerk Kropacek.

5. Business

A. Tax Certiorari Settlements

The Village's assessment, SCAR and tax certiorari attorney, Gerard Terry, addressed the Board with regard to the disposition of the SCAR petitions primarily through settlements and the pending tax certiorari cases.

1. Diwan (4; 51; 17, 109 & 111)

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

WHEREAS, there have pending in the Supreme Court of the State of New York (Nassau County) certain tax certiorari proceedings in which the Inc. Village of Port Washington North (the "Village") is a Respondent, in connection with real property identified on the Nassau County Land & Tax Map as Section 4, Block 51, Lots 17, 109, 111 and also known by the street address 37 Shore Road; and

WHEREAS, writs of certiorari in connection with said real property have been filed against the Village for tax years 2005/06 through 2011/12 (total seven years); and

WHEREAS, special counsel to the Village has recommended settlement of said pending proceedings;

NOW, THEREFORE, BE IT RESOLVED, that the instant proceedings shall be settled as follows:

Adjusted Village Assessed Value: \$24,800

Total refund to Petitioner for all years: \$ 9,900; and

BE IT FURTHER RESOLVED, that the Village Assessor (and/or the Village Clerk) be and hereby is authorized and directed to adjust the assessment for said real property upon the assessment roll of the Village to the value set forth herein; and

BE IT FURTHER RESOLVED, that the Village Treasurer be and hereby is authorized and directed to pay the refund set forth herein to "Forchelli, Curto, Deegan, Schwartz, Mineo, Cohn and Terrana, LLP", as attorneys for Petitioner RBS, LLC/IB Restaurant Associates, Inc.; and

BE IT FURTHER RESOLVED, that special counsel to the Village be and hereby is authorized and directed to execute a Stipulation of Settlement in this matter, not inconsistent with the terms of this Resolution; and

BE IT FURTHER RESOLVED, that the provisions of this Resolution shall take effect immediately.

2. Happy Montessori School (4, Q, 236)

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

WHEREAS, there have pending in the Supreme Court of the State of New York (Nassau County) certain tax certiorari proceedings in which the Inc. Village of Port Washington North (the "Village") is a Respondent, in connection with real property identified on the Nassau County Land & Tax Map as Section 4, Block Q, Lots 236 and also known by the street address 40 Pleasant Avenue; and

WHEREAS, writs of certiorari in connection with said real property have been filed against the Village for tax years 2006/07 through 2011/12 (total six years); and

WHEREAS, special counsel to the Village has recommended settlement of said pending proceedings;

NOW, THEREFORE, BE IT RESOLVED, that the instant proceedings shall be settled as follows:

Adjusted Village Assessed Value: \$13,000

Total refund to Petitioner for all years: \$ 6,500; and

BE IT FURTHER RESOLVED, that the Village Assessor (and/or the Village Clerk) be and hereby is authorized and directed to adjust the assessment for said real property upon the assessment roll of the Village to the value set forth herein; and

BE IT FURTHER RESOLVED, that the Village Treasurer be and hereby is authorized and directed to pay the refund set forth herein to "Forchelli, Curto, Deegan, Schwartz, Mineo, Cohn and Terrana, LLP", as attorneys for Petitioner Grantor Retained Annuity Trust of Amrit Sethi; and

BE IT FURTHER RESOLVED, that special counsel to the Village be and hereby is authorized and directed to execute a Stipulation of Settlement in this matter, not inconsistent with the terms of this Resolution; and

BE IT FURTHER RESOLVED, that the provisions of this Resolution shall take effect immediately.

3. Bill Wolf Petroleum/Amoco (4; 129; 7, 15A & 15C)

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

WHEREAS, there have pending in the Supreme Court of the State of New York (Nassau County) certain tax certiorari proceedings in which the Inc. Village of Port Washington North

(the "Village") is a Respondent, in connection with real property identified on the Nassau County Land & Tax Map as Section 4, Block 129, Lots 7, 15A, 15C and also known by the street address 99 Shore Road; and
 WHEREAS, writs of certiorari in connection with said real property have been filed against the Village for tax years 2005/06 through 2011/12 (total seven years); and
 WHEREAS, special counsel to the Village has recommended settlement of said pending proceedings;
 NOW, THEREFORE, BE IT RESOLVED, that the instant proceedings shall be settled as follows:

Adjusted Village Assessed Value:	\$20,000	and
Total refund to Petitioner for all years:	\$ 4,000;	

BE IT FURTHER RESOLVED, that the Village Assessor (and/or the Village Clerk) be and hereby is authorized and directed to adjust the assessment for said real property upon the assessment roll of the Village to the value set forth herein; and
 BE IT FURTHER RESOLVED, that the Village Treasurer be and hereby is authorized and directed to pay the refund set forth herein to "Koeppel, Martone & Leisman, L.L.P.", as attorneys for Petitioner 99 Shore Road, LLC; and
 BE IT FURTHER RESOLVED, that special counsel to the Village be and hereby is authorized and directed to execute a Stipulation of Settlement in this matter, not inconsistent with the terms of this Resolution; and
 BE IT FURTHER RESOLVED, that the provisions of this Resolution shall take effect immediately.

B. Street Sweeping Contract

On motion of Trustee Schenkler, seconded by Trustee Malatino, it was unanimously RESOLVED that the Village of Port Washington North is hereby exercising its option to extend its contract with E. Cook Industries, Inc. for the Sweeping and Cleaning of Village Streets during the Spring, Summer and Fall of 2012, as more specifically set forth in the contract dated January 4, 2011.

C. Sewer Line – Werner, 20 Sandy Court

Mr. & Mrs. Werner discussed the Village's Tree Policy and their options, including engaging the services of a private sewer company and the permits that would be required, for dealing with the tree root problem at their home at 20 Sandy Court.

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 litigation with counsel.

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

Mayor Weitzner stated that no action was taken in executive session.

On motion of Trustee Malatino by Trustee Cohen unanimously RESOLVED that the meeting be and hereby is adjourned at 9:30 p.m.


 Palma Torrisi, Village Clerk