

The Board of Trustees of the Village of Westhampton Beach held their Regular Meeting on Monday, April 12, 2004 at 10 a.m. in the Municipal Building, Sunset Avenue, Westhampton Beach

PRESENT: Mayor Robert Strebel
Trustee Ora Belle "Ridgie" Barnett
Trustee Chester Morris
Trustee Harold Williams

ABSENT: Trustee Mark Raynor

Clerk-Treasurer Kathleen McGinnis
Village Attorney Richard T. Haefeli

Mayor Strebel opened the meeting at 10 a.m. with the Pledge of Allegiance.

Public Hearings:

Tentative Budget for fiscal year 2004-05

Mayor Strebel opened the public hearing. Village Clerk-Treasurer Kathleen McGinnis explained that basically this year's budget is a cost-continue budget. Most of the departments have a minimal increase. We have a slight increase overall of 4% in the tax rate. The highlights of the budget would be the increased cost of the New York State pension fund, increases for the state health insurance overall of 15%, as well as an increase in salaries that are contractual. She said that the retirement figures went up an extraordinary amount, but we did act last year, with our Village's CPA firm, to set aside some money to soften this huge increase when we were advised of it.

Mayor Strebel asked if anyone would like to address the Board regarding this issue. There being no response, a motion was made by Trustee Williams to close the public hearing. Seconded by Trustee Barnett and unanimously approved. 3 Aye, 0 Nay

Motion by Trustee Williams:

WHEREAS, the Village Clerk Treasurer has presented to the Board of Trustees a Tentative Budget in compliance with the requirements of Section 5-508(1) Village Law; and

WHEREAS, the Trustees have had a chance to review said budget and to conduct a public hearing on the Tentative Budget in accordance with Section 5-508(1) on April 12, 2004; and therefore be it

RESOLVED, that without further change, alteration or additions, I hereby move that the Board of Trustees now adopt the 2004/2005 fiscal year tentative budget in its current form.

Seconded by Trustee Barnett and unanimously approved. 3 Aye, 0 Nay

Special Exception application Shock Homemade Ice Cream outdoor tables/benches

Mayor Strebel opened the public hearing and asked if anyone would like to address the Board regarding this issue. Mrs. McGinnis advised that Elyse Richman, the applicant, had been confused regarding the date of this hearing and had another appointment in the city that she had to attend to today.

Jeffrey Gallen, 89 Main Street, said he would like to oppose this Special Exception because he lives next to Shock and was concerned about the noise on the weekends, due to tables and ice cream stands outside, interfering with his ability to get to sleep.

Mrs. McGinnis advised him that there was no ice cream stand in this application, only four tables - the same amount of tables that have been there the last two years. This was re-sent to the Planning Board only because there was a new applicant, but it is the same application for tables. She said these applications are renewed every year and one of the things that is looked at is whether or not there have been any complaints.

Village Attorney, Richard Haefeli asked Mr. Gallen if he had complained to the Police Department or the Building Department. He explained that these applications are granted unless during the course of the year, there are enough complaints received by the Police Department to establish that they should not have the Special Exception the following year. We have allowed these tables and chairs in the code to allow people to come in during the summer in the afternoons and evenings and sit out and just enjoy the summer. In order for the Board to deny it, there would have to be a record in the Building Department and in the Police Department indicating that there were problems either with loud noise or unsanitary conditions where they didn't maintain the garbage, etc. Without that, the people would be entitled to get it.

Mr. Gallen responded that he had not made any complaints in the past, but was making one now regarding the noise from people talking, etc. He explained that he lived over top of Beach Realty year round. He wanted to know if the application could be granted subject to time restrictions, such as 9:30 or 10:00 PM.

Mr. Haefeli responded that this is a difficult situation. People are still out walking around the Village at that time. He advised Mr. Gallen that if there is a problem in the future he can call the Police Department and Building Department and they will come down and make a determination as to whether there is a problem. The Board has to have a basis to deny this and the statement of one person who lives above it, in the business district, saying it is noisy without any further substantiation or elaboration, makes it too difficult to deny this application.

Paul Houlihan, Village Building Inspector, commented that there had been no complaints regarding noise in the past regarding this particular site. There have been complaints pertaining to garbage and debris. However, this has been resolved particularly because it is under new control this year and the person taking it over has assured us they will keep it clean. As far as the issue of noise if you are in an apartment above a business, there is no question that if there are tables and chairs out there, it will be noisier. It won't be anything approaching any decibel levels to violate the noise ordinance, but if you have people down below your apartment talking and laughing and eating ice cream, you are going to hear that. On the other hand, this is the business district, our primary business district. We encourage apartments above stores in the business district, but it has to be understood that there will be a certain amount of commotion. The businesses are doing everything they can to attract people to their site until at least 11:00 at night.

Mayor Strebel said that the Board would mention to the Planning Board they should make the owner cognizant of the fact that there are neighbors and maybe there are little things that could be done to minimize the noise level.

Mr. Haefeli said that there are benches that are on Main Street all year long. They are used to service that particular ice cream establishment. If the establishment closes at 10:00 pm and people are still sitting out there on the tables and chairs at 11 or 12:00 pm, I'm not sure there is anything we can do with the owner at that point other than have the police come down because we have benches on Main Street that the Village put out, and people can sit on those. Once the establishments close and you still have people down there loitering, then it would be up to the Police Department to come down and do something if you give them a call on it.

Kurt Hofmann asked if Mr. Gallen had considered closing his windows and turning on the air-conditioner inside.

Mr. Gallen responded that it did not help.

Mr. Haefeli said that Ms. Richman would not be using these tables and chairs between now and the next meeting and since she could not be here today, he suggested that this hearing be put over until May so that she can discuss the questions raised with the Board.

Motion was made by Trustee Williams to hold over this hearing until May 10, 2003. Seconded by Trustee Barnett and unanimously approved. 3 Aye, 0 Nay

Regular Meeting:

Accept minutes of Board of Trustees Meeting

Motion by Trustee Barnett:

RESOLVED, that the minutes of the Board of Trustees regular meeting of March 8, 2004 and Grievance Day held on February 24, 2004 are hereby accepted.

Seconded by Trustee Morris and unanimously approved. 3 Aye, 0 Nay

Accept departmental reports

Motion by Trustee Morris:

RESOLVED, that the Police Department and Building Administrator's reports for March 2004 are hereby accepted.

Seconded by Trustee Barnett and unanimously approved. 3 Aye, 0 Nay

Approve computer system contract with Town of Southampton

Motion by Trustee Williams:

RESOLVED, that the Mayor is hereby authorized to execute a contract with the Town of Southampton for computer services and assessment records at an annual cost of \$7,452.60.

Seconded by Trustee Barnett and unanimously approved. 3 Aye, 0 Nay

Approve partial refund of property taxes - Mitzner

Motion by Trustee Barnett:

RESOLVED, that the Board of Trustees hereby authorize a partial refund of 2003/2004 property taxes in the amount of \$2,782.64 to Mark Mitzner for property identified by SCTM# 0905-20-1-11 due to over-assessment as ordered by the NYS Supreme Court.

Seconded by Trustee Williams and unanimously approved. 3 Aye, 0 Nay

Approve refund of boat slip rental fee

Motion by Trustee Morris:

RESOLVED, that the Board of Trustees hereby authorize a refund of the seasonal boat slip rental fee paid by Hampton Marine, Inc. in the amount of \$1,170.00.

Seconded by Trustee Williams and unanimously approved. 3 Aye, 0 Nay

Approve April 2004 Warrant

Motion by Trustee Williams:

Resolved that the warrant for the month of April 2004 in the amount of \$140,657.31 for the General fund and \$37,536.16 for the Capital Fund is hereby approved.

Seconded by Trustee Barnett and unanimously approved. 3 Aye, 0 Nay

Add-on Resolution - Authorize Village Clerk advertise for public bids

Motion by Trustee Barnett to add-on a resolution. Seconded by Trustee Morris and unanimously approved. 3 Aye, 0 Nay

Motion by Trustee Barnett:

WHEREAS the Village has previously hired Sandpebble Builders Inc. as its construction manager to oversee the construction of the new Village Hall, and

WHEREAS the Village is now ready to advertise for public bids for the construction.

NOW BE IT RESOLVED AS FOLLOWS:

That the Board of Trustees hereby authorizes the Village Clerk to advertise and seek public bids for the construction of the new Village Hall.

Seconded by Trustee Williams and unanimously approved. 3 Aye, 0 Nay

Mayor Strebelt asked if anyone in the audience would like to address the Board. There being no response, a motion was made at 10:20 a.m. by Trustee Williams to adjourn the meeting to Executive Session. Seconded by Trustee Barnett and unanimously approved. 3 Aye, 0 Nay

Respectfully submitted,

Christine Owen
Deputy Clerk